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CONFLICTING CODES AND CONTESTED JUSTICE: WITCHCRAFT AND THE STATE IN KENYA

Katherine Angela Luongo

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**Conflicting Codes and Contested Justice
Witchcraft and the State in Kenya**



CONFLICTING CODES AND CONTESTED JUSTICE: WITCHCRAFT AND THE
STATE IN KENYA

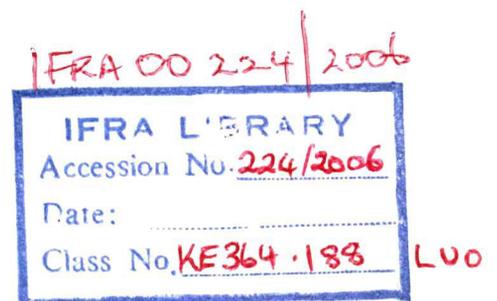
by

Katherine Angela Luongo

A dissertation submitted in partial fulfillment
of the requirements for the degree of
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Doctoral Committee:

Professor David William Cohen, Chair
Professor Mamadou Diouf
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To My Parents

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ABSTRACT

CONFLICTING CODES AND CONTESTED JUSTICE: WITCHCRAFT AND THE STATE IN KENYA

by

Katherine Angela Luongo

Chair: David William Cohen

Analyzing various “critical moments” at which “witchcraft”-related violence has challenged state authority, this dissertation argues that crimes driven by “witchcraft” have consistently presented practical and epistemological impediments to the state’s efforts to construct order and administer justice in Kenya from the colonial-era to the present day. Incorporating archival, oral, and published sources, this project demonstrates the historical ineffectiveness of law and policy in dealing with “witchcraft”-related violence. It also highlights Kamba people’s historical and contemporary perspectives on “witchcraft” and on state interventions into “witchcraft.” Rather than searching for the “modernity” of “witchcraft,” this dissertation reveals how popular discourse has consistently employed “witchcraft” as a metaphor for and explanation of misfortune and how state discourse has continuously constructed “witchcraft” as a convenient category-

of-the-state, mobilized to explain away persistent disorder. Departing from Mahmood Mamdani's assertion that "custom" constituted one half of a "bipolar" colonial legal system in which "customary" law and "native" courts governed African affairs while civil law and "metropolitan-style" courts regulated non-natives, this thesis examines "witchcraft"-related offences in order to show how *criminal* law also constituted a central space for governing African affairs. Throughout the colonial period, British authorities produced vast quantities of "anthro-administrative" knowledge about "witchcraft." Tracing the imperial networks through which this knowledge circulated, this dissertation demonstrates how "witchcraft" was an empire-wide, rather than highly localized, concern. During the opening decades of colonial rule, British authorities developed and refined anti-"witchcraft" law and anthro-administrative practice concerning "witchcraft." During the 1930s, the Wakamba Witch Trials stimulated heated debates in Kenya and the metropole over what made British justice in colonial contexts. In the 1940s, sentencing protocols and case law produced a corpus of legal precedent for dealing with "witch"-killing cases. During the Mau Mau rebellion of the mid-1950s, colonial authorities in Kambaland organized a series of "cleansings" of Kamba "witches" who were alleged Mau Mau supporters, thus breaking with the long-standing policy of *not* officially engaging "witchcraft"-related methods and actors to combat "witchcraft"-driven challenges to state authority. Despite colonial anthro-administrative and legal interventions, "witchcraft"-related violence remains a consistent challenge to state authority to the present day.

Chapter 1 Introduction

*Fictive Narratives in Colonial East Africa*¹

Before embarking on her well-known series of autobiographical novels, the white Kenyan writer Elspeth Huxley was the author of a cycle of crime novels set in Chania, a fictional East African colony modelled on interwar-era Kenya. In her 1937 mystery, *Murder at Government House*, the plot of which centered on the strangling of Chania's Governor, Huxley included a lengthy, elaborate anecdote about another high-profile murder case in colony, the "Wabenda witchcraft case."² Chania's Secretary for Native Affairs recounted the local narrative of the "Wabenda witchcraft case" to the detective in charge of investigating the Governor's murder. The Secretary for Native Affairs explained,

The Wabenda, among whom witchcraft was more strongly entrenched than among most Chania tribes, had put to death an old woman, who, they alleged, was a witch. The woman had stood trial before the elders and the chiefs of the tribe, had been subjected to a poison ordeal, and found guilty of causing the death of one of the head chief's wives and the deformity of two of his children. Then, following the custom of the tribe, she had been executed, in a slow and painful manner... It was a horrible death, but meted out after due trial, and for the most anti-social crime in the Wabenda calendar.³

¹ Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth Century France* (Stanford: Stanford University Press, 1987), 2-4.

² Elspeth Huxley, *Murder at Government House* (1937. Reprint, London: J.M. Dent and Sons, Ltd., 1987). 56.

³ *Ibid.*

After outlining the circumstances surrounding the “witch-killing,” the Secretary for Native Affairs turned to how Wabenda and British conceptions and processes of justice collided in the context of the case. He elaborated,

The chiefs and elders were put on trial for the murder of the old witch. Forty-five of them appeared in the dock – a special dock built for the occasion. They did not deny that the witch had died under their instructions. They claimed that in ordering her death they were protecting the tribe from sorcery, in accordance with their obligations and traditions. They were found guilty and condemned to death. There was no alternative under British law; the judges who pronounced sentence did so with reluctance and disquiet.⁴

But as the Secretary for Native Affairs noted, the “Wabenda witchcraft case” was not easily resolved by the sentencing of the 45 Wabenda in the British courts. He noted,

The Government was in an awkward position. It could not, obviously, execute forty-five respectable old men, many of them appointed to authority and trusted by the Government, who had acted in good faith and according to the customs of their fathers. In the end it had compromised. Thirty-four of the elders had been reprieved and pardoned. Ten had been reprieved and sentenced to terms of imprisonment. In one case, that of the senior chief who had supervised the execution, the death sentence had been allowed to stand.⁵

Finally, the Secretary for Native Affairs addressed some of the ways in which the case was figured in additional “judicial settings”; in the Supreme Court of Chania, in the Governor’s Privy Council, and in the equally salient “courts of opinion” of various metropolitan and Chanian publics.⁶ He explained,

The case was not yet over. The sentenced chief, M’bola, had appealed to the Supreme Court, lost, and finally appealed to the Privy Council. Feeling in native areas ran high. Agitators had seized upon the case as an example of the

⁴ Ibid.

⁵ Ibid.

⁶ David William Cohen and E.S. Atieno Odhiambo, *Burying S.M. The Politics of Knowledge and the Sociology of Power in Africa* (Portsmouth [NH]: Heinemann, 1992); Cohen and Odhiambo, *The Risks of Knowledge: Investigations into the Death of the Hon. Minister John Robert Ouko in Kenya, 1990* (Athens [OH]: Ohio University Press, 2004).

tyranny and brutality of British rule. Administrators feared serious troubles should it be carried out.⁷

The detective to whom the story of the case had been addressed nodded in assent to the Secretary's explanations, noting that the events were "familiar" to him as well as to "every European in the colony."⁸

At first glance, the description of a "witchcraft killing" and the administrative-judicial dilemmas it invited may seem to be something of a literary *non sequitur* in a novel otherwise in keeping with the general conventions of genre and period. Within the strict context of *Murder at Government House*, the story of the "Wabenda witchcraft case" operates loosely as a plot device to forward the meta-narrative of the simmering unrest which serves as the backdrop to the Governor's strangling. Nonetheless, the inclusion of such an elaborate anecdote invites questions about the "culturally reasonable conjecture" that Huxley would have been able to ascribe to her readers.⁹ What sort of knowledges would British readers in Kenya and the metropole have been able to bring to bear on these events in Chania? Why would a story of witchcraft, law and the colonies have resonated with British reading publics at home and abroad?

As was the case with the Secretary for Native Affairs and the detective, the events of the "Wabenda witchcraft case" would have likely seemed familiar to Huxley's audience because the fictional events mirrored the terms of the most high-profile witchcraft-murder case of the colonial era, the "Wakamba Witch Trials," which had taken place in Kenya less than six years before the publication of Huxley's novel. The

⁷ Huxley, 57.

⁸ Ibid.

⁹ Ann Laura Stoler, "'In Cold Blood': Hierarchies of Credibility and the Politics of Colonial Narratives," *Representations* 37 (1992): 151-189. 153.

Wakamba case, in turn, formed part of a longstanding, circuitous, imperial story of African witchcraft beliefs and practices challenging the ability of colonial states to achieve law and order in the British African Empire.

In the course of the 1931-1932 Wakamba Witch Trials, 60 Wakamba men were sentenced to death in the High Court of Kenya for killing a neighbor woman whom they believed to have been a witch. Like the fictional Wabenda, Wakamba people carried (from the perspectives of black Kenyans and white colonials alike) a reputation as being steeped in witchcraft and, although the Wakamba Witch Trials did not necessitate the construction of a special dock, the number of participants exceeded the capacity of the Supreme Court and proceedings were played out in the theatre of Nairobi's Railway Social Institute.¹⁰ Like their fictional counterparts, defendants in the Wakamba Witch Trials asserted that they had done nothing wrong in killing the alleged witch but, instead, had been carrying out *king'ole*, the Kamba institution of justice directed against social malefactors like recidivist witches and thieves.

However, under the 1930 Kenya Penal Code, Kenya Supreme Court justices had no other recourse than to sentence the 60 Wakamba men to death. Like the Wabenda Chief, M'bola, the Wakamba men appealed their case, but the High Court of Appeal for Eastern Africa struck down the appeal while recommending clemency to the Governor-in-Council who ultimately overturned the death sentences, substituting varying terms of hard labor. Although neither oral nor written sources offer a record of Wakamba people's reactions to the Wakamba Witch Trials, a range of documents reveals that the Wakamba Witch Trials formed the nucleus of widespread, virulent debates in Kenya and the metropole over what constituted justice, law and order in the African empire.

¹⁰ "A Strange Setting for a Murder Trial." *The East African Standard*. 2 February 1932.

As events in Chania were tied into a wider context of “witchcraft”-related unrest, so did the Wakamba Witch Trials form the center of a broader situation of “witchcraft”-driven disorder in Kenya. While the Wakamba Witch Trials stood out because of the unprecedented number of defendants and the resultant international attention that the court proceedings garnered, the basic circumstances surrounding the case were by no means unique or even atypical to the bureaucratic annals of colonial Kenya. Indeed, from the beginning of the colonial period to the eve of independence, colonial documents are replete with discussions of how “witchcraft” beliefs and practices challenged the ability of the state to establish justice, law and order.

Despite the furor they produced during the 1930s and their lasting impact on Kenyan jurisprudence, the Wakamba Witch Trials have been generally neglected in historiography.¹¹ Yet, this neglect is largely unsurprising for a variety of reasons. First, “witchcraft” in Africa, formerly the domain of anthropologists, has only recently emerged as an area of inquiry for historians, particularly those concerned with the development of colonial states. Second, “witchcraft” in areas outside the Kenyan Coast has been of little interest to social scientists working on Kenya. And, third, historiography on Kenya has overlooked Kamba people, places and things as scholars have focused on the more politically powerful Kikuyu, Luo and Kalenjin groups.

In contrast, this dissertation breaks with such historiographical trends by treating contests over crimes related to “witchcraft” among the Kamba as a central, critical means by which to investigate and understand the construction of state power in colonial Kenya. It argues that “witchcraft” driven crimes presented practical and epistemological

¹¹ Richard Waller, “Witchcraft and the Law in Colonial Kenya,” *The Past and Present Society* 180.1 (October 2003): 241-275.

challenges to the state's efforts to construct order and administer justice. Through seven chapters, this dissertation traces the development and refinement of anti-"witchcraft" law and anthro-administrative practice in the opening decades of colonial rule, examines the local and empire-wide resonances of the Wakamba Witch Trials, analyzes case law and sentencing protocols in post-World War Two witch-killing cases, and details how and why colonial authorities ultimately broke with the long-standing policy of *not* officially engaging "witchcraft"-related methods and actors to combat "witchcraft"-driven challenges to state authority during the Mau Mau era.

The following core questions frame this study: What sort of practices and beliefs did "witchcraft" encompass? How did "witchcraft" operate as a category of understanding for state officials and Africans? What sort of affective states did "witchcraft" produce? How did the state develop and bring to bear anthro-administrative knowledge of "witchcraft"? What were some of the ways in which state officials and Africans explained the antecedents of and articulated "customary" and colonial law? How did state officials utilize law in efforts to consolidate and exercise administrative control? Did Africans draw upon "customary" and/or colonial law to contest state power? What were the results of such efforts? How were "witchcraft"-related criminal cases used by the state to define violence and to designate those who could employ it legitimately? How did laws and cases related to "witchcraft" help to define legally recognizable "fear" and "malice"? Why did the state resist employing "witchcraft" means to deal with "witchcraft"-driven problems during the first five decades of colonial rule? By whom and in what ways was "witchcraft" politicized? What sort of people, practices, and ideas counted as "modern" in colonial Kenya?

A Brief Discussion of Terms

This dissertation employs the (commingling) terms “supernatural,” “magic,” and “witchcraft”¹² in describing and analyzing the sociopolitical situation of colonial-era Kenya. As each of these terms has also been the subject of popular and academic debates, a brief discussion elucidating the meanings and uses of these terms within the contexts addressed in this dissertation is warranted.

Broadly defined, the term “supernatural” refers to that which is attributable to forces operating beyond or outside “the normal,” especially natural laws; to that which is attributable to powers existing beyond or exceeding the visible, observable world; to that which is attributable to an invisible actor/agent. With its focus on the normal, the natural, and the visible, this definition at the same moment necessarily assumes clear binary divisions between the normal/abnormal, the natural/unnatural, and the visible/invisible. Defining “supernatural” in this way carries the potential to neutralize and homogenize the range of value-judgments implicit in characterizing someone or something as normal, natural, visible – or not.¹³

So if the term “supernatural” collapses nuance, why deal with it at all? First, the term “supernatural” was used by colonial actors in examining and explaining the state of affairs confronting them in Ukambani and elsewhere. “Supernatural” offered colonial

¹² It is well-known and widely articulated inside and outside the academy that “witchcraft” is inadequate to cover the nuances, subtleties, and differences among the various practices and beliefs that are often subsumed under the rubric “witchcraft.” Accordingly, “witchcraft” is placed in quotation marks in various sections of this dissertation to signal the abstract nature of the term. When the *specifics* of “witchcraft” practices and beliefs have been cited and explained, quotation marks are no longer used.

¹³ See Georges Canguilhem, *The Normal and the Pathological* (New York: Zone Books, 1991), 125. In a discussion of “the normal” he writes, “...(1) normal is that which is such that it ought to be; (2) normal, in the most usual sense of the word, is that which is met with in the majority of cases of a determined kind, or that which constitutes either the average or standard of a measurable characteristic. In the discussion of these meanings it has been pointed out how ambiguous this term is since it designates at once a fact and ‘a value attributed to this fact by the person speaking, by virtue of an evaluative judgment for which he takes responsibility.’”

authorities a broad rubric under which to lump a range of “local” attitudes, actions and actors which they could not otherwise effectively manage nor efficiently explain away. And, within the context of the African empire, colonial characterizations of someone or something “supernatural” did dismissive work as well, distinguishing the “supernatural” person or object from the nexus of the normal/natural/visible valorized by a colonial power-knowledge complex centered on “reason” and “science.”

Second, the term “supernatural” is not without use value for scholars when it is taken as the *starting* rather than the ending point of analysis. Regarding Kamba cosmology then, the term “supernatural” can encompass categories of people and practices that in some way harbor exceptional sorts of power. Starting with “supernatural” can, in turn, open up lines of questioning about specific sociologies of local power and the messily interacting modes and meanings of normal/abnormal, natural/unnatural, and visible/invisible within Kamba contexts.

“Magic” is a term closely related to “supernatural.” Broadly defined, “magic” is the wielding of power attributable to supernatural forces or the use of means imbued with such power. Colonial authorities frequently employed the term “magic” when describing and analyzing local beliefs and practices or characterizing local people that they had difficulty disciplining and whose powers they aimed to ultimately deny. Like “supernatural,” the term “magic” did evaluative work. As Michael Bailey explains in his historical analysis of the Weberian thesis of Western “disenchantment,”

Magic and cultural perceptions of the magical occupy a critical place particularly in sociological and anthropological conceptions of modernity, and issues of “magical thought” and “superstition” in opposition to “scientific rationalism” frame discussions not only of the modern West but of instances in

which Western modernity confronts the traditional beliefs and practices of other world cultures.¹⁴

Further, colonial authorities very often used “magic” and “witchcraft” interchangeably, employing “black magic” to stand for “witchcraft-for-harm” and “white magic” to stand for “witchcraft-for-healing.” In much the same way the colonial uses of “supernatural” compressed subtleties, the binary distinction implied by “black magic” versus “white magic” elided the realms in which harm and healing interacted. Kamba people, in turn, refer rarely to “magic” (in English, Kiswahili or Kikamba), but readily to “*uoi*” and “*uwe*,” Kikamba words translating loosely to “witchcraft-for-harm” and “witchcraft-for-healing,” each term carrying the implicit understanding that neither sort of “witchcraft” can ever be completely severed from the other.¹⁵

What colonial authorities and Kamba people agreed about in reference to “witchcraft” was the overarching meaning of “witchcraft” as magical malevolence and the salience of “witchcraft” as a Kamba way-of-being in the world, although each group used these notions in different ways. For colonial authorities, “witchcraft” was a way to categorize and to explain away disorder and underdevelopment in Kambaland while at the same moment casting Kamba people as inherently intractable due to the influence that “witchcraft” and other “supernatural” or “magical” elements held over them.

For Kamba people, in contrast, “witchcraft” has ultimately been a way of making order out of disorder. Indeed, Harry West’s perspective on “witchcraft” or “*uwavi*” in Mozambique could easily describe the situation in Kambaland. He writes,

¹⁴ Michael D. Bailey, “The Disenchantment of Magic: Spells, Charms, and Superstition in Early European Witchcraft Literature,” *The American Historical Review* 111.2 (April 2006):383-404. 383.

¹⁵ *Uoi* and *uwe* are explained in detail in chapter two.

The complex of discursive and material practices through which Muedans have engaged with the invisible realm of *uwavi* has sustained among them a distinctive cultural schema concerning the workings of power – a schema drawing form from past Muedan experience while giving form to Muedan involvement in, and understanding of, ongoing historical events and processes.¹⁶

Finally, this dissertation also regularly employs the phrase “witchcraft beliefs and practices.” Recent scholarship has called into question the use-value of talking about “witchcraft beliefs” rather than about knowledge(s) of witchcraft.¹⁷ This literature asserts that “belief” is too narrow and too Western a concept and that “knowledge” grasps more fully the realities of “living in a world with witches.”¹⁸ For example, citing the work of medical anthropologist Byron Good, West explains,

Good warns that the concept of belief, so easily attributed to others, is a distinctly Western one that has come to connote conviction to a given idea or principle with the modern context of, and despite, uncertainty... Good argues that people who understand their world in terms of sorcerers and spirits do not “believe in” these entities but instead “know” them to be true.¹⁹

Such arguments, this dissertation posits, establish a false dichotomy between “belief” and “knowledge,” two entities that are mutually reinforcing rather than exclusive. In the Kamba context, what mobilizes a knowledge of “witchcraft” – whether it be the knowledge that “witchcraft” resides in one’s own body or in the instructions accompanying the “witchcraft” paraphernalia one has obtained – is belief in the efficacy of “witchcraft.” Further, many people who claim to have no knowledge of “witchcraft”

¹⁶ Harry G. West, *Kupilikula: Governance and the Invisible Realm in Mozambique* (Chicago: University of Chicago Press, 2005), 84.

¹⁷ For example, Adam Ashforth, *Witchcraft, Violence and Democracy in South Africa* (Chicago: University of Chicago Press, 2005). Also, West, *ibid.*

¹⁸ West, *ibid.* 233. Ashforth, *ibid.* 111.

¹⁹ West, *ibid.* Byron Good, *Medicine, Rationality, and Experience: An Anthropological Perspective, the Louis Henry Morgan Lectures 1990* (Cambridge: Cambridge University Press, 1990). See also West’s discussion of Jean-Pierre Olivier de Sardan, “Occultism and the Ethnographic ‘I’: The Exoticizing of Magic from Durkheim to ‘Postmodern’ Anthropology,” *Critique of Anthropology* 12.1 (1992): 5-25. Also in West, *ibid.*

themselves readily believe that others do and that “witchcraft” works. Overall, that which completes the cycle of the efficacy of “witchcraft” is Kamba people’s belief in the “knowledge” that they live in a “world with witches” who can and do deploy their powers against ordinary people. Thus, as Ashforth cogently explains, “The point is not *that* they believe, but what they believe, how they believe it, and with what consequences for the conduct of their lives.”²⁰

Untangling and Intermingling the State and “Witchcraft”

Literature on administration in Africa has explained the mechanisms of colonial and contemporary governance.²¹ Scholars have established that far from being hegemonic, administrative control was often contradictory, tenuous, and ad-hoc.²² Research also has shown that the objects, technologies, applications, effects, and appropriateness of administrative control were sites of struggle.²³ At the same time, recent scholarship demonstrates that colonial administration created a strong distinction between state and public that continues to influence present-day governance in Kenya.²⁴

²⁰ Ashforth, *ibid.* 122.

²¹ Y.P. Ghai and J.P.W.B. McAuslan, *Public Law and Political Change in Kenya: A Study of Legal Framework of Government from Colonial Times to the Present* (Nairobi: Oxford University Press, 1970); Robert Tignor, *The Colonial Transformation of Kenya: the Kamba, Kikuyu, and Masai from 1900-1939* (Princeton: Princeton University Press, 1976); Charles Ambler, *Kenyan Communities in the Age of Imperialism: the Central Region in the Late Nineteenth Century* (New Haven: Yale University Press, 1988).

²² Bruce Berman, *Control and Crisis in Colonial Kenya: the Dialectic of Domination* (London: James Currey, 1990); Bruce Berman and John Lonsdale, *Unhappy Valley: Conflict in Kenya and Africa, Books One and Two*. (James Currey: Oxford, 1992); Sara Berry, “Hegemony on a Shoestring: Indirect Rule and Access to Agricultural Land,” *Africa* 62.3 (1992): 327-355.

²³ David Scott, “Colonial Governmentality,” *Social Text* 43 (1995): 191-219; Peter Pels, “The Anthropology of Colonialism: Culture, History, and the Emergence of Western Governmentality,” *Annual Review of Anthropology* 26 (1997): 168-183; Clifton Crais, ed., *The Culture of Power in Southern Africa: Essays on State Formation and Political Imagination* (Portsmouth [NH]: Heinemann, 2003).

²⁴ Claire Robertson, *Trouble Showed the Way: Women, Men, and Trade in the Nairobi Area, 1890-1990* (Bloomington: Indiana University Press, 1997); William Cunningham Bissell, “Colonial Constructions: Historicizing Debates on Civil Society in Africa,” in *Civil Society and the Political Imagination in Africa: Critical Perspectives*, eds. John and Jean Comaroff (Chicago: University of Chicago Press, 1999); Lynn M. Thomas, *Politics of the Womb: Women Reproduction and the State in Kenya* (Berkeley and Los Angeles: University of California Press, 2003).

Scholarship examining law in Africa has focused on relationships between “customary” law and the state. Early scholars cataloged “customary” law, treating it as a closed and static system.²⁵ Subsequent work pointed out that new “social situations” of colonialism rendered “customary” law that dated from the pre-colonial era open to change, but did not assign the state an active role in rearticulating and implementing it.²⁶

In contrast, recent research foregrounds the state’s role in constituting “customary” law. Martin Chanock has famously argued that “customary” law was constructed by British officials and “tribal” elders who manipulated each other’s understandings of “custom” in order to produce inflexible “customary” laws that served their respective interests.²⁷ Mahmood Mamdani asserts that “custom” constituted one half of a “bipolar” colonial legal system in which “customary” law and “native” courts governed African affairs while civil law and “metropolitan-style” courts regulated non-natives.²⁸ Alternatively, literature addressing colonial officials’ opposition to codifying “customary” law and scholarship analyzing the role of “customary” law in present-day governance and society suggests instead that “customary” law comprised a flexible body

²⁵ R.S. Rattray, *Ashanti Law and Constitution* (Oxford: Oxford University Press, 1929); Isaac Schapera, *A Handbook of Tswana Law and Custom* (London: Oxford University Press, 1955); D.J. Penwill, *Customary Law* (Nairobi: Kenya Literature Bureau, 1956).

²⁶ Max Gluckman, *Custom and Conflict in Africa* (Oxford: Basil Blackwood, 1955); M. Georges Balandier, “The Colonial Situation: A Theoretical Approach,” in *Africa: Social Problems of Change and Conflict*, ed. Pierre L. Van den Berghe (San Francisco: Chandler, 1965).

²⁷ Martin Chanock, *Law, Custom and Social Order: the Colonial Experience in Malawi and Zimbabwe* (Portsmouth [NH]: Heinemann, 1985); Kristin Mann and Richard Roberts, *Law in Colonial Africa*. (Portsmouth [NH]: Heinemann, 1991); Sally Falk Moore, “Treating Law as Knowledge: Telling Colonial Officers What to Say to Africans about Running ‘Their Own’ Native Courts,” *Journal of History and Society* 26.2 (1992): 11-46.

²⁸ Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton: Princeton University Press, 1996). 16-23.

of rules and norms which predated colonialism, changed according to circumstance, and continues to do so today.²⁹

This dissertation engages with this scholarship in two ways. First, it addresses the (often conflicting) ways in which “customary” law was fashioned and re-fashioned by state officials and Africans in contests over “witchcraft” and related crimes. Second, this project departs from such literature by examining the ways in which *criminal* law also constituted a central space for governing African affairs.

Early scholarship on African “witchcraft” aimed to debunk the irrationality of “witchcraft” and to figure it as a rational response to social and material environments.³⁰ Recent literature on “witchcraft” has not strayed far from this model, focusing on how “witchcraft” is a reaction to and explanation of the social, economic, and political problems of “modernity.” Most notably, Peter Geschiere has argued that the tight interconnections between “witchcraft” and present-day contests in Cameroonian politics render “witchcraft” a “modern” phenomenon.³¹ Scholarship on “witchcraft” in Southern Africa also has focused on the “modernity” of the intersections of “witchcraft” and politics. Researchers have been especially concerned with tracing the ways in which

²⁹ Luise White, *The Comforts of Home: Prostitution in Colonial Nairobi* (Chicago: University of Chicago Press, 1990); Cohen and Odhiambo, 1992; Brett Shadle, “‘Changing Traditions to Meet Current Altering Conditions’: Customary Law, African Courts and the Rejection of Codification in Kenya, 1930-60,” *Journal of African History* 40.3 (1999): 389-411; Jennifer Widner, *Building the Rule of Law: Francis Nyalali and the Road to Judicial Independence in Africa* (New York: W.W. Norton & Company, 2001).

³⁰ C.W. Hobley, *Bantu Beliefs and Magic* (London: Frank Cass and Company, 1922); E. E. Evans-Pritchard, *Witchcraft, Oracles, and Magic Among the Azande* (Oxford: Clarendon Press, 1937); Monica Wilson, “Witch Beliefs and Social Structure,” *American Journal of Sociology* 41.4 (1951): 307-13; Max Marwick, ed., *Witchcraft and Sorcery* (London: Penguin Books, 1970).

³¹ Peter Geschiere, *The Modernity of Witchcraft: Politics and the Occult in Postcolonial Africa* (Charlottesville: University of Virginia Press, 1995); Adeline Masquelier, “Vectors of Witchcraft: Object Transactions and the Materialization of Memory in Niger,” *Anthropological Quarterly* 70.4 (1997): 187-198; Peter Geschiere and Cyprian Fisiy, “Witchcraft, Development, and Paranoia in Cameroon: Interactions Between Popular, Academic and State Discourse,” in *Magical Interpretations, Material Reality. Modernity, Witchcraft, and the Occult in Postcolonial Africa*, eds. Henrietta L. Moore and Todd Sanders (New York: Routledge, 2002).

“witchcraft” was a matrix of generational conflict over and resistance to apartheid and the ways in which it draws upon insecurities and gives rise to anxieties about urban living in the post-apartheid era.³² This dissertation expands this scholarship by analyzing the intersection of “witchcraft” and politics in the fresh context of Kenya. This project also engages “modernity.” Rather than treating modernity as a “catch-all” category, this dissertation theorizes the different ways in which modernity functions simultaneously as a category of scholars, of colonizers, and of colonized. It also traces how the content and meaning of modernity varies according to context.

Finally, this dissertation contributes to the largely understudied topic of “witchcraft” in East Africa. Literature on “witchcraft” in East Africa, particularly for Kenya, is considerably less developed than scholarship on West and Southern Africa. Middleton and Winter’s 1963 edited volume is the most recent monograph on “witchcraft” in East Africa.³³ Researchers have examined “witchcraft” ordinances as part of larger studies on legal administration in Kenya and have studied witchcraft practices and beliefs among specific ethnic groups in Kenya.³⁴ This dissertation brings legal and

³² Ralph Austen, “The Moral Economy of Witchcraft: An Essay in Comparative History,” *Modernity and Its Malcontents*, eds., John and Jean Comaroff (Chicago: University of Chicago Press, 1993); Isak Niehaus, “Witch-Hunting and Political Legitimacy: Continuity and Change in the Green Valley, Lebowa, 1930-91,” *Africa* 63.4 (1993): 498-530; Sean Redding, “Government Witchcraft: Taxation, the Supernatural and the Mpondo Revolt in the Transkei, South Africa, 1955-1963,” *African Affairs* 95.381 (1996): 555-580; Niehaus, “The ANC’s Dilemma: Three Witch-Hunts in the South African Lowveld,” *African Studies Review* 41.3 (1998): 93-118; Johannes Harnischfeger, “Witchcraft and the State in South Africa,” *Anthropos* 95 (2000): 99-112; Adam Ashforth, *Madumo: A Man Bewitched* (Chicago: University of Chicago Press, 2000); Niehaus, *Witchcraft, Power, and Politics: Exploring the Occult in the South African Lowveld* (London: Pluto Press, 2001); Ashforth, 2005.

³³ John Middleton and E.H. Winter, *Witchcraft and Sorcery in East Africa* (London: Routledge and Keegan Paul, 1963).

³⁴ Onesmus K. Mutungi, *The Legal Aspects of Witchcraft in East Africa* (Nairobi: East African Literature Bureau, 1977); Cynthia Brantley, *The Giriama and Colonial Resistance in Kenya, 1880-1920* (Berkeley: University of California Press, 1981); David Anderson, “Black Mischief: Crime, Protest, and Resistance in Colonial Kenya,” *African Historical Journal* 34.6 (1993):851-877; Jeffrey Fadiman, *When We Began There Were Witchmen: An Oral History From Mount Kenya* (Berkeley: University of California Press, 1993); Diane Ciekawy, “Witchcraft and Statecraft: Five Technologies of Power in Coastal Kenya,” *African Studies Review* 41.3 (1998):119-143; Waller, 2003.

ethnographic studies of “witchcraft” together in order to investigate the ways in which administrative and ethnographic knowledge intersected or not, and in what ways they were mutually reinforcing.

Reading the literature addressed above in conversation with archival and ethnographic sources, this dissertation arrives at a number of conclusions. First, it demonstrates that colonial knowledge about “witchcraft” was used to develop objects and means of colonial control. It illustrates some of the ways in which conflicts over “witchcraft”-related criminal cases reveal many of the discontinuities of state governance and the numerous spaces in which administrative control was contested. Also, this dissertation shows that “witchcraft” was a key locus around which British authorities identified “colonial difference.” It argues that the disconnect between the state’s management of and Africans’ attitudes towards these cases points to a divide between state and public interests.

This dissertation also demonstrates that contrary to Chanock’s notion, “customary” law was not a rigid system constructed “on the spot” through the self-interested maneuverings of colonial officials and local authorities.³⁵ In many instances, “customary” law related to “witchcraft” and the type of justice this law produced, persisted outside the bounds of the state legal system and alongside state conceptions of what constituted justice. This project points out that Mamdani’s idea of a “bipolar” legal system elides criminal law, a realm in which “customary” and “metropolitan-style” justice often messily interacted.³⁶ Overall, this dissertation demonstrates that competing ideas about how to define and achieve “justice” in the context of “witchcraft”-related

³⁵ Chanock, 1985.

³⁶ Mamdani, 1996. 16-23.

crimes existed because the state lacked the material and epistemological means to deal effectively with the complexities of “witchcraft.”

A range of conclusions about the character of “witchcraft” in colonial Kenya is offered by this dissertation. It argues that “witchcraft” was not an idiom for expressing anxieties over the social dislocation caused by colonialism and its attendant “modernities.” Instead, “witchcraft” cases tend to reflect concerns about interpersonal relations, physical and mental health, and property. In Kenya, “witchcraft” was not employed by Africans as a tool of politics in relation to the state or resistance until the Mau Mau era. Rather “witchcraft” became gradually politicized through broad imperial debates over the state’s role in defining and regulating justice, law and order.

This project argues further that “witchcraft” was not simply a category of “the native,” but equally a category of the state. “Witchcraft” cases in colonial Kenya highlight how “witchcraft” represented perceptions of dislocation and disruption, of the unsaid and the unthinkable, as frequently for state officials as they did for Africans.³⁷ These cases demonstrate that British authorities were aware that “witchcraft” did not denote a bounded, pre-existing category, but was instead fluidly defined and invoked to delineate a range of Africans’ beliefs and practices.

These cases also show that “witchcraft” in colonial Kenya was not “modern” in any sense other than it was engaged in the “here-and-now.” In a reverse of Geschiere’s contemporary paradigm that locates the “modernity” of “witchcraft” in the politics of the everyday, “modernity,” in its valorized aspect, was squarely the provenance and

³⁷ Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 1995).

preoccupation of the state in colonial Kenya, a condition that in many ways persists into the present.³⁸

“Critical Events” in the Colonial Compendium

Kenya was certainly not the sole colony in the British African Empire where administrative concerns were widely and messily entangled with “witchcraft”-related forms of disorder. Indeed, Colonial Office records dealing with the African colonies are replete with a variety of discussions about “witchcraft,” indicating the multifarious ways in which crimes related to “witchcraft” constituted an empire-wide concern during the late nineteenth and twentieth centuries.³⁹ Scholars have often dealt with the breadth of the compendium of administrative records treating “witchcraft”-based disorder in two ways; approaching “witchcraft” and other supernaturally-related mentions quantitatively or approaching them within a closely bounded timeframe.

Treating “witchcraft”-related disorder quantitatively, scholars have focused on such how many times “witchcraft” appeared in administrative documents in a given period or how many “witchcraft” cases were tried in colonial courts in a particular year.⁴⁰ Via this aggregating approach, some scholars contend that the sheer bulk of “witchcraft” mentions indicates that they constituted a pressing and abiding concern to colonial states and to the broader imperial administration. While attention to the scope of discourse about “witchcraft”-related disorder is certainly important, this approach nonetheless

³⁸ Frederick Cooper, *Colonialism in Question: Theory, Knowledge, History* (Berkeley: University of California Press, 2005).

³⁹ Katherine Luongo, “‘There Was Nothing Unusual in this Case Until the Man Died’: Witch Murder in the Gambia, 1931” (paper presented at the African Studies Association Forty-seventh Annual Meeting, New Orleans, Louisiana, 2004).

⁴⁰ Natasha Gray, “Numbers and Narratives: Using Statistical and Textual Analysis to Understand Witchcraft Trials in Colonial Ghana” (paper presented at the African Studies Association Forty-seventh Annual Meeting, New Orleans, Louisiana, 2004). Also, “Witches, Oracles and Colonial Law: Evolving Anti-Witchcraft Practices in Ghana, 1927-1932,” *The International Journal of African Historical Studies* 34.2 (2001): 339-363.

elides the epistemological *work* that “witchcraft” did or was made to do in both the short term and long term. Other literature, in addition, addresses “witchcraft”-related disorder within a strictly bounded timeframe rather than over a particular colonial administration’s *longue durée*. While such an approach can facilitate a close-reading of particular administrative dilemmas in regard to “witchcraft,” it neglects the oft-times subtle shifts in attitudes and practices related to “witchcraft.”

This dissertation, in contrast, approaches “witchcraft” (and other forms of supernaturally-originating disorder) through a focus on a series of “critical events” spanning the six decades of British rule in Kenya. In her history of female circumcision in Meru, Lynn Thomas explains that “critical events are those that rework ‘traditional categories,’ prompting ‘new modes of action’ to come into being.” These events, Thomas adds, “leave their mark on a variety of institutions, including ‘family, community, bureaucracy, courts of law, the medical profession, the state and multi-national corporations.”⁴¹ Drawing on this perspective, “critical events” could be extrapolated further as “key moments” which precipitate flux, produce controversies, and prompt redefinitions and which can also promote change *or* entrenchment among a broad array of organizations and actors.

In the context of this dissertation, training a scholarly lens on “critical events” works as a structuring tool and as an analytic tool. An attention to “critical events” supports the project’s temporal framework, foregrounding significant moments of “witchcraft”-related challenge to state authority and following related shifts in discourse, policy and practice across several decades. A focus on “critical events” also enables analysis, tracing “witchcraft” mentions through a spectrum of sources and marking the

⁴¹ Das cited in Thomas, 2003. 6-7.

junctures at which accumulations of “witchcraft”-related disorder spilled over into the sort of “witchcraft”-related disobedience that the state could not ignore. The following chapters analyze the evolutions and entrenchments of policy and practice concerning “witchcraft” in colonial Kenya, demonstrating how “witchcraft” posed a consistent challenge to the ability of the state to establish law and order.

Chapter two explains Kamba cosmology, attending strongly to beliefs and practices concerned with “witchcraft” and oathing. It also focuses on the significance of “witchcraft” and oathing to perceptions about Kamba ways-of-being-in-world.⁴²

Chapter three elucidates the broad structure of the colonial state and traces the contours of colonial bureaucratic practices in Kenya. It details the history of the colonial state’s legal and administrative efforts to deal with “witchcraft” in Kambaland before 1930, focusing particularly on the development of the Kenya Witchcraft Ordinances and the burgeoning of Kamba “witchcraft” as an area of anthro-administrative investigation. Analyzing legal developments pertaining to “witchcraft” and the growth of an anthro-administrative complex of knowledge about “witchcraft” in turn demonstrates how “witchcraft” entered the “colonial lexicon” and became an issue of widespread preoccupation for colonial authorities in the metropole and abroad.⁴³

Chapter four traces the development and outcomes of the aforementioned Wakamba Witch Trials, or *Rex versus Kumwaka s/o Mulumbi and 70 Others* as the case was formally known, the most high-profile “witchcraft”-related murder case of the

⁴² A focus on Kamba “supernatural beliefs and practices” is not intended to suggest that the author or informants regard such as static or unitary. The exigencies of anthro-historical approaches to Kamba cosmology are discussed in chapter two.

⁴³ Nancy Rose Hunt, *A Colonial Lexicon of Birth Ritual, Medicalization, and Mobility in the Congo* (Durham: Duke University Press, 1999).

colonial period. Tried in the Supreme Court of Kenya in 1932, the case exemplifies the ways in which “witchcraft”-related criminal cases reveal the broader circumstances of clashes over justice, law and order in Africa.

As noted above, the High Court of Appeal for Eastern Africa rejected the defendants’ arguments that in killing their neighbor whom they believed to be a witch they had acted in self-defense and that their actions had been justified according to Kamba “custom.” The Governor of Kenya ultimately commuted the death sentences, and these decisions sparked intense conversations amongst state authorities and metropolitan “experts” not only over the management and meanings of “witchcraft,” but over the efficacy and integrity of British justice in the Empire and raised important, reoccurring questions about the nature of state power, modernity, violence, fear, and “witchcraft.” The decisions and controversies surrounding *Rex versus Kumwaka* have informed subsequent decisions about witchcraft-related murder cases. The “critical events” profiled in chapter two foreground the “circuits of empire”⁴⁴ which imperial knowledge about witchcraft followed and some of the ways in which “witchcraft” generally operated as a touchstone for broader debates over imperial politics.

Chapter five demonstrates that from 1939-41, more than 10 percent of the capital murder cases tried in the Supreme Court of Kenya was directly related to the defendants’ beliefs that the deceased had “bewitched” them. Faced with a glut of “witchcraft”-related capital murder cases and cognizant of the international furor caused by the death penalty verdicts in *Rex versus Kumwaka*, the court developed an *ad hoc* policy of sentencing to death, but recommending to the Governor-in-Council’s clemency, murder defendants

⁴⁴ Frederick Cooper and Ann Laura Stoler, *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley and Los Angeles: University of California Press, 1989).

who were able to convince the court of their “real but mistaken belief” in the deceased’s “witchcraft.” Close-readings of these cases demonstrate the degree to which state authorities oft-times competing understandings of “witchcraft” exerted a tacit influence on jurisprudence concerning capital murder, working alternately to reinforce and revise key concepts such as “malice aforethought,” “provocation” and “fear.”

Chapters six and seven show that during the anti-colonial Mau Mau revolt of the 1950s the state broke with its policy of not *officially* using “witchcraft” methods to deal with “witchcraft”-related violence and instead drew upon “witchcraft” to combat the “witchcraft” activities which various state and non-state actors perceived as key elements of Mau Mau violence. The state organized a series public and openly sponsored “cleansings” conducted by state-employed “witchdoctors” who ritually burned the “witchcraft” paraphernalia belonging to witches who were alleged to offer Mau Mau fighters ritual protection, to administer the Mau Mau oath, and to terrorize local populations with witchcraft threat and practices. The state induced 1,000 “witches” to surrender themselves and their paraphernalia during this campaign. These chapters demonstrate broadly how state authorities construed Mau Mau not simply as politico-military problem, but also as the apex of a half-century of “witchcraft”-driven challenges to state authority.

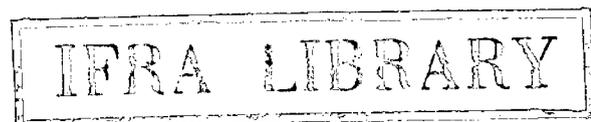
The Archival and Ethnographic Fields

The “critical events” addressed by this dissertation stand out in high relief from a broad survey of archival and ethnographic sources pertaining to governance in colonial Kenya. This project was initially developed by following a British MP’s passing question in the House of Commons about a specific “witchcraft” murder case in Kenya –

the Wakamba Witch Trials – to an ever-widening web of evidence about “witchcraft” challenges to state authority in the British African Empire.⁴⁵ Spanning the metropole and the colonies, historical sources concerning “witchcraft” also take in issues of law and order, administrative policy and practice, and the constitution and deployment of anthropological knowledge. These sources also embrace a range of bureaucratic, academic, popular and personal genres.

Archival and documentary research for this dissertation was conducted in Britain at the Public Record Office, the British Library, the School of Oriental and African Studies Library, the London School of Economics Archives, the Royal Geographic Society Archives, the Rhodes House Library and the Cambridge University Library Commonwealth Collection. In Kenya, archival and documentary research was conducted at the Kenya National Archives, the McMillan Library, the University of Nairobi Jomo Kenyatta Library, the University of Nairobi Law School Library, the National Museums of Kenya African Studies Institute, the British Institute in Eastern Africa Library, the Institut Français de Recherche en Afrique Library, and the archives of *The Nation* newspaper. In the United States, archival research was carried out in the Kenya National Archives microfilm collection at Michigan State University and in the archives of the Rockefeller Foundation. The documents examined in these various locales include metropolitan and colonial government reports and correspondence, court reports and trial transcripts, unpublished and published manuscripts, newspaper reports, journal articles, and personal papers.

⁴⁵ House of Commons Debates. 10 February 1932. Volume 261. 857-858.



This dissertation is also based on ethnographic research. During 2004, the author conducted a series of interviews and unstructured meetings in Nairobi with J.C.

Nottingham, the former District Officer in charge of the Machakos witch-cleansings. In addition, the author and her research assistant interviewed close to 40 elderly Wakamba men and women over 30 sessions conducted in various market towns, villages and homesteads throughout Machakos District during the summer and early autumn of 2004.

Each chapter's source base differs according to types of "critical moments" under examination and also to these moments' varying proximities to the present day. Chapter two is based on ethnographic and archival evidence. It uses ethnographic sources to trace the contours of Kamba cosmology, juxtaposing information gleaned from interviews with contemporary and colonial-era published ethnographies. Chapter three draws upon a variety of archival and published sources to outline the structure of colonial administration in Kenya and the development of an anthro-administrative complex concerning "witchcraft."

Chapter four utilizes district and provincial administrative reports, newspaper coverage, judicial reports, and Colonial Office correspondence and reports to develop the events surrounding the Wakamba Witch Trials. It integrates a range of interview and published ethnographic evidence with the documentary sources noted above in order to construct the administrative-judicial narrative of *Rex versus Kumwaka*, but also to read the events as the "case of Mwaiki," – the case of the Kamba woman whose death at the hands of her neighbors sparked the trials.

In developing chapter five, the records of over 100 capital murder cases located in the Ministry of Legal were surveyed and three cases files in which the courts concurred,

contested and contradicted the defendants' claims about the role of "witchcraft" in the commission of crimes were closely analyzed. This chapter also interrogates case law produced by the Supreme Court of Kenya and the High Court of Appeal for Eastern Africa in order to construct a legal genealogy of how the courts treated claims about murder victims' alleged "witchcraft" in the periods before and after *Rex versus Kumwaka*. Finally, it uses archival and ethnographic evidence to elucidate the status and functions of two key categories of court experts – translators and native assessors.

The last two chapters of this dissertation are based almost equally on ethnographic and archival evidence. Chapters six and seven use archival evidence to develop the broader context of Mau Mau among Kamba people and places and then to trace how state authorities approached Kamba oath-taking and "witchcraft" practices during the Mau Mau era. These chapters read ethnographic evidence about Mau Mau in Ukambani in conversation with archival sources to address *why* Kamba people participated in state-sponsored cleansings of Mau-Mau and to demonstrate some of the ways in which Kamba people viewed state actions and authorities in the Mau Mau era.

Researching and reading, and then writing about, such a vast array of sources demands particular strategies for treating archival evidence ethnographically. And this task also requires strategies that recognize the labor of ethnography as highly processual and ethnographic evidence as a complex nexus of conceptualization, interaction, analysis, and narrativization. Ethnographies of the archive involve the work of "assembling, disrupting, and reconfiguring;" work that traces the historical development of the archive and the sources it contains, and takes into account how conventions of writing and narrative, modes of organization, procedures of collection, attentions to audience,

imaginaries and fantasies, affective states, and protocols of research structure the archive and its sources.⁴⁶ A critical approach to ethnographic evidence, in turn, addresses how informants *and* historians have accessed, generated, expressed, and used ideas of the past and present. Accordingly, the core questions have structured strategies for researching and reading documentary sources. These questions are grouped in broad categories below:

Languages: What are the “prior meanings” of “witchcraft,” “murder,” and “crime” in British metropolitan and colonial discourses?⁴⁷ In what ways do public reportage and commentaries become “constitutive features” of “witchcraft” court cases?⁴⁸ To what extent did discussions of “witchcraft” contain “fictive” elements that transformed accounts of “witchcraft” from isolated or serialized events into narratives that were broadly intelligible to British officials?⁴⁹ At which moments and for what reasons do British authorities and other writers employ “languages of affect” in writing about “witchcraft” and crime?⁵⁰ Colonial discourse on “witchcraft” driven by gender? In what ways can ethnological/anthropological documents be read as historically produced even if they are written in an ethnographic present?⁵¹

⁴⁶ Michael Lynch, “Archives in Formation: Privileged Spaces, Popular Archives, and Paper Trails,” *History of the Human Sciences* 12.2 (1999) 65-87.

⁴⁷ Timothy Burke, *Lifebuoy Men, Lux Women: Commodification, Consumption, and Cleanliness in Modern Zimbabwe* (Durham: Duke University Press, 1996).

⁴⁸ Cohen and Odhiambo, 1992 and 2003. Lynch, 1999.

⁴⁹ Davis, 1987.

⁵⁰ Gayatri Chakravorty Spivak, “The Rani of Sirmur: An Essay in Reading in the Archives,” *History and Theory* 24.3 (1985): 247-272; Ann Laura Stoler, *Carnal Knowledge and Imperial Power: Race and the Intimate in Colonial Rule* (Berkeley: University of California Press, 2002).

⁵¹ George Stocking ed., *Colonial Situations: Essays in the Contextualization of Ethnographic Knowledge* (Madison: University of Wisconsin Press, 1991); Nicholas Dirks, “The Policing of Tradition: Colonialism and Anthropology in History,” *Comparative Studies in Society and History* (1997): 182-212; Lyn Shumaker, *Africanizing Anthropology: Fieldwork, Networks, and the Making of Cultural Knowledge in Central Africa* (Durham: Duke University Press, 2001).

Laws: What kinds of violence – epistemic, archival, or both – was produced when British law aimed to establish civil society through the reconditioning of African codes about “witchcraft”?⁵² Were laws and other official discourses about “witchcraft” reality-based fictions?⁵³ Did colonial legislation and prosecution of “witchcraft” create *lieux de memoire*?⁵⁴

Practices: In what ways did instructions and recommendations for dealing with “witchcraft” and related crimes belong to a genre of “good practice narratives” that held more value for the “experts” who produced them than for the administrators meant to apply them?⁵⁵ How did the literary conventions of colonial reports shape what was said and what was *not* said in discussions of “witchcraft”?⁵⁶ In what ways is legal, anthropological, anecdotal, etc. evidence about “witchcraft” an effect of colonial power/knowledge rather than a mark of “prior realities”?⁵⁷ Did colonial knowledge about “witchcraft” add up to a usable “colonial lexicon” that British authorities across the empire could use in dealing with the challenges “witchcraft” posed?⁵⁸

Another set of core questions has framed researching and reading ethnographic sources. These questions are organized in broad categories below:

⁵² Sandhya Shetty and Elizabeth J. Bellamy, “Postcolonialism’s Archive Fever,” *Diacritics* 30.1 (2002) 28-45.

⁵³ Mark Dressman, “Theory into Practice?: Reading Against the Grain of Good Practice Narratives,” *Language Arts* 78.1 (2002): 50-58.

⁵⁴ Pierre Nora, “Between Memory and History: *Les Lieux de Memoire*,” *Representations* 0.26 Special Issue: Memory and Counter-Memory (Spring 1989): 7-24.

⁵⁵ *Ibid.*

⁵⁶ George Bornstein, “How to Read a Page: Modernism and Material Textuality,” *Studies in the Literary Imagination* 32.1 (1999): 29-58.

⁵⁷ Premesh Lalu, “The Grammar of Domination and the Subjection of Agency: Colonial Texts and Modes of Evidence,” *History and Theory, Theme Issue* 39 (December 2002): 45-68.

⁵⁸ Hunt, 1999.

Genres: In what ways do informants represent their experiences?⁵⁹ How does a particular account garner and maintain “the status of truth”?⁶⁰ Do narratives contain “reoccurring patterns”?⁶¹ Are stories about “witchcraft” part of an “oral genre”?⁶² If so, what identifies them as such? Are discussions of “witchcraft” gender-driven? If so, how? How do “social realities” depart from “cultural statements”?⁶³

Sentiments: What sort of sentiments does a category of inquiry mobilize?⁶⁴ What are “non-narrative practices” for remembering?⁶⁵ How do tones vary in the telling of certain events?⁶⁶ How do “organized social contexts” establish “situations and moods” that inspire people to draw upon the past, or not?⁶⁷

Expectations: How does the audience (besides the researcher) influence what an informant has to say?⁶⁸ How do narrative expectations, or “hidden scripts,” structure what the researcher gleans?⁶⁹ In what ways do the researcher’s ideas of which questions are significant influence an account?⁷⁰

⁵⁹ See especially the essays in Luise White, Stephan F. Miescher and David William Cohen, eds., *African Words, African Voices* (Bloomington: Indiana University Press, 2001).

⁶⁰ David William Cohen, “In a Nation of White Cars... One White Car, or ‘A White Car,’ Becomes a Truth,” in *African Words, African Voices*, eds. Luise White, Stephan F. Miescher and David William Cohen (Bloomington: Indiana University Press, 2001).

⁶¹ Jane Sherron De Hart, “Oral Sources and Contemporary History: Dispelling Old Assumptions,” *The Journal of American History* 80.2 (September, 1993): 582-595.

⁶² *Ibid.*

⁶³ Niehaus, 2003.

⁶⁴ Stoler, 2002.

⁶⁵ Tamara Giles-Vernick, “Lives, Histories, and Sites of Recollection,” in *African Words, African Voices*, eds. Luise White, Stephan F. Miescher and David William Cohen (Bloomington: Indiana University Press, 2001).

⁶⁶ Renato Rosaldo, *Culture and Truth: The Remaking of Social Analysis* (Boston: Beacon Press, 1993).

⁶⁷ Maurice Bloch, *How We Think They Think: Anthropological Approaches to Cognition, Memory and Literacy* (Boulder: Westview Press, 1998).

⁶⁸ Luise White, “True Stories: Narrative, Event, History, and Blood in the Lake Victoria Basin,” in *African Words, African Voices*, eds. Luise White, Stephan F. Miescher and David William Cohen (Bloomington: Indiana University Press, 2001).

⁶⁹ Steven Feierman, “The Comaroffs and the Practice of Historical Ethnography,” *Interventions: International Journal of Postcolonial Studies* 3.1 (2001): 24-36.

⁷⁰ De Hart, 1993.

Spaces and Places

“The Wakamba are a friendly people, keen on trade, intelligent, energetic...”⁷¹
– C.W. Hobley, 1894.

The “critical events” traced in this dissertation occurred in Ukambani, primarily in market towns and rural homesteads around Machakos district, an area approximately 40 miles southeast of Nairobi. At the outset of the colonial era, Ukambani belonged to Athi district. In 1902, this area was divided into two districts, Ulu and Kitui, and renamed Ukamba Province.⁷² Ulu District, in turn, became Machakos District in 1920.

The district primarily occupies the southeastern part of the temperate Kenya Highlands but also includes some hotter, drier, lower-lying plains areas approaching the Athi River.⁷³ Machakos District’s distinguishing geographical feature is a “series of

⁷¹ C.W. Hobley, “People, Places, and Prospects in British East Africa.” *Royal Geographic Society Mss. JMS 2/304 E. Africa. 1894.* Hobley, C.W. For another early colonial description of Kambaland, see John Ainsworth, *A Description of the Ukamba Province, East Africa Protectorate, and Its Progress Under British Administration.* 1900. Also, F.H. Goldsmith, *John Ainsworth, Pioneer Kenya Administrator, 1864-1946* (London: Macmillan and Company Ltd., 1955). For an early anthropological perspective see, Gerhard Lindblom, *The Akamba in British East Africa: an Ethnological Monograph.* Uppsala: Appelbergs Boktryckeri Aktiebolag, 1920.

⁷² François Grignon, *Le Politicien Entrepreneur en Son Terroir: Paul Ngei à Kangundo (Kenya), 1945-1900* (Ph.D. diss., Université Montesquieu, 1997). “Annexe 7” of Grignon’s dissertation provides the most concise summary of the development and demarcation of administration in Ukambani. See also, Vincent Simiyu, *La Colonisation et Les Kamba du Kenya de la Fin du XIX Siècle à 1933* (Ph.D. diss., Université de Toulouse, 1971); Norman Larby, *The Kamba.* (Nairobi: Ndia Kuu Press, 1944); M.P.K. Sorrenson, *Origins of European Settlement in Kenya* (Nairobi: Oxford University Press, 1968); J. Forbes Munro, *Colonial Rule and the Kamba: Social Change in the Kenya Highlands, 1889-1939* (London: Oxford University Press, 1975); Tignor, 1976. For an anecdotal approach see, John Ndeti Somba, *Akamba Mirror: Some Notable Events in the Machakos District of Kenya, 1889-1929 A.D.* (Nairobi: Kesho Publishing, 1979); Ambler, 1986. Interview transcripts from the 1970s offer “scene-setting” information on Kambaland, but do not attend specifically to “witchcraft.” William Mutemi Sungi and Raphael Nguli eds., *Akamba Oral Historical Texts.* Unpublished interview transcripts, 1977. Nairobi: Kenya National Archives Murembe Library Collection. For colonial-era descriptions of Kitui see, “Kitui District,” an unpublished report by Lord Hailey. KNA VQ/16/30. Central Province. Anthropology. Lord Hailey. Also, “The Kitui Kamba: a Critical Study,” an unpublished field study by W.E.H. Stanner. KNA DC/KTI.6/2/2. The Kitui Akamba.

⁷³ For topographical specifics, see, Munro, 3-14.

massifs, running on a roughly north-south axis for a distance of sixty miles, including the massifs of Kangundo, Iveti-Mua, Mbooni, and Kilungu.”⁷⁴



Photograph 1. A view from Kilungu to Nzawi.
Photograph by the author.

The highlands of Machakos are heavily wooded with evergreens figuring prominently among the tree life and the soil is a damp, deep red. The lowlands, in contrast, are sparsely wooded, acacia being the most prominent form of arbor life, and the soil is a dry, deep red or sandy pink-gold, both of which frequently produce sizeable and periodic dust clouds during the dry season. Most Kamba homesteads are built from a combination of locally available wood, locally produced bricks, poured concrete and tin roofing. Markets town range in scope from the populous and infrastructurally-sound governmental seat at Machakos Town to unelectrified meeting points consisting of three or four “maduka” or merchandise stands and a limited amount of “jua kali” industry and commerce.⁷⁵

⁷⁴ Munro, 10. The author and her research assistant conducted interviews on homesteads in Kilungu, Mbooni, Kangundo and Kilungu as well as in plains areas.

⁷⁵ “Jua kali” means “hot sun” in Kiswahili. The term also refers to various forms of artisanal labor conducted informally in the open air rather than in fixed, purposed premises. Kenneth King, *Jua Kali Kenya: Change and Development in an Informal Economy, 1970-95* (London: James Currey, 1996).



Photograph 2. A typical homestead in Kangundo.

Photograph by the author.

Both Machakos District and Machakos Town are named for “Masuku wa Musya,” a famous Kamba warrior, prophet and “medicine man” who died shortly before the advent of British rule. In attempting to translate and transcribe the Kikamba words meaning “Masuku’s Place,” authorities of the Imperial British East Africa Company (I.B.E.A.) corrupted “Masuku” to “Machakos.”⁷⁶ The I.B.E.A. was charged with construction of the Mombasa-to-Kampala railway and “was the commercial enterprise selected as the instrument of British rule in East Africa.”⁷⁷ Machakos was the company’s first up-country station and its interior capitol. The location was chosen in part because of its proximity to the well-plied routes running between the coast and the up-country along which Kamba people had been serving as the primary porters for Swahili caravans of trade goods and slaves for a number of years.⁷⁸

⁷⁶ Somba, 4. Munro, 32. See also, D.A. Low, “British East Africa: The Establishment of British Rule, 1895-1912,” in *History of East Africa, Volume II*, eds. V. Harlow and E.M.Chilver (Oxford: Oxford University Press, 1965).

⁷⁷ Munro, *ibid.*

⁷⁸ There was and remains a significant Kamba population at Marekani near the coast, and there are Kamba populations in Tanzania. See, T.O. Beidelman, “Some Notes on the Kamba in Kilosa District,” *Tanganyika Notes and Records* 57 (September, 1961): 181-194. Kennell Jackson’s unpublished dissertation is perhaps the only comprehensive study of pre-colonial Ukambani. Kennell Jackson, *An Ethnohistorical Study of the Oral Traditions of the Kamba* (Ph.D. diss., University of California-Los Angeles, 1972). Also see Jackson’s article, “Gerhard Lindlom and the First Treatment of the Akamba Clan,” *Hadith 2: Proceedings of the 1968 Conference for the Historical Association of Kenya* (Nairobi: East African Publishing House, 1970); Isaria N. Kimambo, “The Economic History of the Kamba,” *Hadith 2: Proceedings of the 1968 Conference for the Historical Association of Kenya* (Nairobi: East African

British sway over Machakos was established through a mixture of punitive military action and initial attempts at the organization of a co-optive local administration, trends which persisted with the collapse of the I.B.E.A. and the change to Protectorate status in 1895. Though the protectorate capitol was relocated to Nairobi, the elaboration and refinement of a pyramidal British administration continued in Ukambani. The Machakos African reserve, in turn, was broadly delimited at the heart of the district in 1906, but its posterior boundaries were over time modified according to settler demands.⁷⁹

The alienation of Kamba land and settler ranching and agriculture in Ukambani never proceeded at the same pace or on the same scale that it did in the Kikuyu areas of central Kenya.⁸⁰ At the same moment, colonial authorities in Kambaland were much less successful than their counterparts in Kikuyuland in compelling Kamba people (who were rich in livestock) to the colonial labor market. And, missionization, and its related educational opportunities, also had comparatively less success among Kamba people than it did among Kikuyu people in central Kenya.⁸¹ Colonial authorities had greater success in enlisting Kamba people in portage roles, ultimately conscripting huge numbers of Kamba as porters for the East African campaigns of the First World War. The enlistment of large number of Kamba men in the Kings African Rifles and in the ranks of the colonial police contributed to mutually constitutive British and Kamba imaginings of the

Publishing House, 1970); Robert J. Cummings, "The Early Development of Akamba Local Trade History, c. 1780-1820," *Kenya Historical Review* 4.1 (1976): 85-110.

⁷⁹ Grignon, annexe 7. 60. "Au sein du district, la réserve africaine de Machakos fut grossièrement délimitée en 1906, mais connut des modifications supplémentaires des colons sur les terres alors allouées aux africains."

⁸⁰ Ibid.

⁸¹ Grignon, *ibid*; Munro, 1975; Tignor, 1976; Somba, 1979; Ambler, 1988.

Kamba as a “martial race.”⁸² Throughout the colonial era then, consistent conflicts between the colonial state and Kamba people emerged not primarily from issues of land, politics, and loyalty as they did in Kikuyuland, but instead from the challenges that crimes related to Kamba cosmology posed to the ability of the state to establish justice, law and order.

Focusing on Ukambani operates both structurally and analytically. First, a focus on Ukambani does structural work within the dissertation. As this project traces events over the entirety of the colonial era, its temporal scope is broad. Also, examining a far-reaching range of practices and beliefs subsumed under the rubric of the “supernatural” and attending to a complex series of “critical events,” this dissertation necessarily cuts a wide thematic swath. A regionally delimited geographic focus, in turn, provides the necessary boundedness for such a temporally and thematically broad project.

A focus on Ukambani does analytic work as well. As noted above, this dissertation originated through a smaller project on the Wakamba Witch Trials, the defendants in which hailed from Nzawi, a market center in Machakos with a longstanding reputation as a home to some of Kambaland’s fiercest witches. Thus, the first phase of archival research for this dissertation focused on surveying colonial governmental documents pertaining to Ukambani and uncovered the “critical events” described above. The second phase of archival research shifted geographically beyond Ukambani, surveying the same genres of colonial documents from different provinces and districts. Subsequent research, in turn, took a thematic approach, addressing colonial documents

⁸² See, Timothy H. Parsons, “‘Wakamba Warriors are Soldiers of the Queen’: The Evolution of the Kamba as a Martial Race, 1890-1970,” *Ethnohistory* 46.4 (Fall, 1999): 671-701; G.H. Mungeam, “Masai and Kikuyu Responses to the Establishment of British Administration in the East Africa Protectorate,” *JAH* 11.1 (1970): 127-143.

organized according to “supernaturally”-related topical categories such as “witchcraft,” “witchdoctors,” “poisoning,” “oathing,” and to file series such as “Ministry of Legal Affairs” and “Attorney General.” Throughout each of these phases of research, incidences of “witchcraft”-sourced disorder emerged most consistently and spectacularly in Ukambani.

Current Concerns and Contemporary Resonances

The central theme of this dissertation is that in Kenya the continuous problem of violence related to “witchcraft” beliefs and practices has consistently challenged the state’s authority since the late 1800s. Yet, this project has contemporary relevance and resonances because documentary and ethnographic evidence suggests crimes related to “witchcraft” are not simply a colonial, but a present-day, problem as well. Rather than declining during the second half of the twentieth century, sources suggest that “witchcraft”-related violence and disorder has likely increased. Such a consistently fraught atmosphere is due to continuities in popular beliefs and practices regarding “witchcraft” and in the inefficacious ways that the state has conceptualized and combated “witchcraft.”⁸³

This project shows how descriptions of “witchcraft” and its effects offered by Machakos Kamba in 2004 are consistent with the sorts of colonial-era anthropological definitions produced by administrators-cum-anthropologists on the ground in Ukambani. While ideas about “witchcraft” have remained consistent, the type and frequency of violence related to “witchcraft” practices and beliefs have not changed significantly

⁸³ Katherine Luongo, “Colonial and Contemporary Continuities in Conceptions of ‘Witchcraft’ in Kenya” (paper presented at the Oxford University Workshop on Colonial and Postcolonial Continuities in Kenya, Oxford, Great Britain, 2005).

either. This dissertation further maintains that inefficacy of state intervention in “witchcraft” disputes should *not* be taken to indicate that state authorities have been unaware of or unconcerned about “witchcraft,” nor does it suggest that state actors have been unable or reluctant to treat “witchcraft” as a category able to do epistemological (and sometimes material) work.

From the colonial period to the present day, much official discourse on “witchcraft” has constructed “witchcraft” as a convenient category-of-the-state, used to explain away both persistent disorder like that described in the cases above, and consistent “underdevelopment.” Continuities in state officials’ claims exist because the catch-all nature of “witchcraft” has rendered it a convenient category to explain away all sorts of what might be termed “official misfortune,” i.e., the inability to establish order and implement policy. But continuities in popular “witchcraft” beliefs and practices also contribute to state officials references to “witchcraft” as a category related to disorder and underdevelopment because in many instances local people cite “witchcraft” as the primary reason that they have been unwilling or unable to comply with state dictates.

Finally, the state’s historic impotency in regard to “witchcraft” remains legally enshrined. The Witchcraft Ordinance of 1925 and the Witchcraft Ordinance (revised) of 1981, the law contra “witchcraft” currently on the books, are in language and substance practically identical. And, both the colonial and post-colonial ordinances entail a “poetics of incredulity” which seeks to deny the reality of “witchcraft” while at the same moment disciplining “witchcraft” practices and beliefs.⁸⁴

⁸⁴ The Witchcraft Ordinance (No. 23 of 1925) and the Witchcraft Act, (Chapter 67, 1981). The development of anti-witchcraft legislation is discussed in detail in chapter one. Copies of the 1981 legislation are available through the Government Printer in Nairobi.

The following chapters therefore analyze some of the ways in which “witchcraft” has constituted an important space in which larger questions of power have been contested from the colonial era to the present, arguing that “witchcraft” has existed not as an anthropological curiosity, but as a popularly and practically recognized source of violent disorder in Kenya. Until “witchcraft” is really recognized as such, the problems “witchcraft” has consistently produced will persist.

Chapter 2 Understanding *Uoi* in Ukambani

“Whether witchcraft does or does not really work, it is sufficient to say that neither the practitioner, his victims, nor the general African public regard it as an imposture.”¹

Introduction

In its broadest terms, “cosmology” denotes a critical contemplation of the universe and efforts to understand the place of human beings within the universe. “Cosmology” can also stand for a totalizing worldview, a consuming way of seeing and way of being in the world. Within the context of colonial Kenya, two competing cosmologies – dual ways-of-seeing and ways-of-being – existed. The next two chapters argue that from the opening moments of the colonial era, a Kamba cosmology centered on “witchcraft” beliefs and practices collided with a colonial cosmology focused around bureaucratic practices and beliefs. The collision of these two contrasting, totalizing worldviews produced various “critical moments” at which the persistent sway of Kamba “witchcraft” challenged the ability of the state to secure law and order.

“Witchcraft” and “oathing” constitute two primary building-blocks of Kamba cosmology. Incorporating published sources and oral histories, this chapter explains the particular meanings and forms of *Kamba* “witchcraft” and oathing. It also attends to the centrality of “witchcraft” and oathing to perceptions about Kamba ways-of-being-in-world.

¹ D. Storrs-Fox. KNA DC/MKS 1/1/25. District Commissioner, Machakos. Machakos District Annual Report, 1933.

This chapter typically employs the present tense when describing Kamba “witchcraft” and oathing. Describing Kamba cosmology in such terms does not mean that the researcher or her informants subscribe to a stable notion of an immutable “ethnographic present.” Rather discussions of what “witchcraft” and oathing *are* rather than what they *were* foreground the challenge of doing historicized ethnographies of Kamba “witchcraft” and oathing.

The body of ethnographic and historical literature about Ukambani is relatively small and available interview transcripts and notes do not attend strongly to “witchcraft” and oathing.² In the colonial period, ethnographic attention to Ukambani was somewhat sporadic, early anthropological and administrative investigators producing a few articles and monographs on the Kamba before World War Two. In the 1950s, a Machakos District Commissioner authored a treatise on Kamba customary law while Machakos District Officer J.C. Nottingham and Government Sociologist Godfrey Wilson conducted an extensive study of “witchcraft” in Machakos.³ And in the 1970s Japanese anthropologist Hitoshi Ueda studied Kamba cosmology in Kitui, Ukambani’s more remote sector, while historian J. Forbes Munro produced a monograph on Ukambani up

² Jeremy Newman, *Machakos Interviews*. Unpublished interview transcripts, 1974. Personal collection of François Grignon; William Mutemi Sungi and Raphael Nguli, eds., *Akamba Oral Historical Texts*. Unpublished interview transcripts, 1977. Nairobi: Kenya National Archives Murembi Library Collection.

³ For example, C.W. Hobley, *An Ethnology of the A-kamba and Other East African Tribes* (Cambridge: Cambridge University Press, 1910); Hobley, *Bantu Beliefs and Magic* (London: Frank Cass and Company, 1922); Charles Dundas, “History of Kitui.” *Journal of the Royal Anthropological Institute of Great Britain and Ireland*, 43 (July-December, 1913): 480-549; Gerhard Lindblom, *The Akamba in British East Africa: an Ethnological Monograph* (Uppsala : Appelbergs Boktryckeri Aktiebolag, 1920); The Nottingham and Wilson inquiry is discussed extensively in chapter seven.

to 1939.⁴ The scope and limits of such evidence influence how finely the contemporary researcher can weave the intricate tapestry of Kamba cosmology over a long period.

At the same moment, the answers and anecdotes offered in 2004 in response to the author's queries about Kamba cosmology evidence significant continuities both within themselves and with the available anthro-historical sources about "witchcraft" and oathing in Ukambani. While focusing on oral evidence, the next sections also draws on information from some of the sources noted above. The following core questions offer exemplify those framing the author's inquiries into Kamba cosmology in 2004: How do people generally explain "witchcraft"? How would you generally explain "uoi" and "uwe"? How do people generally describe the activities of men who practice "uoi" and/or "uwe"? Of women? How do people generally explain how men and women come to be practitioners? What are generally held to be some of the motivations for practicing "witchcraft"? What sorts of events are associated with "uoi"? And "uwe"? How is "uoi" diagnosed? And dealt with?

Kamba Cosmology: Witchcraft and Oathing

"Witchcraft is one of the true Mukamba acts."⁵

"To the *kithitu* no one can lie, from the *kithitu* no one can hide."⁶

⁴ For example, C.W. Hobley, *An Ethnology of the A-kamba and Other East African Tribes* (Cambridge: Cambridge University Press, 1910); Hobley, *Bantu Beliefs and Magic* (London: Frank Cass and Company, 1922); Charles Dundas, "History of Kitui." *Journal of the Royal Anthropological Institute of Great Britain and Ireland*, 43 (July-December, 1913): 480-549; Gerhard Lindblom, *The Akamba in British East Africa: an Ethnological Monograph* (Uppsala : Appelbergs Boktryckeri Aktiebolag, 1920); The Nottingham and Wilson inquiry is discussed extensively in chapter seven. See also, Hitoshi Udea, "Witchcraft and Sorcery in Kitui of Kamba Tribe." Presented to Institute of African Studies, University of Nairobi, Research Seminar No 25. 22nd June, 1971. SOAS PP MS 42 Whiteley Collection File SL/14: Kitui Witchcraft; Udea, "Kithitu Among the Kamba of Kenya – the Case Study of Kilonzo's Kithitu." Kenya National Archives Mss. 83-821 390 EUD; N.D.; J. Forbes Munro, *Colonial Rule and the Kamba: Social Change in the Kenya Highlands, 1889-1939* (London: Oxford University Press, 1975).

⁵ David N. Kimilu, *Mukamba wa Wo* (Kampala: East Africa Literature Bureau, 1962).

⁶ François Grignon, "The *Kithitu* Oath in Ukambani Politics: a Moral Contract in Kenyan Politics" (paper presented at the ASA-UK Bi-annual Meeting. London, Great Britain. 1998).

Kamba cosmology is complex and well-developed, taking in beliefs and practices ranging from the simple wearing of protective amulets to the complicated processes of communication with Kamba spirits or *aimu*. This chapter addresses two central, interrelated elements of Kamba cosmological beliefs and practices – “witchcraft” and oathing. It singles out these two phenomena from the broader Kamba cosmological landscape for a range of reasons. Both “witchcraft” and oathing have been regarded by Kamba people themselves as fundamental to “Kamba-ness,” what it means to be Kamba rather than Luo, Kikuyu or even Giriama.⁷ And, “witchcraft” and oathing have also been central to external ideas of “Kamba-ness,” how members of other groups distinguish what it means to be Kamba as opposed to being a member of another tribe. The centrality of “witchcraft” and oathing to notions of “Kamba-ness” is linked strongly to long-standing (and some might say well-proven) perceptions of Kamba “witchcraft” and oathing as particularly permeating, efficacious and lethal.

Further, “witchcraft” and oathing have been historically intermeshed with issues and institutions of law and order. In pre-colonial and colonial-era Kamba societies, “witchcraft” and oathing were central concerns of the bodies of elders responsible for maintaining law and order. Throughout the colonial period, Kamba “witchcraft” and oathing attracted the interest of British authorities as well. Both Kamba “witchcraft” and oathing were consistently a focus of British anthro-administrative inquiries into “local” mechanisms and understandings of justice. At the same time, the intersection of “witchcraft” and oathing with British institutions and ideals concerning justice created many of the “critical moments” at which local practices and beliefs challenged the

⁷ While “witchcraft” is practiced among all these groups, Kamba people retain an internal and external reputation as Kenya’s foremost “witches.”

authority of the colonial state to establish law and order. Finally, “witchcraft” and oathing continue to hold enormous caché across the post-colonial Kenyan political arena, and many politicians have mobilized witchcraft and oathing in their bids for political success.⁸

Kamba Witchcraft – Uoi versus Uwe

In Kikamba, *uoi* is the basic term for “witchcraft.” Kikamba *uoi* is the equivalent of the Kiswahili term *uchawi*, and the fundamental meanings of *uoi* and *uchawi* are not far removed from that of “witchcraft” in the Euro-American sense of the word – “magical harm.”⁹ As Machakos District Commissioner D.J. Penwill wrote in the 1950s, “Witchcraft – “uchawi,” in Kamba “woi” – is a field in which Kamba are reputed by the other tribes to have high accomplishments.”¹⁰ Further, *uoi* has often been referred to as “black magic,” the exercise of malevolent supernatural power to harm others. In Kikamba the “witch” herself (or more rarely, himself) is called *mun’unde m’uoi*, the literal translation of which is “witch person.”

The second, less widely used Kikamba term for “witchcraft” is *uwe*. While very similar to the Kiswahili word *uganga*, Kikamba *uwe* is more difficult to translate into Euro-American terms, but can be broadly conceived of as “healing,” very often with the purpose of undoing *uoi*. *Uwe* is often termed “white magic,” the exercise of a benevolent supernatural power to aid others. In Kikamba, a person engaged in *uwe* is known as a

⁸ See Katherine Luongo, “A Self-Evident Death? Reading Water and Witchcraft in the News of a Kenya MP’s Death,” *The Journal of the University of Michigan International Institute* (March, 2005): 15. Hervé Maupeu, “Les Elections Comme Moment Prophétique. Narrations Kikuyu Des Elections Générales de 2002 (Kenya),” *Politique Africaine* 90 (Juin 2003): 56-77.

⁹ Diane Ciekawy, “Witchcraft and Statecraft: Five Technologies of Power in Coastal Kenya,” *African Studies Review* 41.3 (1998): 119-143; Udea, 1971; François Grignon, *Le Politicien Entrepreneur en Son Terroir: Paul Ngei à Kangundo (Kenya), 1945 1990* (Ph.D. diss., Université Montesquieu, 1997).

¹⁰ Penwill, 93. “Uoi” and related Kikamba cosmological terms have various spellings in anthro-historical literature. I have preserved the original spellings except in cases in which the author used a period-specific phonetic alphabet. In such cases I have substituted the present-day spelling of the term in question.

mu'unde m'uwe, the literal translation of which is “healing person,” but which is also often translated as “witchdoctor.”

The primary distinction between *uoi* and *uwe* then is that of “black” magic versus “white” magic. In understanding *uoi* and *uwe* it is important to note that *uoi* is always used for harm and for the creation of *lack* – lack of life, lack of mental and physical health, lack of property, etc. *Uwe* is always used as a remedy and rectifying lack – for restoring health, love, property, etc.

While acknowledging *uwe* and its practitioners, this study focuses primarily on *uoi*. *Uoi* is much more widely practiced than *uwe*, and proficiency at *uoi*, rather than at *uwe*, is the source of the Kamba reputation for widespread and powerful “witchcraft.” Further, Kamba beliefs and practices related to *uoi* produced the majority of “critical moments” at which “witchcraft” challenged colonial administration. The pervasiveness of *uoi* is neatly articulated by Japanese anthropologist Hitoshi Udea,

Villagers use the word uoi very often in their daily life. You often hear them saying “That person was killed by uoi. My friend bought a very strong uoi in Mombasa. That woman is very famous for giving uoi to villagers. Uoi of woman is not so strong. Witchdoctors in Tharaka are experts to remove uoi, etc.” Uoi is defined as a magical power by which evil intentions, such as killing enemy or human ill-feelings such as envy, anger, hostility etc., can be attained.¹¹

Uoi, then, can be mostly easily understood as the harnessing of malevolent supernatural power to harm a person or property. But within Kamba cosmology, *uoi* is at the same time more complex. It is not simply the act itself of doing “black” magic, but can also be a substance, a power, and even a way-of-being-in-the-world. *Uoi* exists simultaneously as substances and articles which are used to do malevolent harm and also as the power which renders them harmful. Writing on the various aspects of Kamba

¹¹ Udea, 1971.

“witchcraft” in the early 1900s, anthropologist Gerhard Lindblom emphasized, “The concrete means is also called *uoi*.”¹² *Uoi* is a thus way-of-being-in-the-world because of its affective, embodied and saturating nature.

Foremost, the Kamba witch herself is imbued with *uoi* as is the witchcraft “lineage” from which she typically springs. For the witch, *uoi* is both embodied and affective. Female witches are embodiments of *uoi*; they carry the power of *uoi* in their bodies and activate it through their bodies.¹³ At the same time, *uoi* has affective resonances for both male and female witches. The use of *uoi* often has its roots in the excitement of emotions, and a witch often exercises *uoi* for the simple pleasure of doing harm.

For its victims too, *uoi* is a way-of-being-in-the-world. When a person is bewitched, he or she often becomes bodily and/or emotionally and psychologically saturated with *uoi*. The most regularly practiced forms of *uoi* are those aimed at harming or even destroying bodies. Yet whether the *uoi* is directed towards killing a person, harming a person’s body, or destroying a person’s property or kin, the victim’s experience of having had *uoi* turned against him or her has adverse affects on his or her spirit and psychology as well.¹⁴ When a person is bewitched, particularly if the bewitchment takes place over a long period of time, the experience of being bewitched often becomes the determining factor of how the person regards himself or herself, and also the primary experience through which others in the community come to identify the bewitched person.

¹² Lindblom, 278.

¹³ While male witches do not come from “witchcraft lineages” or necessarily embody *uoi*, they nonetheless activate *uoi* by harnessing malevolent supernatural power through their speech. The gendered nature of *uoi* as well as the ambiguous relationship between witchdoctors and *uoi* is discussed further below.

¹⁴ Adam Ashforth, *Madumo: A Man Bewitched* (Chicago: University of Chicago Press, 2000).

Uoi is a way-of-being-in-the-world across communities as well. As Penwill noted in the 1950s, “The Kamba did, and still do, fear witchcraft greatly; and their chief concern with it is to protect themselves against it.”¹⁵ The agreed-upon permeating presence and potentials of *uoi* imbue community members with a consistent, cyclical unease while at the same moment resolving seemingly irresolvable questions. For example, “*uoi*” might provide a simple, assimilable answer to the question of why a healthy young man dies suddenly while at the same time drawing attention to the omnipresence of *uoi* and its results.

Uoi also produces quotidian social interactions predicated on fear, distrust and avoidance as opposed to those based on cohesion and harmony. For example, a piece of essential local knowledge in a given community might be to forgo the hospitality offered at a particular homestead because the women there are reputed to practice *uoi* and thus it is unsafe to accept their food.¹⁶ Indeed, Lindblom focused on such an intersection of “witchcraft” and poisoning. He wrote,

In times past murder by means of witch-craft and also by poison was very common and now-a-days it is said to occur. The murder was generally done by putting poison in beer or a woman would sometimes kill a guest by poisoning his food.¹⁷

Uoi thus can create a collective affective state of always already being afraid and distrustful; a way-of-being-in-the-world in which to live among others (and especially to prosper) is to court myriad risks.

¹⁵ Penwill, 94.

¹⁶ When staying with a family in Kilungu, the author was warned by various family members that surrounding homesteads housed witches and thus that the author should not accept food at these homesteads.

¹⁷ Lindblom, 95.

Yet, despite the negative emotions and relations that *uoi* produces, it is rarely a source of shame or even reticence. While practicing *uoi* may be a hidden activity and evidencing too much knowledge of its particulars viewed as impolitic, talking about the people, power, and pervasiveness associated with *uoi* is not. Indeed, as noted above, most Kamba people regard witchcraft as a central part of “Kamba-ness” and do not dispute outsiders’ identifications of Kamba people with witchcraft. Such matter-of-factness about *uoi* results from a range of reasons, the most central of which is that for many people, *uoi* is not refutable or contestable – it just *is*. So it follows that if *uoi* exists (and exists everywhere) it is better to belong to a tribe with a reputation for powerful witchcraft than to one without. This chapter therefore attends to the historical centrality of witchcraft to perceptions about Kamba ways-of-being-in-the-world.¹⁸

Uoi is divided into numerous sub-types, and the most basic distinction is between “bought” *uoi* and “inherited” *uoi*. These two types of *uoi* in turn breakdown along gendered lines. They also correspond to different levels of professionalization. The two genres of *uoi* also emerged in different periods. Of the two types of Kamba witchcraft, bought *uoi* is the newer and less elaborate. Bought *uoi* is described as a substance rather than a power. As one Kamba witchdoctor explained,

I don’t know [what it is] because I don’t practice, but I guess you could say it’s a substance or knowledge; a substance like *muthea* – the same as *muti* – a mixture of herbs available in containers. It can be bought. Witchcraft can be in different forms depending on where you buy it from. It can be a powder, an object, and then you are told how to apply [it].¹⁹

¹⁸ David William Cohen and E.S. Atieno Odhiambo, *Siaya: the Historical Anthropology of an African Landscape* (Nairobi: Heinemann Kenya, 1989). On Siaya in Western Kenya, Cohen and Odhiambo write, “When we speak of Siaya, therefore, part of our meaning is the formal administrative district of Siaya, with its population of 474,516 people and mappable boundaries. But we also mean something more elusive yet more important than a territory: the way in which people in other places nevertheless identify with Siaya in the ways in which they construct their identities and organize their lives. 3-4.

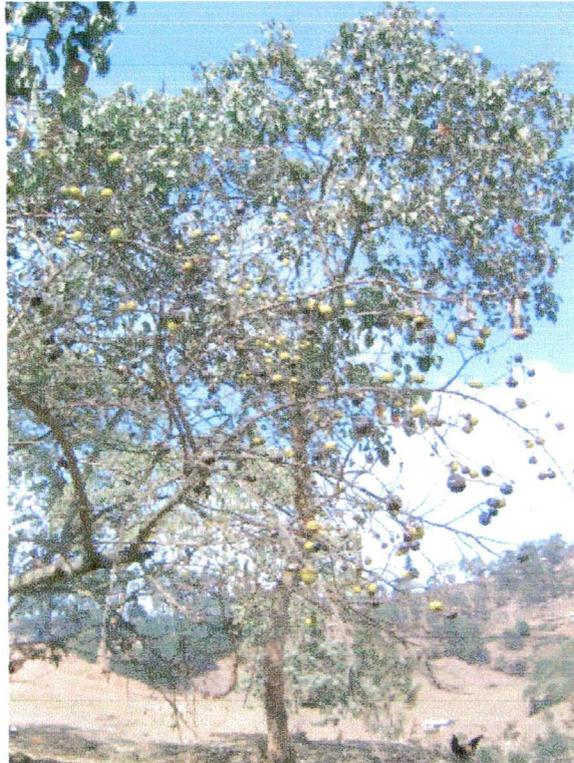
¹⁹ R.K., Kilungu, September, 2004.

Bought *uoi* is often figured as a poison administered through food. An elderly Kamba man's explanation that bought *uoi* is, "substances mixed into food to kill" is typical. While some Kamba people explain that bought *uoi* is already imbued with magic when it is purchased, others explain that extra steps are needed to activate it. For example, one elderly Kamba man noted that "You boil it [*uoi*] in a pot and put it in food to kill. When treated further with words, it can be called witchcraft." Using the same terminology as the witchdoctor cited above, this man elaborated that bought *uoi* "can be packed in a container and sold in strips. The container is *mulungu*. The substance is *muti*."²⁰

Bought witchcraft is available from witchdoctors, a category of supernatural "middle figure" whose activities we will turn to in more detail below. Bought *uoi* has historically been available "locally" from Kamba purveyors but can also be obtained from witchdoctors from other tribes traveling through Nairobi or Ukambani or through visits to these witchdoctors in their home locations. Many people concur that *uoi* has been typically been purchased by men because of materially-driven conflicts, for example disputes over land or other types of property. One elderly Kamba man explained, "With men, men will only use that [*uoi*] when they are competing over something, if there is some struggle somewhere or if you are progressive." Despite various differences in the explanations of bought *uoi*, its origins and how it works, it is has been generally agreed

²⁰ J.K., Kilungu, August 2004; PM., Kangundo, August 2004. Colonial officials were well aware of the frequency of poisonings. For example, in response to reports about outbreaks of poisoning allegations in Kenya's Native Reserves J.E.W. Flood of the Colonial Office Legal Department wrote simply, "The usual sort of story!" PRO CO/533/431. Poisoning Allegations in Native Reserves. N.D.

upon that men are the primary buyers and sellers of bought *uoi*. Bought *uoi* then is synonymous with the “witchcraft of men.”²¹



Photograph 3. “Kilyambiti,” the fruit of the tree pictured above, is a common ingredient in “bought” *uoi*. Photograph by the author.

“Inherited” *uoi*, in contrast, is much more complex. Varying types of inherited *uoi* are known by different names. For example, a type of *uoi* called *ndia* refers to *uoi* causing deafness while *konzesya* is the name of the *uoi* which causes a prolonged, wasting illness. Inherited *uoi* does not necessarily entail substances, but always requires the mobilization of a witch’s embodied powers of malfeasance. Unlike bought *uoi* which has a finite use-value, inherited *uoi* is witchcraft of a “permanent kind.”²² Inherited *uoi* is only passed from mother to daughter and is thus synonymous with “women’s witchcraft.”

²¹ M.M., Tawa, September, 2004. One elderly informant from Kangundo, Machakos District, noted that women had recently started to use bought witchcraft out of hate or envy. He explained that women have started to buy witchcraft because of “hatred.” He added, “If they don’t want you to progress or envy your kids.” While the information he offered about *uoi* generally aligned with that of other elderly Kamba informants and documentary sources, his claim about women buying witchcraft was not borne out in other sources.

²² P.M., Kilungu, August 2004.

Indeed, colonial official Charles Dundas explained in the early 1900s that “If a woman is a witch her daughter will be one too...”²³ And as one elderly Kamba succinctly explained, “Witchcraft is an inherited practice that is used for destruction. It is very old and it is there even today.”²⁴

Women who inherit *uoi* generally belong to witchcraft “clans.” Many Kamba explain that “lineage is a determinant” of who inherits witchcraft and are able to cite particular witchcraft clans.²⁵ Though *uoi* is inborn, a girl’s status as a witch must be acknowledged and activated secretly through a two-step process. First, when a girl reaches puberty, her mother initiates her as a witch. This initiation takes place at night in a secluded location. Some accounts stipulate that the novice witch is inoculated with *uoi* by her mother who cuts her daughter, or helps the girl to cut herself, at various pulse points on her body and then rubs witchcraft substances into the cuts. As one elderly Kamba explained, “They [witches] cut themselves four times near the spine and apply a substance so witchcraft gets into the blood.”²⁶ Other explanations point to a ceremony in which mother and daughter “stand back-to-back, naked, and exchange paraphernalia.”²⁷ Two elderly Kamba women were able to flesh out the details of this type of initiation. They explained,

Mothers and daughters go to a shrine, preferably with a friend who is also a witch. Her presence enhances the power. The mother and daughter stand back-to-back, naked. They bring their buttocks together and say some words. Then there is dancing. Sometimes they sacrifice at shrines, but that is not a “must.”

²³ Dundas, 1914. 531.

²⁴ M.M., Tawa, August 2004.

²⁵ K.N., Nzawi, September 2004. *Amutei* is a well-known witchcraft clan from Machakos and *Antangwa* and *Mbaa* are well-known witchcraft clans from Kitui.

²⁶ *Ibid.* Some colonial accounts explain somewhat ambiguously that young women are inoculated with witchcraft at the time of their circumcisions. Oral evidence suggests that young women are inoculated with witchcraft at the *age* for circumcision rather than through the circumcision ceremony itself.

²⁷ J.K., Kilungu, August 2004.

The recipient would say after receiving the witchcraft, “I do not know what you have given me” meaning that she will not reveal her *uoi* in her lifetime.²⁸

Although a girl is initiated and instructed in *uoi* at puberty, she does not inaugurate her witchcraft practice until she has married and had children. While some informants explain that “A girl must wait until she is married and has a boy and girl,” other elderly Kamba suggest that a novice witch must have three children (whose sex is insignificant) before she can commence practicing.²⁹ Despite these differences, both accounts show that motherhood is a prerequisite for activating *uoi*, perhaps because a novice witch makes the initial test of her witchcraft by killing children. One elderly Kamba man explained that killing children to inaugurate witchcraft is “a trial called *kusyimithya* to see if your witchcraft will work.”³⁰ While some accounts suggest that a Kamba witch inaugurates her practice of *uoi* by using it against her own firstborn, others explain that she turns her *uoi* on affines. As one elderly Kamba man noted, “She [the novice witch] starts with children at home. Not her own children, other people’s.”³¹ In either case, the novice witch inaugurates her witchcraft by proving her reproductive and destructive capacities.

The actual ways in which a woman practices *uoi* are somewhat obscure for a number of reasons. First, as noted above, initiation into *uoi* entails vows of secrecy. While most Kamba people are willing to speak freely about *uoi* on a generalized basis, they are often reluctant to evidence too much specific knowledge about how inherited *uoi* is actually practiced because such knowledge can invite accusations that the speaker is witch or at least maintains close ties with witches. And, many members of conservative

²⁸ M.N., Kilungu, September 2004; B.M., Kilungu, September 2004.

²⁹ K.N., Nzawi, September 2004; M.W., Imani, September, 2004.

³⁰ P.M., Kangundo, August 2004.

³¹ M.W., Imani, September 2004.

evangelical churches such as the Africa Inland Mission/Africa Inland Church to which many Kamba belong regard speaking of witchcraft or even acknowledging its existence as taboo.³² Nonetheless, a general consensus exists that women witches use *uoi* not through the sorts of *uoi* substances or poisons discussed above, but by mobilizing malevolent powers within themselves and directing these powers to harm others. Despite most Kamba people's reticence regarding practices associated with women's *uoi*, an elderly Kamba man was willing to shed light on how a female witch might deploy her *uoi*. He explained,

Usually a person who practices that [*uoi*] has a small bag, very small, filled with paraphernalia. That bag is somewhere, maybe in the pocket. And when she wants to perform that act of bewitching somebody, she does some funny things. She can do like this (touches the wrists and scratches the heels). She claps the hands. While doing that, she can say what she wants now. She can send those words to a certain person. And that will happen.³³

Kamba women's witchcraft is *ineluctably* embodied. As it is inherited, women's *uoi* acts from within the body of the novice witch whether initiation occurs through contact with the body of a senior witch or through the introduction of *uoi* substances into the novice witch's body. Further, the *uoi* of the novice witch – her destructive power – is inaugurated when she demonstrates the reproductive capacities of her body. Even *uoi* entailing the use of paraphernalia is embodied when mobilized by a hereditary witch because the power which renders the paraphernalia efficacious originates in the body of the witch. And, most significantly, if the novice witch refuses the witchcraft embodied in

³² For a brief history of Christianity in Kambaland, see David Sandgren, "Kamba Christianity: From Africa Inland Church to African Brotherhood Church," in *East African Expressions of Christianity*, eds. Thomas Spear and Isaria Kimambo (Oxford: James Currey, 1999).

³³ K.N., Nzawi, September 2004. This account accords with testimony offered by witches at the Machakos witch-cleansings and recorded by J.C. Nottingham and Godfrey Wilson in the 1950s. See chapters six and seven.

her, her body will turn against her and she may even die. As one elderly Kamba woman explained, “The mother promises to pass witchcraft on to her daughter. If the daughter refuses it, she can be bewitched.”³⁴

The initial exercise of inherited *uoi* is driven by an embodied imperative, but subsequent acts are motivated by emotions, often “hatred” with an unattributable source. *Uoi* is also described as being driven by jealousy of things related to women’s reproduction – successful *mashamba*, thriving children, etc. Thus, while men’s *uoi* draws on the witchdoctor’s professional expertise and is motivated by men’s material concerns, a woman’s witchcraft and her reasons for using it come from within herself. Many Kamba people regard men’s *uoi* as logical and women’s *uoi* as ephemeral. Simply put, “Men usually have a reason. Sometimes women just use it [*uoi*].” Another elderly Kamba man fleshed out this succinct explanation. He explained,

Women first they practice that because it is a tradition. They don’t need even to quarrel with somebody. They can just practice out of just jealousy, from nothing. They can also use it when there is some dispute over something, when you are struggling.³⁵

This constellation of female-centered factors was also described Udea,

This magical power is originated by such women themselves, not by the witchdoctor, even the female witchdoctor. People explain that this magical power comes from the inside of such women’s bodies, or from their blood. If such women feel jealous, angry, or have bad-will, *uoi* of such women can be sent to harm others directly, without getting the help of witchdoctor. *Uoi* of woman is suitable for witchcraft. It is said that *uoi* of woman is inherited through the female line. IF a mother is a witch, every real daughter is regarded (potentially) a witch.³⁶

³⁴ M.N., Kilungu, August 2004.

³⁵ J.K., Kilungu, August 2004; M.M., Tawa, September 2004.

³⁶ Udea, 1971.

Finally, asked what some of the typical results of women's *uoi* are, one elderly Kamba man simply enumerated: "Kids stop going to school. Girls don't marry. People die."³⁷

The middling figure of the witchdoctor is present in both men's and women's *uoi*. As noted above, the status of the witchdoctor as a practitioner of *uwe* and/or *uoi* is somewhat muddled. Like the female witch, the witchdoctor inherits his or her abilities to do *uwe* and/or *uoi*, and the witchdoctor's capacities are inherited and embodied. One elderly Kamba man explained,

They [witchdoctors] are born. When they are born they are holding *mbuu*, 'beads' in their hand. Their *mbuu* are kept in a special gourd, *kititi*, until they come of age. They may be initiated by an older male or female, but this is not a "must."³⁸

In writing on Kamba witchdoctors (offered referred to as "medicine men" in colonial anthropological and anthropological parlance), Lindblom cited similar elements. He explained,

It is not everyone who can be a medicine man, as a rule only those who have shown themselves predestined to this position from birth are eligible. The proof of this is that the child should be born with what one might call appendages, which constitute an indication from the ancestral spirits that he is to be a medicine-man. Thus some have been born with a little peg in their hands and in the case of another new-born child there were found in the afterbirth five small stones, such as the medicine man uses in his calabashes for divination.³⁹

Explaining her own experience, an elderly Kamba witchdoctor in Nairobi's Pipeline location stated, "My mother was a witchdoctor. I was initiated after the birth of my first child. I was born holding beads."⁴⁰ However, despite the embodied nature of his or her

³⁷ P.M., Kangundo, August 2004.

³⁸ M.W., Imani, September 2004; R.K., Kilungu, September 2004.

³⁹ Lindblom, 255.

⁴⁰ B.W., Pipeline, August 2004; M.W., Imani, September 2004; J.K.S., Kilungu, September 2004; R.K., Kilungu September 2004.

power, the witchdoctor practices witchcraft as a matter of choice rather than as the result of a physical imperative.

The avowed aim of the witchdoctor is to offer remedies for the suffering and lack caused by *uoi* and to provide protective magic to ward off or counteract the effects of *uoi*. This role is consistently cited by elderly people from across Machakos. One elderly Kamba man summed up the difference between the witch and the witchdoctor: “A witch always does harm. A witchdoctor often tries to help.” A contemporary pointed out, “Witchdoctors try to stop witchcraft. Witches do their work separately from witchdoctors.” A Kamba witchdoctor explained in more detail that “A witch uses his/her paraphernalia to destroy while a witchdoctor is there to undo what a witch has done.”⁴¹

But in order to counteract *uoi*, the witchdoctor must have a working knowledge of the full complement of black magic. Such knowledge can be slippery, treacherous and tempting. Ultimately, what the witchdoctor chooses to do with his or her knowledge of *uoi* is entirely up to the witchdoctor, and often witchdoctors move between practicing and dispensing *uwe* and *uoi*. In response to a question about whether witchdoctors have harmful paraphernalia, a Kamba witchdoctor stated without hesitation, “Yes, they sell it [harmful paraphernalia] to other people who want to use it or the witchdoctor can use it himself or herself when angry.” Her views were borne out in the replies of most elderly Kamba to the question of the witchdoctor’s malevolent powers. The reply of one Kamba man from Kangundo, that, “Yes, they [witchdoctors] have it [*uoi*]. And they sell it to people who want to use it,” is typical.⁴² Thus, while the primary purpose of the witchdoctor is to counter *uoi* by doing and dispensing white magic, the witchdoctor’s

⁴¹ R.K., Kilungu September 2004; J.K.S., Kilungu, September 2004; B.W., Pipeline, August 2004.

⁴² Ibid.

necessary knowledge of black magic makes it easy and oftentimes inviting for the witchdoctor to move between *uwe* and *uoi*.⁴³

A final category of supernatural practitioner is involved in *uwe* and *uoi* – the diviner. Diviners are most often women and, like the *mu'unde m'uoi* and *mu'unde m'uwe*, is imbued with inherited supernatural powers. However, the diviner's powers do not enable her to do or dispense magic per se. Rather, they enable her to function as a supernatural diagnostician, deducing and identifying the origin of *uoi*. Less frequently, the diviner's powers enable her to do work more in keeping with the Euro-American sense of divination – the ferreting out of another's secret self and the prediction of the future.⁴⁴ However, people most often approach diviners when they suspect that they or someone close to them has been bewitched.

The diviner does her work through consultations with spirits of diverse origins who advise her on the origin of a client's misfortune. The spirits may request a consultation with the diviner or she may summon them for advice. Consultations at the request of the spirits or of the diviner are opened by the diviner donning a particular *kikoi*, a solid white or solid black sarong with a narrow, window-pane pattern in red, and drawing patterns out of a chalky substance on the ground.⁴⁵ Both the *kikoi* and the patterns are said to be attractive to the spirits, and diviners either don the special *kikoi* and

⁴³ Eric de Rosny, "Justice and Sorcellerie." Unpublished Paper. November, 2005.

⁴⁴ The author visited a diviner based in Nairobi's Kibera shantytown. The author did not have a specific complaint to address to the diviner, and the diviner concluded that the author had been "lucky" in life and offered to review past events in the author's life in order to establish her credibility as a diviner and then to predict future events in the author's life. The diviner proceeded to do so with varying degrees of success.

⁴⁵ A *kikoi* (pl. *vikoi*) is a finished piece of lightweight cotton fabric, approximately 1 yard in width and 2 yards in length. Initially worn as a wrap-skirt by Muslim men on the East Coast of Africa, *vikoi* are now used by East Africans for a variety of sartorial and decorative functions. Their popularity has carried over into the tourist industry, and shops and stalls devoted to selling *vikoi* and clothing and accessories made from them have blossomed in Nairobi and Dar es Salaam and on the East African Coast. *Vikoi* can even be found in stylish boutiques in Paris's *bobo chic* shopping district. It is, however, rare to see the white and black *vikoi* used by diviners in ordinary shops. The author was able to purchase one of each at a shop with a reputation for selling these *vikoi* at outside Nairobi's Gikomba market.

draw with chalk in response to direct requests from the spirits or in unsolicited efforts to attract them. Once a diviner is in consultation with the spirits, she often flips through a holy book like the Koran or the Bible at the direction of the spirits. The diviner gains insight from heeding the spirits' directions rather than from the text itself as in many cases diviners are themselves illiterate. The diviner's primary work is not doing or dispensing *uoi* or *uwe*, but rather identifying those who have practiced *uoi* and matching *mu'unde mu'uoi* with their works. In doing her work, the diviner is not so much exercising her will over her supernatural powers as she is allowing herself to act as a channel for the knowledge of the spirits. A diviner's diagnosis generally leads to the cleansing or killing of witches.



Photograph 4. A Kamba diviner in her Kibera home and place of business. She is holding a Koran. Photograph by the author.⁴⁶

The practice of *uoi* disrupts and destroys not only individual lives, but community life too. Well into the colonial era, institutions and authorities existed in Kamba

⁴⁶ Kamba people have had longstanding interactions with communities on Kenya's Coast, and many Kamba people have historically believed supernatural practitioners and "spirits" from the coastal region to be more powerful than local ones. When the author inquired of the pictured diviner, M.K., if she was a Muslim and why she utilized a Koran, the diviner explained that she was not a Muslim, but that the spirits with whom she was in contact asked that she use a Koran. She added that she was illiterate and not reading the Koran, but simply flipping through the pages for the pleasure of the spirits.

communities to deal with *uoi* and some of these persist in some form today. Upon diagnosis by a diviner, witches were referred to the *king'ole* for discipline. The term *king'ole*, like witchcraft, carries multiple meanings. It is a law, an act, and an institution. A *king'ole* council was composed of select *atumia* or respected community elders. As one interviewee explained, "Old men and women who could keep a secret" made up *king'ole* councils.⁴⁷ The role of the *king'ole* was to restore and ensure order in the community, as one Kamba man put, "They were like the *serikali* of the Kamba."⁴⁸ And an elderly Kamba woman reiterated, "This [*king'ole*] is a group that organized themselves to control society."⁴⁹

A central part of this role was disciplining severe social malefactors like witches and thieves. In dealing with such "categories of dangerous persons," the *king'ole* council exercised *king'ole* law, a juridical process in which the council warned social malefactors to cease their activities and then saw to the cleansing or removal of witches and thieves who agreed to desist.⁵⁰ Under *king'ole* law, the council was also empowered to kill dangerous persons who refused to comply with the council's order to stop their activities. Simply put in the words of one elderly Kamba man, "*King'ole* does the killing of the bad ones."⁵¹ And, the Kamba woman cited above also noted, "They [the *king'ole*] punished witches, thieves, and other criminal activities." The act of killing a recidivist witch or

⁴⁷ J.M., Kilungu, August 2004. Colonial-era anthropology and many contemporary sources explain the *king'ole* as an exclusively male council. However, claims that both men and women served on the *king'ole* appear regularly enough in informant testimony to suggest that women may have participated in some locations and not in others.

⁴⁸ L.N.N., Kangundo, August 2004. "Serikali" is the Kiswahili word for "government." For example the British colonial government is called "serikali ya ukoloni" and the contemporary government "serikali ya leo."

⁴⁹ R.K., Kilungu, September 2004.

⁵⁰ Suzette Heald, "Witches and Thieves: Deviant Motivations in Gisu Society," *Man* 24 (1986):124-144. Also, *Controlling Anger: the Anthropology of Gisu Violence* (Oxford: James Currey, 1998).

⁵¹ L.N.N., Kangundo, August 2004.

thief was also called *king'ole*. She elaborated, "A long time ago the community could kill the witch. This was called *king'ole*."⁵²

Informants and anthro-historical sources propose that particularly virulent, brazen, and widespread *uoi* activities brought witches to the attention of the *king'ole*. One elderly Kamba woman explained that a recidivist witch is one who "...kills with fear. Continuously. She can't be contained."⁵³ Dundas emphasized the recidivist nature of those subject to *king'ole* discipline. He wrote,

When a man had repeatedly committed serious crimes, or was a notorious wizard, so that he came to be regarded as a public danger, the assembled elders might decide that he must be put to death. In such case elders from remote parts were summoned, and the accusations made were deposed to in a form of oath, which is believed to be fatal to the perjurer.⁵⁴

And, Lindblom also noted how "categories of dangerous persons" were dealt with by *king'ole* justice. He explained,

Persons who are suspected of causing the death of other people by means of *uoi* (that is, witchcraft) and are thus dangerous to the public safety, can be killed with impunity by the united intervention of all the adult male inhabitants in the district. This is also true of incorrigible thieves.⁵⁵

Sometimes, albeit rarely, a witch would invite the interest of the *king'ole* through her public practice or threats of *uoi*. More commonly, victims of witchcraft reported a witch's *uoi* activities to the *king'ole* after consultation with a diviner. Subtle differences exist in ethnographic and documentary information of how the *king'ole* would proceed after accusations of recidivist *uoi*, but the majority of accounts point to a process of warning, corporal punishment, cleansing and/or exile, and ultimately killing if the witch

⁵² R.K., Kilungu, September 2004.

⁵³ M.N., Kilungu, August 2004.

⁵⁴ Dundas, 1921. 234.

⁵⁵ Lindblom, 176.

refused to subject herself (or more rarely, himself) to cleansing or removal from the community. As one elderly Kamba man neatly explained,

Witches were killed if they ignored the warning of the *atumia* to stop. They were beaten, then moved, then killed. The *atumia* called *king'ole* to discuss the issue and resolve it. The goal was to move the witch away. If she refused, she was beaten, and then killed.⁵⁶

In rarer instances, the *king'ole* took action to prompt reluctant witches to confess.

An elderly Kamba woman cited the *king'ole*'s employ of a sort of "truth serum." She explained,

The witches needed to be beaten hard. The *king'ole* used to give the suspect *kivala* - a stimulant to get the witch to confess all the people she has bewitched. After that, the *king'ole* decided what to do with the witch.⁵⁷

Accounts vary regarding the degree to which a witch's family was involved in the deliberations and administration of *king'ole*. Some sources assert that the witch's family had no knowledge of *king'ole* justice until after the fact. One interviewee explained, "They [the family] weren't supposed to know. After they would sacrifice a bull."⁵⁸ Other accounts stipulate that witches families were aware of or even present at *king'ole* proceedings and executions, but were powerless to intervene in the *king'ole*'s deliberations and decisions. For example, an elderly Kamba woman explained, "The family members could be around but they were helpless since *king'ole* was final. They were not consulted."⁵⁹ Some informants stipulate that the witch's family was made aware

⁵⁶ M.K., Tawa, September 2004.

⁵⁷ M.N., Kilungu, August 2004. This informant's mention of the use of *kivala* as part of *king'ole* justice is unusual. Discussions of *kivala* emerge more regularly in accounts of witch-cleansings in the 1940s and 1950s, particularly those addressing cleansings conducted in Machakos by coastal witchdoctors. See chapters six and seven.

⁵⁸ M.W., Imani, September 2004. Files pertaining to the Machakos Panels on Customary Law indicate that compensation was the "customary" form of punishment death and that animal sacrifice was often part of the Kamba legal process. KNA BB/22/2. Law and Custom. Law Panels, Machakos. June 1955-October 1956.

⁵⁹ R.K., Kilungu, September 2004.

of the *king'ole*'s interest in their relative when the *king'ole* offered its warning to the witch to cease and desist. One elderly Kamba man noted, "The family and clan of the witch were informed. If she continued to practice, she was hanged."⁶⁰

Other discussions propose that the *king'ole* notified a witch's family of impending proceedings as a type of "insurance" against later claims by the witch's family for compensation for the life of their relative. Another elderly Kamba informant noted,

Permission was granted by the family so later the person couldn't be claimed from *king'ole*. 'Claimed' means that if the family participated, then they couldn't say later that the *king'ole* had killed an innocent person.⁶¹

And, in describing *king'ole* procedures, C.W. Hobley, the British colonial-official-cum-anthropologist who published his findings on the Kamba supernatural in the early 1900s, focused strongly on the element of compensation. He noted,

... They [*king'ole* council] then call the brothers of the suspect to the assembly and ask them why their brother or sister has killed so and so, and so and so, naming each victim; the brothers of course deny any knowledge of the matter and then each elder who has lost a man from his village demands compensation from the brothers of the accused for the life of his man. In nearly every case these brothers refuse saying: How can we pay compensation for the lives of all these people. The principal elder then calls out with a loud voice and says, "If one man kills the accused it means compensation so we will do it all together and then no one will be able to say that any one man killed him," and then all rush to the place where the accused is to be found and the people follow in a great crowd and they kill the accused: a man is killed by arrows and a woman is stoned to death... the custom is called *king'ole*.⁶²

Many discussions of *king'ole* also foreground the presence and participation of the witch's family throughout various stages of *king'ole* activity. For example, an elderly Kamba woman noted, "The family was part of the *king'ole* and would have thus been

⁶⁰ J.N.K., Kilungu, September 2004.

⁶¹ L.N.N., Kangundo, August 2004.

⁶² Hobley, 1910. 96.

present when the decision was made. The family members were also fed up.”⁶³ These varying accounts thus produce a continuum of family involvement in *king’ole* proceedings against witches. Whether family members participated actively in *king’ole* or were simply informed of the events, in no case were family members able to appeal a judgment. In witchcraft cases, the authority of the *king’ole* was final.

In cases of *non-magical* murder, Kamba codes prescribed a system of compensation in which the killer compensated the victim’s family with animal offerings. Magical murder cases in which the murderer refused to confess and repent were primarily settled by lethal *king’ole* justice. Recidivist and unrepentant witches were killed because they were regarded as serial killers who had killed often and would continue to do so.

Ethnographic and documentary accounts also differ as to the means by which recalcitrant witches were ultimately killed by *king’ole*. In some instances, the disciplinary beatings which seem to have constituted a regular step in the administration of *king’ole* justice segued into lethal beatings. One elderly Kamba man noted simply, “They beat them with sticks.”⁶⁴ Indeed, Hopley described *king’ole* killing in this way.⁶⁵ And Mwaiki, the most famous (alleged) Kamba witch to be subjected to *king’ole* justice died from a mass beating.⁶⁶ Other accounts suggest that a variety of methods were used to kill witches according to the *king’ole* members’ preferences. One elderly Kamba woman elaborated, “They [the *king’ole*] used to hang them [witches], throw them in a

⁶³ B.M., Kilungu, August 2004.

⁶⁴ L.N.N., Kangundo, August 2004.

⁶⁵ Hopley, 1910. 95. For more Hopley’s general musings on witchcraft, see C.W. Hopley, “Some Reflections on Native Magic in Relation to Witchcraft,” *Journal of the African Society* 33.132 (July, 1934): 243-249.

⁶⁶ See chapter four for a full discussion of Mwaiki’s death.

ditch and kill them using arrows or beat them to death or use pangas.”⁶⁷ Another interviewee cited burning as a preferred method. “The atumia gathered and asked the witch for her paraphernalia to be burned. If the witch refused, she could be burned.”⁶⁸ Regardless of the method, the goal of the *king’ole* was to discipline the practice of *uoi* through destroying the bodies of recalcitrant, recidivist witches.

King’ole is figured in oral and documentary sources as a pre-colonial and early colonial institution that was eventually supplanted through the colonial co-option of the Kamba *nzama* councils and through people’s reliance on colonial courts. As one elderly Kamba man noted, with the advent of British colonial administration in Ukambani, the *king’ole*’s “operations were gradually curtailed.”⁶⁹ Some informants and texts cite ways of dealing with witches without seeking recourse in colonial or contemporary courts. An elderly Kamba woman explained the options: “Sometimes individuals seek revenge, but the community has had ways of dealing with the witch. They could use protective or counter paraphernalia.”⁷⁰ But as this comment hints, *king’ole*-style justice did not necessarily disappear with the coming of colonialism even if *king’ole* as an institution was marginalized or eradicated by colonial authority.⁷¹ Rather Kamba people have continued to act against witches as *ad hoc king’ole* councils, even when the composition of their groups or the content and the form of their *king’ole* proceedings contravenes

⁶⁷ R.K., Kilungu, August 2004. A panga is a large, scythe-like knife generally used in agriculture work like cutting sugar cane or clearing brush.

⁶⁸ M.K., Kilungu, August 2004. This informant’s statement about burning witchcraft paraphernalia is not typical. Discussions of burning paraphernalia are regularly present in accounts of witch-cleansings in the 1940s and 1950s. See chapters six and seven.

⁶⁹ R.K., Kilungu, August 2004.

⁷⁰ J.M., Kilungu, August 2004.

⁷¹ The timing at which *king’ole* was marginalized and Kamba people turned to colonial councils and courts is not clear from archival or ethnographic sources. Lindblom wrote, “Nowadays, when the whole of Ukamba is under British rule, *king’ole* is forbidden. However, some of the officials think that it is still practiced in the more remote regions.” Lindblom, 180. Lindblom’s work was originally published as a dissertation in 1916. He conducted fieldwork in Kenya before World War One. His comment suggests that colonial efforts to supplant *king’ole* began early in the colonial era.

earlier Kamba norms concerning *king'ole*.⁷² Sometimes individuals have taken into their own hands the practice *king'ole*-style justice without any broader sanction. In these ways, *king'ole* can be said to have existed alongside that of the colonial and post-colonial governments into the present day.

Kamba Oathing – Ndundu to Kithitu

“Oath” is the basic translation for the Kikamba word *kithitu*. Like witchcraft and *king'ole*, the term *kithitu* has multiple resonances. First, *kithitu* is the oath itself; the actual words spoken, the real promises made. *Kithitu* also refers to the substances and articles employed in the ceremony in which the oath is spoken. And, *kithitu* is the (lethal) power that renders the oath efficacious.

Kithitu is processual, and it is accurate to say that “*Kithitu* is at the same time the generic name for oathing and the active factor of the oath.”⁷³ The act of engaging in *kithitu* is called *kuusya kithitu*, literally “to eat *kithitu*,” referring to the ingestion of the *kithitu* substances contained in a *kithitu* object such as a pot or calabash, a central element of the oathing process. *Kithitu* ceremonies are managed by specialists called *mu'unde wa kuusya kithitu*, a term broadly translatable as “man of eating *kithitu*.” In contrast to certain documentary sources which conflate the *mu'unde wa kuusya kithitu* with the witchdoctor or the even less precise colonial category of the “medicine man,” Kamba people are often quick to emphasize that the *mu'unde wa kuusya kithitu* is *not* witchdoctor, but a category of oath administrator unto himself.⁷⁴

⁷² For specific discussions of this behavior see chapter four.

⁷³ Grignon, 1998. 5.

⁷⁴ E.M.M., Tawa September 2004; N.D.M, Tawa, September 2004; M.K., Tawa, September 2004; M.N. Kangundo, August 2004.

Oathing – like *uoi* and *uwe* – is figured by Kamba and non-Kamba people alike as a central Kamba way-of-being-in-the-world. Respect for the omnipresent power that *kithitu* has in decision-making and competitive interactions is a key element of Kambaness. Indeed, the strength of *kithitu* is recognized even outside Kamba communities.

Accordingly, *kithitu* has a number of functions and is invoked in a range of politico-juridical settings.⁷⁵ *Kithitu* is used to cleanse people of social transgressions. It is used for the settlement of disputes between individuals. And as witchcraft has been the subject of social regulation by *non-magical* authorities, so has *kithitu* been intertwined with institutions of Kamba and Kenyan governance. In the pre-colonial and colonial periods, *kithitu* was used by *nzama* – councils of *atumia* similar to the *king'ole* but having broader functions – in deciding conflicts between individuals and/or parties.⁷⁶ Since independence, *kithitu* has been increasingly linked to political loyalty in Ukambani. Therefore “swearing over the *kithitu* is connected with law, morals, values, legal procedure, clan conferences (*mbai*), political power and so on.”⁷⁷ In all of these instances, the role of *kithitu* is to guarantee the oath-taker’s incontrovertible fidelity to the promises that the particular situation and setting have that demanded he or she make.⁷⁸

Kithitu works as guarantor because of its killing capacity. Depending on the particular type of *kithitu* taken, to contravene *kithitu* is certainly to invite one’s own death and in some instances, the deaths of one’s kin and affines as well. Further, through the

⁷⁵ David William Cohen and Atieno Odhiambo, *The Risks of Knowledge: Investigations into the Death of the Hon. Minister John Robert Ouko in Kenya, 1990* (Athens: Ohio University Press, 2004). Also, Cohen and Odhiambo, *Burying SM: The Politics of Knowledge and the Sociology of Power in Africa* (Portsmouth: Heinemann, 1992).

⁷⁶ *Nzama* were ultimately co-opted into the colonial administration. *Nzama* are discussed in more detail below.

⁷⁷ Udea, n.d.

⁷⁸ Some documentary sources claim that *kithitu* is a solely male affair. However, women are known to engage in *ndundu*, itself a type of *kithitu*.

act of *kuusya kithitu*, *kithitu* like *uoi* becomes embodied. The embodied nature of *kithitu* thus makes it impossible for the oath-taker to escape from the promise made over *kithitu* and from the killing capacity of *kithitu* which has become part of his or her body through ingestion. And like *uoi*, *kithitu* has affective resonances which contribute to its power. *Kithitu* is efficacious because its people fear its consequences. As Hidoshi Udea neatly explains, “There are many oral traditions and much gossip about the *kithitu* in which its potency and the people’s fear of it are always expressed.”⁷⁹

However, while *kithitu*, like *uoi* is embodied, affective and deadly, *kithitu* is not witchcraft. Kamba people rarely conflate the two.⁸⁰ Nonetheless, Onesmus Mutungi, a noted scholar on Kamba law and cosmology, has proposed that *kithitu* is a sort of *uoi*. He writes, “In a nutshell, in the absence of a belief in a supernatural power, capable of inflicting death and similar misfortunes, the *kithitu* oath has no functional basis. And this is the same power one encounters in examining witchcraft and beliefs incidental thereto.”⁸¹ While Mutungi is correct to suggest that *kithitu*’s power is rooted in its supernatural killing capacity, he is mistaken in his assertion that *kithitu* is imbued with the same brand of supernatural power that drives *uoi*. *Uoi* always already entails a malevolent supernatural power. The supernatural power of *kithitu*, in contrast, removes the stain of or prevents the use of malevolent power. Unlike *uoi*, the supernatural power of *kithitu* is directed towards the preservation or restoration of community relations. As

⁷⁹ Udea, n.d.

⁸⁰ In targeted interviews and casual conversations conducted over a year, only once did the author hear *kithitu* described by a Kamba person as a type of witchcraft. M.N., Kangundo, September 2004.

⁸¹ Onesmus Kimweli Mutungi, *The Legal Aspects of Witchcraft in East Africa* (Nairobi: East Africa Literature Bureau, 1977). 78. In his book, Mutungi uses the term “witchcraft” to designate black magic or *uoi* rather than white magic or *uwe*.

François Grignon succinctly explains, “The oath, in short, is a remedy against any threat of disunity or conflict that can hit the community.”⁸²

In short then, *kithitu* is “a most deadly Kamba oath” that can be classified into four basic types: 1) the *ndundu*, 2) *kithitu kya ndata mwanza* or “oath of the seven sticks,” 3) *kithitu kya matuka* or “oath of the seven days,” and 4) *kithitu kya mbisu* or “oath of the cooking pot.”⁸³ This dissertation is most concerned with *ndundu* – the witchcraft cleansing oath – because it is through *ndundu*, that the institutions and actors of *uoi*, *king’ole*, *kithitu*, *nzama*, and the state have intersected. As noted above many witches resisted *king’ole* warnings, but some witches did indeed assent to *king’ole* demands that they cease their practice of *uoi*. While some witches were simply “chased away,” other repentant witches underwent cleansing ceremonies involving the taking of *ndundu* oaths administered by specialized cleansers. An informant explained the procedure. He noted, “Old men accuse the witch and then call in a cleansing specialist. The cleansing is called *kithitu*.”⁸⁴ Other documentary and oral sources point more specifically to the existence and widespread use of the *ndundu* oath, the type of *kithitu* whose exclusive function was to cleanse witchcraft.⁸⁵ While some sources suggest that *ndundu* is administered exclusively to repentant witches, others propose that *ndundu* is sometimes administered to the entire female village populations to simultaneously weed out and cleanse witches. Like many types of *kithitu*, the *ndundu* oath involved acts, speech and substances. As one elderly Kamba man explained, “The witches got cleansed

⁸² Grignon, 1998. 5.

⁸³ M.N., Kangundo, August 2004. The author and her research assistant inquired on numerous occasions about the significance of the number seven vis à vis Kamba oathing, but were unable to elicit satisfactory responses. Numerology is not discussed in texts on Kamba cosmology.

⁸⁴ M.W., Imani, September 2004. “Kithitu” is the basic term given to Kamba oaths with the capacity to kill oath-takers who renege on their oaths. See the next section of this chapter.

⁸⁵ M.W., Imani, September 2004; J.K.S., Kilungu, September 2004; M.K., Tawa, September 2004; M.N., Kangundo, August 2004.

with the *ndundu* oath. There was a pot with blood and herbs. The witches stirred the pot and ingested another mixture. They jumped over the pot. Then they would never practice again.”⁸⁶ Such was the type of oathing conducted under the auspices of the *nzama* and the colonial state during the Mau Mau period, and similar cleansings persist into the present.⁸⁷

Whatever the circumstances under which witchcraft-cleansing oaths are administered, they retain a killing capacity directed against oath-takers who renege on their oaths. The role of the anti-witchcraft oath is not simply to cleanse witches of prior bad acts, but also to ensure the end of a witch’s *uoi* practices. Once cleansed of witchcraft and prevented from further practice by the taking of an anti-witchcraft *kithitu*, a witch no longer belonged to a category of dangerous persons and could thus be reintegrated into her community as a “good” person.

Overall, witchcraft and oathing have long constituted central elements both of what it means to be Kamba and how Kamba people have themselves made sense of being in the world. But witchcraft and oathing have been also been significant because their entanglement with spectacular violence has caused them to be subject to the sort of consistent scrutiny and discipline by the state which has been productive of many of the “critical moments” at which witchcraft beliefs and practices have challenged state authority from the colonial era to the present-day. Accordingly, the next chapter traces how “witchcraft” and oathing have become engrained in the state’s anthro-administrative lexicon, working to explain away persistent disorder and underdevelopment and to

⁸⁶ M.K., Tawa, September 2004.

⁸⁷ See chapters six and seven.

reproduce narratives of governmental “good practice” in response to witchcraft challenges to state authority.⁸⁸

⁸⁸Mark Dressman. “Theory *into* Practice?: Reading Against the Grain of Good Practice Narratives,” *Language Arts* 78.1 (2002): 50-58.

Chapter 3 The “Cosmology” of the Colonial State

An Anthropologizing and Archiving Bureaucracy

At the beginning of the colonial era, British authorities stepped into the dynamic socio-political, supernatural situations of the Kamba people. Indeed, the advent of the British colonists had even been foretold by the renowned Kamba prophet, Syokimau.¹ And, like the Kamba, British officials had their own way-of-being-world, a brand of “cosmology” centered on the core beliefs, practices, institutions and authorities encompassed by colonial governmentality. This “modern” colonial “cosmology” operated in stark, deliberate opposition to the “traditional” Kamba one detailed in the last chapter. Yet, at the same time, the claims of colonial “cosmology” also worked to obscure the moments at which colonial authorities had to adapt to Kamba ways and means.

The “cosmology” of British officials quickly brought the institutions and actors of the state into conflict and competition with those of the Kamba. In the context of “witchcraft” and oathing, clashes resulted because British officials sought simultaneously to discipline and deny the efficacy of Kamba practices and beliefs while Kamba people

¹ Syokimau was the pre-colonial era Kamba prophet who foretold the advent of colonialism with predictions about a “great snake,” i.e. the Mombasa-Kampala railway, etc. J. Forbes Munro, *Colonial Rule and the Kamba: Social Changes in the Kenya Highlands, 1889-1939* (Oxford: Clarendon Press, 1975), 27-28. See the chapter on Kamba pre-colonial prophecy in Kennell Jackson, *An Ethnohistorical Study of the Oral Traditions of the Kamba* (Ph.D. diss., University of California, 1972); Katherine Luongo, “‘Kutengeneza the White Man’: Possession and Prophecy Among the Kamba of Kenya” (paper presented at the African Studies Association Forty-Eighth Annual Meeting, Washington, D.C. 2005).

refused to surrender authoritative sway over the “witchcraft” to the state. And, more broadly, conflicts took place because both the colonial state and Kamba authorities each claimed the right to exercise judicial violence through their own institutions – the colonial courts or Kamba *king’ole*.

Bringing together a range of archival and secondary sources, this chapter elucidates the structure of the colonial administrative apparatus and traces the contours of colonial bureaucratic practices in Kenya. It details the history of the colonial state’s legal and administrative efforts to deal with “witchcraft” in Kambaland before the Second World War, focusing particularly on the development of the Witchcraft Ordinances and the burgeoning of Kamba “witchcraft” as an area of anthro-administrative investigative concern. And, it suggests that colonial discourse reflects British authorities’ recognition of the affective and embodied elements of Kamba “witchcraft” and that such knowledge influenced administrative and judicial strategies.

Colonial-era conflicts and clashes point to how challenges to state authority transpired beyond moments of unambiguous civil or martial rebellion. Rather, challenges also occurred on a more quotidian basis through Kamba people’s continued adherence to beliefs, practices and institutions like those concerned with *uoi*, *kithitu*, and *king’ole*. The consistency of such challenges produced a type of colonial governance conducted within an “idiom of crisis;” a heightening of stakes and hardening of approaches which in turn led to many of the “critical moments” which form the signposts of this dissertation. The development and workings of the colonial state apparatus in Kenya have been detailed in a range of historiography. The following section thus briefly outlines the structure of the colonial state and traces the contours of colonial bureaucratic practices in Kenya,

particularly those elements of colonial “cosmology” pertaining to the maintenance of law and order.

Contours of Colonial Administration: Periodization and Overview



Photograph 5. A street in Machakos Town named after the Kamba prophet who is reputed to have predicted the arrival of the British in Kenya. Photograph by the author.

The conquest mode through which colonial rule was inaugurated in Kenya had many drawbacks. Most importantly it was expensive and while it established suzerainty, it did not provide a good framework for economic and political development. With the change to Protectorate status in 1895, and then to Colony status in 1920, the emphasis of colonial authorities shifted from coercion and rule via violence to coercion and rule via bureaucratization. Overall, the somewhat improvisational and often individualistic style of colonial administration which developed in Kenya created resentments and mismanagements that contributed strongly to conflicts throughout the colonial period.

The structure of government in Kenya was at once hierarchical and *ad hoc*, and the development of the Protectorate, and shortly after the colonial state, involved both institutions and individuals.² The basic governmental structure was as follows:

² Bruce Berman and John Lonsdale, “Coping with the Contradictions: the Development of the Colonial State in Kenya, 1895-1914,” *The Journal of African History* 20 (1979): 487-505; Bruce Berman and Lonsdale, *Unhappy Valley: Conflict in Kenya and Africa, Volume I* (James Currey: Oxford, 1992); Bruce Berman, *Control and Crisis in Colonial Kenya: the Dialectic of Domination* (London: James Currey, 1990).

Governor, Chief Justice, Legislative Council, Department Heads, and Administrators at the Provincial and District levels. Despite the existence of a clear governmental structure, factors like distance, poor communications and spotty knowledge of the people being governed limited the reach of the Executive. Aware of such limits, imperial authorities organized administration along a *prefectural model* in order to create a corps of administrators who would share the mindsets and goals of the Executive even if they were not under direct Executive control and supervision at all times.³ The administrators were to be taken from an elite pool with the education and background to carry out an administration based on paternalistic authoritarianism.⁴ As a result of this system, a great deal of power resided in the “men on the spot,” district and provincial administrators.

The development of the state apparatus in Kenya was also predicated on British fantasies about what colonial authorities might find as the material for governance and how colonial governance might proceed. First, British officials imagined their “imperial tutelage” would result in gradual evolution of a uniform African consciousness from a state of “primitivism” to one of “civilization.” Also, British authorities had a “mental map” of Africa in which Africans were divided neatly into tribal groups which colonial authorities expected to act in particular ways.⁵ Colonial administrators conceived of Kamba people as prosperous and pliable and as a potential, though resistant, source of

³ Berman and Lonsdale, *ibid.*; see especially charts in Berman, *ibid.*

⁴ *Ibid.* For vignettes of colonial administrators see also, Charles Cheveinix Trench, *The Men Who Ruled Kenya: the Kenya Administration 1892-1963* (London: the Radcliffe Press, 1993).

⁵ Mungeam, for one, notes that the British had different expectations about the Kikuyu and Maasai capacity for violence which led the British to apply more force to the Kikuyu thus stimulating longstanding resentment. Fadiman, in turn, notes that British authorities did not have a good sense of who belonged to which group, conflating, for instance, the Meru and the Embu. G.H. Mungeam, “Masai and Kikuyu Responses to the Establishment of British Administration in the East Africa Protectorate,” *JAH* 11.1 (1970): 127-143; Jeffrey Fadiman, *When We Began There Were Witchmen: An Oral History From Mount Kenya* (Berkeley: University of California Press, 1993).

labor for colonial labor markets. At the same time, “men-on-the-spot” in Ukambani also figured Kamba people as awash in the occult, and as a result in many ways administratively intractable, an initial characterization that persists into the present day. Such observations about the Kamba were part of a central element of colonial administration – the production of knowledge about colonized peoples. A key component of an administrator’s role was to make “knowable” the formerly “unknown” people under his control; to collect, organize and report anthro-administrative data on a colony’s neatly demarcated tribes and then present this information in equally neat record books.⁶ Indeed, as early as 1905, the government of Kenya required that colonial officers submit specifically formatted Annual and Quarterly Reports on their individual districts.

By 1910, a memorandum from the Governor’s office demanded that colonial officials submit Political Record Books, extensive reports designed to “constitute a complete history of the native administration of the country,”⁷ taking in “current information of a statistical nature” as well as “records of local tribal history and custom, the family history and connexions of native authorities, and observations heard on appeal or revision from native courts.”⁸ The overarching purpose of such systematized record books, William Hailey explained in his 1938 monograph assessing Indirect Rule, was not “a systematic statement of custom, but the recording of information which may prove

⁶ John Lonsdale, “When Did the Gusii (or Any Other Group) Become a Tribe?” *Kenya Historical Review* 5.1 (1997): 122-133. See also, “Native Research Work,” *Habari: A Newspaper for the Nations of the Kenya Colony* 6.2 (May 1927): 3-5.

⁷ Robert G. Gregory, Robert M. Maxon, and Leon P. Spencer, eds., *A Guide to the Kenya National Archives* (Syracuse: Program of Eastern African Studies, 1968); Matthew Carotenuto and Katherine Luongo, “Navigating the Kenya National Archives: Research and its Role in Kenyan Society,” *History in Africa* 32 (2005): 445-455.

⁸ William Malcolm Hailey, *An African Survey* (London: Oxford University Press, 1938). 49. By the 1930s, a range of foundations in Europe and America were sponsoring research on Africa. Hailey’s work was in part sponsored by the Carnegie Corporation. And, The Africa Institute at the London School Economics was closely tied to the Rockefeller Foundation. *Papers related to the Africa Institute are split between the London School of Economics Archives and the Rockefeller Archives Center in Sleepy Hollow, New York.* See also, Raymond Leslie Buell, *The Native Problem in Africa* (New York: Macmillan, 1928).

useful to the administration.”⁹ Overall, a primary goal of the archived and archiving colonial state was to render subject peoples more easily governable by making their unfamiliar cultures, customs and institutions known quantities.

The anthro-administrative knowledge generated by the “men-on-the-spot” was not confined to official reports. Rather, numerous colonial officials, particularly those stationed in the central portion of the country, produced their own articles and monographs based on information they had gleaned in the course of their administrative duties.¹⁰ As their writings reflect, the “men on the spot” in Ukambani, took a deep interest in Kamba cosmology, in many instances working as administrators-cum-anthropologists. C.W. Hobley, the most prolific and one of the best-known of the early Ukambani administrators, had already by 1910 published an anthropological monograph on the Kamba which focused strongly on cosmology and which was derived in part from his administrative writings.¹¹ The anthro-administrative knowledge produced by officials like Hobley was circulated through topical, imperial networks of varying scale throughout the colonial era.¹² Indeed, the 1909-1910 Machakos District Annual Report shows that Hobley’s text was immediately put into use as a reference for other administrators.¹³

Yet, while district and provincial officers worked individually to develop a corpus of information about the people under their authority, the distances that

⁹Hailey, 1938.

¹⁰ For example, G. St. J. Orde Browne, “Mount Kenya and its People: Some Notes on the Chuka Tribe,” *Journal of the Royal African Society* 15.59 (April 1916): 225-233.

¹¹C. W. Hobley, *An Ethnology of the A-kamba and Other East African Tribes* (Cambridge: Cambridge University Press, 1910); A.T. Matson and Thomas P. Ofcansky, “A Bio-Bibliography of C. W. Hobley,” *History in Africa* 8 (1981): 253-260.

¹² Frederick Cooper and Ann Laura Stoler, *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley and Los Angeles: University of California Press, 1989).

¹³ KNA DC/MKS.1/2. District Commissioner, Machakos. Machakos District Annual Report, 1909-1910.

administrators had to cover combined with the scope of their duties provided incentives for a co-optive form of government throughout the colonial period. Throughout their colonial African empire, the British instituted, in an assortment of forms and to varying degrees, the system of Indirect Rule, a mode of governmentality initially developed by Lord Frederick Lugard during the latter part of the nineteenth century in Nigeria. Broadly, Indirect Rule was premised on maintaining local authority and customs under the direction of British administrators.¹⁴ Pragmatically speaking, Indirect Rule was intended to provide a cheap system of administration that would require a minimum of British staff, maintain law and order, and facilitate economic exploitation.¹⁵ On a more abstract level, Indirect Rule was envisioned as part of a system of “imperial tutelage” aimed at promoting the moral and intellectual progress of Africans along European lines.¹⁶

The context described above necessitated that British administrators work through an assortment of African institutions and actors. “Customary law” emerged as one of the most significant of such institutions. The meaning and content of customary law has been historically contentious. Generally speaking, customary law comprised a variety of legally recognized rules, norms and processes derived from an administratively driven effort to develop a system of laws supposedly originating from the “laws” of pre-colonial

¹⁴ Frederick Lugard, *The Dual Mandate in British Tropical Africa*. London: W. Blackwood and Sons, 1922.

¹⁵ Sara Berry, “Hegemony on a Shoestring: Indirect Rule and Access to Agricultural Land,” *Africa* 62.3 (1992): 327-355. Also, Ranajit Guha, *Dominance Without Hegemony: History and Power in Colonial India* (Cambridge [MA]: Harvard University Press, 1997).

¹⁶ In some ways, the British “civilizing mission” in Africa resembled that of the French “mission civilatrice.” Alice Conklin, *The Mission to Civilize* (Stanford: Stanford University Press, 1997); Marc Augé, *Théorie des Pouvoirs et Idéologie : Etude de Cas en Cote d’Ivoire* (Paris: Collections Savoir Hermann, 1975).

African societies.¹⁷ Many administrators-cum-anthropologists concerned themselves with cataloging customary law, imagining it as a closed and static system.¹⁸ In contrast, as noted in chapter one, contemporary scholars like Martin Chanock have argued that customary law was constructed throughout the colonial era by British officials and “tribal” elders who manipulated each other’s understandings of “custom” in order to produce inflexible customary laws that served their respective interests.¹⁹

The reality seems to span these two competing conceptions. Customary law comprised a flexible body of rules and norms which often predated colonialism and which was modified by colonial and local authorities alike according to circumstance.²⁰ In the colonial period, a primary focus of the constitutive debates over customary law was the degree to which local cosmological practices and beliefs such as *kithitu* should be integrated into colonial legal proceedings.

In general then, while administrative officers often advocated an expansion of the body of law rooted in local “customs,” and judicial authorities typically promoted the expansion of law that was based on the Indian Penal Code and referred to precedents of British Common Law, both groups were willing to consider that local sources of order

¹⁷See especially Martin Chanock, *Law, Custom and Social Order: the Colonial Experience in Malawi and Zimbabwe* (Portsmouth [NH]: Heinemann, 1985); Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton: Princeton University Press, 1996). For a discussion of how “traditions” like “customary law” were largely “invented,” see especially Eric Hobsbawm and Terrence Ranger, eds., *The Invention of Tradition* (Cambridge: Cambridge University Press, 1983).

¹⁸R.S. Rattray, *Ashanti Law and Constitution* (Oxford: Oxford University Press, 1929); Isaac Schapera, *A Handbook of Tswana Law and Custom* (London: Oxford University Press, 1955); D.J. Penwill, *Kamba Customary Law* (Nairobi: Kenya Literature Bureau, 1956).

¹⁹Chanock, 1985; Kristin Mann and Richard Robertson, eds. *Law in Colonial Africa* (Portsmouth: Heinemann, 1991).

²⁰Luise White, *The Comforts of Home: Prostitution in Colonial Nairobi* (Chicago: University of Chicago Press, 1990). David William Cohen and E.S. Atieno Odhiambo, *Burying SM: The Politics of Knowledge and the Sociology of Power in Africa* (Portsmouth [NH]: Heinemann, 1992); Brett Shadle, “Changing Traditions to Meet Current Altering Conditions’: Customary Law, African Courts and the Rejection of Codification in Kenya, 1930-60,” *Journal of African History* 40.3 (1999): 389-411; Jennifer Widner, *Building the Rule of Law: Francis Nyalali and the Road to Judicial Independence in Africa* (New York: W.W. Norton & Company, 2001).

and justice existed before the advent of British rule. It is important to note, however, that customary law governed the *civil* arena. In working with customary law, the colonial state showed that it was prepared to negotiate about local customs and beliefs pertaining to civil matters like marriage.²¹ Members of the colonial administration were *not* prepared to step away from British mores and means concerning the *criminal* sphere. Overall, the colonial state was unwilling to compromise its monopoly on juridical violence by integrating or sanctioning *local* forms of juridical violence, like *king'ole*.²² As a result of these attitudes, “colonial rule created new ‘crimes.’”²³

Competing notions of law and justice collided in an uncomfortable nexus around *uoi*. British law criminalized *uoi* practices and beliefs, but provided no viable means for their prosecution and punishment.²⁴ At the same time, in maintaining an exclusive hold over the exercise of juridical violence, state codes both outlawed local, institutional approaches (like *king'ole*) for dealing with lethal, recidivist witches and prescribed capital punishment of people who stepped into the authoritative vacuum created by the state and practiced informal, *ad hoc* violence against murderous witches. Both the Indian Penal Code, the body of law transferred to Kenya with few amendments at the beginning

²¹H.F. Morris and James S. Read, *Indirect Rule and the Search for Justice* (Oxford: Clarendon Press, 1972). See especially Morris's chapter, “Indirect Rule and the Law of Marriage”; Sally Falk Moore, “Treating Law as Knowledge: Telling Colonial Officers What to Say to Africans about Running ‘Their Own’ Native Courts,” *Journal of History and Society* 26.2 (1992): 11-46. Falk Moore focuses on the administration of justice in the *civil arena* as a function of the colonial imaginary. However, discourses about crime and justice expressed by colonial authorities in documents pertaining to the administration of justice in criminal matters can be profitably theorized as products of the colonial imaginary as well.

²²Mamdani, 1996.

²³David Killingray, “The Maintenance of Law and Order in British Colonial Africa,” *Africa* 340 (1985): 411-37. 413.

²⁴Cynthia Brantley's foundational article relates changing witchcraft control methods to shifting political situations in coastal Kenya. See, “An Historical Perspective of the Giriama and Witchcraft Control,” *Africa* 49.2 (1979): 112-131.

of the colonial period, and the Kenya Penal Code, which replaced the Indian Penal Code in 1930, reflect the state's monopoly on juridical violence.²⁵

Yet, despite the powers they were ascribed and the knowledge they succeeded in acquiring, colonial administrators' limited numbers and broad duties necessitated Africans' assistance in everyday rule and mediation. Under the colonial regime in Kenya as elsewhere in Africa, various categories of African "middle figures" had their origin in a variety of actual preexisting (and imagined) positions of local authority.²⁶ Generally, Africans in the employ of the colonial state can be loosely grouped into two, sometimes overlapping, categories: functionaries and "experts-of-the-local." Functionaries occupied hierarchically organized administrative positions like those of chief, sub-chief, headmen, assistant-headman, etc. For example, as John Middleton explains,

The Native Authority Ordinance of 1912 enlarged the formerly relatively minor powers of headmen and laid down that they were appointed over specific areas, later to be known as locations, and whose boundaries were in most cases drawn on tribal or ethnical basis.²⁷

Thus, while such posts had loose origins in pre-existing structures of authority, their main purpose was to support British colonial administrators who could not be everywhere in their districts at once; these positions were assigned primarily at the discretion of colonial authorities. As a 1909 Ulu Quarterly Report aptly explained, "The prestige of the Chiefs is in the process of being created in most cases."²⁸

²⁵See A.D. Campbell, (Esq. 2nd Puisine Judge of the Court of Sudr and Foujdary Udawlut.) Notes on the Penal Code Proposed for India, and on the State of Crime, and of the Prisons, and the Impunity of Sorcery the Registry of Deeds, the Disuse of Oaths, and Some Criminal Trials under the Madras Presidency. Madras: J.B. Pharoah, MDCCCXL.

²⁶Nancy Rose Hunt, *A Colonial Lexicon of Birth Ritual, Medicalization, and Mobility in the Congo* (Durham: Duke University Press, 1999).

²⁷John Middleton, "Kenya: Administration and Changes in African Life, 1912-1945," in *History of East Africa*, eds. Vincent Harlow and E.M. Chilver (Oxford: Clarendon Press, 1965). 352.

²⁸KNA DC/MKS.1/1/3. District Commissioner, Machakos. Ulu Quarterly Report, 1909.

Functionaries also belonged to local groups whose overarching purpose was to support British administration. In some instances these groups, for example the Local Native Councils (LNCs) established through a mid-1920s ordinance, were set up by the colonial government as administrative organs without straight-line references to pre-existing structures of authority, although most of the members of such groups had already been recognized as “elders” (called *atumia* in Kambaland) by their own communities. In other instances, the constitution of such groups was in fact a co-option of actual pre-colonial bodies, in the Kamba case, the *nzama*. Indeed, in discussions about the obsolescence of *king’ole* and the evolution of *nzama*, elderly Kamba people point to the merging of the *nzama* with colonial administrative institutions and actors. As one couple explained,

They [*nzama* members] worked under the Chief’s authority. They followed colonial rules. They met with and without the Chief. They were appointed by the Chief. They then slaughtered a goat for eating.²⁹

Describing the colonial-era role of the *nzama*, a contemporary noted that “The *nzama* was used by the colonial government in deciding local issues” while another elderly Kamba man explained that the colonial government granted the *nzama* permits to deal with “witchcraft, general conflicts...all cases needing resolution.”³⁰

The *nzama*’s conflict resolution role hinted at by the Kamba man cited above is generally in keeping with how scholars have described *nzama*. J. Forbes Munro, author of one of the few monographs on Kamba history, describes *nzama*, as a “small *ad hoc* body” responsible for mediating quotidian conflicts “between individuals and families.” A group of “four to six elders, selected by the litigants and *motui*, comprised an *nzama*.”

²⁹ L.N.N., Kangundo, August 2004; M.N.N., Kangundo, August 2004.

³⁰ J.K.S., Kilungu, September 2004; M.W., Imani, September 2004.

Sometimes, Munro notes, the *nzama* also included an *nzili* whose purpose was to lend greater “impartiality” to the proceedings and to provide a “special knowledge of customary laws.”³¹

Functionaries like chiefs, headmen and *nzama* members were integrated into the colonial judicial system through the passage of a variety of statutes although the exercise of juridical violence remained off limits to them.³² As suggested above, issues of law and justice presented problems to the colonial administration, coalescing around the questions of how much and what kind of judicial powers functionaries like chiefs or *nzama* members should have since at the outset of the colonial period “there were no indigenous judicial authorities other than informal councils of elders” and “traditional sanctions had usually been destroyed by the prohibition of the use of force by any but agents of the central government.”³³

The 1909 Ulu Quarterly Report reflects this situation, complaining that “[Chiefs] have no legal powers of enforcing obedience beyond native law” and explaining that

British law is applied where Native law is contrary to humanity or morality.... Serious Criminal Cases such as murder have been forbidden to Native Courts as also the System of Blood Money – Such Cases must be brought before the British Court.³⁴

³¹Munro, 1975. 55. The author and her research assistant consistently questioned interviewees about the existence in the pre-colonial and colonial eras or in the present of local “experts” with special knowledge of customary law. In almost every instance, interviewees claimed no knowledge of such persons or conflated them with translators. Perhaps the more than 30 years between the author’s field work and Munro’s explains why Kamba people in 2004 were unable to cite or explain the category *nzili* identified in Munro’s text. Munro’s notes and tapes are not available at the Kenya National Archives.

³²In 1911, a Kikuyu “kiama,” the Kikuyu equivalent of a Kamba “*nzama*,” asserted its right to have burned two men found to be witches. The case against the *kiama* was tried in the High Court of Kenya. The case is discussed in more detail in chapter four. KNA DC/KBU/3/25. District Commissioner, Kiambu. Kiama Case.

³³Middleton, 1965. 351.

³⁴KNA DC/MKS.1/1/3. District Commissioner, Machakos. Ulu Quarterly Report, 1909.

Accordingly, the Native Tribunals Act of 1911 officially made *nzamas* the “recognized judicial bodies with authority to try all cases cognizable to Kamba law and arising within their areas of jurisdiction with the exception of such cases as homicide and serious assault.”³⁵ Functionaries were thus integrated into the colonial judicial administration in varying degrees through positions that were rooted in pre-colonial judicial structures and status or in posts that were colonial-era inventions.

An additional category of middle figures, who could be dubbed “experts-of-the-local,” participated in colonial administration. Although a central element of a colonial officer’s role was the production of useable anthro-administrative knowledge, in many instances this knowledge was insufficient for thorough governance. To fill in such gaps, the colonial administration enlisted Africans in a range of support positions as “experts-of-the-local.” These “experts-of-local” often facilitated British officers’ work within the colonial courts, serving as translators or “native assessors.”

The task of translators was fairly straightforward, translating various local languages into the Kiswahili that was spoken (with various degrees of ease) by British officers. Unlike most functionaries selected from pools of elder, translators were generally younger men who had either been earlier employed in a Kiswahili-speaking environment or who had been educated in Kiswahili.³⁶ While translators were engaged in the more mundane work of assisting British officers in translating quotidian administrative news and directions, in the legal arena they also occupied significant roles, interpreting for trial participants in the colonial courts and helping British officers convey

³⁵Munro, 1975. 66. The Native Courts Ordinance of 1907 had recognized tribunals under the direct authority of chiefs and headmen and the Native Tribunal Rules of 1911 “recognized the constitution of councils of elders in accordance with traditional custom.” See Middleton, 1965. 351-352.

³⁶Derek Peterson, *Creative Writing: Tradition, Book-keeping and the Work of the Imagination in Colonial Kenya* (Portsmouth [NH]: Heinemann, 2004).

the underpinnings of colonial law and order in public, village-based meetings or *baraza*.

Indeed, while there was in the late 1920s a debate over whether or not “laws affecting natives” should be translated into Kiswahili, laws continued to be promulgated and published in English throughout the colonial era. The decision to retain English as the sole language of published law was supported by the Executive, the Governor-in-Council concluding that “...general notifications could be best ensured by District Officers explaining to barazas, in the local vernacular, the principal provisions of enactments affecting natives...” The Chief Native Commissioner thus concurred that “Senior commissioners should direct that short lectures on the main Ordinances which affect natives should be given by District Officers at the conclusion of Barazas, Council Meetings and other suitable occasions.”³⁷ Elderly Kamba note that district officers were indeed generally accompanied by translators when they held *baraza*, and that during the colonial period dictates and laws were made known via announcements offered by district officers with the assistance of interpreters.³⁸

The work of native assessors, in turn, was more complex. The assessor position was not created as part of the system of Indirect Rule in Africa but, instead, like so much of the administration of justice in British Africa, it had a legal genealogy in Indian codes, which in turn harkened back to the English legal system.³⁹ As “experts-of-the-local,” assessors had a dual-function. First, they filled in the gaps in colonial administrative and judicial officials’ knowledge on issues of local custom, belief, and practice that emerged

³⁷KNA DC/MKS 25/3/2. District Commissioner, Machakos. CNC Circulars. Memo from Native Affairs Department to all Provincial Commissioners with copies for all District Commissioners. Publication of Laws in Ki-Swahili. 27 October 1927.

³⁸ W.N., Machakos, September 2004; S.M., Mbooni, September 2004.

³⁹John Gray, “Opinions of Assessors in Criminal Trials in East Africa as to Native Custom,” *Journal of African Law* 2.1 (Spring, 1958): 5-18. Gray notes that the assessor position in East Africa derived from the Indian Evidence Act and the Indian Code of Criminal Procedure. 7-8.

in the course of court cases. Second, they assessed the validity of claims made by participants in a case about local law, custom, and practice, and advised British judicial officials accordingly. A distinct system of protocols governed how, why, and about what assessors addressed the courts and how the courts, particularly the justices, were to draw on assessors' knowledge. But at the same moment, debates over how much legal weight to give assessors' opinions persisted; debates symptomatic of a more generalized colonial conundrum about how much influence could be accorded to local beliefs and practices in the new situation of British rule.⁴⁰

Overall, the activities and status of "experts-of-the-local" are fuzzier than those of functionaries. While secondary sources attend generally to the selection process for "experts-of-the-local," the absence of easily accessible statutes precisely articulating the duties and backgrounds of translators and assessors in Kenya in particular renders it easiest to glean what sort work these men did by examining other types of colonial documents which show them in action. For example, colonial court transcripts detailing questions put to assessors and assessors' replies highlight the sorts of issues that assessors typically dealt with and point to the degree of influence that their opinions had on British justices' decisions.⁴¹

Distinctions in roles and reputations of "experts-of-the-local" are markedly obscure in the conceptions of elderly Kamba informants. In response to lines of

⁴⁰Ibid. See also, J.H. Heary's tripartite series of articles on assessors. "Trial by Jury with the Aid of Assessors in the Superior Courts of British African Territories I," *Journal of African Law* 4.3 (Autumn, 1960), 133-164; "Trial by Jury with the Aid of Assessors in the Superior Courts of British African Territories II," *Journal of African Law* 5.1 (Spring, 1961), 36-47; "Trial by Jury with the Aid of Assessors in the Superior Courts of British African Territories III," *Journal of African Law* 5.2 (Summer, 1961), 82-98.

⁴¹See the following files discussed in detail in chapter five. KNA MLA 1/63 Ministry of Legal Affairs *Rex versus Maganyo s/o Ochiel*, 1940; KNA MLA 1/113 Ministry of Legal Affairs *Rex versus Charo Hinzano*, 1941; KNA MLA 1/117 Ministry of Legal Affairs *Rex versus Weyulo Kakonzi*, 1941.

questioning about Kamba people who may have advised on matters of customary law in the colonial courts, the majority of interviewees conflated translators with assessors. Most interviewees answered with a resounding “yes” that they were familiar with such a category of people...and then went on to describe translators, using a Kiswahili-derived title, *mutafuta*, to designate them. Responses such as, “Yes, they were called *mutafuta*. Their work was interpretation, translation. They were young people, not elders,” or “Yes, they were called *mutafuta*. They were employed by the Government. The D.C. knew the Swahili speakers and would choose them” are typical. One elderly Kamba man explained their background in more detail, noting,

Yes, they were interpreters. They were employed by the government and tested by the D.C. for their language skills. They were young people, not *wazee* (elders). They were able to work because they were young. They had no special knowledge of customary law.

And another interviewee explained, “I saw them and they were called translators. I don’t know assessors,” and proposed, “Maybe the same people were doing both jobs.”⁴²

Perhaps the language used to describe “experts-of-the-local” did not sufficiently differentiate translators and assessors as to render them distinct in the recollections of ordinary Kamba people. The Kiswahili verb *kutafuta* can be variously translated as “to seek,” “to look for,” “to find” or “to obtain” while the Kikamba prefix “mu-” designates “person.” Loosely speaking, a translator and an assessor were each persons who used specialized knowledge (linguistic or legal) “to seek,” “to look for,” “to find,” or “to obtain” the necessary information for British colonial officers who often were fluent neither in Kiswahili (and certainly not in other tribal languages) nor in customary law. At the same moment, this tendency to conflate translators and assessors hints at a locally

⁴² M.K., Tawa, September 2004; E.M.M., Tawa, September 2004; P.K.M, Welfare, September 2004; W.N., Machakos, 2004.

conceived sociology of colonial power in which ordinary Kamba people did not distinguish sharply between the types and levels of power held by Kamba and British authorities. Evident at “critical moments” throughout the colonial period, this conception of power emerges most strongly in narratives about government-sponsored efforts to cleanse Mau Mau adherents and witches during the 1950s.⁴³

The situations described above in many cases produced a real though limited administrative synergy between British and Africans in the employ of the colonial state. But whatever notions of devolving authority and negotiating with custom that British officials were willing to consider, they were in no way willing to entertain ceding the primacy of British power. Overall, British colonial “cosmology” asserted that the purpose of colonial government was to guide and urge (or to direct and propel) Africans along a development continuum. As a result, the administrative system theorized as *Indirect Rule* actually ended up being much more direct in practice. Commentary from the Kenya Governor’s Office on the 1927 Kenya Native Affairs Department Annual Report takes in some of the dilemmas and debates concerning just how direct (or not) British administration should be. It reads,

In 1911 Sir Percy Girouard wrote (Cmd. 5467 p.p. 39 and 47) in speaking of the detribalization of the native in the then East Africa Protectorate: -

“There are not lacking those who favour direct British rule; but if we allow the tribal authority to be ignored or broken, it will mean that we, who numerically form a small minority, shall be obliged to deal with a rabble.... There could only be one end to such a policy, and that would be eventual conflict with the rabble.”

It is generally admitted that the system of direct rule through British Officers is the simplest and, for the time, the most efficient method of administering primitive tribes in the early stages of development, but the great defects of that system in Africa, which Sir Percy Girouard feared, are now recognised even, I understand, by French authorities. These defects – the evasion of the task of political education, the stultification of the normal progress of native

⁴³ See chapters six and seven.

society – when a native people demand a greater voice in the control of their own affairs will be found to have stemmed the growth of the tribe, if indeed they have not destroyed its roots.⁴⁴

Such issues remained largely unresolved throughout the colonial period, and in the years leading up to and after World War Two a range of novel and shifting circumstances led to a clamor from a variety of corners for changes in the ways in which colonial administration and authority operated. At the same time, shifts in both British and African attitudes towards administration led to the problems presciently stated by Girouard.

Overall, throughout the entirety of the colonial period, the central question of how (and to what degree) to administer populations with radically different cultures and communities dogged colonial authorities. Subsumed in this broader issue was the question of who and what made British justice within the context of colonized cultures and communities. This issue emerged in high relief in court cases surrounding serious crimes related to *uoi* beliefs and practices, and in efforts to deal with the supernatural aspects of the Mau Mau rebellion. The following section attends briefly to some of the dilemmas and demands emerging in the decade before World War Two and leveled more strongly in the post-World War Two period. This section both points to some of the spaces in which the Kamba and colonial cosmologies collided and to the local sociology power proposed above.

⁴⁴PRO CO 533/382/13. Native Affairs Department. Annual Report, 1927. Comments on Report from the Office of the Governor of Kenya's Office. April, 1929. See also, Margery Perham. "Some Problems of Indirect Rule in Africa: A Paper Read at a Joint Meeting of the African Society and the Royal Society of Arts," reprinted from the *Journal of the Royal Society of Arts* as an appendix for the *Journal of the African Society* 34 (1935): 1-23.

Rather than constituting a dramatic rupture with the past, approaches to administration in the post-World War Two period can be read in many ways as expansions or calcifications of pre-existing methods and mindsets. As Joanna Lewis has proposed, the post-war era was viewed by many inside and outside the colonial administration as a “second imperial moment” ripe with opportunities to reassert control over the colonies through the development of social welfare projects.⁴⁵ In the decade immediately preceding World War Two and in the decades after, knowledge-for-policy/practice continued to form an important element of the colonial administrative paradigm.

Whereas earlier colonial authorities had sought to make their subjects “knowable” in order to facilitate the establishment of workable administration, during the 1940s and 1950s in particular British officials sought knowledge of colonial communities both to reinforce existing administrative authority and to smooth the progress of various colonial development schemas. Such knowledge continued to be produced by the “men-on-the-spot,” but was also subject to a cadre of professionals charged with a formal “anthropologizing” of Africa.⁴⁶

Yet, at the same moment, such schemas and administrative approaches indicated a shift in how colonial authorities were coming to regard African people. As discussed

⁴⁵ Joanna Lewis, *Empire and State-Building: War and Welfare in Kenya 1925-1952* (Oxford: James Currey Press, 2000). See also, Low and Lonsdale’s earlier discussion of the “second colonial conquest.” D.A. Low and John Lonsdale, “Introduction: Towards the New Order, 1945-1963,” in *History of East Africa, Volume III*, eds., D.A. Low and A. Smith (Oxford: Oxford University Press, 1976).

⁴⁶ Lynn Schumaker, *Africanizing Anthropology: Fieldwork, Networks, and the Making of Cultural Knowledge in Central Africa* (Durham: Duke University Press, 2001). By the time such experts were introduced in Africa, cadres of British experts on matters of culture and custom had long formed a key part of the administrative apparatus in colonial India. For example, Nicholas Dirks, “Colonial Histories and Native Informants: Biography of an Archive,” in *Orientalism and the Postcolonial Predicament: Perspectives on South Asia*, eds. Carol Breckenridge and Peter van der Veer (Philadelphia: University of Pennsylvania Press, 1993).

above, earlier colonial authorities regarded African people largely through the framework of “tribe.” This attitude was already shifting by the 1930s. And, after the broad participation of African people in the Allies’ World War Two efforts, authorities in the metropole began to conceive of African people as bearing more individualized subjectivities (and related potentials), albeit highly limited ones.⁴⁷

The movement toward re-invigorated professionalism and formalized anthropology occurred in various permutations over a lengthy period, and moves in these directions had begun by the 1930s. The report of the East Africa Commission argued that “...anthropology should be considered as a subject having the most important applications in the sphere of administration in our tropical possessions, and should not be regarded as a study of purely academic interest,” and accordingly proposed that “increased efforts should be made to encourage administrative officers, either by special grants or otherwise, to undergo a course of training in modern methods of anthropology and to carry out scientific investigations.”⁴⁸ Similarly as a Colonial Office memo entitled, “Anthropological Work in East Africa,” explained, “It is obvious that successful anthropological investigations must depend to a large extent on the qualities possessed by the individual investigator, and the opportunities afforded to him for study.”⁴⁹

One approach, for example, was to enhance pre-career and in-service training throughout the ranks of the colonial administration, in part through programs like the Oxford University Summer School, begun in 1937-1938 in collaboration with the

⁴⁷ Lewis, 2000. See also, Frederick Cooper, *On the African Waterfront: Urban Disorder and the Transformation of Work in Colonial Mombasa* (New Haven: Yale University Press, 1987); Frederick Cooper, *Decolonization and African Society: the Labor Question in French and British Africa* (Cambridge: Cambridge University Press, 1996); Timothy Parsons, *The African Rank-and-File: Social Implications of Colonial Military Service in the King's African Rifles, 1902-1964* (Portsmouth [NH]: Heinemann, 1999).

⁴⁸ “Report of the East Africa Commission,” Cmd. 2387. Cited in PRO CO 822/21/2. Anthropological Research.

⁴⁹ PRO CO 822/21/2. Anthropological Research. Anthropological Work in East Africa, 1929.

Department of African Linguistics at the School for Oriental and African Studies in London, and also through the Tropical African Services Course, “which [was] attended by all candidates selected for appointment to the administrative services in tropical Africa.”⁵⁰ And while from the start of the colonial era, officers had been encouraged to familiarize themselves with their counterparts’ anthro-administrative writings like Hopley’s texts noted above, later on they received more guidance on “doing” anthropology themselves. For example, Machakos District files included a pamphlet entitled, “Introductory Questions on African Ethnology.”⁵¹ And, as early as 1931, famed anthropologist and London School of Economics Professor Bronislaw Malinowski, writing on the “demand-supply of anthro,” put “colonial administrators” first on the list of those “responsible for the development of backward peoples in Africa and elsewhere” and whose work “necessitates the study of primitive cultures through scientific anthropology.”⁵²

Yet at the same time that authorities in the metropole and abroad aimed to enhance the anthro-administrative competencies of the “men-on-the-spot” and considered how to create a corpus of anthro-administrative best practices, they recognized the limits that workload and environment placed on colonial administrators. Hailey neatly summarized such limits,

⁵⁰Ibid. The Tropical African Services Course included units on “African Arts and Industries” and “the Material Culture of Africa” as well as anthropology.

⁵¹KNA DC/MKS.14/5/1. George Foucart, “Introductory Questions on African Ethnology.” This pamphlet offers a range of guiding questions concerning issues like local legal systems. Included in MAA 7/602. Ministry of African Affairs. Dr. Schapera’s Visit.

⁵²Archives of the London School of Economics. Malinowski/Afr/13. Demand-Supply of Anthro. 1931. Hereafter *LSE*. Johnstone (Jomo) Kenyatta’s *Facing Mount Kenya* is an outgrowth of his studies with Malinowski at the London School of Economics. Louis Leakey’s time at the London School of Economics as Malinowski’s student overlapped with Kenyatta’s tenure. Jomo Kenyatta, *Facing Mount Kenya: the Tribal Life of the Gikuyu*, intro., Bronislaw Malinowski (London: Secker and Warburton, 1938); Cora Ann Presley, *Kikuyu Women, the Mau Mau Rebellion, and Social Change in Kenya* (Boulder: Westview Press, 1992).

The administrative officer works...under certain disadvantages. His relations with Africans are apt to be coloured by the fact that he represents the government...almost everywhere in Africa the present conditions involve a pressure of work which leaves little leisure for detached study...he is often compelled to confine himself to the more immediate and obvious aspects of the subject into which he is inquiring, unable to consider its wider relations in the social or economic life of the community.⁵³

Such limits together with the need for more systematized information for colonial development projects provided an important impetus for the training of anthropological fieldworkers to do research across British Africa in the service of the state.

Anthropologists studied at many of the same institutions which provided pre and in-service training to administrators, often working on theses linking administrative and anthropological concerns. For example, in the mid-1930s Malinowski supervised a thesis on “crime amongst natives” in Kenya, Southern Rhodesia and South Africa which dealt in detail with the dilemmas that witchcraft beliefs and practices posed for administration, particularly the administration of justice and the maintenance of law and order.⁵⁴

Hailey again offered a summary, describing the function and expertise of the professional anthropologist vis à vis colonial administration. He explained,

The professional anthropologist should...be able to provide a more complete picture of native society and, in areas where native institutions are the least understood he is likely to be of great assistance in providing the government with the knowledge which must form the basis of administrative policy. In general, it may be said that governments are likely to derive the greatest advantage from inquiries undertaken by anthropologists in association with their own technical or administrative officers.⁵⁵

Neither the colonial administrator with his more casual skills nor the professional anthropologist with his formalized training were to work in isolation in the colonial

⁵³ Hailey, 1938. 47-48.

⁵⁴ LSE. Malinowski/Afr/2/10. 1934.

⁵⁵ Hailey, 1938. 47-48.

context. Rather, the administrator and the anthropologist were to collaborate in support of a colonial research-policy network bringing administrative concerns and social science research into conversation in order to facilitate effective colonial policy-making and implementation. To this end, in the mid-1940s, the Colonial Development and Welfare Act established the position of Government Sociologist.⁵⁶ In Kenya, the Government Sociologist's role was shaped through joint efforts of the noted anthropologist Isaac Schapera and members of the colonial administration, in particular the office of the Chief Native Commissioner in Nairobi.

In the mid-1940s, as part of a broader Colonial Social Science Research program into the "problems of African sociology in Kenya, Tanganyika and Uganda," Schapera produced a monograph on field research needs and priorities. He was also responsible for supervising anthropological fieldworkers serving as Government Sociologists across Kenya.⁵⁷ For example, in instructions to his student U.P. Mayer, the Government Sociologist working in Western Kenya, Schapera offered guidance about the general terms of Mayer's study and passed along the Chief Native Commissioner's request for a "more detailed enquiry into the Kisii and into topics that are of more direct importance to

⁵⁶ KNA MAA 7/602. Ministry of African Affairs. Dr. Schapera's Visit. The Colonial Development and Welfare Act (1946) supported the position of Government Sociologist in part through the provision of research grants. PRO CO 927/65/2. Colonial Social Science Research Council Training for Social Science Researcher Worker. "Social Science Research in the Colonies." See also, J.P. Moffet, "Government Sociologists in Tanganyika. A Government View," *Journal of African Administration* 4.3 (July, 1952): 100-103.

⁵⁷ KNA MAA 2/5/17. Ministry of African Affairs. *Sociological Surveys*. The study was published in 1949. Isaac Schapera, *Some Problems of Anthropological Research in the Kenya Colony* (London: Oxford University Press, 1949). Published for the International Africa Institute. Schapera's work was carried out in part in connection with the East African Institute of Social Research at Makerere in Uganda. His program was described in a 1947 memo from the Chief Native Commissioner to all Provincial Commissioners with sufficient enclosures for all District Officers. It was duly circulated from the Provincial Commissioner of Central Province to the District Commissioners of Thika, Kitui, Machakos, Nairobi and Kiambu. See, KNA VQ/16/25. See also, Schapera's, "Anthropology and the Administrator," *Journal of African Administration* 3.3 (July, 1951): 128-135.

the Government,” many of which had to do with Kisii political organization.⁵⁸ In turn, Schapera’s memo to the Chief Native Commissioner enjoined the administration to promote collaboration between administrative officers and Government Sociologists “noting that sociologists should be invited to attend meetings of ‘district teams,’ official *barazas*, etc. in order to become familiar with the practical problems of district administration and developmental work.”⁵⁹

Both professional anthropologists and anthropologically-inclined administrators worked in the field in Ukambani to record a range of data and hypotheses about Kamba communities, particularly in regard to their relations with the state.⁶⁰ For example, in a 1947 reply to the Chief Native Commissioner, the Provincial Commissioner of Central Province proposed that a research priority in Machakos should be devising how to facilitate a “welding” of Akamba associations like Akamba Union and Kilungu Youths “into some sort of efficient organization which could serve as the basis for social service and welfare...”⁶¹ In identifying Kamba organizations as objects of official anthropological inquiry, the memo presaged Mau Mau-era concern over the politicization of Kamba associations and hinted at the anthro-administrative lens that would be focused sharply on Kambaland in the mid-1950s. Such attention, in turn, gave rise to the most thorough, targeted study of the Kamba witchcraft and state relations, a study of witchcraft in Machakos conducted by District Officer J.C. Nottingham and Government Sociologist

⁵⁸ KNA MAA 2/5/17. Ministry of African Affairs. Sociological Surveys. Note of Instruction for Dr. U.P. Mayer, Government Sociologist.

⁵⁹ KNA MAA 2/5/17. Ministry of African Affairs. Sociological Surveys. Memo from Isaac Schapera to the Chief Native Commissioner. *Sociologists Posted to Kenya. 10 February 1947.*

⁶⁰ For example, W.E.H. Stanner, “Report by Dr. W.E.H. Stanner on ‘The Kitui Akamba.’ A Critical Study of British Administration.” Included in KNA VQ/16/25. Central Province. Anthropology. Stanner was a student of Marjory Perham.

⁶¹ KNA MAA 2/5/17. Ministry of African Affairs. Sociological Surveys. Memo from the Provincial Commissioner, Central Province, to the Chief Native Commissioner. *Sociological Research. 15 May 1947.*

Godfrey Wilson in order to development and implement programmatic “cleansings” of witches and Mau Mau adherents across the district.⁶²

In sum, a central element of colonial administration was the production and mobilization of knowledge about colonized peoples. Forming part of an archived and archiving imperial apparatus, British authorities like the District Officers and later the Government Sociologists discussed above consolidated, presented and circulated anthro-administrative information with the goal of facilitating more effective colonial control. Working through and with a range of African actors and institutions, British anthro-administrators showed themselves willing to negotiate with “custom” on a range of civil matters but, in the criminal arena, British justice remained paramount.

Issues of colonial knowledge for practice/policy and the constitution British justice emerged in high relief throughout the colonial period Kambaland in matters pertaining to the Kamba witchcraft, *uoi* in particular. Colonial authorities approached *uoi* and related practices and beliefs systematically and with the general attitude that the logic of British law and order could ultimately be made to trump the sway of witchcraft. This approach and attitude is reflected in legislation and administrative discourse. But at the same time, such sources suggest how approaching witchcraft in Ukambani and elsewhere in Africa was a project entailing attention not simply to logic (or illogic) of beliefs and practices like *uoi*, but also to affective states that they produced. The final section of this chapter turns to some of the collisions of Kamba and colonial cosmologies around the issue of *uoi*.

⁶² The cleansings and their anthro-administrative underpinnings are discussed in detail in chapter seven.

Of Witches and Bureaucrats

From the earliest days of colonial administration in Ukambani, the reports of British authorities attended strongly to Kamba witchcraft, in particular to *uoi*. “Witchcraft” emerges from these reports as both a descriptor and an analytic. On one hand, references to witchcraft served to describe the perpetual insecurity of the supernatural situation in Ukambani and how such cyclical unease related to local patterns of power and “native mentalités.” On the other hand, witchcraft worked as an analytic, a tool not only for describing contexts in Ukambani, but also for obliquely explaining some of the ways in which local beliefs and practices impeded efficient administration.

Throughout the colonial period, administrative discourse figured witchcraft as both a means to power and a way-of-being-in-the world. Through both these intertwined incarnations, witchcraft was treated as an impediment to colonial rule. Indeed most colonial officials in Kenya (and the metropole) would likely have registered an annual report’s contention that “witchcraft” was “the most serious handicap to Administration” in Ukambani as neither hyperbolic nor unexpected.⁶³

In administrative discourse, “witchcraft” stands for the overall sociopolitical and supernatural situations with which colonial officials – both British and African – had to contend. At the same moment, discussions of witchcraft offer ways for understanding how such supernatural insecurity did “work,” stripping functionaries of their will and

⁶³KNA DC/MKS/1/3/6. District Commissioner, Machakos. Kitui District Annual Report, 1916. Indeed, the minutes of a early 1950s Colonial Social Science Research Committee on Law and Land Tenure meeting stipulate that in “view of the conflict of English and customary legal conceptions,” that “a comparative study of witchcraft in native customary law and in Colonial Statutory law” be listed as one of five prospective projects of “primary importance.” PRO CO 901/40. Colonial Social Science Council on Law and Land Tenure. 1949-1953. Papers and Minutes. Colonial Social Science Research Council Committee on Law and Land Tenure, Minutes of the Second Meeting, 5 July. (No year listed.)

ability to perform their duties and supplanting administrative authority with a witchcraft-centered variety. As British D.O. complained in an annual report,

Headmen and elders fear to do their work because some one might make 'Mchawi' against them; any death that is not absolutely accounted for is put down to witchcraft and it is impossible to convince them of the contrary even if one is oneself convinced there is nothing in it...⁶⁴

Similarly another report describing the poor performance records of Headmen and Native Councils in Ukambani proposed that "the fear of witchcraft has a lot to do with the question" of Kamba Elders' extreme conservatism and the passive aggression of the Headmen who "prefer[red] to do nothing and merely [said] that the Elders will not obey them."⁶⁵

Reports and record books also figured "witchcraft" as a more abstract barrier to effective administration. According to colonial accounts, not only did witchcraft beliefs and practices impede the will and efficacy of functionaries, they colored the way ordinary Kamba people conceived of being-in-the-world, diminishing their sense of their own agency vis à vis their circumstances, and diminishing by extension, the success of the colonial administration in propelling them along the continuum of colonial development. One colonial official succinctly summarized,

All the natives in this reserve are saturated in witchcraft. To suggest to a native that witchcraft is powerless is only to look absurd. They are satisfied of its powers and its results, and this makes it very difficult to get in close... The only way to gain their confidence at all is to agree that witchcraft exists and has very great power but that white witchcraft can in many cases be proved to have even greater power... I am convinced that any effort for their betterment cannot get to the core of the problem until they go hand and hand with a trained anthropologist and psychologist.⁶⁶

⁶⁴Ibid. "Mchawi" is the Kiswahili term for "witch."

⁶⁵KNA DC/KTI.1/1/1. District Commissioner, Kitui. Kitui District Annual Report, 1910-1911.

⁶⁶KNA PC/CP/4/2/3. Provincial Commissioner, Central Province. Provincial Commissioner's Report, 1931.

From the perspective offered above then, witchcraft beliefs and practices constituted an administrative problem which could be best approached through the sorts of professional and *ad hoc* anthro-administrative inquiries addressed in the previous section. Further, by describing all Kamba as imbued with witchcraft the report renders Kamba people as administratively intractable.

Dealing with *uoi* and *uwe* was also a project of colonial classification. In the course of creating of a networked archive of anthro-administrative knowledge about witchcraft, the colonial state also crafted its “categories of dangerous persons” and classifications of perilous practices that generally mirrored Kamba ones.⁶⁷ Colonial authorities’ writings indicate that they understood that Kamba people figured witchcraft primarily as lethal malfeasance and as located in the bodies of Kamba women. For example, an Annual Report explained,

The Akamba are very superstitious and firmly believe that certain people, chiefly women, have supernatural power of casting spells with the intent to injure or kill. Any death or accident that they cannot for is ascribed to witchcraft.⁶⁸

Echoing this language, a subsequent text noted that the “Akamba are intensely superstitious and firmly believe that certain people (usually women) have the inherited power of bewitching and killing people.”⁶⁹ And colonial reports about the “mchawi,” or “witch” also attended to the inherited aspect of Kamba *uoi*, elucidating how “If a woman

⁶⁷Lonsdale, 1997. Similarly, for discussions of how the colonial census in India contributed to the construction of “caste,” see, Arjun Appadurai, “Number in the Colonial Imagination,” in *Orientalism and the Postcolonial Predicament*, eds. Carol Breckenridge and Peter van der Veer (Philadelphia: University of Pennsylvania Press, 1993); “Timothy L. Alborn, “Age and Empire in the Indian Census, 1871-1931,” *Journal of Interdisciplinary History* 30.1 (Summer 1999): 61-89.

⁶⁸KNA DC/MKS/1/3/6. District Commissioner, Machakos. Kitui District Annual Report, 1914-1915.

⁶⁹ *Ibid.*

is a witch she is looked upon with great fear and is avoided, although she is allowed to live in the same village. It is said that all her daughters inherit the fascination.”⁷⁰

Following Kamba people, British officials recognized a distinction, albeit it an oft-times fuzzy and incompletely understood one, between “black” and “white” magic, between *uoi* and *uwe*. For example, one Ukambani administrative report explained, “Witchcraft was formerly looked upon from two different points of view. Some witches use their powers for the good of others, they have now been renamed and are called medicine men.”⁷¹ Another colonial text proposed, “A witch or a wizard (Mchavi) must not be confused with a medicine man (Mganga) there is no connection.”⁷²

These statements reflect the general lack of nuance in colonial understandings of *uoi* versus *uwe*. First, it is unclear in the first quotation *who* has reconceptualized “white witchcraft.” From the perspective of colonial authorities, did “medicine men” compose a category-of-the-colonizer or a category-of-the-colonized? And, the next statement exemplifies the sharp and ultimately artificial distinction drawn between the “mchawi” and the “mganga.” As noted above, Kamba understandings of “black” and “white” witchcraft are significantly more subtle. Kamba conceptions take in the gray area in which the practitioner of benevolent witchcraft, the *mu’unde mu’uwe* must necessarily know the workings of *uoi* and in which also exists the *mu’unde mu’uoi* who is neither a witch by inheritance or a healer by profession but, instead, a witch-for-hire.

Failures to map the subtleties of *uoi* versus *uwe* and what lay in between produced confusion amongst colonial authorities about what the state’s stance on “white” witchcraft should be. In some instances, colonial officials sought clarification from

⁷⁰KNA DC/MKS.1/3/1. District Commissioner, Machakos. Ulu Quarterly Report, 1909.

⁷¹Ibid.

⁷²KNA DC/MKS.1/3/6. District Commissioner, Machakos. Kitui District Annual Report, 1914-1915.

Kamba functionaries. For example, the minutes of an Ukambani *baraza* led by the local chief, Ngovi, note that when questions about the “position of medicine-men (sic)” arose, “it was explained that such people were distinguished from witches and would be allowed to continue.”⁷³ And, colonial authorities not only in Kenya, but across the empire, attempted to draw a distinction between witchcraft-for-harm and witchcraft-for-healing in law. But throughout the colonial period, debates and confusion persisted over if and how “magic” should be allowed to function as tool of government. As addressed in chapters six and seven, this issue emerged in especially high relief via strategies for managing Mau Mau and witches in the mid-1950s.

Law did provide a primary avenue through which the state sought to discipline and deny witchcraft. In many ways, the terms and themes through which colonial authorities treated African witchcraft are evocative of those located in contemporary language about the history of European witchcraft, discourses which proposed witchcraft as sets of superstitions beyond which Europeans had evolved, thanks in large part to the successes of European judicial systems in legislating witchcraft out of existence.⁷⁴ In Kenya (as elsewhere in Africa), colonial administrations developed a series of anti-witchcraft ordinances which criminalized *uoi* and under some readings, *uwe*.

In Kenya, the first Witchcraft Ordinance was debated, revised and passed by the Legislative Council in 1909.⁷⁵ The initial goal of the bill was “to make provision for the

⁷³DC/MKS10A/6/1. District Commissioner, Machakos. Ukamba Province Records of Barazas, 1912-1919. Native Baraza, Kitui, 1 and 2 January 1915.

⁷⁴For example, see the articles in the 1935 special issue of *Africa* on witchcraft. Especially, G. St. J. Orde Browne, “Witchcraft and British Colonial Law,” *Africa: Journal of the International Institute of African Languages and Cultures* 8.4 (1935): 481-487; C. Clifton Roberts, “Witchcraft and Colonial Legislation,” *Africa: Journal of the International Institute of African Languages and Cultures* 8.4. (1935): 488-503. See also, chapter four.

⁷⁵PRO CO 544/2. East Africa Protectorate Legislative Council Minutes. Meetings held 1st March 1909, 18th May 1909, and 5th July 1909.

punishment of person practicing or making use of so called witchcraft.” In the second reading of the bill, two members of the Legislative Council proposed without success excising the words “supernatural power” from the second section of the bill. In the same meeting, the Crown Advocate successfully moved for the insertion of language protecting African functionaries from prosecution under the ordinance. The new language read,

No proceedings for an offence under this Ordinance shall be taken against a Chief, Sub-Chief, Headman, or elder, on account of anything done by such Chief, Sub-Chief, Headman or Elder in exercise of his authority as such, except with the previous sanction of the Governor.⁷⁶

The bill was passed on its third reading in the summer of 1909. As Richard Waller has succinctly summarized, the 1909 legislation established

... three criminal offences; to claim to be a witch or to ‘pretend to exercise or use any kind of supernatural power, witchcraft, sorcery or enchantment... for the purposes of gain’ (section 2); to advise others on how to use witchcraft or to supply them with the ‘pretended means of witchcraft’ (section 3); and to use such advice or means to ‘injure any person or property’ (section 4).⁷⁷

Punishment varied from terms of imprisonment between one year and ten years.

The evidentiary demands of the 1909 ordinance proved unwieldy and the 1918 revision of the ordinance repealed section two which stipulated that the offence of witchcraft entailed “gain” and substituted instead the following language:

Any person who hold himself out to be a witch doctor able to cause fear, annoyance, or injury to another in mind, person, or property or who pretends to exercise any kind of supernatural power, witchcraft, sorcery or enchantment calculated to cause such fear, annoyance or injury shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding one year...

⁷⁶ Ibid.

⁷⁷ Richard Waller, “Witchcraft and Law in Colonial Kenya,” *The Past and Present Society* 180.1 (October 2003): 241-275. 245. See also PRO CO/542/2 *Official Gazettes of the East Africa Protectorate: Witchcraft Ordinance of 1909*. 329.

Further, the 1918 ordinance struck from section four of the original ordinance the words “to injure any person or property” and substituted the language “to cause fear, annoyance or injury in mind, person, or property to any person.”⁷⁸ The new language thus shifted the heart of the witchcraft offense from material gain to pretense to supernatural power and the production of psychological and/or physical harm of through such pretense.

The core remained the same in the 1925 ordinance, but fresh language entailed provisions shaping the legality and illegality of witchcraft accusations and roles of functionaries and British authorities in dealing with them. First, the new language made accusing a person of “being a witch or with practicing witchcraft” a crime punishable by fine or imprisonment unless the accusation “was made to a district commissioner, a police officer, an official headman or any other person in authority.” Further, the new terms of the ordinance made a headman’s failure to report the “practice or pretended practice of witchcraft by any person” to the district commissioner a crime of omission, punishable by fine or imprisonment. Of course, the ordinance also forbid headman to in any way allow witchcraft or any act that could be considered to counter the provisions of the Witchcraft Ordinance. And, the ordinance’s new language also rendered employment or solicitation of another “to name or indicate by the use of any non-natural means any person as the perpetrator of any alleged crime or other act complained” a crime punishable by fine or imprisonment.⁷⁹

⁷⁸PRO CO 544/12. *Official Gazettes of the East Africa Protectorate: An Ordinance to Amend the Law Relating to Witchcraft*, 1918. 190. This language is discussed in more detail in the next section of this chapter.

⁷⁹PRO CO 542/19. *Official Gazettes of the East Africa Protectorate, Special Issue: An Ordinance to Consolidate and Amend the Law Relating to Witchcraft* 1925. 1131. The Witchcraft Ordinance of 1925 and the Witchcraft Ordinance (revised) of 1981, the law contra witchcraft currently on the books, are in language and substance practically identical. See “The Witchcraft Ordinance (No. 23 of 1925)” and “the Witchcraft Act, (Chapter 67, 1981).” See, Katherine Luongo, “Colonial and Contemporary Continuities in Conceptions of ‘Witchcraft’ in Kenya” (paper presented at the Workshop on Colonial and Postcolonial

In sum, additions to the 1925 ordinance carried two basic aims. First was to expand the involvement of functionaries like chiefs and headman in combating witchcraft-related crimes by assigning them new roles like hearing witchcraft accusations and reporting witchcraft activities in their locations while at the same time criminalizing a willful or indifferent neglect to do so. The additional language also placed more emphasis on the criminality of witchcraft accusations, effectively rendering the activities of diviners as crimes and again blurring the divide between witchcraft for harm and witchcraft for healing. Overall, each law in the series of anti-witchcraft ordinances was ineffective in diminishing witchcraft because as elements of an evidentiary-based legal system, the ordinances required tangible evidence to prove the perpetration of a “crime” which was inherently invisible.

The various drawbacks of the ordinances also motivated colonial authorities to employ creative legal and administrative strategies for dealing not only with witches but with a range of supernaturally-empowered actors like witchdoctors, laibons, prophets, etc. Such strategies often entailed the use of legislation besides the Witchcraft Ordinance. For example, in 1927, the Chief Native Commissioner circulated a memo to all Provincial Commissioners (with sufficient copies to District Commissioners) which explained that he had concluded in consultation with the Attorney General that activities such as “claiming to have peculiar powers such as removing witchcraft spells” and

Continuities in Kenya. Oxford, Great Britain. April, 20050. Papers contained in KNA AG/1/610 show colonial authorities long-term attempts to hammer out the semantics and practicalities of “witchcraft.” I am grateful to Richard Waller for sharing his notes on this file with me as it is now missing from the KNA collection. KNA AG/1/610. Attorney General. Witchcraft, 1913-1943.

“bringing rain or other benefit” could be dealt with under the Vagrancy Amendment Ordinance, 1925.⁸⁰

Colonial authorities also charged under the 1909 Removal of Natives Ordinance witches and witchdoctors who, for a variety of reasons, did not qualify for prosecution under the Witchcraft Ordinance. Called “the deportation ordinance” in legal shorthand, the law enabled colonial authorities to charge the supernaturally disruptive with having “conducted themselves so as to be a danger to peace and good order...to wit by usurping the authority of the British Government and inciting the people to resist the lawful orders of the Government.”⁸¹ These charges were often brought at the behest of functionaries whose work was the first to be disrupted by witchcraft and similar activities.⁸² For example, at a Kitui Native Council Meeting Headman Karogwe is cited as proposing “that witchdoctors on conviction be deported from their location and sufficient territory set aside for their use near Kitui Boma” and it was Kamba headmen who successfully petitioned for the deportation of the self-styled Kamba prophet Ndoyne wa Kauti, noting that his activities “undermine and destroy the authority of the headmen...”⁸³

In the pre-World War Two period, the Deportation Ordinance emerged as the favored legal means for banishing recalcitrant “witch-doctors” (and to a lesser degree,

⁸⁰KNA DC/MKS.25/3/2. See also the Attorney General’s opinion in the same file in which he reiterates that “Witchcraft is not recognized by the law as fact.”

⁸¹KNA DC/MKS/10B/8/1. See also, *The Official Gazettes of the East Africa Protectorate*. Ordinance No. 18 of 1909. This ordinance was followed by the “Deportation Ordinance, 1922.” See, *The Official Gazettes of the Colony and Protectorate of Kenya*. An Ordinance to Provide for the Deportation of Offenders and Dangerous Persons. 26 July 1922. The Deportation Ordinance was used widely across to deal with witches. For example, see, KNA PC/Coast/2/12/21; PC/RVP.6A/17/22; PC/RVP.6A/17/26. In 1930, a special ordinance was developed to deal with the deportation of laibons. See, KNA AG/52/132. Attorney General. Laibons Removal Ordinance.

⁸²DC/KTI 2/9/1. District Commissioner, Kitui. Kitui Native Council Minutes. 27 August 1928; KNA DC/MKS/10B/8/1 Ndoyne wa Kauti. 29 November 1922

⁸³KNA PC/CP.8/2/4. Provincial Commissioner, Central Province. Administration, Native Deportees, 1922-1928. Petition of Ulu Reserve Headmen. 29th November 1922.

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witches) from their home locations.⁸⁴ Once removed from their homes, witchdoctors were generally made to reside close to the administrative *boma* for varying periods while particularly severe malefactors might be banished to the other end of the country for the remainder of their lives.⁸⁵ For example, the 1915 Machakos District Political Record Book explained,

The Elders of Nzauwi having complained against an old man Nzuma wa Kaluki by name for practising witchcraft, he was ordered to be brought into Machakos to reside here for one month. In addition as security for his future good behavior, four cows and two bulls are deposited here by him to remain for one year....⁸⁶

Another Political Record Book note on “Akamba Witch Doctors Security” listed the names of the eleven witchdoctors who had been ordered to reside at the *boma* and who had supplied cows as collateral.⁸⁷ And, in a 1925 letter from the Chief Justice of the Supreme Court of Kenya to the Governor, the judge proposed creating a location exclusively for witchdoctors.⁸⁸

In many instances deportation or arrest was carried out as much for the good of the alleged witch as it was for the good of the local community since witchcraft accusations very often resulted in violence against the alleged witch or witchdoctor. As one annual report explained, “Baiting of alleged witches is common.”⁸⁹ Overall, the

⁸⁴ The Deportation Ordinance was later used for removing anti-colonial political actors, like Harry Thuku, from their spheres of influence.

⁸⁵ Deportation could also be a punishment for those convicted under the Witchcraft Ordinance. See, KNA DC/KTI1/2/9/1. District Commissioner, Kitui. Kitui Annual Reports, 1910-1911.

⁸⁶ KNA DC/MKS.4/6. District Commissioner, Machakos. Machakos District Political Record Book, 1915.

⁸⁷ KNA DC/MKS.4/1. District Commissioner, Machakos. Machakos District Political Record Book, Vol. I, up to 1910.

⁸⁸ KNA PC/NZA/2/5/20. Provincial Commissioner, Nyanza. Witchcraft and Doctors. Letter from the Chief Justice of the Supreme Court of Kenya to the Governor of Kenya. 25 March 1925. The file also includes a note from Chief Native Commissioner to the Senior Commissioner, Nyanza, regarding the feasibility of special locations for witchdoctors. 12 April 1925.

⁸⁹ KNA DC/KTI.1/1/3. District Commissioner, Machakos. DC/KTI.1/1/3 Kitui Annual Report, 1927

ultimate inutility of the ordinances dissuaded many colonial authorities from aggressively prosecuting witchcraft in their districts or led them to approach witchcraft through other legal means. At the same time, the ordinances' inutility also encouraged the persistence of local forms of justice for dealing with witches that in turn produced damaged or dead bodies which the state could not ignore.

Violence related to malevolent witchcraft posed serious dilemmas for law and order. In Ukambani, the persistent existence of a parallel judicial system for dealing with witches – *king'ole* – posed a significant challenge to the state's ability to maintain order and to its avowed monopoly on the right to juridical violence. As with *uoi* and *uwe*, state authorities evidenced a familiarity with Kamba *king'ole* which took in the practice's basic elements but less so its nuances. For example, a special report on “Birth, Marriage and Death Among the Wakamba” which constituted part a Machakos District Political Record Book, noted that “When people die while more or less young it is often put down to socery (sic). Anybody can bewitch another...women more so than men, therefore a woman may by common consent of several villages be put to death as a witch.”⁹⁰ While this report is correct in assertion about the prevalence of Kamba women's witchcraft, it is incorrect in asserting that *king'ole* must be sanctioned by several villages. Another administrative text explained simply that “A witch if proved to be using her powers for evil purposes is done to death.”⁹¹ And, as in other contexts, functionaries often filled in gaps in British administrators' knowledge regarding witchcraft. Bringing together Kamba cosmology and colonial bureaucratic procedure, the local chief reiterated at an

⁹⁰KNA DC/MKS 4/3. District Commissioner, Machakos. Machakos District Political Record Book, Volume up to 1910. See, J. Horman, “Birth, Marriage, and Death Among the Wakamba.” Circa 1910.

⁹¹KNA DC/MKS.1/3/1. District Commissioner, Machakos. Kitui District Annual Report, 1909.

Ukambani *baraza* “...that witch-craft was inherited and that the councils had to consider the parents of the accused when enquiring into a case.”⁹²

Colonial authorities were in some instances confused about the obsolescence or persistence of *king'ole*. Some reports – even those dating from the opening years of the colonial era – figure *king'ole* as extinct even though witchcraft beliefs and practices were unabated. For example, a 1909 quarterly report proposed that “In old times a supposed witch was stoned to death by the Village (Kinyola),” while six years later another administrative text stipulated that “In the old days these people were dealt with by ‘Kingole’ (lynch law) but, of course, that is now obsolete.”⁹³ Such reports also contended that the removal of the witch or the witch’s entire village constituted the contemporary approach to recidivist witches. The first author argued, “At present day when a Village thinks that a witch is present the rest of the inhabitants leave the Village to the supposed witch,” while the second attended to the place of colonial bureaucracy in witchcraft management, explaining that “People have been instructed to report any case and if no satisfactory evidence can be obtained the accused is removed to another Location and kept under observation.”⁹⁴ The first report offers a scenario which does not accord with ethnographic evidence about *king'ole*. The second constitutes a narrative of “good practice,” a story of how proper administration should proceed rather than a strict depiction of how policy and practice were actually implemented.

Such misunderstandings of witchcraft management were likely a function of the relative sparseness of evidence about *king'ole* available to British officers, even those

⁹²KNA DC/MKS 10 A/6/1. District Commissioner, Machakos. Ukamba Province Records of Barazas, 1912-1919. Native Baraza, Kitui, 1 and 2 January 1915.

⁹³KNA DC/MKS.1/3/1. District Commissioner, Machakos. Kitui District Annual Report, 1909; KNA DC/MKS1/3/6. District Commissioner, Machakos. Kitui District Annual Report, 1914-1915.

⁹⁴ *Ibid.*

with a semi-professional anthropological bent. As noted above, the deliberations of a *king'ole* were not part of Kamba public culture even if the spectacular discipline meted out by the *king'ole* was. And, *king'ole* justice was banned under colonial law. Thus, the officer writing that Kamba “females who are said to have inherited the power of casting spells without using any paraphernalia” was probably closest to the realities of witchcraft management in Ukambani when he added, “It is certain that some of these women are killed according to the ancient custom but it is very difficult to find out about these murders and we do not get many convictions.”⁹⁵

Even if reports about the exercise of *king'ole* per se were not especially common, the dead bodies of witches regularly turned up in the Ukambani bush and thus in official, administrative writings on the socio-political situation in the area. Such documents consistently reference violence against witches and attend to the inefficacy of the Witchcraft Ordinances as a witchcraft management tool. Reports like, “Numerous women and a few men have been accused of being witches or wizards and with having killed people but except in one case (an attempt to poison) no evidence could be obtained to support a conviction under the Witchcraft Ordinance,” were not unusual.⁹⁶ And a District Officer’s frustrated remark that “Complaints against witches are very common but I have only obtained one conviction with passed the High Court and after frequently arresting people and having to release them I now do not take up the cases at all...” was typical.⁹⁷

Such administrative writings also register functionaries’ complaints about the inutility of colonial law and a concomitant wish to return to the more efficient methods of

⁹⁵KNA DC/KTI.1/1/1. District Commissioner, Kitui. Kitui Annual Reports, 1910-1911.

⁹⁶KNA DC/MKS1/3/6 Kitui Annual Report, 1914-15

⁹⁷KNA DC/MKS1/3/6. District Commissioner, Machakos. Kitui District Annual Report, 1916.

king'ole justice. For example, one administrative text explained, “The Akamba, with some reason, say we prevent them from killing the Witch (which after all was our ancestor’s practice some hundred of years ago) but do not substitute an effective remedy,” while another noted that “Headman repeatedly ask if they can revert to the old custom of “Kingoli” (beating to death) as they say that in the old days that did finish a case while the Government’s way generally results in the accused getting off.”⁹⁸

But even while colonial and Kamba authorities may have at some moments shared a frustration with the violence produced by witchcraft and British officers harbored a certain sympathy for the perspective of local functionaries, the Indian Penal Code, and its successor the Kenya Penal Code, rendered the management of witchcraft and particularly the killings of (alleged) witches the sole purview of the state. And, the corpus of case law which emerged from the murder trials in which alleged witches were the victims served to reinforce the jurisdiction of the state and suppress claims to a parallel, local system of justice. The last section of this chapter takes the history of witchcraft in Ukambani one step further, tracing some of the affective registers of witchcraft encapsulated in a District Officer’s remark that “There is a real fear of Witches and the question has yet to be solved by the Administration.”⁹⁹

State Administration and Affective States

Close readings of sources treating witchcraft reveal it to be inextricable from affect. Witchcraft is produced by and productive of a range affective states, both in Kamba people and colonial authorities. For historical actors and scholars alike affect can perform a range of interpretive labor vis à vis witchcraft, moving beyond the theories of

⁹⁸ KNA DC/MKS1/3/6. District Commissioner, Machakos. Kitui District Annual Report, 1917; KNA DC/MKS1/3/6. District Commissioner, Machakos. Kitui District Annual Report, 1916.

⁹⁹ KNA DC/MKS1/3/6. Commissioner, Machakos. Kitui District Annual Report, 1917.

causality through which witchcraft is so often understood. Attention to affect demonstrates instead how witchcraft can be and has been a variable way-of-knowing and foregrounds how power is often as much an affective as it is logical project.¹⁰⁰

This section traces affect in bureaucratic documents about witchcraft produced in colonial Kenya. When read with attention to languages of affect, these documents suggest that the management of witchcraft was not simply a “logical” project of the colonial state or one in which the state envisioned its subjects taking a wholly idiomatic view of witchcraft. Instead, bureaucratic approaches to witchcraft were informed by the sorts of affect that colonial authorities imagined witchcraft produced in their subjects and affective states that witchcraft generated in officials themselves.

Colonial administrative reports, replete with references to the witchcraft, offer insights into the affective states related to witchcraft. At first glance, these documents appear as purely bureaucratic catalogues and compendiums and, in many ways that is what they were. But, bureaucratic documents also offer a way into the attitudes and affective states tied up in projects of rule.¹⁰¹ The extracts from some of the district and

¹⁰⁰To date, the issue of affect is most widely and well articulated in literature on spirit possession and mediumship. For example, works like Paul Stoller’s study of the Hauka cult of West Africa and Janice Boddy’s analysis of *zar* in Sudan have addressed the consuming nature of spirit-driven experiences. Studies such as these treat possession as a multi-faceted and multi-sensory experience - physical, psychological, emotional - not merely for those directly involved with spirits, but for others who witness possession and mediumship episodes either informally or as part of a formal audience. See Stoller’s, *Embodying Colonial Memories: Spirit Possession, Power, and the Hauka in West Africa* (New York: Routledge, 1995); Boddy, *Wombs and Alien Spirits: Women, Men, and the Zar Cult in Northern Sudan* (Madison: University of Wisconsin Press, 1993). See also the essays in *Spirit Possession, Modernity, and Power in Africa*, eds., Heike Behrend and Ute Luig (Madison: University of Wisconsin Press, 1999).

¹⁰¹ See especially the work of Ann Laura Stoler; “Colonial Aphasia and the Place of Race in France, On the Politics of Incommensurability,” *Keynote Address for “1951-2001: Transatlantic Perspectives on the Colonial Situation,”* Conference in Honor of M. George Balandier. April 27-28, 2001. Also, “Colonial Archives and the Arts of Governance, On Content in the Form,” in *Refiguring the Archive*, ed., Carolyn Hamilton (Capetown: David Philip Publishers, 2002). And, “Developing Historical Negatives: Race and the Modernist Visions of a Colonial State,” in *From the Margins: Historical Anthropology and its Futures*, ed., Brian Axel (Durham: Duke University Press, 2002).

provincial reports discussed above also offer typical examples of how colonial administrative documents treated witchcraft and affect. For example,

Witchcraft is the most serious drawback in the District. The natives fully believe that certain persons, chiefly old women, have the power to kill by casting a spell... There is a real fear of Witches and the question has yet to be solved by the Administration...¹⁰²

All the natives in this reserve are saturated in witchcraft. To suggest to a native that witchcraft is powerless is only to look absurd. They are satisfied of its powers and its results, and this makes it very difficult to get in close... The only way to gain their confidence at all is to agree that witchcraft exists and has very great power but that white witchcraft can in many cases be proved to have even greater power... I am convinced that any effort for their betterment cannot get to the core of the problem until they go hand and hand with a trained anthropologist and psychologist.¹⁰³

The excerpts above offer a multi-layered story about the intersections of witchcraft and administration. On the most ready, narrative level they record the impediments to administration produced by witchcraft. Witchcraft created problems which were “yet to be solved by the Administration.” It rendered the work of the administrator on-the-ground, the work of “get[ting] in close” with the local population, problematic.

But was it really “witchcraft” per se, which produced these challenge to rule? Or was it instead the affective states that witchcraft engendered? While these reports *register* the hindrances to rule related to witchcraft, they also provide a lens into the affective *registers* of witchcraft. The seeming totalizing credulousness with which local people approached witchcraft and the concomitant internalization of witchcraft was the “core of the problem” for colonial authorities. Witchcraft was a state and a substance in which Kamba people “fully believe[d],” with which they were “saturated.”

¹⁰²KNA DC/MKS/1/3/6. Commissioner, Machakos. Kitui District Annual Report, 1917.

¹⁰³KNA PC/CP/4/2/3. Provincial Commissioner, Central Province. Provincial Commissioner’s Report, 1931.

Witchcraft emerged as a nexus of destructive and productive affect. Witchcraft engendered feelings of “fear,” but also of “satisfaction.” The “real *fear* of Witches,” rather than existence of witchcraft was “the question that has yet to be solved by the administration.” It was Kamba people’s satisfaction with witchcraft’s “power and its results” that created an intractable problem for officials attempting to impose their own forms of certainty.

But witchcraft produced a range of affect in colonial officials as well as in Kamba people. Administrative writing about witchcraft tendered forms of frustration rooted in witchcraft’s intransigence. It was “a question *yet* to be solved by the administration.” The obduracy of witchcraft also produced a quiet exasperation in colonial officials who had to invoke witchcraft in an attempt to counter it, because “to suggest to a native that witchcraft is powerless is only to look absurd.” In order to inspire confidence, the colonial official had to concur with and extrapolate what he felt *not* to be true. Thus, “The only way to gain their confidence at all is to agree that witchcraft exists and has very great power but that white witchcraft can in many cases be proved to have even greater power...” Such comments suggest the interactions of subjects and authorities were not always directed entirely by the “logics” of administration.¹⁰⁴

Rather than a wholesale eradication of witchcraft, the administrative project was to entrench a sort of sensibility in which witchcraft carried neither fear nor satisfaction. One colonial officer thus writes, “I am convinced that any effort for their betterment cannot get to the core of the problem until they go hand and hand with a trained

¹⁰⁴Ann Laura Stoler, “‘In Cold Blood’: Hierarchies of Credibility and the Politics of Colonial Narratives,” *Representations* 37 (1992): 152.

anthropologist and psychologist.” The affective states produced by witchcraft showed themselves to be beyond the sway and expertise of the administrator alone.

From “For the Purpose of Gain” to “Fear, Annoyance, or Injury”: Legislating Uoi

The Kenya Witchcraft Ordinance of 1925 codified the incredulity posited in administrative documents about witchcraft and attended explicitly to the affective states produced by witchcraft. Discourses of disbelief and issues of affect figured prominently in the two excerpts of the Witchcraft Ordinance cited below.

Any person who holds himself out as a witch-doctor able to cause fear, annoyance, or injury to another person, property, or who pretends to exercise any kind of supernatural power, witchcraft, sorcery or enchantment calculated to cause fear, annoyance or injury shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding five years.

Any person who of his pretended knowledge of so-called witchcraft, shall, with the intent to injure, use or assist to use or cause to be put in operation such means or processes as may be calculated to cause fear, annoyance, or injury in mind, person, or property to any person shall be guilty of an offence and shall be liable to punishment as in the preceding section provided.¹⁰⁵

Even a preliminary perusal of the legislation indicates that the Witchcraft Ordinance was not actually about witchcraft. The ordinance instead sought simultaneously to discipline and deny acts of *pretending* about witchcraft and the *pretenses* to (supernatural) power that such acts entail.¹⁰⁶ It endeavored to regulate the power to marshal and to produce injurious sentiments. Thus, it was not witchcraft – as a state, as a substance, as an act – but *pretending* to know about and to employ the spurious entity that is “*so-called*” witchcraft which was at odds with the ordinance. It was not the

¹⁰⁵PRO CO/542/19. *The Official Gazette (Special Issue), Colony and Protectorate of Kenya*. Nairobi: Government Printer, 1925. 1131.

¹⁰⁶The last case tried under Britain’s Witchcraft Act was *Rex versus Duncan and Others* (1944). In this case, Helen Duncan, a “medium” from Portsmouth was charged with “Pretending To Exercise Conjuraton, contrary to section 4 of the Witchcraft Act, 1735.” See PRO CRIM/1581.

witchdoctor as such, but the pretender to supernatural power, “any person who *holds himself out* to be a witchdoctor” whom the law was directed to discipline.

The ordinance was centered on issues of the (malevolent) intent driving “witchcraft,” of the (destructive) sentiments marshaled, and the (unsettled) affective states produced. In order for a magistrate to charge an alleged witch under the ordinance, it was sufficient to prove that psychological or material harm was *intended*. It was not necessary to prove that such harm transpired. The offence is thus “calculat[ing] to cause fear, annoyance, or injury.”¹⁰⁷

Affect was introduced in the process of amending the original 1909 Witchcraft Ordinance which had treated “gain” as the primary motivation for witchcraft.¹⁰⁸ The introduction of affect served a dual purpose: to facilitate convictions and to establish a distinction between malevolent “black” magic and benevolent “white” magic. As the Chief Justice of Kenya noted, the words “for the purpose of gain” often rendered “it difficult to obtain a conviction in many cases which come before the Courts.” At the same moment, excising “gain” without adding a specific languages of affect created the potential of bringing “within the purview of the Ordinance healing or beneficent ‘white’

¹⁰⁷ KNA MAA 2/117. Ministry of African Affairs. Standing Orders for African Courts. Draft Charges for Charging Under the Witchcraft Ordinance, Chapter 25.

¹⁰⁸The 1909 Ordinance reads, “Any person who, for the purpose of gain holds himself out a witchdoctor, pretends to exercise or use any kind of supernatural power, witchcraft, sorcery or enchantment, shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding one year.” PRO CO 542/2. *Official Gazettes of the East Africa Protectorate*. Nairobi: Government Printer, 1909. 329. In 1914, the Court of Appeal for Eastern Africa squashed the conviction and ordered the retrial of Mtuiniwara, a “bad medicine man,” on the grounds that there was “no evidence that Mtuiniwara ever practiced witchcraft or pretended to use any supernatural power ‘for the purposes of gain,’ and these words express the essential element of an offence under Section 2 of the Ordinance, and govern the whole Section, and do not merely govern the words ‘holds himself out to be a witch doctor.’” See *East Africa Protectorate Law Reports, Volume V, 1938*. Rex versus Mtuiniwara.

magic.” Instead, the “scope of the section should [have been] clearly be directed against all who pretend to work ‘black’ magic.”¹⁰⁹

The Chief Justice suggested that ordinance be redrafted to read,

Any person who holds himself out as a witchdoctor able to cause fear and annoyance or injury in mind, body, or estate to another to exercise any kind of supernatural power, witchcraft, sorcery, or enchantment calculated to cause, fear, annoyance, or injury, shall etc.¹¹⁰

In this way, the sorts of affective vocabularies present in administrative reports were codified. Writing on a 1927 witchcraft case, the Attorney General of Kenya highlighted the law’s incredulity, “Witchcraft is not recognised by the law as a fact. The Witchcraft Ordinance of 1925 is careful to speak of ‘so-called’ witchcraft or ‘pretended knowledge of so-called witchcraft.’”¹¹¹ At the final stage of the legal process, judicial opinion further institutionalized skepticism concerning witchcraft and expanded the law’s concern with affect through the legal language of “malice aforethought” and “provocation.”

“Malice Aforethought” and “Provocation”: Legal Languages and Uoi

The case reports of the Court of Appeal for Eastern Africa and the High Courts of Kenya, Tanganyika and Uganda indicate that crimes related to witchcraft were regularly tried by these bodies.¹¹² In the bulk of these cases, defendants were alleged to have killed because they believed that that the deceased had in some way “bewitched” them or someone close to them. Yet, while the courts and the defendants both figured witchcraft

¹⁰⁹ KNA AP/1/1009. Judicial Department. The Witchcraft Ordinance, 1909. Letter from R. W. Hamilton, Chief Justice, to the Chief Secretary. 22 August 1917.

¹¹⁰ Ibid.

¹¹¹ KNA DC/MKS.25/3/2. District Commissioner, Machakos. CNC Circulars.

¹¹² See the cases reported in, *Law Reports for the High Court of Appeal for Eastern Africa, Kenya Colony and Protectorate Law Reports, Uganda Protectorate Law Reports, Tanganyika Territory Law Reports*. A survey of over 100 murder cases that were tried in the High Court of Kenya between 1938 and 1941 reveals that 17 were related to witchcraft. See KNA MLA 1/1-113.

as a central object, closer examination of these cases suggests that they turn on questions of affect. The defense in such cases referenced the affective states – the fear or anger or indifference – that the witchcraft of the deceased had produced in defendants. The courts, in turn, invoked a legal language of affect, elaborating through judicial opinion what constituted “malice aforethought” in witch-killing cases and what counted as legal and sufficient “provocation” in such instances.¹¹³ In a discourse similar to that of the 1925 Witchcraft Ordinance, judicial opinion aimed to simultaneously discipline and deny “witchcraft” through consistent reference to defendants’ “mistaken belief” in it.¹¹⁴

In producing, circulating and using knowledge about witchcraft, state authorities executed a complicated discursive choreography bent on highlighting the seriousness of witchcraft beliefs and practices while simultaneously diminishing their validity. The state’s task in asserting order contra witchcraft was to discipline and deny the *power* of *uoi*, while highlighting simultaneously its power over native minds.

¹¹³Sections 191 and 192 of the Kenya Penal Code (1930) defined “killing on provocation” and “provocation.” “When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute murder, does the act which causes death in the heat of passion caused by sudden provocation hereinafter defined, and before there is time for his passion to cool, he is guilty of manslaughter only.” And, “The term ‘provocation’ means and includes, except as hereinafter stated, any wrongful act or insult of such nature as to be likely to, when done to an ordinary person, or in the presence of an ordinary person to another person who is under his immediate care, or to whom he stands in a conjugal, filial, or fraternal relation, or in relation of master and servant, to deprive him of the power of self-control and to induce him to assault the person by whom the act or insult is done or offered. When such an act or insult is done or offered by one person to another, or in the presence of another to a person who is under the immediate care of that other, or to whom the latter stands in any such relation as aforesaid, the former is said to give to the latter provocation for an assault.” KNA AG/52/90. 46. The code was based explicitly on English Criminal Law, and thus the “reasonable man” was British. The colonial context and attitudes towards the mindsets of Africans complicated issues of *mens rea*. See, Robert B. Seidman, “Witch Murder and Mens Rea: A Problem of Society Under Radical Social Change,” *Modern Law Review* 28 (1965): 46-61.

¹¹⁴ Section 11 of the code dealt with “mistake of fact.” “Any person who does or omits to do an act under honest and reasonable, but mistaken belief in the existence of any state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.” *Ibid*, 6. Thus, witch-killers were neither more nor less responsible for the murders they committed due to their “honest and reasonable, but mistaken belief” in witchcraft than had they committed them for another reason.

A focus on affect broadens understandings of witchcraft. It foregrounds the ambiguity of witchcraft and some of the ways in which this ambiguity proved both useful and problematic for officials in their efforts to deal with witchcraft. In short, power and witchcraft (and the ways they come together) need to be understood more holistically with an attention to their affective characters. Witchcraft and power are each as much about their motivations as they are about their exercise. Such motivation and exercise are, in turn, far from always being logically bound or idiomatically expressed.

Overall, reading for affect enables a deeper excavation of power. On the most general level, it disrupts the neat narratives which privilege reasoning over feeling. The languages of affect present in documents like those addressed above highlight how bureaucratic ways-of-knowing were not based solely on a “logics” of administration. Such language also suggests that colonial authorities did not imagine that affect was absent from the ways in which their subjects apprehended the world, especially in relation to issues like witchcraft.

Overall, the problems of colonial policy and practice vis à vis the Kamba “witchcraft” became increasingly pronounced in the colonial époque. Colonial authorities systematically approached Kamba “witchcraft” with an overarching attitude that the logic of British law and order could ultimately be made to trump the sway of “witchcraft,” and colonial legislation and administrative discourse, in turn, reflected this attitude and approach. At the same moment, approaching the Kamba supernatural was project entailing attention to the logic (or illogic) of “witchcraft” beliefs and practices, but also to affective states that they produced. Examining the most high-profile witch-

murder case of the colonial era. *Rex versus Kumwaka and Sixty-nine Others*, the next chapter traces the logics and affective aspects of administration and *uoi*.

Chapter 4
The Wakamba Witch Trials: a Witch-Murder in 1930s Kenya

Introduction

Writing on law and the state in mid-1920s India, Lauren Benton explains,

... It [the state] was an entity that laid claim to a monopoly on violence and to ultimate authority within its jurisdiction. Law was not just a casual support for these claims, it was central to them... The legal authority of the state was singular; it existed not alongside other legal and political authorities but above them, at the top of a hierarchy in which multiple communities, cultures, religions and moral orders might still reside, but in which they were now clearly subject to the overarching authority of state's law.¹

The scenario of the state's legal singularity outlined above could equally describe the *ideal* legal situation as envisioned by various authorities of the colonial state in Kenya. But, the ideal legal situation was far from realized in the colony. Rather, the legal situation in colonial Kenya was one of conflicting codes and contested justice. The contentious nature of justice, law and order in Kenya emerges in high relief in cases of witch-killing; cases in which the state sought simultaneously to discipline and deny local "witchcraft" practices and beliefs while local actors asserted the efficacy and legitimacy of their communities' approaches to "witchcraft."²

Accordingly, this chapter focuses on a witch-killing case in colonial Kenya – that of Mwaiki, a Kamba woman killed in 1931 by a group of men from her community

¹ Lauren Benton, *Law and Colonial Cultures: Legal Regimes in World History, 1400-1900* (Cambridge: Cambridge University Press, 2002). 130-131.

² Richard Rathbone, *Murder and Politics in Colonial Ghana* (New Haven: Yale University Press, 1993); J.M. Whisson and John Lonsdale, "The Case of Jason Gor and Fourteen Others: a Luo Succession Dispute in Historical Perspective," *Africa: the Journal of the International Africa Institute*. 45.1 (1975): 50-66.

because they believed her to have bewitched a neighbor woman. The case, officially known as *Rex versus Kumwaka s/o of Mulumbi and 69 Others*, achieved international recognition when it was tried in the Supreme Court of Kenya and 60 of the 70 defendants sentenced to death. These sentences were upheld by the High Court of Appeal for Eastern Africa and ultimately commuted by the Governor of Kenya.³ In analyzing *Rex versus Kumwaka*, this chapter suggests some of the ways in which a witch-killing case in the archives ultimately speaks to an additional category: colonial control.

This chapter addresses how historical and historiographical accounts of *Rex versus Kumwaka* have simply summarized the case, treating it as an element of broader Kamba institutions like *king'ole* or as part of wider discussions about law in the empire.⁴ This chapter argues that *Rex versus Kumwaka* is more complicated than such accounts suggest and contends the judicial proceedings surrounding the killing of an alleged witch highlight some of the fissures and fractures in colonial authority. Employing diverse sources and strategies to read these events not only as *Rex versus Kumwaka*, but also as “the case of Mwaiki” shows that important categories like custom, crime, victim, expertise, and modernity, etc. were not clearly defined and hegemonically employed by the colonial courts.

Rather, they illustrate how the meanings of such categories were up for grabs and their uses contested in colonial Kenya. And, they highlight how “witchcraft” (and related

³ Law Reports of Kenya: Containing Cases Determined by the Supreme Court, Kenya Colony and Protectorate and by The Court of Appeal for Eastern Africa and by the Judicial Committee of the Privy Council on Appeal from that Court. Volume XIV 1932. Nairobi: Government Printer, 1932. Hereafter LRK. See also, PRO CO 533/420/8. Wakamba Witch Trial.

⁴ KNA PC/CP/4/2/3. Provincial Commissioner, Central Province. Provincial Commissioner's Report, 1931. See also, D.J. Penwill, *Kamba Customary Law* (Nairobi: Kenya Literature Bureau, 1956); J. Forbes Munro, *Colonial Rule and the Kamba: Social Change in the Kenya Highlands, 1889-1939* (Oxford: Clarendon Press, 1975); Richard Waller, “Witchcraft and the Law in Colonial Kenya,” *The Past and Present Society* 180.1 (October 2003): 241-275.

crimes) composed a key element of an empire-wide debate over British justice and local law and custom which brought together anthropological, administrative, and judicial perspectives and actors. Finally, this chapter follows some of the legal resonances and ramifications of Mwaiki's case.

Archival Burials and Excavations – Strategies of Archival Readings

Colonial witch-killing cases are accessible primarily through the archive. Traces of slain witches emerge from numerous types of archived documents. However, the stories of dead witches are often “buried” in such documents while abstractions such as “law” and “custom,” and “order” and “justice” are foregrounded. Where does the historian find Mwaiki's story “buried” in the archive? How does the scholar go about excavating the archive in order to tell the story of “Mwaiki's case”?

Traces of Mwaiki's story are evident in multifarious archival documents. They appear in colonial administrative documents such as District and Provincial Annual Reports, and in judicial documents like the *Law Reports of Kenya* and opinions of the High Court of Appeal for Eastern Africa. Mentions of Mwaiki's story turn up in the metropole too. They are present in a range of Colonial Office correspondence and in House of Commons questions. And Mwaiki's story is accessible in non-state forums as well. Discussions of her death appear in press reports from across East Africa and Britain and in paperwork generated by organs of civil society.⁵

These discursive remnants of Mwaiki's story reflect the numerous categories of knowledge and genres of documents collected within the colonial archive. They bring to

⁵ For example, KNA DC/MKS. 1/1/24. District Commissioner, Machakos. Machakos District Annual Report, 1931. Also, “Wakamba Witch Case,” *The East African Standard*. April 2, 1932. Front page.

light broad colonial networks or “circuits” of knowledge and power.⁶ The existence of such networks suggest how the archive is not simply the contemporary historian’s space and source, but was a “living” and useable entity for its colonial compilers.

A range of scholars addressed how the archive has developed as an “instrument of power capable of producing huge amounts of information” and as an entity fundamental to the development and exercise of governmental authority and power.⁷ Accordingly they have also warned how unproblematized approaches to the archive run the risk of repeating easy colonial narratives. “Arche-facts” like Mwaiki become subsumed in broader narratives that place the abstractions of colonial rule at the center of the story and assert the hegemony of colonial authority. Yet the fact that Mwaiki’s case exists in the archive at all points to a rupture in colonial control.

So how does the historian go about problematizing the archive, “excavating” Mwaiki’s story and reorienting the case? While the archive consolidates and simplifies complicated stories, the historian’s task is to do the opposite. The scholar’s work is to restore the “messy” elements of the case, disaggregating and following the various strands of knowledge woven neatly together in the colonial archive. It is a process of re-establishing the broader context of the case by reading “with the grain” and “against the grain.”

Strategies of reading “with the grain” entail thinking *with* the colonial authors/authorities generating archival documents and considering the ways in which

⁶ Frederick Cooper and Ann Laura Stoler, *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley and Los Angeles: University of California Press, 1989); Bernard Cohn, *Colonialism and Its Forms of Knowledge: the British in India* (Chicago: University of Chicago Press, 1996); Alice Conklin *A Mission to Civilize: the Republican Idea of Empire in France and West Africa, 1895-1930* (Stanford: Stanford University Press, 1997).

⁷ See the special volume of *History of the Human Sciences* on archives. Especially, Thomas Osborne, “The Ordinarity of the Archive.” Patrick Joyce, “The Politics of the Liberal Archive,” *History of the Human Sciences* 12.2 (1999).

they produced and used them. It requires careful attention to the elements of what might perhaps be dubbed the “*micro-matériél*” – the physical details marking and shaping the archive’s texts. These details include “extrinsic elements” such as “medium, script, and language,” “intrinsic elements” like organizational or institutional “protocols” and various unofficial markings such as marginalia.⁸ Fully engaging the archive and its documents therefore demands a true effort at a critical “archaeology” that stretches beyond a bare textual reading to one which recognizes the “content in the form.”⁹ Such an approach reads the archive and its texts for their meanings as “objects” or “artifacts” rather than simply “extracting meaning” from the language that they contain.¹⁰ Reading “with the grain” involves reading archival documents in conversation with contemporary sources in order to establish the broader context from which colonial authors/authorities were writing. It is a process of following the “circuits” of colonial knowledge and tracing how this knowledge was produced, remade, and deployed – or not.

Strategies of reading “against the grain,” in turn, involve asking and analyzing what the archival remains of non-state actors can suggest about gaps in colonial control.¹¹ It involves reading archival documents with other primary sources and also with recent secondary literature and ethnographic data in order to understand points which were

⁸George Bornstein, “How to Read a Page: Modernism and Material Textuality,” *Studies in the Literary Imagination* 32.1 (1999): 29-58; Randolph Starn, “Truths in the Archives,” *Common Knowledge* 8.2 (2002): 307-401.

⁹Michel Foucault, *The Archaeology of Knowledge* (New York: Pantheon, 1972); Hayden White, *The Content in the Form: Narrative Discourse and Historical Representation* (Baltimore: Johns Hopkins Press, 1987); Ann Laura Stoler, *Carnal Knowledge and Imperial Power: Race and the Intimate in Colonial Rule* (Berkeley: University of California Press, 2002).

¹⁰Starn, *ibid.*

¹¹Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth Century France* (Stanford: Stanford University Press, 1987); Ann Laura Stoler, “Colonial Archives and the Arts of Governance: On the Content in the Form,” in *Along the Archival Grain: Colonial Cultures and Their Affective States* (Princeton: Princeton University Press, 2003); Gyanendra Pandey, “Voices from the Edge: the Struggle to Write Subaltern Histories,” in *Mapping Subaltern Studies and the Postcolonial*, ed. Vinayak Chaturvedi. London: Verso Press, 2000.

insufficiently elaborated – elements left unsaid or deemed unspeakable – or which could be subject to a different and or novel interpretation.¹² Reading “against the grain” situates and analyzes archival documents within a broader analytic field. The following sections first offer a basic, narrative treatment of case and then apply the strategies enumerated above to *Rex versus Kumwaka*, reading the events as the “case of Mwaiki.”

The Facts of the Case

Despite the empire-wide furor which *Rex versus Kumwaka* produced, the case is overwhelmingly neglected by the limited secondary literature on Ukambani.¹³ The absence of *Rex versus Kumwaka* from Kamba historiography is also remarkable because of the relative ease with which a straightforward narrative of the facts of the case can be constructed. Although trial transcripts are unavailable, the story of Mwaiki’s death and its consequences can be gleaned from Ukambani district and provincial records, judicial opinions, press coverage, and Colonial Office correspondence. The following section employs these sources to develop the facts of the case of *Rex versus Kumwaka*.

According to the report of District Officer Brumage, two Wakamba men, Kumwaka and Mnyoki, arrived at the administrative *boma* in Machakos during late 1931 to report the death of Mwaiki d/o Mboloi. Brumage explained that Kumwaka believed that Mwaiki had bewitched his wife, rendering her mute. After organizing a group of young Wakamba men, Kumwaka then “seized Mwaiki and took her to his hut” and, subsequently Mwaiki said that she “removed part of the spell and the patient recovered to some extent and was able to speak.” Mwaiki ran away from Kumwaka’s hut in the night, and was “chased” by Kumwaka and his group who “beat her with thin sticks until they

¹² Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 1995).

¹³ See chapters one and two.

killed her.” Kumwaka and Mnyoki, Mwaiki’s son, attempted to report the “murder” to their headman, Nzioki. Finding the headman not at home, Kumwaka and Mnyoki spoke with his retainer and returned to the “scene of the crime.” The pair reported the murder in Machakos, and they were then sent home to collect the rest of Kumwaka’s group. The young men that Kumwaka had organized earlier “gave themselves up without assistance and came singing into Machakos like a gang of porters.”¹⁴ Such were the circumstances that led to *Rex versus Kumwaka*.

As a murder case, *Rex versus Kumwaka* was necessarily tried in the Kenya Supreme Court. The prosecution presented its case first, developing its arguments around the testimony of Mnyoki, the deceased’s son. Mnyoki testified that he had been present in the deceased’s hut when a group of men came to take her away, and claimed that he had told the group that he would “carry the matter to court” if they beat or killed his mother. He heard his mother declare, “I am not a witch” as one of the men grabbed her by the wrist and made her stand. Mnyoki fell back asleep while his mother was taken away from the hut and did not awaken until he heard screams.¹⁵

Upon hearing the screams, Mnyoki left his hut to see a woman running from a group of men who were all wielding sticks. He claimed that “he did not actually see them beat her, but they were running on all sides of her, and then he saw the woman fall to the ground and remain there.”¹⁶ The men circling the woman then left her, and sat down some distance away. Mnyoki explained that he “visited some elders, and sent them

¹⁴KNA DC/MKS 4/9. District Commissioner, Machakos. Machakos District Political Record Book, 1932. District Officer Brumage likened Kumwaka’s group to a “gang of porters” because portage was a well known colonial-era occupation of Wakamba men.

¹⁵ Ibid.

¹⁶ Ibid.

to look at the body of the deceased.”¹⁷ He himself also viewed Mwaiki and observed that she was dead. Mnyoki confronted one of the accused who said simply “What can I do?” Mnyoki then went with Kumwaka to the local headman and later to Machakos to report the killing. Mnyoki testified that, “The man who went with him was the man who had caught hold of his mother’s wrist – he admitted that it was through him that she had met her death.”¹⁸ Under cross-examination, Mnyoki claimed that he “knew people regarded his mother as a witch” but that he had never seen her practice witchcraft nor had he “heard of spells cast by her over the first accused’s wife.”¹⁹

Mwaiki’s brother also testified for the prosecution, claiming that he too had been in the hut when the deceased was taken away, and like Mnyoki he had warned the men that there would be trouble if his sister were hurt. A third witness testified that he had seen the body of the deceased but was not yet old enough to touch it.²⁰ He also explained that, “Only when a person was really dead was the body put out in the bush, unless the death took place from sickness when it was burned. This body was not buried because the woman was killed.”

The defense opened its case with a lengthy statement by Kumwaka and the other sixty-nine defendants’ testimony that they had participated in the killing because Kumwaka had summoned them. When Chief Justice Jacob Barth asked Kumwaka why he had killed Mwaiki, Kumwaka replied, “She was a witch.”²¹ Later, Kumwaka’s statement made in a lower court was read. According to the statement, trouble had come to pass because the deceased had placed a spell on Kumwaka’s wife. Kumwaka testified

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Ibid.

that Mwaiki had threatened to put a spell on his wife that rendered her mute because she would not “go to” Mnyoki. Kumwaka pointed out, “My wife fell sick the same day” that Mwaiki had threatened to bewitch her.

Kumwaka claimed that Mnyoki agreed to join him in “tak[ing] responsibility for the punishment to be given” to Mwaiki for bewitching Kumwaka’s wife. The pair led a large party of young men collected by Kumwaka to a place that Mwaiki frequented and seized Mwaiki there. Mnyoki took the load his mother was carrying while she was taken to Kumwaka’s hut where she was to remove the spell she had placed on Kumwaka’s wife. “At the third cock-crow,” the group of accused was awakened by the deceased fleeing the hut. They overtook her and beat her, but she “ran on until she neared her own village where she collapsed and died.” Kumwaka stated that the body was removed a hundred yards because “it is not a good thing for young men to look on a deceased person.”²² On trial’s second day, Kumwaka reiterated his testimony, but added that Mwaiki had removed “only half the spell” before she ran away. Kumwaka also claimed that upon overtaking Mwaiki, he and his comrades had implored her to return to Kumwaka’s hut and remove the second half of the spell. When Mwaiki refused, the men beat her with small sticks as she walked along. After awhile Mwaiki sat down, and the men asked Kumwaka to get her some water. She died during his absence. The native assessors rested the blame for the death with Kumwaka stating that he had “no right to summon the other accused, a number of whom were young men and did only what they were told.”²³

²² Ibid.

²³ “The Wakamba Murder Trial,” *The East African Standard*. 3 February 1932.

On 6 February 1932 the Chief Justice handed down death sentences for the seventy accused. The appeal period was set at thirty days, and the Chief Justice recommended the guilty parties to the Governor's clemency. In the meantime, *Rex versus Kumwaka* and its relationship to British "justice" became the topic of questions in the House of Commons and also the subject of various reports and correspondence in newspapers in Britain and abroad. A few weeks later, the High Court of Appeal for Eastern Africa met in Entebbe, Uganda, and dismissed the appeal lodged by Black and Varma, advocates for Kumwaka and his cohort, further fanning the flames of contention about the case.²⁴ On 2 April 1932 the Governor of Kenya commuted the death sentences handed down by the Supreme Court, sentencing the group to varying terms of hard labor.²⁵ Ultimately, *Rex versus Kumwaka* provided one of the impetuses for the Colonial Office *Inquiry into the Administration of Justice in Criminal Matters Affecting Natives*, also known as "The Bushe Commission," and for a sharper attention within the courts and case law to the complicated legal issues tied up in witch-killing cases.

Integrating information culled from a range of administrative, legal, and journalistic sources thus develops a straightforward story of the events of *Rex versus Kumwaka*. And, such an easy narrative renders the primacy of colonial authority the focal point of the story. By applying some of the strategies for reading discussed above, the remaining sections of this chapter complicate such information arguing that Mwaiki's case points to fissures and fractures in colonial control.

²⁴ No information beyond that which is contained in the *Kumwaka* texts is available about Advocate Black. An Attorney General's Office file offers limited information on Advocate Varma. See, KNA AP/1/1579. Judicial Department. *Mukhi Ram Varma*. 1929-1932.

²⁵ "Wakamba Witch Case," *The East African Standard*. 2 April 1932.

Court Narratives and Witch-killings

The sources cited above demonstrate that traces of Mwaiki's story can be found in legal documents. Reading such documents with attention to the protocols driving their production helps the scholar to identify the specific work of particular genres of discourse and to read documents beyond their simple narratives. In Mwaiki's case, the opinions of the justices of the High Court of Kenya and the Court of Appeal for Eastern Africa shift the focus of the case away from Mwaiki's alleged misdeeds and towards her killing, effectively transforming the messy story of witchcraft presented by the accused into a legally useable narrative of murder. The justices' opinions are part of a genre of judicial discourse concerned with narrowing, condensing and controlling the terms and circumstances of the case. As Ranajit Guha notes, judicial discourse works by "trapping crime in its specificity, by reducing its range of signification to a set of narrowly defined legalities, and by assimilating it to the existing order as one of its negative determinants."²⁶ The justices' opinions strip the case of its dramaturgic elements, instead setting up the courts' control over an orderly narrative expressed in matter-of-fact language and with categories of deliberated ambiguity.

A summary section from the *Law Reports of Kenya* succinctly narrates the events of *Rex versus Kumwaka* as assembled by the courts.

The first accused (Kumwaka) summoned the rest of the accused and brought them to the vicinity of the hut in which was his wife, the woman believed to have been bewitched. Next, the witch, the deceased, was seized and brought to the sick woman's hut and ordered to remove the spell. The accused allege that she removed half the spell during the night. Early in the morning, the witch was detected running away. All accused ran after her and beat her with the thin sticks referred to above. As a result of the beating the witch was killed. One perusing

²⁶Ranjit Guha, "Chandra's Death," in *Subaltern Studies V*, edited by Ranajit Guha. Delhi: Oxford University Press, 1987.

the evidence we entertain no doubt that she died, and died as a result of the beatings administered.²⁷

The “genre” of judicial discourse thus condenses the case to a straightforward narrative expressed with a spectacular matter-of-factness that sublimates the deconstruction and dramas that underlie the case’s neat narrativization.²⁸ It condenses and compresses written records of oral speech in order to assert further the courts’ authority.²⁹ The remainder of the report produces a syllogism of guilt. The courts conclude: (1) the belief in witchcraft is not reasonable, (2) fear of witchcraft is not a basis for self-defense, and (3) the government does not tolerate the killing of witches.

The courts’ narrativization of *Rex versus Kumwaka* thus transforms “experience into legality” and establishes categories with simultaneously matter-of-fact and ambiguous meanings: custom, court, corpse, testimony, publics, and even witch.³⁰ Of these, “corpse” seems the most empty category of the narrative. It is the body-without-life, simply “the deceased.” Querying the courts’ narrativization of *Rex versus Kumwaka* and including a reading of the events as “the case of Mwaiki” – a reading that considers how a witch-killing constitutes a “body of evidence” for both participants in the case and for the historian – expands and disrupts the courts’ easy narrative. It helps to “unravel testimony,” expanding the notion of testimony “beyond what is spoken in arguments and in the witness box to include other knowledges brought to bear” on the case.³¹ Also, it

²⁷ LRK, *ibid.*

²⁸ Guha, *ibid.*

²⁹ Carlo Ginzburg, *Clues, Myth and the Historical Method*, trans. John Tedeschi and Anne C. Tedeschi (Baltimore: Johns Hopkins University Press, 1989).

³⁰ *Ibid.*

³¹ David William Cohen and E.S. Atieno Odhiambo, *Burying SM: The Politics of Knowledge and the Sociology of Power in Africa* (Portsmouth: Heinemann, 1992). See also, Cohen and Odhiambo, *The Risks of Knowledge. Investigations into the Death of the Hon. Minister John Robert Ouko in Kenya, 1990* (Athens [OH]: Ohio University Press, 2004). Cohen and Odhiambo’s work shows the capacity of the corpse to

draws attention to the colonial “logics” through which the courts heard and read argumentation and to the local “logics” that precipitated and were deployed to justify Mwaiki’s killing.³²

Bodies Living and Dead

For the courts, Mwaiki’s killing, the destruction of the “witch,” was the starting point of *Rex versus Kumwaka*. Categorizing “native murders,” C.W. Hobley explained the mechanisms by which cases like that of Mwaiki’s penetrated official colonial consciousness and the paths that such cases generally followed. He noted,

Murder cases in native areas come first of all before the Commissioner of the district, who is an officer with an understanding of his people and deliberate misinterpretation or misrepresentation would have little chance. In the bigger townships and in settled areas, murder cases are in the early stage, dealt with by Resident Magistrates. If the accused is committed for trial, the case goes to the Supreme Court where the judge sits with native assessors selected from one of the Native tribunals, men who are accustomed to weigh evidence; a counsel for the defence is also engaged and for whose enquiries adequate time are given. Finally and perhaps most important, every capital sentence is then considered by the Executive Council, upon which sit men who have deep sympathy with the natives and that Council is ready, invariably, to give full weight to the extenuating circumstances, e.g. beliefs in witchcraft, undue provocation, etc. In many cases it makes recommendations of clemency and in such cases a commutation of the sentence by the Governor follows.³³

The production of Mwaiki’s corpse constituted the critical moment at which a “witchcraft” case entered colonial records and became an “event,” or object of official concern.³⁴ The fact of the corpse also transformed the event into a crime. Without the beaten body, there would be no “crime,” and without a crime there would be no case.

challenge and construct, or even more properly put, to deconstruct, the meanings and uses of categories like culture, ethnicity, gender, nation and state to list just a few.

³² Ibid.

³³ Hobley, *Bantu Beliefs and Magic* (London: Frank Cass and Company, 1922). 309.

³⁴ Veena Das, “Subaltern as Perspective,” in *Subaltern Studies VI*, ed. Ranajit Guha (Delhi: Oxford University Press, 1989).

In contrast, for Mwaiki's neighbors, with Kumwaka at the lead, the witch's dead body signaled the ending point of Mwaiki's case. Mwaiki's killing constituted the point at which local concerns with Mwaiki's "witchcraft" were settled. Reading colonial documents on the case in conversation with additional documentary and ethnographic sources on Kamba women's witchcraft and Kamba (extra)judicial punishment of witches enables the historian to excavate more fully the meanings of Mwaiki's death both for colonial authorities and for Kumwaka's group.

As addressed in the previous chapter, a range of sources indicates that Kamba people and colonial authorities alike perceived Kamba women's witchcraft as located in women's bodies. To review, colonial documents and present-day informants describe Kamba women's witchcraft as "inherited," passed from mother to daughter. The potential witch needed only to "activate" or test her witchcraft after the birth of her first child or after the birth of a male and female child, generally by killing one of the children or another affine.³⁵

Alternatively, young Kamba witch-women were and are often believed to be "inoculated" with witchcraft at the time of their circumcisions. Up to the present day the young women's mothers, themselves experienced witches, make strategic cuts on their daughters' bodies and rub specific herbs into the cuts. After this process, a young woman can bewitch others by touching the sites of these inoculations – her wrists, ankles, hips, etc. – and speaking aloud powerful words or the aims of her witchcraft.³⁶ Because Kamba women's witchcraft is embodied, pre-colonial and colonial-era cases of witchcraft were frequently resolved by destroying, or at least, harming the body of the

³⁵ P.M., Kilungu, August 2004; M.W., Imani, September 2004.

³⁶ Ibid.

witch.³⁷ From the perspective of Kumwaka and his cohort, Mwaiki's beaten body also showed that they had administered the requisite punishment for repeat witchcraft:

king'ole.

As chapter two explains, in colonial parlance, recent anthropology and the testimony of present-day informants, *king'ole* emerges as a broadly defined term. To reiterate, *king'ole* can refer to a body of law, to the group charged with carrying out the law, or to an act. In the first instance, *king'ole* signifies the law which demands that serial or particularly serious social transgressions – thievery, murder, and witchcraft – be punished through various forms of lynching. *King'ole* also refers to the council of male elders, *atumia* or “respected representatives/arbiters” in Kikamba, charged with carrying out this law and maintaining social order in pre-colonial and early colonial-era Kamba communities. And, *king'ole* denotes the actual killing of murderers, witches and thieves by beating, stoning, hanging or shooting with poisoned arrows. Anthro-administrative literature dating from the era of Mwaiki's case defines *king'ole* as the beating of a “witch” dispensed by a group of adult men using small sticks.³⁸

A broader understanding of Kamba women's witchcraft and *king'ole* also opens up avenues for the scholar to think about Mwaiki *before* her death. So who might Mwaiki have been in the eyes of her neighbors before their actions transformed her from a member of the community into the dead body of a witch? Mwaiki's death by *king'ole* suggests that her bewitchment of Kumwaka's wife was not her first act of witchcraft. As

³⁷KNA DC/MKS 1/1/25. District Commissioner, Machakos. Machakos District Annual Report, 1933.

³⁸ J.K., Kilungu, August 2004; M.N., Kilungu, August 2004; B.M, Kilungu, August 2004. R.K., Kilungu, September, 2004. See also, C.W. Hopley, *Akamba and Other East African Tribes* (Cambridge: Cambridge University Press, 1910); Munro, 1975; John Ndeti Somba, *Akamba Mirror: Some Notable Events in the Machakos District of Kenya, 1889-1929* (Nairobi: Kesho Publications, 1979).

noted above, *king'ole* was applied to recidivist and unrepentant witches, murderers, and thieves. In describing the *king'ole* committee's procedure for dealing with witches, present-day informants explain that proper procedure dictated that the *atumia* approach the witch and asked her to undo her witchcraft before setting *king'ole* in motion. If the witch complied, she would be warned and spared. Yet, Mwaiki first asserted that she was *not* a witch and then only undid half the spell afflicting Kumwaka's wife. Had Mwaiki acceded completely to Kumwaka's demand that she "remove the spell" from his wife, she would likely have been spared according to *king'ole* custom.³⁹

Further, as elaborated in chapter two, various sources indicate that consultation with the family of an alleged witch was an element of *king'ole* justice. Within this context, the alleged behaviors of Mwaiki's son, Mnyoki, together with that of Mwaiki's brother add layers of confusion to the issue of Mwaiki's status as a witch. Certain elements of Mnyoki and Mwaiki's brother's behavior – such as their inaction when Kumwaka and his cohort hauled Mwaiki away – suggest at least a tacit familial sanction of the exercise of *king'ole* in Mwaiki's case as do Mnyoki's claims that he knew "people regarded his mother as a witch." And, a point of Kumwaka's defense was the claim that Mnyoki agreed to join him in "tak[ing] responsibility for the punishment to be given" to Mwaiki for bewitching Kumwaka's wife. But at the same moment, both Mnyoki and Mwaiki's brother maintained that they had variously warned the cohort against taking action towards Mwaiki. Indeed, Mnyoki even asserted that if they harmed Mwaiki he would "take the matter to court," thus purporting he had intended to deal with any violence related to witchcraft accusations through the state-sanctioned mechanism of justice. On one hand, Mnyoki's claims could work to offset both the stain of his own

³⁹R.K., Kilungu, September 2004; J.N.K., Kilungu, September 2004.

culpability in his mother's death and his interest in having Kumwaka's wife bewitched in the first place. On the other hand, they could indicate that Mnyoki really did believe that his mother was not a witch and that he simply been lax (as had her brother) in protecting her from the action of the Kumwaka-constituted *king'ole*.

The final familial issue to which none of the participants in the trial seem to have attended was the issue of clan. The witchcraft that Mwaiki was purported to have wrought against Kumwaka's wife was of the inherited rather than the "bought" variety, necessitating an inborn malevolent power to put it into action. And as noted in chapter two, most Kamba women witches are scions of witchcraft clans and their lineage is public knowledge. Existing documents fail to register whether or not Mwaiki belonged to a witchcraft clan, a piece of information which could have gone a long way in establishing whether or not she was indeed a witch and thus supporting or breaking down the defense's claims that Mwaiki's (embodied) witchcraft necessitated the *king'ole* killing.

A dual lack of attention to the alleged motive in the originary crime (the bewitchment of Kumwaka's wife) and to the precise effects of such further occludes the problem of Mwaiki's status as witch or non-witch. Existing records gloss over the question of why Mwaiki might have bewitched Kumwaka's wife, noting only that Kumwaka's wife had refused to "go to" Mnyoki. Such records do not go into detail about the results of the witchcraft, noting only that Kumwaka's wife had been rendered "ill and mute," but not describing how any illness manifested. Part of the spell seems to have entailed a type of witchcraft present-day informants call *ndia*, a witchcraft which

produces “dumbness” in its objects, but what of the “illness” Mwaiki was alleged to have wrought?

Perhaps in an effort to make Kumwaka’s wife “go to” Mnyoki, Mwaiki had earlier placed a “love spell” on the woman, a type of witchcraft reputed to cause various symptoms of “illness.” Present-day informants stipulate that the euphemistic phrase “go to” readily connoted the start of a sexual relationship and that use of witchcraft to promote such a relationship would be highly plausible.⁴⁰ Regarded as neither benevolent nor malevolent, love spells straddle the bounds between *uoi* and *uwe*. Technically, Kamba informants explain, love spells are a form of *nzevu*, a sort of *uoi* which renders people “confused” and makes them forget their own object in favor of that of the witch.⁴¹ The easily glossed over motive contributes to the ambiguity surrounding the type of witchcraft Mwaiki was practicing – if she was practicing witchcraft at all.

So, could Kumwaka’s wife’s affliction have been in actuality the outcome of two different acts of witchcraft, the first a love spell and the next a punitive one? Colonial records do not indicate clearly which half of the spell which had rendered Kumwaka’s wife “ill and mute” was removed. The absence of this information raises the possibility that Mwaiki might have conceded to remove the punitive spell while at the same moment holding out hope that a love spell might eventually bring Kumwaka’s wife to her son.

Yet, perhaps Mwaiki’s removal of only “half the spell” and her subsequent flight into the bush suggests instead that she might not have been a witch after all. Mwaiki certainly would have known that had she removed the affliction completely and stayed in Kumwaka’s hut to demonstrate the results of her work, she would have been spared.

⁴⁰ K.M., Kangundo, August 2004; M.N., Kangundo, August 2004.

⁴¹ K.N., Nzawi, September 2004; M.M., Nzawi, September 2004. L.N.N., Kilungu, August 2004; M.M.N., Kilungu, August 2004.

Indeed, present-day informants indicate that witches were always capable of undoing their witchcraft. It ultimately remains unclear whether Mwaiki fled because she did not want to undo her work, or perhaps because it was not her work to undo.⁴²

Who then was Mwaiki in the eyes of the courts before she was killed? Did colonial authorities regard her as a witch or not? Colonial administrative and judicial documents about the case refer to Mwaiki categorically and without explanation as “the witch.” Yet reading these documents in conversation with other colonial judicial sources indicates that despite regarding her as a “witch,” the courts were only interested in Mwaiki *after* her death. And, for the courts, the corpse informed varying views of who counted as a victim in the circumstances surrounding Mwaiki’s death. For the courts, Mwaiki was the foremost victim in the case of *Rex versus Kumwaka*. Her corpse demonstrated to the courts that a serious crime had been committed and provided an impetus for a Supreme Court trial and a High Court appeal. While “witchcraft” was a crime that colonial authorities could and often overlooked, a dead body was evidence of the sort of *public* disorder and challenge to state authority that could not be ignored.⁴³ Further, earlier Supreme Court and Court of Appeal opinions in cases of murders of alleged witches had established a *de facto* precedent of *not* treating the witchcraft of a murder victim as a mitigating factor.⁴⁴ Whether the courts regarded Mwaiki as a witch or not, their primary interest in her was as the victim of a murder.

The status of the other body involved in the case – that of Kumwaka’s wife – was, however, more ambivalent. As a “victim” of witchcraft, Kumwaka’s wife was injured by

⁴²R.K., Kilungu, September, 2004; J.N.K., Kilungu, September 2004; M.K., Tawa, 2004; S.K., Tawa, 2004.

⁴³Nicholas B. Dirks, “The Policing of Tradition: Colonialism and Anthropology in Southern India,” *Comparative Studies in Society and History* (1997): 182-212.

⁴⁴Such cases are discussed at greater length later in this chapter and are the focal point of the next chapter.

an act that colonial law simultaneously denied and banned. Note the poetics of incredulity in the following extract from the Witchcraft Ordinance of 1925, the law in force at the time of Mwaiki's death:

Any person who **holds himself out** as a witch-doctor able to cause fear, annoyance, or injury to another person, or property, or who **pretends** to exercise any kind of supernatural power, witchcraft, sorcery or enchantment calculated to cause fear, annoyance or injury shall be guilty of an offence and shall be liable to imprisonment of either description for a term not exceeding five years.⁴⁵

After being rendered mute by Mwaiki, Kumwaka's wife experienced a second silencing in the colonial courts. In the available documents, her name is never mentioned and there is no evidence that she was called as a witness in a case of a murder that was committed seemingly on her behalf. From the courts' perspective, witchcraft did not create an accessible "body" of evidence like Mwaiki's corpse did.

In the eyes of the courts, Kumwaka and his cohort were both culpable for Mwaiki's death and "victims" of their own misguided ideas about witchcraft. The justices wrote, "It is widely known, and as appears from the evidence in this case the fact was present to the mind of the first accused that the Government does not tolerate the killing of witches."⁴⁶ But they also acknowledged that, "The belief in witchcraft is, of course, widespread and deeply ingrained in the native character."⁴⁷ In the view of the courts, the Kamba men's witchcraft beliefs led them to produce a corpse when they should have produced a magistrate.

The courts' conclusions about witchcraft vis à vis bodies living and dead were not based solely in law. Reading a range of colonial sources in conversation and following

⁴⁵PRO CO/542/19. *The Official Gazette (Special Issue), Colony and Protectorate of Kenya*. Nairobi: Government Printer, 1925.

⁴⁶LRK, *ibid.*

⁴⁷*Ibid.*

colonial paper trails demonstrates instead that the courts' conclusions about witchcraft were part of larger anthro-administrative networks of imperial knowledge about witchcraft and custom. For example, in 1929, the Kenya Police Commissioner, F. Peacock, published in *The Police Journal and Quarterly Review for Police Forces in the Empire* an article entitled, "Witchcraft and Its Effect on Crime in East Africa," which addressed some of the ways in which investigation and prosecution of crimes related to witchcraft constituted a significant stumbling block for the administration of justice in East Africa.⁴⁸

In addition, the filing system of Colonial Office papers created a continuously archiving and networked forum through which Colonial Office authorities and British officials on the ground in the colonies could learn how their various colleagues had dealt with thorny legal-administrative issues (like witchcraft) and through which the efficacy and right-headedness of imperial policy and practice could be debated. Colonial Office files were archived through a numerical-alphabetical system and their jackets were each marked with a "previous" and "subsequent" file numbers. The "previous" and "subsequent" files directed colonial authorities to other files pertaining to the same sort of administrative questions or concerns. For instance, the "previous" file numbers on files pertaining to *Rex versus Kumwaka*, referred to a set of documents surrounding the trial for an assault and a homicide in the Gambia that had been precipitated by the killers' beliefs that the victims' witchcraft had led to death of one their affines.⁴⁹

⁴⁸F. Peacock, "Witchcraft and Its Effect on Crime in East Africa," *The Police Journal and Quarterly Review for Police Forces in the Empire* (1929): 121-131. I am grateful to Dr. Cedric Barnes for introducing me to the Cambridge University Commonwealth Collection.

⁴⁹Katherine Luongo, "Languages, Logics, & Lexicons of the Occult: Reading a Witchcraft Murder in Interwar Gambia" (paper presented at the conference on "Traditional" Accountability and Modern Governance in Africa. Durham, Great Britain. 2004); PRO CO 87/233/3. A Witch Murder in the Gambia.

Witchcraft in the empire was not a highly localized concern of interest only to the administrators on the ground who had to deal with its results. Rather, witchcraft formed part of an empire-wide debate over British justice and local law and custom which brought together anthropological, administrative, and judicial perspectives and actors. Drawing on their knowledge gleaned through participation in these networks and debates, it was both easy and logical for the justices to perceive the culture of Kumwaka and Mwaiki's community as necessarily shot through with witchcraft. In producing their verdicts, justices functioned not only as legal authorities but as "anthropologists" in robes and wigs, drawing on existing knowledge about witchcraft and mobilizing it to ask more questions and form further conclusions.⁵⁰

But were the justices actually correct in stating that it was "widely known" and "present to the mind of the first accused that the Government does not tolerate the killing of witches"? The testimony of present-day informants calls into question the justices' assertions that the government's attitude towards witchcraft and killing witches was well known. Informants attest that while they knew the colonial government had forbidden killing per se, or rather that the government preferred to retain a monopoly on violence, they were uninformed about the government's attitude towards judicial killing like *king'ole*. Also, present-day informants maintain that they were unaware of the government's laws against witchcraft and argue instead that the government concerned itself only with more mundane matters like the hut tax.⁵¹ As one informant suggested,

⁵⁰Ginzburg, 1989.

⁵¹ M.W., Imani, September 2004; J.K.K., Tawa, September 2004; P.M., Kilungu, August, 2004.

“The *serikali ya ukoloni* did not know about witchcraft. They did not know enough to make laws about it.”⁵²

Was the government’s attitude towards witchcraft and witch-killing really any clearer in the minds of Kumwaka and his cohort? Colonial documents explain that almost immediately after Mwaiki’s death Kumwaka presented himself to the Headman of Nzawi, his location, and reported Mwaiki’s killing. He then collected the rest of the group and they proceeded to report the killing at the administrative *boma*, in the words of the District Officer, giving “themselves up without assistance” and “singing into Machakos like a gang of porters.”⁵³ Such unabashedness hints that Kumwaka and his cohort did not expect to be condemned by the colonial government for their actions against Mwaiki. Perhaps it was *not* “present to the mind of the first accused that Government does not tolerate the killing of witches.”

Though documents surrounding Mwaiki’s death do not reveal or even hint at what Kumwaka’s group thought of the courts’ judgment, reading them with a range of colonial sources remarking on the inefficacy and inutility of the witchcraft ordinances suggests that the Kamba men also likely saw themselves as the victims of misguided-ness – that of a court system that held that the diffuse dangers posed by witchcraft could be dealt with by law when what they really demanded was the witch’s corpse. From the standpoint of Kumwaka’s group then, the muted wife was the primary victim in the “case of Mwaiki.” Instead of undoing the spell she put on Kumwaka’s wife, Mwaiki left the work half undone and tried to run away. Rather than being a victim, Mwaiki was an agent in her

⁵² P.M., Kilungu, August 2004.

⁵³ KNA DC/MKS 4/9. District Commissioner, Machakos. Machakos District Political Record Book, 1932.

own destruction, in the exercise of *king'ole* against her. And only with Mwaiki's death, did Mwaiki's story enter the colonial record and become an event of critical concern.

Juridical Codes and Judicial Killing

As Mwaiki's killing raised questions about who counted as a victim, it also reflected the different juridical codes and judicial settings through which the circumstances of Mwaiki's death were addressed.⁵⁴ The courts' findings were shaped not only by the evidence presented, but also by the law-as-written and judicial precedent that shaped "how the evidence was heard."⁵⁵ When read in isolation, court documents surrounding the case of *Rex versus Kumwaka* offer a simple judicial narrative in which the witch-killing clearly indicates the contravention of colonial law. But ethnographic sources suggest a competing judicial story in which the witch-killing points to the *maintenance* of local law. Read in conversation, these varied judicial sources foreground some of the ways Mwaiki's death constituted a location in which juridical codes collided, in which judicial settings were contested, and in which the meanings of murder and justice emerged at odds.

While the fact of Mwaiki's corpse informed – and was informed by – anthropological knowledge about witchcraft generally, it also figured in long-standing conversations about how colonial law ought to regard witchcraft, particularly cases in which alleged witches were seriously assaulted or killed. At the same time, the fact of Mwaiki's killing spoke to the existence of parallel codes and institutions of local justice. The fact of Mwaiki's corpse evidenced two different crimes, two distinct juridical codes, and two different judicial settings.

⁵⁴Cohen and Odhiambo, 1992.

⁵⁵Ibid.

As noted above, the Kenya Penal Code rendered witchcraft a crime. But so did the *local* codes of most ethnic groups in Kenya. As described in chapter three, colonial law-as-written complicated witchcraft, including a variety of ordinance chapters that penalized both witchcraft practices and witchcraft accusations. To reiterate, the Witchcraft Ordinance demanded an untenable level of evidence to prove a crime that was intrinsically invisible. Local laws, in turn, were simpler and clearer, relying on consensus and confession rather than complicated issues of burden-of-proof in order to convict and contain.

These two conceptions of witchcraft collided over the corpse and the appropriate consequences for its creation. Local codes about witchcraft were directed at dealing with damage to the *bewitched*. Colonial laws, in contrast, were interested primarily in the death of the *witch* and the accusations that had led the witch's killing.

Both the Kenya Penal Code and Kamba codes of justice contained sets of consequences for causing the death of another person. The penal code differentiated amongst types of killing, largely according to the presence or absence of malice aforethought. According to the penal code, all killings committed with malice aforethought were automatically murder, and murder was always a capital crime.⁵⁶ The penal code also included other legal consequences for other types of killing.

Kamba law, in turn, did not differentiate amongst types of killing and thus applied the same consequence to every death caused by the will and/or actions of another person. As D.J. Penwill, former D.C. of Machakos and author of the notable treatise, *Kamba*

⁵⁶ Penal Code of Kenya (1930): Division IV – Offences Against the Person, Chapter XIX Murder and Manslaughter. Jomo Kenyatta University Library (University of Nairobi) Afr. Docs. J 750.155.P4 1930.

Customary Law, explained, “Kamba law does not distinguish between murder, manslaughter, or a death caused by accident. The blood price is payable in each case.”⁵⁷

Both the Kenya Penal Code and Kamba law employed judicial killing. In constructing its edifice of authority, the colonial state aimed to retain a monopoly on violence, and to reiterate, while few present-day informants recall anything about colonial anti-witchcraft laws, or colonial laws in general, they state that the *serikali ya ukoloni* had rendered all killing illegal and had made this fact known.⁵⁸ While colonial policies of regarding most killing as murder, and all murder as a capital crime, rendered judicial killing a regular punishment in the colonial courts, local law employed judicial killing differently and less often. As noted earlier, Kamba law stipulated that the *king’ole* execute only serial malefactors whose consistent misdeeds could no longer be dealt with through compensatory means.

Read alone, court documents provide a simple judicial narrative in which the fact of Mwaiki’s corpse at once stands for the criminal contravention of colonial laws about murder, clear consequences, and the restoration of colonial law and order. But an attention to Kamba codes disrupts this narrative and, alternatively, Mwaiki’s killing reveals the edifice of colonial law to be just that, an elaborately constructed front. The rules and norms that provided the *structure* of law and order within Kamba communities like Mwaiki and Kumwaka’s sprang from local sources and undergirded a parallel judicial system and juridical code, existing outside but certainly along with the colonial. In her own community, Mwaiki’s corpse stood for the breaking of local laws about witchcraft, clear consequences and the restoration of local law and order. Within

⁵⁷Penwill, 1956.

⁵⁸ M.W., Imani, September 2004; P.K.M., Welfare, September 2004; R.S.K., Welfare, September 2004. M.M., Nzawi, September 2004; E.K.M, Machakos, September 2004.

competing judicial systems, Mwaiki's killing thus evidenced two different crimes and two different juridical codes that were managed in two different legal settings.

Both within the colonial courts and local spaces of justice the treatment of Mwaiki's killing was informed by and productive of judicial precedents having to do with witchcraft and murder. If the historian attends strictly to legal definitions of precedent and traces only the cases identified by the colonial courts, then it appears that precedent was used exclusively by colonial judicial authorities. But a wider understanding of precedent – one which considers it as a body of past actions and behaviors that is well-known, well-understood and collectively considered by authorities in making decisions targeted towards maintaining social order – suggests that colonial and Kamba law *each* drew on precedent in managing witchcraft and killing. Yet these notions of precedent, like ideas of witchcraft and murder, were at odds.

Consistent *king'ole* action against recidivist witches composed a sort of judicial precedent within Kamba law. But *king'ole* action was in turn driven by the precedent that the witch had established through her own behavior. Had she killed regularly? Did she refuse to reverse her witchcraft? Had she ignored the *king'ole*'s warnings? If such was the case, precedent indicated that the *king'ole* was within its rights, or even obligated, to kill the witch. If it was not the case, past precedent prescribed a range of cleansing activities, most often an oath, to get the witch to cease and reverse her work.⁵⁹

The colonial courts drew on precedent in dealing with witchcraft and its ramifications. But, as noted earlier, the courts were less concerned with the practice of witchcraft per se than they were with *allegations* of witchcraft, particularly when these allegations ended in violence and death. The courts drew on precedent in deciding how

⁵⁹ J.K.S., Kilungu, September 2004; M.W., Imani, September 2004.

to treat accusers, particularly murder defendants, who raised the witchcraft of their victims as part of their defense. These two different ideas and applications of precedent constituted another space in which competing local and colonial laws, concerns, and conceptions of justice collided over a corpse.

Judicial opinions in *Rex versus Kumwaka* do not cite other cases of witch-murder. Reading-with-the-grain, considering the knowledge that colonial justices would have brought to bear on *Rex versus Kumwaka*, indicates that there was no precedent for the (alleged) witchcraft of the victim being accepted as a mitigating factor in murder cases. Neither was there a precedent for accepting the defense that the killers of witches had been executing a local (read appropriate) method of justice in executing a witch.

Indeed, the highest profile witch-killing case in the era before *Rex versus Kumwaka* was the 1914 *Kiama Case* in which a Kikuyu “kiama” or council of elders, tried, sentenced and burned to death two alleged witchdoctors with the sanction and participation of their chief. During the High Court trial, solicitors for the *Kiama* members raised a three-pronged defense: (1) members of the *kiama* had not been instructed as to the limits of their jurisdiction under the Native Tribunal Rules, 1911, (2) they acted on the advice of their chief, and (3) in doing so, they were justified in exercising their ancient customary jurisdiction to sentence witchdoctors to death.” Unsurprisingly, the courts rejected this defense on the grounds that under colonial law. The *kiama* had no longer had the authority to exercise customary forms of justice.⁶⁰ Though no record of a similar event in Kambaland exists, it was perhaps with the *Kiama Case* in mind that a district official had to make a specific warning about witchcraft and

⁶⁰*LRK*, 1914.

under whose authority offences related to it fell. In the minutes of a 1915 *baraza*, he noted,

The elders were informed that reports were continually coming in of a great increase (sic) in the practice of this offence and that it must cease. They were further told that all such cases must be brought before the Government promptly as the powers they themselves possessed were not sufficient to deal with such matters.⁶¹

So what were specifics of the courts' opinions in the case of *Rex versus Kumwaka*? For the courts, the existence of a corpse rendered *Rex versus Kumwaka* a case of manslaughter at the least or murder at the worst. The justices' opinion that "the facts of the case amounted to murder" rather than manslaughter hinged on the principle of malice aforethought, "knowledge that the act or omission will probably cause the death of or grievous harm to some person."⁶² Applying the principle to *Rex versus Kumwaka*, the Chief Justice wrote: "It seems obvious to me that if 70 men and lads combine to beat a woman although with thin sticks, they must have the knowledge that their actions would probably cause death or at least grievous harm to the woman."⁶³ Yet the courts' opinion was based on more than mere speculation that Kumwaka and his cohort would have known that their actions would result in Mwaiki's death. Reading-with-the-grain and considering the knowledge brought to bear on the case suggests that colonial understandings of *king'ole* also informed the courts' opinions. Administrative and judicial documents indicate that the courts accepted the existence of *king'ole* as an active judicial institution even if they did not accept its authority as such. Thus the courts

⁶¹KNA DC/MKS 10 A/6/1. District Commissioner, Machakos. Ukamba Province Records of Barazas, 1912-1919. Native Baraza, Kitui, 1 and 2 January 1915.

⁶²*LRK*, 1932.

⁶³*Ibid.*

would likely have recognized that the death of the witch was the end goal, not the unintended result, of the exercise of *king'ole*.

As noted above, the courts' findings rested also on precedent and in the rejection of the defense raised by the Kamba men's counsel, that the "...genuine and real belief in powers of the witch and fear as to the result of her spell..." led Mwaiki's neighbors to believe killing her was necessary to defend Kumwaka's wife.⁶⁴ Applied to *Rex versus Kumwaka*, precedent indicated that the plea in murder cases that "...the deceased had bewitched or threatened to bewitch the accused" had been "consistently rejected except in cases where the accused had been put in such fear of immediate danger to his own life that defence of grave and sudden provocation has been held proved."⁶⁵

This chapter has already suggested that in the case of Mwaiki's killing, Kumwaka and his cohort were acting within their community's own juridical code for dealing with witchcraft. The evident eagerness with which the Kamba men admitted to having beaten Mwaiki together with the knowledge that they reported Mwaiki's death and their role in it to their headman and to the D.C. suggests strongly that they saw their actions as legitimate or at least arguably justifiable. However, colonial law-as-written, judicial precedent, and colonial authorities did not permit conversations about what constituted justice within colonial settings to be held in colonial courts.

In examining the sociology of the state, numerous scholars have noted that a key element in establishing authority is to dismiss the claims of competing sources of authority.⁶⁶ In *Rex versus Kumwaka*, the courts mobilized expert knowledge to dismiss

⁶⁴Ibid.

⁶⁵Ibid.

⁶⁶For example, Bernard Cohn and Nicholas B. Dirks, "Beyond the Fringe: the Nation State, Colonialism and Technologies of Power," *Journal of Historical Sociology* 1.2 (1988): 224-229; Timothy Mitchell, "The

the arguments that the Kamba men voiced about their authority over Mwaiki. As indicated above, the courts, while acknowledging *king'ole*, did not accept its legitimacy, arguing that "...no belief could well be more mischievous or fraught with greater danger to public peace and tranquility" than the belief that "...an aggrieved party could take the law into his own hands."⁶⁷ Reading various (colonial) opinions on *king'ole* in conversation with those of the courts illustrates the phalanx of expertise which worked to dismiss the claims of Kumwaka and his cohort that they had acted through *king'ole* justice in turning Mwaiki into a corpse.⁶⁸ The mobilization of expertise, in turn, entailed various politics and poetics of translation.

First, colonial experts on *king'ole* sought to translate the practice into more familiar terms, setting up equivalencies between it and other more well-known "barbaric" customary practices in the British Empire. For example, a D.C. of Machakos described *king'ole* as a "dreaded secret society" whose tactics were "as cruel as the practice of *suttee* in India."⁶⁹ This equation with *suttee*, or "widow burning," would have carried a double resonance in early 1930s Kenya as liberal MPs and church leaders had set up an equivalency between the Indian practice and female genital cutting during the Kenyan Female Circumcision controversy which reached its zenith shortly before Mwaiki's case.⁷⁰ Thus, colonial expert opinion discounted *king'ole*, suggesting that a practice as "cruel" as *suttee* and excision could not possibly be part of a legitimate legal institution.

Limits of the State: Beyond Statist Approaches and Their Critics," *The American Political Science Review* 85.1 (March, 1991): 77-96.

⁶⁷LRK, 1932.

⁶⁸Cohen and Odhiambo, 1992.

⁶⁹Cited in Munro, 1975.

⁷⁰Jocelyn Murray, *The Kikuyu Female Circumcision Controversy of 1928 - 1932: Background, Comparisons and Perspectives* (Ph.D. diss., University of California-Los Angeles, 1972); Susan Pedersen, "National Bodies and Unspeakable Acts: the Sexual Politics of Colonial Policy-making," *Journal of Modern History* 63 (1991): 647-680.

Also, court assessors, Kamba men charged with “authenticating” the finer points of “custom” and translating “custom” into the language and idioms of the courts, argued during the trial that Kumwaka had “had no right to summon the other accused” because rather than being Kumwaka’s peers they were mainly “young men [who] did only what they were told.”⁷¹ As noted above, colonial ethnographic sources and present-day informants insist that a *king’ole* must be composed of *atumia*, elders, each with the knowledge and experience to participate in making life-and-death decisions. According to the expert opinion of the assessors, the inappropriate age-group composition of the “*king’ole*” that created Mwaiki’s corpse rendered the *king’ole* illegitimate in the eyes of the courts and according to local law.

The D.C.’s report echoed and elaborated this opinion, adding that not only had the *king’ole* been inappropriately composed, but that it had acted without customary due process. The D.C. explained,

According to the Kinyole law, however, elaborate proceedings which must be sanctioned and directed by the Elders are necessary before the community may act...only a section of the community i.e. a number of relations and friends of certain “bewitched” individuals – acted on the spur of the moment without customary sanction.⁷²

Finally, the Provincial Commissioner offered a similar, two-point opinion. First, he suggested that *king’ole* entailed specific processes and sanctions which had not been followed in Mwaiki’s case. Second, in an opinion reminiscent of that made by the Court of Appeal in the Kikuyu *Kiama Case*, he argued that the colonial government’s co-option of the local tribunals had stripped these bodies of their power to sanction *king’ole*. He wrote,

⁷¹ See *East African Standard* press coverage of *Rex versus Kumwaka* between January and April, 1932.

⁷² KNA DC/MKS.1/1/24. District Commissioner, Machakos. Machakos District Annual Report, 1931.

Under [king'ole], persons accused of witchcraft could be killed with impunity, but only after the Nzama or Tribunal had given its consent. The procedure was elaborate and clearly defined... (See Lindblom's work on the Wakamba). As the Nzama are now a body carrying out the functions of the Government, its permission in this case could not, of course, be obtained.⁷³

In sum, according to the expertise mobilized by the colonial courts, the *king'ole* that killed Mwaiki was illegitimate for the following reasons: (1) it was another example of a "cruel" local custom, (2) it was composed of youth rather than elders, (3) it had acted without due process, and (4) the authority of the colonial government superseded that of the *nzama* in matters of judicial killing.

Overall, the fact of Mwaiki's corpse evidenced two different crimes and two distinct judicial codes. For both the colonial courts and Kamba authorities, Mwaiki's corpse signaled the moments at which social control had been lost due to witchcraft. And, the goal of colonial and Kamba legal systems was to right a respective perceived wrong, be it the killing of a witch or the recidivist practice of witchcraft. For the colonial courts, Mwaiki's death, and the legal proceedings it necessitated, also presented an opportunity to reassert the authority of the state, in large part through the dismissal of the competing Kamba code, *king'ole*. In the same ways in which colonial and Kamba codes reflected different conceptions of crime and justice, so did the legal settings in which colonial officials and Kamba authorities managed the creation of the corpse and the publics they sought to address in doing so.

Judicial Settings and Publics

While Mwaiki's body reflected different juridical codes at work, it also pointed to the multiple legal settings and publics through which "justice" was debated and

⁷³ KNA PC/CP/4/2/3. Provincial Commissioner, Central Province. Provincial Commissioner's Report, 1931.

administered in colonial Kenya. Following the trajectory of Mwaiki's death exclusively through colonial documentation establishes a linear path up the hierarchy of the colonial administrative and legal system, from the Headman to the District Officers to the High Court to the Appeal Court to the Governor-in-Council. It also creates a simultaneously limited and undifferentiated notion of the "publics" that the courts sought to address, most directly that of a monolithic African "other" and more tangentially that of a colonial community concerned that the courts carry out letter of the law. But applying additional strategies of reading to these documents, and engaging with other sources, expands the scope of "judicial settings" and "publics," and, in turn, the scale of Mwaiki's story.

A judicial setting is not exclusively the building in which a trial is held, but also encompasses the varied literal and figurative spaces in which legal processes are carried out. Within different judicial legal settings, officials aim not simply to speak to, but also to constitute, various publics under their authority. Reading ethnographic and colonial sources together while attending to a broader idea of what makes a "judicial setting," indicates that Mwaiki's killing was both dealt with in judicial settings and carried out in a judicial setting. Further, her body – and responses to it –spoke to and delineated a range of publics.

As noted above, at first glance, the colonial legal setting of *Rex versus Kumwaka* and the publics that the courts addressed appear self-evident. According to colonial law, the fact of the corpse rendered the Supreme Court of Kenya and the High Court of Appeal for Eastern Africa the appropriate legal settings for the trial and appeal of *Rex versus Kumwaka*. The unprecedented number of defendants, however, necessitated a

shift in location.⁷⁴ The drama of the Supreme Court trial was thus highlighted and played out in its relocation to the theatre of the Railway Social Institute. As a reporter for the *East African Standard* described,

The setting of the Court was distinctly strange, His Honour the Chief Justice occupying the stage amidst bizarre surroundings, an askari occupying the orchestra pit and counsel, accused, witnesses and the public being accommodated in the body of the hall...the court looked like a setting for a modern mystery play, but the principle characters, the 70 accused men were not on the center stage.⁷⁵

The judicial opinions offered in the settings of the courts addressed and delineated with varying degrees of specificity four primary publics: (1) the defendants, (2) the court room audience, (3) Africans *writ large*, and (4) colonialists in general. These opinions, reinforced by the authority of the legal settings in which they were presented, spoke directly to the crime at hand and also contained a sub-text of assurance that colonial justice was being readily and appropriately meted out. The legal settings of the courts, and the publics to whom the justices spoke, were all concerned with Mwaiki *after* she became a corpse. The spaces of the courts offered plainly bounded legal settings for dealing with a clear-cut crime while simultaneously speaking to publics constituted vaguely enough to receive the courts' messages.

Ethnographic sources offer an entrée into additional legal settings and more differentiated publics concerned with the creation of Mwaiki's corpse. As a parallel code

⁷⁴ At first glance, it might appear incongruous with British justice that Kumwaka and his cohort were tried as a collectivity. This situation was likely due in part to their defense that they had acted collectively in constituting the *king'ole* that killed Mwaiki. Further, the notion of collective punishment was enshrined in Kenyan legislation. The Collective Punishment Ordinance (1909) empowered the Governor to impose fines on villages or similar collectivities for a variety of offenses. In cases of murder or serious assault, inhabitants of the area in which the crime took place could all be charged unless they could demonstrate that they: "(a) had not an opportunity of preventing the offence of arresting the offender; or (b) have used all reasonable means to bring the offender to justice." PRO CO 542/2. *Official Gazettes of the East Africa Protectorate*. Ordinance No. 4 of 1909. 24 April 1909. 203. The terms of the commutation of the group's sentences reflect the courts' recognition of Kumwaka's greater culpability in Mwaiki's death. These terms are discussed later in this chapter.

⁷⁵ "A Strange Setting for a Murder Trial." *The East African Standard*. 2 February 1932.

of justice existed alongside the colonial legal system so did alternative legal settings and the additional publics they involved. The legal settings of *king'ole* justice were serialized, but scattered, and the publics they incorporated were diversely constituted.

The first legal setting was the meeting of the *atumia* held to discuss the witch generally. A more specific conference of the *king'ole* council constituted the next legal setting. The third legal setting was the primary homestead of the witch's family where the *king'ole* conferred with the witch's relatives about their plans for her. The home of the witch, where the *king'ole* confronted the witch and demanded she undo her witchcraft, was the fourth legal setting. For a repentant witch, the home of the victim where she undid her work and/or a public space in which she was cleansed, constituted additional legal settings. But for women like Mwaiki who would not or could not undo their witchcraft, the bush, like that in which Mwaiki became a corpse, constituted the ultimate legal setting for the exercise of local justice.

Within these judicial settings, a number of publics interacted and were constituted. Unlike the more bounded proceedings of the colonial legal system, *king'ole* justice involved and addressed various members of the community in proceedings noted above. These steps and settings were both didactic – i.e. providing a spectacular lesson about the appropriate treatment of social malefactors – and compensatory, paying back the individuals harmed by the witch and the community in general whose collective equilibrium had been upset by having a recidivist witch in their midst. The legal settings and publics in Nzawi were concerned with Mwaiki *before* she became a corpse. The spaces of the local justice offered a series of legal settings for dealing with a clear-cut

crime, while simultaneously speaking to publics constituted diversely enough to participate in different elements of *king'ole* justice.

These competing legal settings, the colonial courts versus the *king'ole*, opened a third legal setting, one in which heated debates over the efficacy of colonial law in the face of a witch killing were carried out. Reading additional colonial sources in conversation with court documents and ethnography demonstrates how the case of *Rex versus Kumwaka* spilled outside the colonial courts and engaged an additional public, a British metropolitan public composed of intellectuals, journalists, politicians and human rights activists concerned with debating British justice vis à vis African mentalités. The discussions of this metropolitan public countered and contested the claims about the efficiency and hegemony of colonial justice as expressed by the courts.

For example, these debates reflect, to borrow Cohen and Odhiambo's phrasing, the "constitution of tradition and modernity via courtroom contests."⁷⁶ On the one hand, the courts sought to reinforce their authority by couching their opinions about *Rex versus Kumwaka* in terms of modernity, the rational, the here-and-now. As noted above, the courts marked the Kamba men's defense that beliefs in witchcraft had inspired fear of grievous harm as untenable according to contemporary law. In referring to the assault on Mwaiki as part of "an *old* Kamba custom," the Chief Justice dismissed the coevalness of Kamba codes.

On the other hand, issues of "tradition and modernity" were articulated differently in the opinions offered by members of the metropolitan public responding to and contesting the courts' claims. Various writers condemned the death sentences as unfair given the sway that traditional beliefs in witchcraft and in the justice of witch-killing held

⁷⁶ Cohen and Odhiambo, 1992.

over Kamba minds. For example, *Rex versus Kumwaka* had been introduced in the House of Commons question sessions by Labour Member of Parliament Morgan Jones who asked if the Secretary of State for the Colonies, Sir Philip Cunliffe-Lister, was aware of the death sentences handed down in the Wakamba Witch Trial. And adding another element to debates about witchcraft-related crimes and the administration of justice in the colonies, Morgan Jones demanded of Cunliffe-Lister whether he would “take steps to ensure that these sentences for a crime due to ignorance and superstition are not carried out.”⁷⁷

Parties interested in the *Kumwaka* case and appeals process also queried the real function and flexibility of a modern legal system. British authorities in the metropole and in Kenya were for the most part inclined to promote the primacy of the-law-as-written, to uphold colonial legal hierarchies, to promote administrative power through law and to allow little wiggle room for negotiation with local custom. Indeed, Cunliffe-Lister had responded shortly to the member’s question, asserting that his information regarding the case did not exceed that available through press reports and restated the Supreme Court’s assertion “that there was no alternative to finding the prisoners guilty of murder.”⁷⁸ He aimed to make it “clear that the decision as to the exercise of the Royal Prerogative of Mercy rests constitutionally with the Governor of Kenya alone.”⁷⁹

This view is also reflected strongly in letters from Acting Attorney General of Kenya, T.D.H. Bruce, to the Colonial Secretary. Attending to Morgan Jones’s question and Cunliffe-Lister’s reply, Bruce’s writings highlighted continued colonial and

⁷⁷House of Commons Debates 10 February 1932. Vol 261. 857-858.

⁷⁸House of Commons Debates 10 February 1932. Vol 261. 857-858.

⁷⁹Personal Letter from Philip Cunliffe-Lister in reply Geoffrey Dawson, Esq. concerning a report in *The Times of London* about the death sentences on “sixty Kenya natives for the murder of a ‘witch’.” 31 March 1932. PRO CO 533/420/8. Wakamba Witch Trial.

metropolitan concerns about following the law to the letter in the case of *Rex versus Kumwaka*. Bruce wrote that he had read that “a question has been asked in the House of Commons about this case and that the Secretary of State answered that he was asking the Governor for full particulars.” He argued that “the greatest care should be exercised to follow the normal procedure in this case unless there are the strongest reasons, of which I am not aware, to the contrary.” If the Governor of Kenya suggested quelling questions around *Rex versus Kumwaka* by giving a recommendation before the appeal had been lodged and considered, Bruce wrote that he would “advise His Excellency that this case should not be considered in Executive Council until the full expiration of thirty days allowed for appeal to the Court of Appeal for Eastern Africa.”⁸⁰

The reasons for following standard procedure in the case of *Rex versus Kumwaka*, Bruce, explained, were manifold. First, Bruce referred to the law as written. He wrote,

With the greatest respect I would submit that the true meaning of Article 42 of the Royal Instructions dated 11th September, 1920, read, as it must be, in conjunction with the East Africa (Court of Appeal) Order in Council, 1921, is that the Report of the Judges shall be taken into consideration at the first meeting of the Executive Council which may be held conveniently after the final condemnation of the convict...

If the Governor and the Executive Council “consider[ed] the case before the appeal was decided,” a continuous conflict between the executive and the judiciary would necessarily ensue. Bruce explained how such a conflict could potentially play out. He theorized that “When a sentence of death was quashed on appeal, any commutation which the Governor in Council might have advised would fall to the ground, and where the Executive Council confirmed the death sentence the conviction for murder might be

⁸⁰ Letter from T.D.H. Bruce to the Colonial Secretary. 2 December 1931. KNA AG/34/549. Attorney General. *Rex versus Kumwaka*.

quashed by the Court of Appeal, thus bringing the Executive Council into conflict with the judiciary.”

Bruce also appealed to precedent and procedure. He noted first that, “the practice hitherto has invariably been for the Executive Council to take no action until the convict has had the opportunity of his appeal being heard by the Court of Appeal for Eastern Africa...” In order to clarify procedure, Bruce enclosed a copy of a letter by Sir R. W. Hamilton, formerly Chief Justice and then Undersecretary of State for the Colonies, to the Chairman of the Prisons Board that provided “instructions as to the procedure to be followed in informing illiterate natives convicted of murder of their right of appeal.” Bruce noted that according to practice, “the prison officials not only tell them [natives] of their right of appeal, but inform them that they would be wise to appeal as the appeal can do no harm and might result in an acquittal.” He restated his opinion that deviation from the standard appeals procedure could potentially create a conflict between the executive and judiciary elements of the colonial government. Bruce wrote,

In this case, therefore, if the Executive Council considered the case before the time of appeal had expired and commuted the sentence as suggested by His Honour the Chief Justice, it is a practical certainty that some or all of them would lodge an appeal against their conviction for murder, and it is quite possible that, when the appeals come on, the Court of Appeal might quash the conviction for murder or reduce the conviction for murder or reduce the conviction to one of say grievous harm, and sentence the convicts to a milder sentence than that which the Executive Council had already imposed in commutation of the death sentence. In either event it appears to me that His Excellency the Governor in Council would stultify themselves (sic), and the executive would come in conflict with the judiciary which, in my view, is a most undesirable state of affairs.

Noting that commuting the death sentences in Executive Council before the High Court of Appeal for Eastern Africa had ruled would effectively “deprive” Kumwaka and his cohort of their “right of appeal against their conviction for murder,” Bruce reiterated

that “some or all” of Kumwaka’s group “will in any event appeal against the conviction for murder whatever the commutation might be.” Overall in Bruce’s opinion the law concerning the appeals process needed to be followed to the letter. Attention to procedure and precedent in the case of *Rex versus Kumwaka* was “quite a proper practice” and the one most likely to insure that, “so far as is ever possible, complete justice shall be done.”⁸¹

But views like those expressed by Cunliffe-Lister and Bruce were hardly uncontested. Another credentialed and vocal camp queried the function and flexibility of a modern legal system, asking instead if it was the role of the legal system to administer harsh punishments for violations of British law, in effect “..frighten[ing] the natives out of certain harmful and superstitious beliefs?”⁸² Or, they demanded, was it to revise a body of law “unsuited...to the peculiar needs of primitive people” and to deal with local beliefs “sympathetically and not scornfully, [but] scientifically?”⁸³ Such questions emanated from a broad range of people and institutions – even from Buckingham Palace – and flooded into the Colonial Office.⁸⁴

For example, individual members of the clergy like the Reverend H.D. Hooper as well as religious and human rights organizations like the Anti-Slavery and Aborigines Protection Society, the Secretary for Catholic Crusade, the Church Missionary Society,

⁸¹ Ibid.

⁸² Letter from W.B. Stevenson to undisclosed recipients titled “Death Sentence on Sixty African.” 6 February 1932. PRO CO 533/420/8. *Wakamba Witch Trial*. For figures on death sentences in Kenya see the Judicial Department Annual Report 1932 for Kenya. PRO CO 544/38. Administration Reports, Volume II. Annual Report on the Social and Economic Progress of the People of the Kenya Colony, 1932.

⁸³ *Times of London*. 13 April 1932.

⁸⁴ Memo exchanged between Assistant Undersecretary of State for the Colonies Cecil Bottomley and Philip Cunliffe-Lister. 31 March 1932. PRO CO/533/420/8. *Wakamba Witch Trial*. White Kenyan expatriates also took a lively interest in the case, exhibiting perspectives similar to those expressed by metropolitan Britons. See the letters contained in the newspaper for expatriates, *East Africa*, from late winter and early spring of 1932.

and the London Group on African Affairs wrote to the Colonial Office as well as to colonial authorities in Kenya.⁸⁵ Letters also came from the members of the legal profession and from journalists. Overall, written in the period before the Governor-in-Council's clemency decision, these letters condemned the death sentences handed down in *Rex versus Kumwaka* and upheld by the High Court of Appeal for Eastern Africa. Accordingly, these letters also queried what truly constituted "justice" in colonial settings like Kenya. In the opinions of these writers, colonial law was neither hegemonic nor unequivocally appropriate and applicable.

For example, the London Group on African Affairs, an organization which described itself as being "founded on the principles and policies of the South African Joint Councils of Europeans and Africans to assist in the improvement of race relationships in Africa," initiated a telegram campaign to ask Governor Byrne to "exercise his right to prevent the execution of 60 natives in Kenya."⁸⁶ In the course of this campaign, Fredrick Livie-Noble, Secretary of the London Group on African Affairs, wrote to a host of intellectuals and authorities on Kenya such as Julian Huxley, Lloyd George, Lord Lugard, Lord Passfield (Sidney Webb), Mrs. Sidney Webb, Dr. Drummond Shields, Bertrand Russell, Lord Parmoor, J.A. Hobson, and J.H. Driberg, asking them to lend their names to a telegram entreating Byrne to employ his prerogative of mercy. Kumwaka and his cohort, Livie-Noble argued, "have been legally condemned to death for an act which neither they nor their tribe hold reprehensible."

⁸⁵ Colonial Office Registers of Correspondence located at the Public Record Office give lists of correspondence concerning *Rex versus Kumwaka* that the Colonial Office and Government House, Nairobi, received and to which the institutions responded. Unfortunately, the overwhelming majority of this correspondence was destroyed under statute. PRO CO 628/27 Kenya Registers of Correspondence, 1932.

⁸⁶ *London Group on African Affairs*. RHO LGAA 3/1 pages 115-119. For correspondence in the same vein with the Aborigines and Anti-Slavery Protection Society, see also, *Letters to the Colonial and Foreign Office*, 1926-34. RHO Mss.Brit.Emp.s.19. D1/32 and D2/25.

Correspondence between Livie-Noble and Lord Parmoor concerning the case and campaign called into question the efficacy of British law when applied to “natives.”

Parmoor wrote to Livie-Noble,

In my view the death sentence should not have been pronounced in such a case which is far removed from the ordinary factors in a murder case, under the principles of British Law. I think that the death sentence should have been commuted to a shorter period of imprisonment on two grounds: (1) to emphasise the distinction between murder as ordinarily understood in British criminal law, and in a witchery case in East Africa. (2) That imprisonment is much more trying than it would be to an Englishman in England, and may well result in the death of a number of natives concerned unless special care is taken... To pass sentence of death on such a case is calculated to make the natives distrust the ... application of British justice.⁸⁷

Livie-Noble responded in a similar vein,

My own feeling very strongly is that the original sentence is justifiable as it undoubtedly is in English law which should never have been passed; and the whole incident calls for the early consideration of a much larger question - how far are British legal systems and codes applicable to African communities which we govern? If this unfortunate case causes the more fundamental question to be considered, then some good will have been served.⁸⁸

Letters also came from those affiliated with the academy like Glasgow University Professor W.B. Stevenson. Like Livie-Noble and Parmoor, Stevenson questioned the efficacy of British law and its application in the colonies. In addition, Stevenson also raised questions about the ways in which “natives” would interpret the verdict. In a letters to Member of Parliament John Buchanan and to unknown recipients, Stevenson expressed his “astonishment” and “indignation” over the verdict in *Rex versus Kumwaka*. He argued that the sentence itself was an “outrage” and that it was “hardly credible that the sentence should be carried out.”⁸⁹ The sentence, Stevenson asserted, was outrageous

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Letters from W.B. Stevenson to John Buchanan and unnamed others. 6 February 1932. PRO CO 533/420/8. Wakamba Witch Trial.

because of the context of the crime. He maintained that the “cause of the murder should also be taken into account.” He explained,

The murderers were, from their point of view, administering justice – extirpating from their midst a pernicious and evil power. Even had the murder been the work of only two or three, its motive would have been a good reason for mitigation of the extreme penalty. How much more when, as the numbers involved show, the act was done in full accordance with the general sense of right and justice is a whole tribe or locality?”⁹⁰

Overall, Stevenson asserted that “Even half a dozen executions would be too much in such a country for such an offence.”

Stevenson was also concerned with the ways in which the verdict would affect the reception of British justice amongst colonized peoples. The sentence, he explained, showed “great ignorance of the response it will evoke amongst the native population of Kenya Province.” “Natives, Stevenson argued, “will suppose that such a sentence is merely part of a scheme for destroying them in order to get possession of their land. Besides they know that when a black man is killed by a white man even one execution does not take place.” The sentence, he added,

... may be intended to frighten the natives out of certain harmful and superstitious beliefs and practices. Whatever its influence in this direction it will certainly confirm the native peoples in their conviction that the white men’s government is unjust.⁹¹

British concern over the verdict was reiterated in Kenya shortly before the Governor’s decision by an *East African Standard* editorial and by a letter-to-the-editor by Sir Fiennes Barrett-Lennard, Chief Justice of Jamaica, as well as a former member of the

⁹⁰ Letter from W.B. Stevenson to undisclosed recipients titled “Death Sentence on Sixty African.” PRO CO 533/420/8. Wakamba Witch Trial.

For figures on death sentences in Kenya see the Judicial Department Annual Report 1932 for Kenya. *Administrative Reports, Volume II*. PRO CO 544/38. Colonial Annual Reports. Annual Report on the Social and Economic Progress of the People of the Kenya Colony, 1932.

⁹¹Stevenson, *ibid*.

High Court of Uganda and of the Court of Appeals for Eastern Africa. The suitability of British law in the context of colonial Kenya concerned the editors of the *East African Standard*. They noted that under the “law as it is today” the Supreme Court could “not avoid imposing” the death sentence. However, the editors asserted that the existing law was “unsuited...to the peculiar needs of primitive people.” While the murder of a witch was a “crime” from the perspective of the Supreme Court, the editors wrote, in the minds of the Wakamba men sentenced to death witch-murder was “not easily if at all distinguishable from a responsibility imposed by beliefs and tribal custom.” The editors enjoined the Governor to make his decision regarding the appeal quickly for the sake of justice and for the benefit of the imprisoned Wakamba awaiting news of their fate. “No human being,” the editorial stated, “whatever his mental capacity can be indifferent to his position in such circumstances, and no civilized machinery of justice is intended to prolong that condition if swift and definite action can be taken.”⁹²

While many of Sir Fiennes Barrett-Lennard’s opinions mirrored those of the editors of the *East African Standard*, his letter also introduced concerns about the case vis à vis Britain’s historical treatment of its own witches and about the verdict’s impact on British prestige. Witchcraft, Barrett-Lennard pointed out in an evolutionist vein, was a “terror common to all humanity.” Though he had “never heard an Englishman admit belief in it [witchcraft],” Barrett-Lennard noted the last person to be publicly called a witch in Britain had been “cruelly murdered” in Ireland a mere forty years before *Rex versus Kumwaka*.⁹³ He foregrounded the fact that

⁹² “The Wakamba Witch Case.” *East African Standard*. 31 March 1932. 8.

⁹³ This reference to a recent *Irish* witch-murder might be intended to point to primitivity within Great Britain’s own bounds as well as to the history of witchcraft beliefs and practices in Great Britain.

...down to the 18th century, witchcraft in Europe was rated by Europeans as a capital crime. Witches were tortured on the Continent of Europe in order to induce confessions. We hanged them. A great Chief Justice was threatened with a motion of censure in the House of Commons because he ridiculed witchcraft. He won. We turned witches into rogues and vagabonds and such is the legal description of them today.⁹⁴

In Barrett-Lennard's estimation, though two hundred years earlier British conceptions of witchcraft were similar to those of the contemporary Wakamba, British mentalité and law had evolved to the point where witchcraft no longer posed any significant threat to the social order.

Barrett-Lennard also referenced the history of British treatments of witch-murder in Africa. Recalling his tenure on the High Court of Uganda, Barrett-Lennard wrote that the Ugandan murderer of a witchdoctor had received "a long sentence of rigorous imprisonment" rather than a death sentence because the members of the court "knew him to be very primitive and in constant dread of occult experiences." Following his own encounters with Africans' "primitive" beliefs in witchcraft and his knowledge of the history of witchcraft in Britain, Barrett-Lennard argued that the death sentences handed by the Kenya Supreme Court were inappropriate and failed to serve justice. He wrote,

In view of the condition of the Akamba and in view of our very history, the death sentences on 60 of them were cruel mockeries, forced on the Chief Justice by a code of the local adaptors which (1) forgot that the laws exist for the people and not the people for the laws; or (2) disliked giving essential powers to the Courts. The Penal Code in India does give them a discretion though a limited one.

Finally, Barrett-Lennard acknowledged that though the Chief Justice of Kenya "felt constrained to pass" the verdict in *Rex Versus Kumwaka*, the "trial in the Ukamba

⁹⁴ Barrett-Lennard is referring to the historic shift in the legal treatment of witchcraft in Britain. "Seventeenth-century legislation punished people for being witches – i.e. for possessing the power of witchcraft. The 1736 Vagrancy Act and later the Vagrancy Act of 1824 abandoned this and henceforth punishment was to be for the pretence of possessing this power. The earlier law aimed at the practice of a real power, the later at a practice of a pretended one." Chanock, 1985. 94.

witch case...is very injurious to British prestige” because “no Court ought to be under the duty of ordering a punishment destined never to be carried into effect...” He entreated colonial authorities in Kenya to keep in mind that Supreme Court verdicts needed to “command confidence and respect.” This would be impossible if the court had “blindly to register sentences only suitable for the advanced races of the world in many instances.”⁹⁵

Overall, the editors of the *East African Standard* and Fiennes Barrett-Lennard shared similar attitudes regarding the outcome of the Wakamba Witch Trial. They were concerned with the meting out of justice. Though the editors and Barrett-Lennard believed British should take into account the “primitive” Wakamba mentalité in which witchcraft constituted a material threat, they also saw the Wakamba worldview as something which could ultimately be shed in much the same way that the British cast off their own superstitions in two hundred years of “progress.” Equally as important if not more so, Barrett-Lennard and the editors saw justice as ineluctably granted *to* the Wakamba *by* the British.

The Conclusion of Mwaiki’s Case?

So how did case concerning Mwaiki’s corpse ultimately conclude? While the appeal lodged in the High Court of Appeal for Eastern Africa by solicitors for Kumwaka and his cohort was rejected, the case was referred to the Governor-in-Council with the justices’ recommendation for clemency which the Governor granted. The 60 death sentences were commuted to varying periods of hard labor on 2 April 1932.⁹⁶ The

⁹⁵ Fiennes Barrett-Lennard. “The Wakamba Witch Case: Views of a Colonial Judge.” *East African Standard*. 31 March 1932. 9.

⁹⁶ “Wakamba Witch Case,” *The East African Standard*. 2 April 1932. Front page. Indeed the Governor had been planning to commute the sentence all along but had been constrained by procedure. In a mid-

Governor's office stated it saw no "maladministration of the Penal Code in force in Kenya" and maintained that the Supreme Court had no other legal recourse "in a charge of murder than to impose the death penalty." Press coverage of the case stated that *Rex versus Kumwaka* "emphasised the necessity for a change in the application of the law to natives."⁹⁷

This result seems in keeping with the neat colonial narrative of the events surrounding Mwaiki's death which has the successful exercise of colonial control at its center. But as suggested above, different sources and strategies of reading render "Mwaiki's case" a much more complicated story of contest and contradiction than the easy colonial narrative of *Rex versus Kumwaka*. Treating the events as "Mwaiki's case" suggests unanswered and irresolvable questions.

Was Mwaiki actually a witch or not? The courts and the 60 Kamba men unreservedly acknowledged her as such in efforts to secure their own claims about justice. For Kumwaka and his cohort, Mwaiki's status as a witch both explained and justified her killing. For the courts, her status as a witch underscored the unenlightened mentalité of colonial subjects and reinforced the need for colonial control. Mwaiki is an "arche-fact" because she died so spectacularly and at the hands of so many. For scholars, it is impossible to divine the truth or fiction of Mwaiki's witchcraft, and we must instead content ourselves with understanding why different actors chose to regard Mwaiki as a witch.

February telegram to the Colonial Office marked private and personal, the Governor messaged, "You need not have any anxiety over the Wakamba murder case. The Chief Justice has already recommended commutation in each case. Intend to act on his advice but until Appealable(sic) time has expired it is not possible for me in Executive Council to exercise prerogative of mercy." Telegram from Governor of Kenya Joseph Byrne to the Colonial Office. PRO CO 533/420/8. Wakamba Witch Trial.

⁹⁷ *East African Standard*, ibid.

How was the case regarded by African publics? Colonial sources address only the opinions of colonial authorities and actors. Absent from these documents are any subsequent traces of Kumwaka's cohort and any reactions of the colonial subjects to whom the efforts of the colonial courts were ostensibly directed. As Benton writes, "Colonial powers sometimes sent messages through legal institutions that were simply not received."⁹⁸

Nor is *Rex versus Kumwaka* an active *lieu de mémoire*.⁹⁹ Present-day informants who recall other contemporary events and speak readily about witchcraft evidence a reluctance or inability to speak about the case. Indeed, it is impossible to know at what juncture the story of the Wakamba Witch Trials disappeared or to what degree it was ever present in Kamba popular knowledge at all. For the historian, this silence still speaks, suggesting that in many ways certain colonial efforts at control surrounding the creation of Mwaiki's corpse mattered mostly to colonial actors and spoke primarily to colonial audiences. Such silences raise the question of how many more Mwaikis who died in less spectacular circumstances are buried inside and outside the archival field.

In a related vein, such silences pose the issue of what kind of work did the case ultimately did. *Rex versus Kumwaka* is cited in nearly all subsequent cases of witch-killings to come through the courts in the pre-independence period. And, as the next section in this chapter points out, *Rex versus Kumwaka* was integrated into larger discussions about the appropriate relations between legal and anthro-administrative practice in the Empire. Nonetheless, the persistence of witch-killing cases up to the present day suggests that *Rex versus Kumwaka*, that Mwaiki's case, was ultimately

⁹⁸ Benton, 16.

⁹⁹ Pierre Nora, "Between Memory and History: *Les Lieux de Mémoire*," *Representations* 0.26 Special Issue: Memory and Counter-Memory (Spring 1989): 7-24.

unknown or unimportant to the very people it was meant to address. For historians, another task is then to tease out the reasons behind the dramatic disconnect between colonial policy and local practice.

Resonances and Ramifications

The Commission of Inquiry into the Administration of Justice in Kenya, Uganda and the Tanganyika Territory in Criminal Matters Affecting Natives

The furor surrounding *Rex versus Kumwaka* was not the first instance in which colonial authorities had confronted the constitution of British justice in the Empire, particularly in the criminal realm.¹⁰⁰ Up to the *Kumwaka* period, the State had made adjustments to the administration of criminal justice, either through the introduction of new legislation or through the refinement of laws already on the books. Indeed, some of these adjustments spoke to important issues in *Kumwaka*. For example, although not used in *Kumwaka* per se, as noted above the Collective Punishment Ordinances had enshrined the notion of communal culpability in the Kenya Penal Code.¹⁰¹ More specifically, in early years of the colonial period “The Penal Code Ordinance” was passed to amend the law relating to the sentencing of young persons, i.e. persons under the age of 16, who had been convicted of offences punishable by death. The second section of the ordinance stipulated:

No sentence of death shall be pronounced on or recorded against a young person, but in lieu thereof the Court shall sentence the young person to be detained during His Majesty’s pleasure and, if so sentenced, the young persons

¹⁰⁰ For a basic outline of colonial-era concerns, see, C. Clifton Roberts, “African Natives Under the English System of Penal Law,” *Journal of Comparative Legislation and International Law Third Series*. 15.4 (1933): 169-175.

¹⁰¹ PRO CO 533/392/14. Collective Punishment Ordinance. Government Notice No. 363. A Bill to Consolidate and Amend the Law Relating to Collective Punishment. 20 June 1930. Also in the same file, Minute from the Attorney General of Kenya to all Senior Commissioners. The Conduct of Inquiries Under the *Collective Punishments Ordinance*. 1 March 1930.

shall be liable to be detained in such place and under such conditions as the Governor may direct whilst so shall be deemed to be in legal custody.¹⁰²

Nine of the youngest members of Kumwaka's cohort benefited from this law which made it legally untenable for the court to sentence them to death for their culpability in Mwaiki's murder.

In 1933, however, the piecemeal approach of alternately adding and amending criminal legislation was temporarily jettisoned in favor of a full-on systematized inquiry into British justice led by the Colonial Office. *The Commission of Inquiry into the Administration of Justice in Kenya, Uganda and the Tanganyika Territory in Criminal Matters Affecting Natives*, called in shorthand, "the Bushe Commission" because it was directed by the Colonial Office Legal Adviser H. Gratten Bushe, was established to address the problematic of criminal law in the Empire.¹⁰³ Witnesses for the Bushe Commission were pulled from all ranks of the colonial governmental apparatus and even included a number of African functionaries. While the Bushe Commission covered as topics as far-ranging as "bail" and "stock-theft," witchcraft beliefs and practices, particularly as they precipitated murders and assaults, were key foci of a variety of witnesses' testimony. As with *Kumwaka*, in the context of the Bushe Commission, the issue of witchcraft offered avenues into broader problems like native mentalité and degrees of murder.

¹⁰² PRO CO 542/2. *Official Gazettes of the East Africa Protectorate*. Ordinance No. 10 of 1909. 1 August 1909. 329.

¹⁰³ *The Commission of Inquiry into the Administration of Justice in Kenya, Uganda and the Tanganyika Territory in Criminal Matters Affecting Natives*. Cmd. 4623. London: His Majesty's Stationary Office, 1934. Available at the Library of the School of Oriental and African Studies. See also, H.F. Morris and James S. Read, *Indirect Rule and the Search for Justice*. Oxford: Clarendon Press, 1972. 90-94.

The Bushe Commission both emerged from and was constitutive of imperial networks of knowledge about law and anthro-administration and the challenges that witchcraft beliefs and practices posed. *Rex versus Kumwaka* was consistently referenced in discussions surrounding the Bushe Commission and by those testifying during the inquiry. For example, in a 1932 high-level Colonial Office circular memo on the possibility of establishing a commission to address "... what extent English law procedure was suitable for natives," also mentioned that "the witch case in Kenya" had produced suggestions to the League of Nations that they "... set up an investigation into the relation of native customary law and the law of the Protecting power." The memo also proposed that the Colonial Office work with the British representative to the International Law Association who had suggested clarifying the aims of the potential Colonial Office inquiry in order to "quash the proposal about the League of Nations" and thus "... have the great advantage of being first in the field..."¹⁰⁴

In early spring of 1933, the Bushe Commission was put in motion and witnesses and information solicited through imperial networks. In Kenya, for example, anthro-administrative knowledge was gathered through the orders contained in a circular from the Office of the Chief Native Commissioner and reinforced via a memo from the Native Affairs Department to all Provincial Commissioners entreating the PCs to submit a memorandum for the Bushe Commission's consideration.¹⁰⁵ The original circular stipulated that the Secretary of State had proposed that questions of reference be,

¹⁰⁴ PRO CO 822/44/10. Enquiry into the Administration of Justice in Criminal Matters Affecting Natives. Memo to Sir Cecil Bottomley from Colonial Office authority, H.B. No 27948. 6 May 1932.

¹⁰⁵ KNA VQ/10/11. Central Province. CNC Circulars. Circular from A. de V. de Wade, Chief Native Commissioner to all Provincial Commissioners with sufficient copies for District Commissioners. Commission of Enquiry into the Administration of Justice in Kenya, Uganda and Tanganyika in Criminal Matters Affecting Natives. 23 January 1933; KNA VQ/10/11. Central Province. CNC Circulars. Memo from H.H. Low, Department of Native Affairs, to Provincial Commissioners, Nyanza, Kikuyu, Nzoia,

To enquire into the administration of the criminal law in Kenya, Uganda and Tanganyika Territory in relation to procedure and practice of: (a) the Courts (and other Native Courts), and (b) the Police Authorities, and to consider whether in regard to the procedure or practice of such Courts or Authorities any alterations are desirable, (a) in the case of natives, and (b) generally.¹⁰⁶

Provincial and District Officers from across Kenya responded to the Chief Native Commissioner's request with varying degrees of specificity. The colonial authorities from Kenya who were actually called upon to testify before the Bushe Commission established many of the themes of the inquiry and their perspectives attracted significant notice in both East Africa and the metropole. In many instances these officials addressed directly the challenges that witchcraft posed not only for the administration, but also for the definition of British justice in the empire.

Generally speaking, the testimony made to the Bushe Commission by British authorities belonging to the Kenya administration evidences more sympathy for the sway that witchcraft beliefs held over local mentalités and the implications of witchcraft's influence for colonial order than do records like the Kenya Political and District Record Books and Annual Reports. Nonetheless, the sorts of concerns expressed by the administrators of the 1930s had been presaged in a 1921 memo from the District Commissioner's Office, Nyeri, to the Native Punishments Commission. The D.C.'s Office wrote,

A deliberate, brutal, calculated murder is a very rare occurrence among any native tribes of which I have had experience, such murders as are committed being almost invariably the result of some impulse, or if deliberate are prompted by racial antagonism or by the workings of witchcraft. A native acting under the influence of

Coast, Masai, Rift Valley, Ukamba, N.F.P., Turkana. Commission of Inquiry into the Administration of Justice. 21 February 1933.

¹⁰⁶ KNA VQ/10/11. Central Province. CNC Circulars. Circular from A. de V. de Wade, Chief Native Commissioner to all Provincial Commissioners with sufficient copies for District Commissioners. Commission of Enquiry into the Administration of Justice in Kenya, Uganda and Tanganyika in Criminal Matters Affecting Natives. 23 January 1933.

witchcraft, although not legally insane, is scarcely *compos mentis* and would seem to be a fit subject for compassion.¹⁰⁷

In the course of broader discussions about whether murder charges should be differentiated by degree, a number of Kenyan administrators testifying before the Bushe Commission argued for treating a belief in the witchcraft of the deceased as an extenuating, if not mitigating, circumstance in murder cases. The testimony offered by A. de V. Wade, the Chief Native Commissioner of Kenya, typifies many of the perspectives provided by members of the Kenyan administrative apparatus and is worth quoting at length. Speaking on the different “categories” of murder present in the colony, the Chief Native Commissioner argued,

The next category are cases of murders that are committed through witchcraft. These cases are generally merely acts of self-defence. The murdered, or murderers, knows quite definitely in his own mind, it is not merely fear with him, it is definite, absolute knowledge, that he is going to be bewitched and killed if he does not take action, and putting to death the witch or witch doctor is an act of self-defence and from their point of view is no more blameworthy than a man shooting an armed marauder who is aiming a revolver at him. In these cases I personally would like it to be made possible that the murderer should not even be sentenced to death. I think that deterrent aspect is quite different in witchcraft cases from cases of vendetta or tribal custom. If a man kills a witch doctor from no other motive than self-defence, I think that he will continue to do so quite irrespective of what the penalty will be if he is found out. A particular case of which I know that you have heard is the Wakamba case. In that case as the law is at present I understand the judge had no alternative whatever, but to sentence them to death and I believe I am right in saying that the appeal also had no alternative in dismissing the appeal.¹⁰⁸

Perhaps perspectives like Wade’s offered to the Bushe Commission were more sympathetic because they were offered in the aftermath of *Rex versus Kumwaka* or

¹⁰⁷ KNA PC/CP.6/4/3. Provincial Commissioner, Central Province. Native Affairs, General Policy. Memo from the District Commissioner’s Office to the Native Punishment Commission with a copy to the Senior Commissioner, Nyeri. Native Punishment Commission. 13 October 1921. The Native Punishment Commission did not attend to issues of witchcraft in any substantive way.

¹⁰⁸ *Bushe Commission*, 13.

maybe the less subtle approach present in district and provincial records was a function of the relatively strict content-in-the-form of such documents. Whatever their ultimate origin, opinions like the Chief Native Commissioner's attended to local rationalities and the strength of witchcraft beliefs. Following the self-defense argument offered and struck down in *Rex versus Kumwaka*, Wade's testimony moves beyond the recognition of the affective basis of self-defense – the element of fear – to the local logics incumbent in killing a witch or witchdoctor. Yet, at the same moment that officials like Wade realized that colonial codes failed both to discipline and deny witchcraft, they also continued to support the ultimate primacy of the colonial legal system and to understand the constraints of the law as written. And, the opinions of judicial officials adhered even more closely to the importance of upholding unreconstructed British justice. For example, echoing the trope of discipline and denial located in the Witchcraft Ordinance, the Chief Justice of Kenya, Jacob Barth, even argued before the Bushe Commission that the Witchcraft Ordinance realistically offered "...the native a chance of prosecuting people who practice these alleged supernatural powers."¹⁰⁹

Ultimately, neither *Rex versus Kumwaka* nor the Bushe Commission produced any changes in the law-as-written regarding witchcraft or legally complicated the charge of murder. The issue of what made British justice in the empire remained unresolved. The varied and competing positions taken in the course of *Rex versus Kumwaka* and the Bushe Commission point not to the easy restoration of colonial order but instead to the fissures and fractures in edifice of colonial control. Nonetheless, the empire-wide debates about witchcraft carried out in the early 1930s opened the door a bit wider for the courts to *tacitly* consider witchcraft as a mitigating or extenuating circumstance in murder

¹⁰⁹Ibid., 33-34.

cases and to develop a *de facto* category of murder and sentencing. The next chapter investigates three cases of witchcraft-related murders in which the courts concurred with, contested and contradicted, claims about the role of witchcraft in the commission of the crimes.

Chapter 5
“Does the Question of Witchcraft Arise?” - Witch Murders and the Colonial Courts in
1940s Kenya

“Yes, she believes that the deceased had bewitched her two children.”

“He believes that his child had been killed by witchcraft and his own abdominal pains were caused by the deceased.”

“Yes, he maintains that his wife was bewitched to death by the deceased, and that the latter had threatened to bewitch him (the accused) also.”¹

In colonial Kenya, procedure in murder cases dictated that each prisoner remanded on a capital charge undergo a standardized medical examination by the medical officer in charge of the Nairobi gaol. This examination was directed towards ascertaining the physical and psychological health of the defendant prior to appeals proceedings in the Court of Appeal for Eastern Africa. Information concerning physical and psychological states provided additional layers of evidence upon which the defense, the High Court of Appeal, and the Governor-in-Council could draw in order to formulate arguments and judgments about the culpability of the defendant.

The quotations above represent typical answers to a standard question on the medical officer’s examination form, “Does the question of witchcraft arise?” At the same time, this query itself raises a number of questions for the historian. What can it suggest beyond the prevalence of the relation between witchcraft and murder? What do the

¹ See the following Ministry of Legal Affairs case files: Kenya National Archives (hereafter KNA) MLA 1/117 *Rex versus Weyulo binti Kakonzi*, 1941 (hereafter, *Weyulo*); KNA MLA 1/63 *Rex versus Maganyo s/o Ochiel*, 1940 (hereafter, *Maganyo*); KNA MLA 1/113 *Rex versus Charo Hinzano*, 1941 (hereafter, *Charo Hinzano*).

reports of cases in which witchcraft was a factor reflect about larger questions of justice, law and order? What sorts of avenues of inquiry do these documents indicate? Can they offer insights into anything beyond the modes and strategies of colonial meaning-making and colonial control?

The reams of bureaucratic documents telling long and varied histories of the relationship between murder and witchcraft in colonial Kenya can begin to answer these questions. Court records of witchcraft-related murder cases are particularly plentiful, detailed, and developed.² Indeed, a survey of the reports of over 100 murder cases tried in the colonial courts of Kenya between 1938 and 1941 indicates that in 17 of these cases the question of witchcraft “arose.”³

On the simplest level, these reports lay out the structure and function of the colonial judicial system. As demonstrated in the previous chapter, applying an approach of anthropology-in-the-archives to court documents forces them to tell broader stories about colonial conceptions of witchcraft and law and about the production and uses of knowledge concerning these intertwined issues. At the same moment, such court records can themselves be read as anthropological documents – as a sort of court-contoured field note – putting forward not only how witchcraft worked in the lives of defendants and their circles of intimates and acquaintances, but also how black Kenyans figured themselves vis à vis the colonial legal system and local and colonial notions about witchcraft, crime and culpability. And, these files suggest that knowledge about

² I am grateful to Richard Waller for initially directing me to some of these references. The first case of a witchcraft-related murder on the colonial books was the “Kikuyu *Kiama*” case. See also, select Kenya National Archives files: KNA DC/KBU/1/4. District Commissioner, Kiambu. Kiambu Annual Report, 1911-12; KNA DC/KBU/3/25. District Commissioner, Kiambu. Kiambu Case, 1913; KNA AG/32/110 Attorney General. Cerebro-spinal Meningitis; and KNA AG/49/39 Attorney General. Native Councils, Kiamas, Lists, 1911-1912.

³ See KNA Ministry of Legal Affairs Index and files. Unfortunately, a fire at the Secretariat in Nairobi destroyed a range of government documents from the period before 1939.

witchcraft (and witches) circulated through local as well as colonial networks, highlighting the embodied and affective aspects of witchcraft.

This chapter does both close-readings of the files of three witch-murder cases – *Rex versus Weyulo binti Kakonzi*, *Rex versus Maganyo s/o Ochiel*, and *Rex versus Charo Hinzano* – in which the courts respectively concurred with, contested, and contradicted the claims about the role of witchcraft in the commission of the crimes. It also reviews published and Colonial Office opinions on witchcraft.⁴ It argues that these cases illustrate some of the ways witchcraft was made to do descriptive and analytic work, ultimately differentiating between degrees of murder and introducing variable notions of culpability. It traces the genealogy of colonial legal opinions and Colonial Office conversations about witchcraft-related murders, situating the Kenya case reports within a broader context of jurisprudence and administrative debate in order to articulate the knowledge brought to bear on the cases and the kinds of knowledge these cases in turn produced. And, it focuses on how these case reports demonstrate some of the ways that witchcraft-related murders continued to be a space in which the issue of what made British justice in a colonial context was forged, contested, and remade. Finally, it suggests that the production of witchcraft as a colonial category provided grounds for (tacit) considerations about the relevance to and operation of “custom” and local beliefs in the colonial criminal legal system.

The colonial question “Does the question of witchcraft arise?” suggests a fresh one: “In what ways and for what reasons did the state systematically collect and categorize information about murder defendants’ beliefs in witchcraft and treat this

⁴ This chapter steps away from an exclusive focus on Kamba people in order to address the various strategies employed in cases of witch-murder during the 1940s.

information as relevant in legal proceedings?” As this dissertation has proposed, witchcraft figured so readily and regularly in the social worlds of colonial Kenya that it operated as a convenient category for talking about all sorts of disorder.⁵ Also, these cases highlight further how witchcraft-related murders entered the colonial bureaucratic consciousness and became objects of official concern at the moment when violence was reported. Witchcraft, in turn, was rendered a significant issue through the colonial legal system’s modes of investigation and reportage which were aimed at transforming the disorder surrounding murders into “useable” forms of knowledge.⁶

This chapter also suggests that witchcraft murder cases offer an avenue for exploring dissent within bureaucracy. They show that far from being monolithic, colonial authorities’ ideas about witchcraft, murder and their intersections could be both fractured and flexible.⁷ The documents surrounding these cases also underscore how such contrasting attitudes were recognized and reconciled (or not). At the same moment, reports on witchcraft murders foreground how knowledge about witchcraft and law was developed and operated via the “circuits of knowledge” flowing through part of an archived and archiving colonial empire.⁸

⁵ To reiterate, the term “witchcraft” in the Kenyan context broadly denotes a wide range of malevolent magic directed towards harming the person, property, psyche or affines of another. See the introduction and chapters one and two.

⁶ Veena Das, “Subaltern as Perspective,” in *Subaltern Studies VI*, ed. Ranajit Guha (Delhi: Oxford University Press, 1989); Shahid Amin, *Event, Metaphor, Memory: Chauri Chaura 1922-1992* (Berkeley and Los Angeles: University of California Press, 1995); Bernard S. Cohn, *Colonialism and Its Forms of Knowledge: the British in India* (Chicago: University of Chicago Press, 1996).

⁷ As Berman and Lonsdale helpfully remind us, a state is (1) human actors, (2) logically necessary structures that meet the needs of the dominant class. Bruce Berman and John Lonsdale, “Coping with the Contradictions: the Development of the Colonial State in Kenya, 1895-1914,” *The Journal of African History* 20 (1979): 487-505; Berman and Lonsdale, *Unhappy Valley: Conflict in Kenya and Africa, Books One and Two*. James Currey: Oxford, 1992.

⁸ Frederick Cooper and Ann Laura Stoler, *Tensions of Empire: Colonial Cultures in a Bourgeois World* (Berkeley and Los Angeles: University of California Press, 1989).

Earlier chapters have indicated how administrative inquiries into witchcraft designated formal and *ad hoc* colonial “experts” on witchcraft and constituted bodies of anthro-administrative knowledge about witchcraft. This chapter demonstrates that witchcraft-related murder trials created judicial “experts” on witchcraft and a corpus of anthro-judicial knowledge about witchcraft. The colonial system of trial-by-judge, as opposed to trial-by-jury, designated a category of black Kenyan “experts” on witchcraft (and on the larger local contexts of the cases at hand) who contributed to anthro-judicial knowledge that British justices brought to bear on witchcraft-related murder cases. Also, as noted in the previous chapter, in the years before *Rex versus Kumwaka*, witchcraft-related murder cases were treated on a non-referential, case-by-case basis. In contrast, the various post-*Kumwaka* cases under consideration here form part of a new, referential selection of case law and precedent concerning witchcraft-related murders.

Further, close-readings of witchcraft-related murder cases generally, and those of Weyulo, Maganyo, and Charo Hinzano in particular, provide a lens into the ways in which telling stories operated as bureaucratic practice. They show what constituted the building blocks of a useable narrative. The reports bring to the fore colonial codes for talking about murder and witchcraft and highlight how such languages were employed to transform the spectacular into the quotidian and the everyday into the exceptional according to narrative necessity.⁹

The neat narratives of murder and witchcraft contained in witchcraft-murder case reports nonetheless point to the existence of multiple stories. Embedded in the neat narratives produced by the courts are messier stories distinguished from more mundane

⁹ For example, Nicholas Dirks, “The Policing of Tradition: Colonialism and Anthropology in History,” *Comparative Studies in Society and History* (1997): 182-212.

murders by their emphasis on witchcraft, but at the same time driven by the easily familiar private passions and affective states underlying most murders. Bureaucratic narratives about witchcraft murders had their antecedents in stories about witchcraft that had commenced well *before* the involvement of the colonial state in murders in which the question of witchcraft arose. These stories acted and were acted upon by processes of narrativization and continued even after the state had deemed cases closed.¹⁰

Modes and Meanings of "Witchcraft"

As the preceding chapters have demonstrated, in the context of colonial Kenya witchcraft was a category which encompassed various sorts of disorder in the understandings of broad ranges of people. As Jonathan Sadowsky has rightly suggested, "Witchcraft was one of the master categories of colonial discourse, but like most key words, it contained ambiguities."¹¹ Rather treating witchcraft as a set of ambiguities to be (re)solved, this chapter argues instead for problematizing the sort of work that *ambiguity* itself could do both to reinforce and to challenge the status of witchcraft as a "master category" of colonial discourse – and experience. As cases like those of Weyulo, Maganyo, and Charo Hinzano suggest, the imprecision of witchcraft as a category within colonial discourse and experience was what enabled it do such a broad range of work.¹² Witchcraft worked to describe and to analyze, operating as a way of knowing and a means of telling stories not only about the disruption of social and political order, but also about distress in individual lives. To reiterate, such diffuse and variable ideas of

¹⁰ Michel Rolph-Trouillot, *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 1995).

¹¹ Jonathan Sadowsky, *Imperial Bedlam: Institutions of Madness in Colonial Southwest Nigeria* (University of California Press: Berkeley and Los Angeles, 1999). 37.

¹² Peter Probst, Jan-George Deutsch, and Heike Schmidt have argued in a similar vein for problematizing ambivalence within catch-all category of "African Modernities." See, "Cherished Visions and Entangled Meanings," in *African Modernities*, eds. Probst, Deutsch, and Schmidt (Oxford: James Currey, 2002). 1-17.

witchcraft had in common the notion of “magical harm,” – damage done through the management of malevolent magic.¹³

In court files like those of the cases of Weyulo, Maganyo, and Charo Hinzano, witchcraft worked on the first level to tell stories about individual misfortunes.

Witchcraft appeared in these reports as both a means and an end of “magical harm.”

Stories of witchcraft were most often centered on death and illness. Such scenarios were clearly present in the cases of Weyulo, Maganyo, and Charo Hinzano as their statements below indicate.

Weyulo: “I know Kathanja placed witchcraft to kill my children and I saw it myself.”

Maganyo: “I killed Oyugi s/o Okuku... He tried to kill me and came to my house at night and threatened to kill me with the same medicines as he killed my child, it was ashes mixed up in milk.”

Charo Hinzano: “Ndago then said he would look for medicine with which to bewitch me.”¹⁴

The statements of these three defendants also point to the ways in which witchcraft emerged as material and discursive, both physical and psychological. They suggested that witchcraft could draw upon “medicines” or threatening words or a mixture of the two in order to produce illness and death. Further, statements like those proffered by Weyulo, Maganyo, and Charo Hinzano rendered explicit another layer of witchcraft often obscured in abstractions like “magical harm” – the varied violence surrounding witchcraft.

¹³ George Clement Bond and Diane Ciekawy, “Introduction,” in *Witchcraft Dialogues: Anthropological and Philosophical Exchanges* eds. Bond and Ciekawy (Athens: Ohio University Center for International Studies, 2003). 26. See also, Ciekawy, “Witchcraft in Statecraft: Five Technologies of Power in Colonial and Postcolonial Coastal Kenya,” *African Studies Review* 41.3 (1998): 119-142.

¹⁴ *Weyulo, Maganyo and Charo Hinzano.*

While these stories of individual misfortune underscored the violence tied up in witchcraft's exercise, they operated on a second level to make claims about the violence witchcraft *incited*. Witchcraft was a shorthand not only for the disorder that defendants had experienced, but also for the disorder that they caused. By recounting their experiences with the violence wrought by witchcraft, defendants like Weyulo, Maganyo and Charo Hinzano began to suggest the notion that the subtle violence of witchcraft in turn necessarily called for the sorts of spectacular violence which they themselves were alleged to have perpetrated. In cases like those of Weyulo, Maganyo and Charo Hinzano, witchcraft worked as a descriptive and analytic category, illustrating the defendants' experiences of "magical harm" and teasing out the motives behind the murders.

As preceding chapters have indicated, witchcraft did similar descriptive and analytic work in various other genres of bureaucratic documents – administrative reports, legislation, and judicial opinions. In such documents, witchcraft worked on one level to describe and explain (away) some of the sorts of disorder which challenged state authority. None of these varied sources, however, suggested that witchcraft could be (re)defined outside individual contexts as anything other than a catch-all for "magical harm." In administrative reports, for example, witchcraft categorized activities as diffuse as selling charms, uttering curses, or burying "medicines" at a crossroads. While not all of these activities contravened particular colonial laws, witchcraft was read as potentially or already responsible for inciting various sorts of violence.¹⁵ Indeed, colonial authorities were all too aware that even "white" witchcraft had the potential to incite violence through processes aimed at curbing "magical harm."

¹⁵ Scholars have addressed how scholarship has focused on the pathological character of "witchcraft" and not on healing. Colonial anthro-administrative work on "witchcraft," overwhelmingly concerned with disorder, takes this approach.

As illustrated in previous chapters, in colonial law-as-written witchcraft operated as a diffuse category which sought simultaneously to describe, to discipline and to deny “magical harm.” To review, the Witchcraft Ordinance of 1925, the law still in force in the early 1940s, defined witchcraft broadly, as discursive and material, entailing speech, acts, and substances. Judicial opinions on witchcraft cases and witchcraft-related murder and assaults shared these broad conceptions of witchcraft. In judicial opinions in witch-murder cases, witchcraft did a range of descriptive and analytic work, standing in for and explaining the results and causes of varied types of violence.

As detailed in chapters one and two, the courts dealt with witch-killings on a case-by-case basis until *Rex versus Kumwaka*. The findings in this case established precedents for managing witchcraft in murder cases. The courts’ recommendation to the Governor’s clemency produced witchcraft both as a claims-making strategy for the defense and as a means for the court to consider the relevance of local attitudes and what made standards of “reasonableness” in colonial contexts. Thus while the courts were necessarily obligated by the law-as-written to rule “murder” in cases like *Rex versus Kumwaka*, witchcraft worked to open an avenue to clemency.¹⁶

In short, witchcraft in colonial Kenya encompassed various sorts of disorder. It offered broad ranges of people ways of talking about and analyzing “magical harm.” But the varied understandings and usages of witchcraft necessarily made it a category shot through with ambiguity. Such ambiguity in turn, rendered witchcraft a set of stories, substances and sentiments which worked both as a challenge to and an instrument of the state.

¹⁶ G.F. Akilagpa Sawyerr and Jack A. Hiller, *The Doctrine of Precedent in The Court of Appeal for East Africa*, (Dar es Salaam: Tanzania Publishing House, 1971).

Commonalities and Questions of Witchcraft

In the case files of Weyulo, Maganyo, and Charo Hinzano, witchcraft carried multiple meanings, providing ways of talking about and ordering incidences of personal distress caused by “magical harm.” In these cases witchcraft worked also to explain in part the background to the sorts of violence that Weyulo, Maganyo and Charo Hinzano had perpetrated. Yet, these case files also pointed not simply to the diversity, but also to certain commonalities in experiences of witchcraft and produced tropes about witchcraft borne out in other case reports. Briefly summarized, the facts of each case below begin to suggest some of the common elements of witchcraft in court documents.

Case 1: In the summer of 1941 in Kitui District an Mkamba called Kathanja wa Ithuko died from wounds inflicted by a panga. His alleged killer was his daughter-in-law, Weyulo binti Kakonzi. The attack on Kathanja was perpetrated without warning in daylight and in front of witnesses by a neighbor’s fireside close to Weyulo’s own home. Weyulo said nothing at the time of the attack, but when queried later she explained the Kathanja had killed her children with witchcraft and that he had threatened to kill her through witchcraft as well.

Case 2: In the summer of 1940 in Nyanza Province, a Luo man Oyugi s/o Ouku died of spear wounds in the stomach. His alleged killer was his neighbor, Maganyo s/o Ochiel. The attack on Oyugi was perpetrated between his own hut and Maganyo’s hut, in the evening, several hours after the two men had quarreled within earshot of witnesses. The witnesses claimed that the two men had argued over stray cattle and were ambivalent over whether or not witchcraft constituted an element of the quarrel. When queried later, Maganyo asserted that he had speared Oyugi because Oyugi had killed his children by witchcraft and was mixing the same sort of lethal witchcraft “medicines” outside his door.

Case 3: In the spring of 1941 in Kilifi District, a Giriama man, Mdago s/o Randu, died of neck wounds inflicted by..... His alleged killer, Charo Hinzano, was an acquaintance from a neighboring village and his wife’s admitted lover. The attack on Mdago was perpetrated 200 yards from his village, sometime in the night, several hours after the two men had participated in arbitration over the *malu*, or fine, that Charo Hinzano was to pay for committing adultery with Mdago’s wife. Witnesses concurred that Charo Hinzano had threatened to kill Mdago to keep him from spending the *malu*. When queried later, Charo Hinzano

asserted that he had killed Mdago because Mdago had threatened to kill him by witchcraft.¹⁷

The facts of each case spoke to the initial investigative questions “Who? What? When? Where? Why? How?” and pointed to common elements in witch-killings. Defendants like Weyulo, Maganyo, and Charo Hinzano generally stated that incidences of death or illness led them to believe that witchcraft had been practiced against them, and that witnessing witchcraft practices or hearing threats of witchcraft directed against them or their kin caused them to believe “magical harm” was imminent. Indeed, the victims of witchcraft in these cases were generally the kin of the defendants and the defendants themselves the objects of threats of witchcraft. Weyulo and Maganyo each claimed their children had been killed by witchcraft and that they had themselves been threatened with witchcraft, while Charo Hinzano asserted that the man he killed had first threatened to kill him by witchcraft.

Intimate relationships existed not only between the defendants and the people they believed to be victims of “magical harm,” but between the defendants and the witches that they killed. In general, witches were neighbors, friends, or even family members of defendants. Weyulo alleged that her father-in-law, Kathanja, had killed her children and threatened her with witchcraft. Maganyo’s victim was a close neighbor, and Charo Hinzano killed his lover’s husband.

The facts of cases like those of Weyulo, Maganyo, and Charo Hinzano illustrated the ways in which the proximity of witches and defendants was not only relational, but spatial. Defendants and their victims in witchcraft murder cases often lived close to each other, and the killing of witches frequently occurred in or near the homes of either the

¹⁷ See, KNA MLA 1/117, *Weyulo*; KNA MLA 1/63 *Maganyo*; KNA MLA 1/113, *Charo Hinzano*.

witch or the defendant. If not in such places, then the killings often took place in public spaces. Rarely were they perpetrated in secluded locations. Weyulo killed Kathanja at a fireside gathering close to her own home. Maganyo killed Oyugi in between their two huts, close to his threshold where he alleged Oyugi had been “mixing medicines.” Charo Hinzano killed Mdago in a location close to Mdago’s village.

At the same time, the facts of cases like those of Weyulo, Maganyo, and Charo Hinzano pointed to lack of immediate temporal proximity between the incidences of witchcraft and the killing of witches. Whether witches were killed in the small hours of the morning or the middle of the day, varying degrees of lag time generally existed between incidences or threats of witchcraft and the killing of witches. It is not precisely clear how much time elapsed between Weyulo’s conclusion that Kathanja had bewitched her family and her attack on him, but evidence indicates her suspicions developed over a lengthy period. Maganyo launched his attack hours after quarreling with Oyugi, and almost a day elapsed between Charo Hinzano’s quarrel with and attack on Mdago.

Documents surrounding such cases also indicated some of the ways in which witches were commonly killed. Witchcraft, and threats of it, centered around the subtle work of “magical harm” on bodies. At the same time, witchcraft itself was embodied. Even if witches employed substances like “ashes and milk” to do their work, the power which made these substances and other “witch medicines” efficacious was generally believed to be located in the body of the witch. Killings of witches were far from subtle, instead creating “spectacles” of retributive violence out of the bodies of witches. The victims of Weyulo and Charo Hinzano were slashed to death, while Oyugi’s victim was speared.

The facts of murder cases like those outlined above revealed certain commonalities in the experiences and workings of witchcraft. The seemingly straightforward answers to the questions, “Who? What? When? Where? Why? How?” hinted at more nuanced elements of context and motivation. Weyulo, Maganyo and Charo Hinzano’s statements bore out the issues addressed above and raised further questions about the more subtle issues (re)occurring in witchcraft murder cases.

Weyulo: I struck Kathanja and meant to kill him because he bewitched my children. He told me that he would finish off (maliza) both my children, and in consequence one of my children died, and one is now very ill. When said that my children would die my first child died on the third day. I believed Kathanja implicitly when he said he would bewitch my children. I know Kathanja placed witchcraft to kill my children and I saw it myself. Because he was such a bad man I killed him.

Maganyo: I killed Oyugi s/o Okuku with a spear because he bewitched my child and he died. He tried to kill me and came to my house at night and threatened to kill me with the same medicines as he killed my child, it was ashes mixed up in milk.

Charo Hinzano: Mdago then said he would look for medicine to bewitch me. I was very angry and decided to kill him before he should kill me.¹⁸

These statements, driven by assertions of realized and threatened killings through witchcraft, also added layers of meaning into the cases. For one, they attached a more precise materiality to witchcraft. It was a substance that could be “placed” and seen to kill; a mixture of everyday objects, like “ashes” and “milk” that made “medicines.” From the perspectives of the defendants, witchcraft was something that could be witnessed.

These statements also introduced the issue of belief and raised questions about what made threats of witchcraft believable (or not) in cases like those discussed above.

¹⁸ See, KNA MLA 1/117, *Weyulo*; KNA MLA 1/63 *Maganyo*; KNA MLA 1/113, *Charo Hinzano*.

Weyulo, for one, described her implicit belief in Kathanja's threats. Maganyo and Charo Hinzano's beliefs in the power and efficacy of witchcraft were not overtly stated but instead suggested by the seriousness with which they regarded threats and results of witchcraft.

In a related vein, the defendants' statements suggested the believability of the defendants' witchcraft accusations was linked to the reputation of the witch. Again, Weyulo was most explicit, describing Kathanja as a "bad man." The statements of Maganyo and Charo Hinzano, in turn, raised questions as to why they easily believed the men they killed to be capable of practicing witchcraft.

In the cases of Weyulo, Maganyo, and Charo Hinzano, witchcraft worked then to describe and order various experiences of personal distress produced by "magical harm." At the same moment, witchcraft worked to underscore commonalities in these experiences and expression. The statements of defendants like Weyulo, Maganyo, and Charo Hinzano added further layers of meaning to the facts of cases and suggested some of the sorts of elaborative questions and "investigative modalities" that the courts employed in their efforts to transform the disorder wrought by "magical" harm into useable narratives.¹⁹

Conversation, Construction and Commutation: Querying Witchcraft in Case Law and Colonial Offices

In the context of the courts, witchcraft was not only shaped and ascribed meaning through the testimony of the accused. As discussed in earlier chapters of this dissertation, witchcraft was assigned particular connotations through a series of ordinances. In addition, colony Supreme Court and East Africa Court of Appeal opinions in cases

¹⁹ Cohn, 1996.

concerning witchcraft, especially those murder cases where the deceased was alleged to have been a witch, contributed to the context in which the cases of Weyulo, Maganyo, and Charo Hinzano were formulated, heard, and adjudicated. Further, as noted in earlier chapters, witchcraft – particularly when beliefs in it resulted in capital crimes that colonial administrations could not ignore – was a topic of *empire*-wide concern which garnered significant attention in the Colonial Office, particularly in the years immediately after *Kumwaka*, further shaping administrative and judicial contexts. First, this section briefly reviews witchcraft-related cases heard in the East Africa Court of Appeal and in the High Court of Kenya in the decades before the cases of Weyulo, Maganyo, and Charo Hinzano in order to trace how the court concepts of witchcraft emerged through judicial opinions and to attend to other issues tied up in these cases. Next, it follows Colonial Office debates over how witchcraft should be regarded in capital cases.

As noted in chapter one, the first opinion on a witchcraft-related case to be recorded in the digests of the East Africa Court of Appeal was *Rex versus Karoga was Kithengi and 53 Others* (1913) in which the members of a Kikuyu “kiama,” a type of pre-colonial governing body co-opted into the colonial administrative apparatus, appealed from a murder conviction for having burned to death two alleged witchdoctors in what they argued was an exercise of “customary” justice permitted them under the Native Tribunal Rule, 1911.²⁰ The appeals court located the primary responsibility for the killings in the chief’s neglect to instruct the councilors that they were no longer to practice certain forms of “customary” justice and found the *kiama* members guilty of the “abatement of culpable homicide.” In this case, witchcraft is tangled up with the larger issue of the limits of the power imbued or accorded by the colonial state to “traditional”

²⁰ 5 East Africa Law Reports, 1913-1914. Hereafter *E.A.L.R.*

authorities and how such authorities should and could come to know the limits or expansions of their powers.

Four cases recorded in the digests aim to refine witchcraft as laid out by the 1909 Witchcraft Ordinance and the 1925 Witchcraft Ordinance. *Rex versus Mtuiniwara* (1914), overturned the conviction of a witchdoctor on the grounds that in order for a conviction to stand, sections of the ordinance stipulating “holds himself out as a witch doctor” and “for the purposes of gain” had to be read and proved in tandem.²¹ Working on a similar principle, the 1915 decision in *Rex versus Joke* overturned a conviction under the Witchcraft Ordinance on the grounds that while the appellant had accepted payment for administering “medicine” he neither “held himself out to be a witchdoctor” nor demanded payment. The 1916 decision in *Rex versus Mataolo* overturned a conviction under the Witchcraft Ordinance on the grounds that though the appellant did hang up a calabash of “witchcraft medicine” on his property, an “intent to injure” could not be proved.²² Finally, the decision in *Shagati ole Sauroi* (1929) held that the phrase “means and process” in Section 4 of the 1925 Witchcraft Ordinance could be taken to include spoken words, thereby rendering witchcraft an act as much of speech as of substances.²³

In addition to the “*kiama*” case and *Kumwaka*, two other cases addressed the alleged witchcraft of the deceased as a defense to murder. In *Rex versus Kimonirr and Five others* (1916), the principle appellant had accused the deceased, Chesang, of killing her husband and son by sorcery. Chesang, as local custom was alleged to dictate, hanged himself on the instructions of his family. The decision of the court turned on local

²¹ 5 E.A.L.R. 1913-1914.

²² 6 E.A.L.R., 1915-1916.

²³ 10 Law Reports of Kenya, 1929-1930.

custom, as the Chief Justice explained first that the death sentences could not be expunged because “local practice” had not been followed to the letter, but that the sentences could be reduced to “abatement of suicide” because findings proved that among the tribe in question, killing a witchdoctor was not “morally wrong.”²⁴ Also, coming in the post-*Kumwaka* period, the appeals court did not treat as mitigating the appellants’ beliefs in *Rex versus Lulakomba s/o Mikwalo and Kibugu s/o Kibege* (1935), but instead upheld the sentence of the first appellant and quashed that of the second on alibi grounds.²⁵

As evidenced in the reports summarized above, a plethora of topics surrounded both cases of witchcraft and murder cases in which witchcraft was raised as a defence. From the late 1930s through the early 1950s, colonial High Court and East Africa Court of Appeal opinions in witchcraft-related criminal cases, especially murders, considered witchcraft in relation to the broader issues of “provocation” and “malice aforethought.” Nonetheless, these cases worked to define witchcraft as according with or exceeding the bounds of the 1925 Witchcraft Ordinance. Like the trial transcripts of *Weyulo*, *Maganyo*, and *Charo Hinzano*, opinions in the court digests also point to certain commonalities in defendants/appellants’ beliefs about witchcraft, in the ways in which they came to believe that they had been bewitched, and in how such beliefs invited the spectacular violence resulting in the court cases. In general, the facts of the cases contained in the digests of the colonial High Courts and High Court of Appeal for Eastern Africa mirror those found in the files of the Kenya Ministry of Legal Affairs.

²⁴ 6 LRK, 1915-1916.

²⁵ 3 East Africa Court of Appeal, Part I. Hereafter, E.A.C.A.

While legal opinions in witchcraft-related cases constituted one element of colonial networks of knowledge about witchcraft, Colonial Office debates circulating among authorities in the metropole and those in the colonies formed another. Colonial Office interest in witchcraft did not expire after *Kumwaka* or even after the Bushe Commission Report, in large part because officials from across the empire consistently sought Colonial Office advice on how to manage the challenges to law and order caused by witchcraft in their respective colonies. In turn, through debates and dialogues among colonial and metropolitan officials, witchcraft was made to speak to a range of broader issues concerning British justice in colonial contexts.²⁶

As discussed in earlier chapters, British officials both in the colonies and in London could be expected to be conversant with the issue of witchcraft in varying degrees and contexts, to have gleaned their information from a broad range of sources, and to be ready to apply it in various situations. For example, the 1934 examination for law officers in Kenya used witchcraft to test potential officers on their knowledge of local ordinances and the Criminal Procedure Code, one set of questions asking them to “Set out any three offences against the Witchcraft Ordinance,” to explain “Under what circumstances may a native practice therapeutics,” and enumerate “the essentials in the offence of being a witchdoctor,” while another set of questions asked in which court could a case be tried in which “ ‘A,’ an Indian, is charged with pretending to exercise witchcraft contra section 293 of the Penal Code.”²⁷ In general, the scope of official interest in witchcraft, especially that in African witchcraft, expanded in the post-

²⁶ PRO CO 533/41/2/7. *The Bushe Commission Report: An Inquiry into the Administration of Justice in Criminal Matters Affecting Natives, 1933.*

Kumwaka period, and official debates also contributed to the context from which cases like those of Weyulo, Maganyo and Charo Hinzano would be adjudicated.

The documents included in Colonial Office files voiced and attempted to answer questions about witchcraft that were of direct interest to the colonial officials on-the-ground and to their colleagues in the capitol concerned with larger issues of British justice and imperial prestige. Most specifically, discourse flowing in and out of the Colonial Office attended to the ways in which British officers – both administrative and judicial – could and should deal with witchcraft. Such communications responded to queries about the role of the courts, the functions of native assessors, and the consideration of native mentalités while, more abstractly, it worked to contour the meanings and uses of witchcraft and circulate them through various colonial networks of knowledge. A 1940 Colonial Office File entitled, “Laws Relating to Witchcraft,” is typical in its content and form. Mixed in with newspaper clippings about witchcraft-related matters is a demi-official letter from the Chief Justice of the High Court of Nyasaland to Sir Gratten Bushe, the Colonial Office Legal Advisor, which expressed the Chief Justice’s frustration with the opinions of the assessors and anti-witchcraft laws overall in a recent witchcraft trial over which he had presided. The tropes about parallel systems of justice and radically departing ideas of justice where witchcraft is an issue should by now be familiar to the reader. The Chief Justice wrote,

The Witchcraft Laws in the African Territories make punishable acts which nothing can convince the native are wrong. In a case I tried at Mlange some months back I explained to the Assessors what it was that our law forbade; the opinion they gave to the court was typical. They said the accused was guilty, but assessed “Apart from the law, we think that this man did a good thing.” The good thing being the curing of a person by witchcraft after all other methods had failed. A similar reply being given to me by the Assessors in an earlier case.

²⁷ KNA AP/1/1339. Judicial Department. Law Examinations, 1930-1934. 1934.

The practices relating to witchcraft are sanctioned by long-established custom for which the natives have the deepest respect and which they would certainly follow but for the fact that our law punishes with great severity these practices. It is entirely beyond the native to understand why these things are wrong, and why they are punished for doing them. Writers with life-long experience of the native say to punish people for what to the native is sanctioned by custom creates a thorough distrust of our system of justice.²⁸

In the period after *Kumwaka*, colonial authorities continue to figure witchcraft not simply as a local problem, but one on which the authority of British justice in the colonies significantly hinged. And they persisted in querying metropolitan officials about revised policies and principles which could be widely applied to witchcraft-related cases across the empire.

In Colonial Office correspondence witchcraft also emerged as a touchstone in debates over larger issues of custom. A 1937 file, tellingly entitled “Remission of Sentences Passed on Natives Convicted of Murder Committed in Pursuance of Tribal Custom,” witchcraft is used analytically and referentially to deal with the question of how “tribal custom” should be considered in murder cases. The discussion centers on the Governor of Northern Rhodesia’s request for the Colonial Office’s advice on a policy under consideration in his Executive Council to remit life sentences in cases of murder perpetrated in the course of following “tribal custom.”²⁹ His question was initially spurred by a case in which a baby who had cut its upper teeth first was killed according to “native custom.” Colonial Office authorities commenting on the Governor’s query, returned to the colonial archive on witchcraft, following circuits of earlier opinions in

²⁸ PRO CO 847/19/9. *Laws Relating to Witchcraft* (1940). Letter from Musgrave Thomas, Judge of the High Court, Nyasaland, to Sir Gratten Bushe. 27 February 1940. See also the 1938 file, “Laws Relating to Witchcraft.” PRO CO 847/13/11.

²⁹ PRO CO 847/7/7. Circulated 1937 memo entitled, “Remission of Sentences Passed on Natives Committed in Pursuance of Tribal Custom.”

which the question of witchcraft as a mitigating factor in murder cases had been debated.

The first writer cited a 1932 Tanganyika opinion. He wrote,

Of the various files dealing with the commutations of death sentence that I have been through, 31276/32 Tanganyika is the most interesting the most relevant... Briefly, the question dealt with by the Governor of Tanganyika is the infliction of the death penalty in cases of murder committed as a result of belief in witchcraft, and his conclusion, supported by the unanimous opinion of the Executive Council, is that, but exacting the death penalty for murder committed on account of belief in witchcraft, a conviction will gradually be established in the Native mind that Government so abhors murder that it does not regard even a belief in witchcraft as condoning the offence in any way, and that consequently, cases of murder inspired by witchcraft will gradually diminish and eventually disappear altogether, to the inestimable advantage of the Native population as a whole...³⁰

Both the Tanganyika file and subsequent citations of it reinforced the spirit of the *Kumwaka* judgment that witchcraft should be neither completely discounted nor taken as an excuse, an attitude followed in witchcraft-related murder cases throughout the remainder of the colonial period and applied in the cases of Weyulo, Maganyo, and Charo Hinzano as well.

The next few Colonial Office officials to comment on the Governor's query also cited the Tanganyika file although this time focusing on the relevance of the local in rendering judgments in such cases. One official wrote,

So long as the law remains as it is, the legal penalty for murder should not be habitually waived in cases where the offence is prompted by a belief in witchcraft... So far as the non-legal aspects of the case are concerned, psychological, sociological, and so on, this appears to be a matter in which local knowledge must count for everything.³¹

His colleague added, "It is difficult, I should think, to lay down any ground rule... in crimes prompted by strong native beliefs and customs. Circumstances are sometimes

³⁰ Ibid.

³¹ Ibid.

very extenuating.”³² Such commentary highlighted the need for expert knowledge, not simply in the law, but also for expertise in local social situations and relationships pertaining to witchcraft-related cases. In the opinions of many colonial writers, the highly contingent character of such cases was paramount, and although witchcraft-related murders were regarded as an empire-wide concern with broader implications for British justice, most colonial officials concurred that they could not be dealt with effectively through an invariable formula of rules and regulations. Accordingly, the cases of Weyulo, Maganyo, and Charo Hinzano attend strongly to questions of local circumstances as described by court-recognized “experts of the local.”

Responding comprehensively to the Governor’s request, Josiah Flood, a Colonial Office Legal authority, emphasized the peril of a fixed policy concerning witchcraft murders, reiterated the importance of local expertise, laid out the politics of death penalty commutations, suggested how witchcraft “beliefs” might be manipulated or fabricated as defense strategies, and underscored some of the ways in which British law existed at odds with African attitudes about justice. He wrote,

There can be no general principle and it would be very unsafe to attempt to lay down any rules from here. The Governor of each place must be guided by his own discretion and his knowledge of the circumstances, gathered as it will be gathered, from advice given by his senior and experienced officers.....It is however another story when it comes to trying to lay down rules about exercising prerogative in cases of witchcraft. If you exercise prerogative as a general rule, you are doing what Sir Grattan Bushe described as ‘bringing the solemn death penalty into disrepute.’ Then it will be argued that it does not matter whether a man is sentenced to death in a witchcraft case or not because he is bound to get off. It follows also that however much you may feel for the accused, yet if he is found guilty in the eyes of the law, then in order to keep up the respect for the death sentence if clemency is exercised, the sentence should usually be commuted to something pretty substantial such as ten years... Still, the law being the law and murder being murder I would not advise that the law in regard to the illicit taking of life should be altered as to remove witchcraft cases from the category of

³² Ibid.

unlawful killing. If you did, then the defense of witchcraft would be easy to raise in any case of a native murder and, perjury being an offence which is not well understood and is so easily practiced, it would be easy to disguise the most cold-blooded and willful murder as almost a ritual observance. Also, we do wish to do away with the idea of killing for witchcraft. I am not such a fool as to assert that there is nothing in "witchcraft," nor would I endorse the view that witchcraft murders are instances of childish barbarisms, and that the only way to stop it is to convict a murderer and let the law take its course. Such a line... might prevent cases being reported, but it would not do anything to do away with the belief in witchcraft and it would only drive the whole thing underground.³³

Like the cases contained in court digests and discourse in Colonial Office dossiers, the cases of Weyulo, Maganyo, and Charo Hinzano neither existed a vacuum nor spoke simply to local concerns. The problems of culpability and commutation, of belief and fabrication, of local and legal expertise, of the Penal Code and imperial prestige, permeated debates about imperial justice, law and order throughout the first half of the 20th century. These discussions and debates about witchcraft were themselves part of a process for producing order and useable knowledge out of the chaos of crime. This process is discussed in detail below in the cases of Weyulo, Maganyo, and Charo Hinzano.

Making Narratives Out of Stories

The work of the courts was to transform messy stories of witchcraft killings into ordered, useable narratives of witchcraft murders like those contained in the judicial opinions discussed above. Such narratives served to determine the culpability of the accused and the consequences of the crime. These narratives aimed also to reinforce the power of the state, controlling the flow of information and the terms of expression surrounding witchcraft and wider, important (and contested) issues like order, law, "custom," justice, etc.

³³ Ibid.

The courts produced useable narratives through protocols of collection and reportage. These investigative modalities, in turn, (re)structured stories of witchcraft-related deaths, producing broadly intelligible and deployable categories, languages, and references. They enabled the courts to treat witchcraft-related deaths as a particular genre of crime and also as part of broader conversations about British and “customary” law.

The process of narrativization discussed above began at the moment when a witchcraft-related death entered colonial (recorded) consciousness, thus becoming an object of official concern. Court reports suggest that the violence of witchcraft-related deaths, rather than witchcraft itself, initially attracted the attention of colonial authorities and captured their concern. Indeed, such cases often entered colonial records without any mention of witchcraft. The cases of Weyulo, Maganyo, and Charo Hinzano subscribe to this trend.

Weyulo’s Case: Kitheka wa Mathi came to me and reported that Kathanja Ithuko had been struck by a woman and had died... I saw the body of Kathanja Thuko... Kitheka told me that accused Weyulo binti Kakonzi had struck Kathanja, so I arrested her.³⁴

Charo Hinzano’s Case: I am a “Lalo” Elder. I heard that Mdago had been killed. I went to his village about 7.0 a.m. and saw his body which had been brought there... I sent a letter to the Chief and he notified the hospital at Kaloleni who told me to have the body carried to Kaloleni. I saw the Doctor put on rubber gloves and feel the wounds.”³⁵

So I took my spear and went and killed him and then ran away and gave myself up.³⁶

Maganyo’s Case: I straight away went to Kisii, D.C.³⁷

³⁴ Musioka wa Mutisya, 17 July, 1941, I Class Subordinate Court, Kitui. *Weyulo*.

³⁵ Mwamure s/o Toya, 22 April, 1941, II Class Subordinate Court, Kilifi. *Charo Hinzano*.

³⁶ *Statement of Accused*, Maganyo s/o Ochiel. *Maganyo*.

³⁷ Maganyo s/o Ochiel, 26 September, 1940, Supreme Court of Kenya, Kisumu. *Maganyo*.

Trial testimony thus indicates that the cases of Weyulo, Maganyo, and Charo Hinzano entered colonial records through a variety of channels, each without particular reference to witchcraft. Yet, each case was transformed from an “event” into a “crime” as knowledge of it was made available to colonial authorities.³⁸ Weyulo was arrested by a local market askari while Charo Hinzano turned himself in and his case was also reported to the local Chief and investigated by the Medical Examiner. Like Charo Hinzano, Maganyo, in turn, reported his own case to the District Commissioner of Kisii.

The courts’ narrativizations of such cases shared another common element – they began in the middle of *stories* of witchcraft killings. According to colonial chronologies, court narratives began with the murder of an alleged witch, while in local terms, the killing of an alleged witch constituted the middle of the witchcraft killing story. In contrast to court narratives, stories of witchcraft killings commenced much earlier – with a death of a beloved child, with a sickening of the self, with a blight on crops or flocks, etc. – creating or reinforcing a soupçon of suspicion about the person later killed in retribution for his or her alleged witchcraft. A central task in the courts’ process of narrativization was to (re)order these competing chronologies.

Similarly, the courts’ narrativization involved processes of translation. Such processes entailed translation not simply from local languages to the English of the courts, but a refashioning of the narrative mode in which stories of witchcraft killings were made follow the courts’ notions of intelligibility and (legal) usefulness. Wrapped up in these processes of translation were the courts’ efforts to control the use of terms like witchcraft, law and “custom” which could be mobilized to do descriptive and analytic work by the prosecution and the defense.

³⁸ Amin, 1995.

In their task of making orderly narratives out of the messiness of witchcraft killing stories, the courts' work was multifold. They had to reconcile competing understandings not only of what constituted the "beginning" and the "end" of a case, but also of the general facts of the cases themselves. Overall, the work of courts' narratives was to establish widely useable terms which would enable colonial authorities to deal with witchcraft-related deaths within the greater, problematic context of colonial law and order.

Conversations among "Experts"

But *how* precisely did the courts go about the work delineated above? Making useable narratives out of witchcraft killing stories demanded a wide range of knowledge – not simply about the operation and intricacies of law and governance, but perhaps even more importantly about the accused, the deceased, local social situations and the notions of "custom" which informed them. To glean this knowledge, the courts relied on broadly defined "expertise" and widely differentiated categories of "experts." Such experts and expertise were established as much as by the courts' questions as they were by testimony. Delineating and employing experts and expertise facilitated the courts' efforts to "discipline and the exploit the multivocality of cases" and to order and utilize the ambivalence of witchcraft.³⁹

Cases like those of Weyulo, Maganyo, and Charo Hinzano were tied into multiple contexts which were acknowledged and (re)shaped to varying extents by the protocols and practicalities of trial. At the first and most immediate level, such cases occurred in the specific contexts of individual, "local" *communities* thus necessitating that the courts

³⁹ David William Cohen and E.S. Atieno Odhiambo, *Burying SM: The Politics of Knowledge and the Sociology of Power in Africa*. Portsmouth [NH]: Heinemann: 1992. 96.

enlist “experts” who could elucidate and establish the exigencies of this context. But witch-killing cases also took place in a broader situation of local *customs* concerning witchcraft and “tribal” law, thus necessitating that the colonial courts establish a category of experts – assessors – able to speak authoritatively to this context. Even more broadly, such cases occurred within the geographic and bureaucratic contexts of colonial administration, thus obliging the courts to draw on the “expertise” of colonial officers on the ground. As noted above, cases like that of Weyulo, Maganyo, and Charo Hinzano were also tied into the contexts of case law and Colonial Office conversations about witchcraft. And finally, witch-killing cases arose not only in the context of the intellectual – the ordinary realm of the courts – but also in contexts of intuition and affect, of individual bodies and minds. A central role of the courts in witch-killing cases was to bring these various contexts into fruitful conversation, extracting the relevant knowledge from the testimony of each group and assessing their evidence to establish orderly narratives that would lead not only to a decision in a particular case, but also augment the body of case law in witchcraft-related criminal cases.

The Witness: “Expert” in the Local

Witnesses were the first category of “experts” called upon to contribute their particular knowledge to the courts’ narrativization of witchcraft murder cases. In the large majority of cases, the witness pool was constituted by the family members, friends, and neighbors of the deceased or the accused. It was not unusual for witnesses to be affines of both the deceased and the accused. These witnesses might be termed “experts” of the “local.” The “expertise” of witnesses centered not only on their intimate knowledge both of the deceased and/or the accused, but also on knowledge of the social

world which they all shared. Witnesses were able to provide details to en flesh the contexts, and thus the courts' narrativization, of witchcraft killings.

But the experience and involvement of witnesses alone was not sufficient to render them "experts" in the eyes of the courts. As noted above, their ideas and experiences were remade by the poetics and politics of translation. Witness speech generally passed back and forth through two related levels of translation, a linguistic translation and a translation of "genre." Linguistic work entailed translating witness speech from a vernacular language to the *lingua franca*, Kiswahili, then from Kiswahili to the English of the courts.⁴⁰ The questions of the courts to which these witnesses responded followed the reverse path; from English to the relevant vernacular, and more often from English to Kiswahili to the appropriate vernacular. The Supreme Court transcripts of witness testimony in Charo Hinzano's case, for example, note that "Interpreter Andrew Charles [was] interpreting from English [to] Wagiriama."⁴¹

Subtle shifts in the control over meanings occurred through linguistic translation and the translation of "genre." In the process of linguistic translation, the nuances of vernacular languages, particularly as regards witchcraft were lost. For example, in Weyulo's case, the Kikamba terms "kyeni," a generic term for witchcraft involving the "evil eye," and "kika," counter-magic, would likely have been translated simply as "witchcraft."⁴² At the same time, witness speech was also subject to a second sort of translation, one in which "speech" was rendered "testimony" by the kinds of questions

⁴⁰ Colonial laws were not published in Kiswahili.

⁴¹ In His Majesty's Supreme Court at Kenya, Kilifi Session. July 7th 1941. *Charo Hinzano*.

⁴² KNA BB/PC/EST/12/15. Provincial Commissioner's Office, Eastern Province. Witchcraft, General. 30th Oct., 1954 – 11th July, 1961. Eastern Area Handing Over Report, 1955. "Witchcraft Appendix."

that the courts asked which, in turn, demanded the sorts of responses which met with the courts' expectations of credibility and use value.

This work of translating witness speech into testimony thus gave the courts charge over the meanings or deliberated ambiguities of central terms like witchcraft, which in the experiences of those directly involved in the cases often carried particularized meanings and specialized terminology. In witness testimony, witchcraft did a range of descriptive and analytic work (re)defining the deceased as the initial aggressor in a witchcraft killing story or as the "victim" in a narrative of witchcraft murder. Witness testimony generally worked in one of two ways. First, in naming the deceased as a "witch," witness testimony spoke to issues of motive and provocation. Testimony supporting the notion that the deceased was a witch could work to reinforce the accused's claims regarding witchcraft as a provocation to the killing. In the second (and more typical) case, witness testimony worked to define the deceased by what he was *not* – not a "witch." By defining the deceased as "not-a-witch," witness testimony in turn served to break down the accused's own claims about the provoking witchcraft of the deceased.

Lastly, witness testimony about witchcraft worked also to reinforce the status of witnesses as experts of the "local." In talking about witchcraft, witnesses did not simply confirm or deny the claims about the witchcraft of the deceased, but spoke to the legitimacy of these claims vis à vis local beliefs about witchcraft. Witness testimony therefore constituted one of the spaces in which the reasonableness of witchcraft beliefs was contested.

So what were the specific characteristics of "good testimony?" The testimony of Anyango given in the Supreme Court trial of Maganyo s/o Ochiel illustrates many of the

attributes of “good” testimony. Termed by the courts “an old woman, concise and credible,” Anyango provided testimony that conformed to the courts standards of intelligibility and usefulness. It is worth quoting her first statement to the court in its entirety:

I am the Aunt of the accused. About the beginning of August there was a quarrel between accused and my husband. I was present at the quarrel, about cattle gate. Oyugi went to milk the cattle and closed the gate of the cattle boma. The cattle strayed outside and ate the grass off the roof. Oyugi asked accused why he allowed the cattle to stray outside and eat grass off roof. Accused abused deceased by his mother’s “anus.” He said “Your mother’s cunt” and deceased replied “The same to you.” The accused used both expressions anus and “cunt.” Oyugi raised his rungu first and then accused raised his rungu. Oyugi did nothing with his rungu. Accused didn’t do anything. No blows were then struck at that time. Oyugi’s rungu was a child’s rungu, but accused’s was a big one. Oyugi’s was about 18” long. Accused’s was about same length. Knot of Oyugi’s rungu was smaller than accused’s. No blows were struck with these rungus. Nyakembo along with Nyangori arrived. This is Nyakembo (brought into Court). He separated them. Nyamkembo led his father Oyugi to my hut. Nyangori took accused to his own house. Later he (accused) returned with his spear, to the door of my hut. Oyugi and myself were at the door together. Accused came to door and told Oyugi “I can stab you.” Accused stabbed Oyugi in left side of the body. Went in about height of waist, about halfway between front of hip and navel. It came out on right hand side. This is the spear the accused used. About an inch of blade was protruding. He stabbed, withdrew, dropped it down and ran away. He threw it, then caught hold of it again and withdrew it. Shortly afterwards Oyugi died.⁴³

Testimony like Anyango’s counted as intelligible and useable according to the type of information it contained and the ways in which that information was expressed. “Good” testimony clearly identified the relation of the witness to the deceased and the accused, referencing the witness’s expert (and intimate) knowledge of the central actors in the case. It described thoroughly the circumstances surrounding the killing, speaking to the witness’s expert knowledge both of the particular situation and of the broader social world. Finally, “good” testimony detailed the mode of the killing and/or the

⁴³ Testimony of Anyango widow of Oyugi. 2 October 1940. Kenya Supreme Court at Kisumu. *Maganyo*.

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condition of the body of the deceased, demonstrating (eyewitness) expert knowledge that was directed toward making the body “speak.”⁴⁴

The modes through which the sort of information discussed above were expressed also contributed to making “good” testimony. Useable and intelligible testimony was expressed in linear narratives that aided the court in ordering the events and circumstances of the case. These narratives assembled relations of cause and effect in witchcraft murder cases.

“Good” testimony also provided relevant and useable details – without extraneous information. It noted the affective language surrounding the killings, speaking to issues of motive. “Good” testimony provided particular information about time and space, attending to problems of provocation and premeditation. And, “good” testimony discussed weapons and wounds, again speaking to intention and planning.

Within the framework of “good” testimony, witchcraft performed descriptive and analytic work, elaborating the claims of the accused about the witchcraft of the deceased and characterizing them as legitimate or not. Testimony about witchcraft conformed to the criteria of “good” testimony discussed above. In Maganyo’s case, the testimony of the widow Anganyo as well as that of the deceased’s son and the accused’s brother worked to counter Maganyo’s claims about the witchcraft of the deceased. Their testimony reads:

Anyango (widow of Oyugi): My husband was not a wizard. Before his death, I heard a little from the accused. Accused deceased that death of his child was due to him. It was Oyugi he spoke to. Oyugi said, I don’t know what you are talking about.” This was a month before the deceased died. Oyugi never treated the child before it died. I never heard anyone else accuse Oyugi of being a wizard.

⁴⁴ Cohen and Odhiambo, 1992; 2004.

Nyakembo (son of Oyugi): My father was never called a wizard by anybody. Yes, I heard accused charge deceased with being a wizard on that day. Accused abused him saying “You wizard.” He did not say deceased had bewitched his child. I never heard my father admit his powers.”

Nyangori (brother of Maganyo): Yes I said I never heard accused charge deceased with being a witch. I heard that when they were abusing one another. I meant in presence of other people when I said no. Before that day I never heard accused charge deceased with being a wizard. I have never heard anyone say before that day deceased was a witch or had bewitched anybody or had tried to bewitch anybody or had abnormal powers.⁴⁵

The testimony proffered by these three witnesses, in countering the accused’s claims about the witchcraft of the deceased, attends to many of the criteria for “good” testimony. Testimony about witchcraft reinforced the witness’ status as “experts” of the “local” and reiterated their relationships with both the deceased and the accused. It situated accusations of witchcraft within the broader chronology of the case, further speaking to issues of motive and provocation. Attention to witchcraft accusations foregrounded both another layer of the witnesses “expertise” regarding witchcraft and the role played by speech in the circumstances of witchcraft-related deaths. In general, testimony about witchcraft like that offered in Maganyo’s case operated to define the deceased by what he was not – not a witch – and worked to provide an opening for other potential motives for the witch-killing.

But testimony about witchcraft also evidenced witnesses’ “expert” knowledge in matters beyond the workings of the immediate social situation. Speaking as “experts” about witchcraft within the *tribe* generally, witnesses could work to establish additional conditions of (im)probability surrounding the alleged witchcraft of the deceased. In Charo Hinzano’s case, for example, the testimony of Kadzo, his lover and also the wife

⁴⁵2 October 1940. Testimony of *Nyangori s/o Ochiel*. Kenya Supreme Court, Kisumu.

of the deceased, drew on the woman's "expertise" of her deceased husband to define him as "not-a-witch." She stated unequivocally to the courts, "My husband did not practise witchcraft." The testimony of Iha, who arbitrated in Charo Hinzano and Mdago's dispute over adultery which formed the backdrop of the witchcraft-murder, reiterated the definition of the deceased as "not-a-witch" and identified the conditions which made it improbable that Mdago could have been a witch. He testified,

I have never heard of any people dying because of the deceased's witchcraft. I have never seen or heard that the deceased's Tribe practise witchcraft...I have never heard that the deceased was a witchdoctor.⁴⁶

Testimony about witchcraft in Weyulo's case, in contrast, drew on the witnesses' "expert" knowledge of the social situation within their shared community and of the general witchcraft beliefs of the tribe, with the unusual result of defining the deceased as a "witch" and confirming widespread fear of witchcraft. Musembi wa Mutaba stated,

Yes, we knew that Kathanja (deceased) possessed witchcraft charms. Yes I believe in witchcraft. Our tribe is afraid of witchcraft...When Kathanja dies no one will inherit his witchcraft powers, Yes we believe that if the wizard is killed the child will recover from sickness and the child has recovered. I won't dispute that accused may have believed that deceased had cast a spell on the children.

But further testimony, making use of the witness's knowledge of the local relationships and the general tenets of witchcraft within the tribe, nevertheless suggested that Weyulo's assertion that Kathanja had bewitched her children was unreasonable. Musembi wa Mutaba added, "We were not afraid of him [Kathanja] because he was a relative of ours. People who were not his feared him."⁴⁷ Despite identifying the deceased as a witch, witness testimony still worked in this case to break down the accused's claims about the witchcraft of the deceased.

⁴⁶ July 1941. Testimony of Iha. Supreme Court of Kenya at Mombasa, Kilifi Session. *Charo Hinzano*.

⁴⁷ N.D. Testimony of Musembi wa Mutaba. *Weyulo*.

In the majority of trials, witness testimony about witchcraft worked to discount the accused's claims that the witchcraft of the deceased constituted a mitigating factor in the case. It described witchcraft beliefs and spoke to the reasonableness of these beliefs within colonial contexts. Finally, testimony about witchcraft often opened a space in which to consider alternative motives for witchcraft-murders.

More generally, witness testimony was a central building block in the courts' efforts to construct useful and intelligible narratives of witchcraft-murders out of stories of witchcraft-killings. Although trial transcripts do not list the questions being asked by the courts, the sorts of testimony that witnesses offered hint at what such questions might have been asked. The courts' investigative modes were meant to elucidate the general facts of the case and to answer the questions "Who?" "What?" "When?" "Where?" "Why?" and "How?" in such a way that they developed a body of information narrativized according to colonial categories that the courts could use in determining degrees of culpability and appropriate consequences. Through the processes of collection, translation, and (re)ordering, the courts' worked on (and with) witness testimony to transform the stories of witchcraft killings from "events" into crimes.

The Native Assessor: "Customary Expert" and/or Category of the Court?

The courts called upon another category of "experts," native assessors, to evaluate the information provided by witnesses and the accused. As noted in chapter one, native assessors were men recognized by colonial authorities as qualified to advise the courts on issues of "custom" and local beliefs, and each year the Judicial Department compiled and published lists of potential native assessors to be recruited from each tribe in the colony and from the South Asian community. To review, available archival

documentation neither explains specifically how the native assessor system was developed in Kenya in particular nor the criteria by which native assessors were chosen there. In a range of other contexts, however, colonial officials treated, both in theory and practice, old men as repositories of authoritative knowledge about “custom.” These attitudes suggest that native assessors were likely drawn from pools of “elders” designated as such by their communities and/or the colonial government. Like witchcraft, custom operated as a colonial “master category” shot through with deliberated ambiguity.⁴⁸

In many incidences, the colonial state treated “custom” solidly as a “category-of-the-colonized,” encompassing practices and beliefs which failed the colonial “repugnancy test” and thus necessitated colonial discipline. But in other circumstances, “custom” could work as a “category-of-the-colonizer,” elucidating for colonial authorities contexts for better comprehending and talking about “local” manners and mores while simultaneously locating the ultimate control over the use-value of such information under the state’s purview.⁴⁹ In the space of the courts, “custom” often functioned as a stand-in for “precedent” in cases where relevant precedent existed neither in British law nor in British social situations.⁵⁰

In court cases of witchcraft-related deaths, native assessors’ testimony about “custom” worked descriptively and analytically. First, courtroom discussions of “custom” worked to add another layer to the context of the case. But the assessors’ opinions about “custom” also did analytic work, defining for the courts what made a

⁴⁸ Sadowsky, 1999. Ibid.

⁴⁹ Frederick Cooper, *Colonialism in Question: Theory, Knowledge, History*, (Berkeley: University of California Press, 2005).

⁵⁰ See the essays in H.F. Morris and James S. Read, *Indirect Rule and the Search for Justice*, (Oxford: Clarendon Press, 1972).

“reasonable man” and what was a “reasonable” response to bewitchment within local communities. Testimony about “custom” suggested sorts of local “precedents” for dealing with witchcraft and what constituted “good practice” vis à vis witchcraft in such settings.

Like witnesses, native assessors were “experts” of the local. But while the role of witnesses was to provide a detailed body of knowledge about the circumstances of particular witchcraft cases, the role of native assessors was one more of evaluation and elaboration. Native assessors drew upon their “expert” knowledge of “custom” and local beliefs, especially those pertaining to witchcraft, in order to evaluate and elaborate witness testimony. The role of the native assessors was to establish for the courts *specifically* local standards of “good practice” and “reasonableness” with regards to witchcraft, and to assess whether the circumstances described by witnesses in particular witchcraft murder cases accorded with such standards.

But the seemingly straightforward work of native assessors was more complicated. The opinions voiced by assessors were informed not only by their “expertise”-generating knowledge and experience, but by their location as middle figures in the colonial regime and by the related expectations of the courts. I do not mean to suggest here that native assessors were “mimic men” in the sense so famously described by Homi Bhabha, but rather that “native assessor” was itself a colonial category entangled in the court context with broad ones like witchcraft, law, order and with more specific categories pertaining to crime.⁵¹ Native assessors’ work entailed occupying a middling intellectual space in which they moved consistently between their own

⁵¹ Homi Bhabha, “Of Mimicry and Man: The Ambivalence of Colonial Discourse,” in *Tensions of Empire: Colonial Cultures in a Bourgeois World*, eds. Frederick Cooper and Ann Laura Stoler (Berkeley and Los Angeles, University of California Press, 1989). 152-160.

knowledge of the local and the courts' expectations about what counted as "reasonableness" and "good practice" as regarded witchcraft and related questions pertaining to particular categories of crime.

On a number of levels, the work of native assessors was directed by the courts. The opinions of assessors were not narrative evaluations of the case, but instead sets of answers to the courts' specific queries. Their opinions were further framed by the courts' instructions in the meanings and uses of particular judicial categories, for example, malice aforethought and manslaughter and by examples and explanations of judicial precedent. Embedded in these questions and instructions were the courts' expectations of what made "reasonableness" and "good practice" in relation to "witchcraft." Finally, the testimony provided by both witnesses and the accused was far from "raw," having instead been subject to processes of translation and narrativization. Documents from Weyulo's case illustrate the interaction of the courts and native assessors.

The court's notes for an address to the assessors read as follows:

Murder manslaughter and malice aforethought explained. Onus thus on the prosecution to prove guilt beyond a reasonable doubt. Decision in *Rex. versus Kimutai arap Mursoi* 1939 VI E.A.C.A. 117 and *Rex v. Mawala binti Nyangweza* Criminal Appeal No. 61 of 1940 explained. Defence of provocation explained. Accused must be given benefit of the doubt if case as a whole raises a reasonable doubt as to whether there was such provocation as to reduce crime to manslaughter.⁵²

Contained in these short notes is a great deal of information about the categories and concepts through which the courts directed the opinions of native assessors. The notes point to the important judicial concepts according to which the High Court justices would ultimately rule and to the concepts available to the defense. The notes also

⁵² *Weyulo*.

identify precedent in earlier witchcraft murder cases. Finally, they address the problem of burden-of-proof. Overall, the instructions to assessors worked to establish a framework through which native assessors were to evaluate the various competing claims about witchcraft, law, and order wrapped up in the case.

A full record of the instructions to native assessors in this case are not available. However, when read in conversation with other sources, such as the Kenya Penal Code in force in the 1940s, a range of information can be extrapolated from these notes. The Kenya Penal Code did not differentiate between degrees of murder. Rather, all killings were initially presumed by the law to be murder, and murder was always a capital offence.⁵³ However, the stipulations of the penal code made it possible for the courts to choose between murder and manslaughter when ruling in witchcraft-killing cases. According to the penal code, evidence of the presence of malice aforethought in the mind of the accused distinguished cases of murder from those of manslaughter.⁵⁴ The penal code also stipulated that evidence of legally defined “provocation, could reduce a charge of murder to one of manslaughter.”⁵⁵ Finally, it stated that onus of “proving

⁵³ Section 190 read, “Any person who is shown to have caused the death of another is presumed to have willfully murdered him unless the circumstances are such as to raise a contrary presumption.” KNA AG/52/190. Criminal Procedure and Criminal Cases. Kenya Penal Code (1930). 45.

⁵⁴ Definition of Malice Aforethought, Section 186 of the Penal Code defines murder as follows:-Malice aforethought shall be deemed to be established by evidence proving... (b) knowledge that the act or omission causing death will probably cause the death of or grievous harm to some person... although such knowledge is accompanied by indifference whether death or grievous bodily harm is caused or not, by a wish that it may not be caused. KNA AG/52/190. Criminal Procedure and Criminal Cases. Kenya Penal Code (1930), 8-9. Section 186 of the Kenya Penal Code (1930) defined murder. “Any person who of malice aforethought causes the death of another person by an unlawful act or omission is guilty of murder.” Section 190 of the code also stipulated that all killings were presumed to be murder. The burden of proving circumstances of excuse, justification, or extenuation is upon the person who is shown to have caused the death of another.” KNA AG/52/190. Criminal Procedure and Criminal Cases. Kenya Penal Code (1930) 45.

⁵⁵ Sections 191 and 192 of the Kenya Penal Code (1930) defined “killing on provocation” and “provocation.” “When a person who unlawfully kills another under circumstances which, but for the provisions of this section, would constitute murder, does the act which causes death in the heat of passion caused by sudden provocation hereinafter defined, and before there is time for his passion to cool, he is guilty of manslaughter only.” And, “The term ‘provocation’ means and includes, except as hereinafter

circumstances of excuse, justification, or extenuation [was] upon the person who is shown to have caused the death of another.” Instruction in the Penal Code of Kenya served to establish a central part of the framework through which native assessors were to evaluate the testimony presented in witchcraft-killing cases.

The instructions to native assessors also worked to establish a complex judicial context for witchcraft-murder cases. By referencing and explaining past witchcraft cases, the courts offered the assessors another tool – *legal precedent* – with which to assess the information in witchcraft-killing cases.”⁵⁶ In the case of *Rex versus Kimutai arap Mursoi*, the appellant appealed from a conviction for murder, contending that the deceased was a wizard who had laid a spell on the appellant’s child which resulted in the child’s death. The appeal was rejected by the High Court of Appeal for Eastern Africa on the grounds that,

The plea that the deceased had bewitched or threatened to bewitch the accused has been consistently rejected except in cases where the accused has been put in such fear of immediate danger to his own life that the defense of grave and sudden provocation has been held proved.⁵⁷

Similarly, in the case of *Rex versus Mawalawa bin Nyangweza*, the appellant appealed from a conviction of murder, explaining that he had deliberately killed a woman because he believed she had caused the deaths of his family by witchcraft. The High Court of Appeal for Eastern Africa dismissed the appeal on the grounds that, “The appeal

stated, any wrongful act or insult of such nature as to be likely to, when done to an ordinary person, or in the presence of an ordinary person to another person who is under his immediate care, or to whom he stands in a conjugal, filial, or fraternal relation, or in relation of master and servant, to deprive him of the power of self-control and to induce him to assault the person by whom the act or insult is done or offered. When such an act or insult is done or offered by one person to another, or in the presence of another to a person who is under the immediate care of that other, or to whom the latter stands in any such relation as aforesaid, the former is said to give to the latter provocation for an assault.” KNA AG/52/190. Criminal Procedure and Criminal Cases. Kenya Penal Code (1930) 45.

⁵⁶ For a general discussion of the role of precedent, see Sawyerr and Hiller, 1971.

⁵⁷ 6 E.A.C.A. 1938 *Rex versus Kimutai arap Mursoi*. This case cites *Rex versus Kumwaka*.

must be dismissed as the accused had not been put in such fear of immediate danger to his own life that the defence of grave and sudden provocation has been held proved.”⁵⁸

The decisions in these cases addressed questions of what constituted “good” or appropriate practice in the eyes of the courts when dealing with bewitchment. The courts, not surprisingly, did not recognize witch-killing as “good” practice. Further, they refused to recognize witchcraft as a mitigating factor which could transform murder into manslaughter. More tacitly, the decisions also raised the issue of the “reasonableness” of witchcraft beliefs, suggesting that even if beliefs in witchcraft were “reasonable” in particular colonial contexts, witch-killing was not, in turn, a “reasonable” response to misfortune believed to be wrought by witchcraft. Instruction in past precedent thus constituted another element of the framework through which native assessors evaluated evidence witchcraft-killing cases.

The opinions of native assessors, then, were not simply based on assessors’ “expertise” in local belief and “custom,” but were also directed by the courts. The testimony and evidence which assessors evaluated was not “raw,” but had instead been shaped by the courts’ protocols of collections and reportage and processes of translation. The framework according to which assessors analyzed this testimony and evidence was, in turn, very much a construct of the courts. Court categories and concepts, together with “local expertise” are present in the opinions offered by native assessors in Weyulo’s case. The assessors stated,

1st Assessor: I am satisfied that accused killed Kathanja. I believe her story except that I don’t believe that Kathanja bewitched her children at all. I accept that she believed it and she believed that her own life was in danger but father-in-laws- do not bewitch their sons wives.

⁵⁸ 7 E.A.C.A. 1940. *Rex versus Mawalawa bin Nyangweza*.

2nd Assessor: She killed Kathanja but I don't believe that Kathanja did what she believed he did. She killed Kathanja because she thought he would kill her young child which was ill and then she thought Kathanja would kill her.

3rd Assessor: Accused killed Kathanja for nothing although she thought that Kathanja had killed one child and was killing the other one was not so. She thought her own life was in immediate danger but she killed Kathanja for no reason.⁵⁹

The assessors' opinions referenced "expert" knowledge witchcraft to appraise Weyulo's claims about the witchcraft of the deceased. In doing so they enflashed the courts knowledge of the context of the killing and suggested that Weyulo's actions did not meet "customary" standards of "reasonableness." But the assessors also evaluated testimony according to the framework established by the courts and drew on court categories in offering their assessments. While the assessors' opinions were instrumental in aiding the courts' in negotiating issues of witchcraft when making "useable" narratives, they also foregrounded the disconnect between the veracity of the accused's witchcraft beliefs and the "reasonableness" of these beliefs (and responses) to them in particular colonial contexts.

"Men-on-the-Spot": Magistrates Meet Assessors

The courts did not consider native assessors the sole repositories of "expertise" about "custom" and witchcraft. They also drew upon the "expert" knowledge of district officers, the government's "men-on-the-spot" to contextualize and assess claims about witchcraft. Like witnesses and assessors, district officers were "experts of the local." Colonial administrators were also those who introduced the cases into the colonial criminal arena, rendering them matters of official concern. In their capacities as

⁵⁹ Assessors opinions. *Weyulo*.

“experts” in the “local” and in administration, the men-on-the-spot helped to contour the cases according to “local” and colonial understandings of witchcraft.

As described in chapter one, district officers were part of an evolving “prefectural” administration which while expecting them to uphold and represent a particular administrative logic and ethos also required that they occupy a number of roles simultaneously. District officers functioned as practical managers and knowledge producers for a state apparatus which could not otherwise effectively extend its sway beyond the capitol. A range of literature has detailed the conflicts over “expertise” and its implementation between men-on-the-spot and their colleagues in the capitols, but in cases of witchcraft killing, the “expert” knowledge of district officers was taken as such both by the officers themselves and by colonial authorities in Nairobi and London.

District officers were involved in witchcraft killing cases at multiple moments and in various capacities. They were the first to produce “official” colonial knowledge about the cases, carrying out preliminary investigations and preparing reports. This initial knowledge generated by district officers framed the cases that the courts would hear.

In many instances district officers doubled as magistrates. In this capacity they assembled more information about cases and arranged it according to court protocols. The magisterial role also entailed a strong element of interpretation. Magistrates were responsible for deposing everyone involved in the case and then for translating this information into the language of the courts. As Thomas Askwith, the District Officer/Magistrate responsible for Maganyo’s case explained, “He [Maganyo] spoke in Kisii, it was translated by Silvano this court interpreter into Swahili and I translated it into English. I recorded it in English and it contains the whole statement of the accused

as interpreted by me."⁶⁰ Such translation was not simply linguistic, but a translation in "genre," shaping the statements of witnesses into forms useable in court settings.

Further, district magistrates were responsible for trying the cases like those of Weyulo, Maganyo and Charo Hinzano, and for determining in large part which cases would be referred to the higher courts. In this capacity, the magistrates' freedom to consider witchcraft as a mitigating factor (or not) was constrained by the law-as-written. At this juncture, the "expertise" of magistrates was located largely in the knowledge of the workings of the colonial legal system rather than in the workings of the local people.

During the standard one-month period between the judgment of the High Court of Appeal for Eastern Africa and the decision of the Governor-in-Council regarding the ultimate sentence, district officers/magistrates were called upon to provide "expert" knowledge of the local along the lines of that offered by native assessors. Drawing on their knowledge gleaned by living and working "on-the-spot," district officers evaluated the defendants' claims about witchcraft and provided relevant background information about local social situations and "custom" in much the same way as did native assessors. The opinions of the District Commissioners of Kitui and South Kavirondo largely accorded with those offered by native assessors in the case.

D.C. Kitui: "Accused comes from an area where witchcraft is implicitly believed in by many of the natives living there, and I can see no reason to doubt that the accused believed her child died as the result of being bewitched by the man she subsequently killed."

D.C. South Kavirondo: - "In Native Law and Custom very little weight would attach to accused's plea of justification on the grounds of witchcraft since by Luo custom the son of a witch must also be a witch himself as it is believed to be an inherited art. Deceased was the father of the accused and therefore cannot

⁶⁰ *Maganyo. My emphasis.*

have feared him on account of witchcraft. It appears therefore that the only cause of the murder was the quarrel with his father.”⁶¹

District officers/magistrates worked in multiple capacities to produce, translate and assess various forms of knowledge shaping and informing witchcraft murder cases. In their capacities as magistrates, these officials were constrained by the law *not* to consider witchcraft as a mitigating factor in murder cases while in their capacities as district officers they were charged with obtaining and assessing information about witchcraft and its relevance to the cases in question. The sorts of information and type of “expertise” produced by the men-on-the-spot, varied according to the positions which they occupied and the forums in which they were called upon to report. Overall, this multifarious “expertise” was directed towards shaping useable narratives for the courts.

Medical Officers: Working with the Content in and of the Form

This analysis commenced with answers to the medical officer’s query, “Does the question of witchcraft arise?” The reports of medical experts attended to the physical, physiological and emotional states of defendants, providing the appellate courts with another layer of evidence through which to order and en flesh their narratives and render their judgments. The expert information in medical reports worked descriptively, to broaden the context of cases, and analytically, to assess defendants’ claims about the deceased and about themselves, referencing the affective and embodied elements of witchcraft and related crimes.

In producing reports about all defendants remanded on capital charges, medical officers followed questions and recorded information on standard examination forms. These particular forms speak to issues of the “*content in the form*” of bureaucratic

⁶¹ *Weyulo; Maganyo.*

documents, or the ways in which the structure and protocols of standardized bureaucratic documents in turn shaped particular bodies of information. The questions and categories on such documents reflected not only the types of information that authorities wanted to elicit, but also the sort of information that they expected to be able to obtain. They foreground what kinds of information had use-value for the courts, and they help to delineate what counted as medical “expertise” These reports, however, were not products simply of the (dialectic) exchanges between the medical officers and defendants. Rather, the reports’ questions and categories were functions of larger colonial conversations about the workings of bodies, minds and emotions.

The report’s categories and questions, while overall directed towards developing a picture of the health of the defendant, did different kinds of work. Categories, like “Personal history” and “Venereal Disease,” primarily addressed the condition of the defendant’s body.⁶² Questions, treating such topics as mental derangement and appreciation of the crime, mainly attended to the defendant’s psychological and emotional states. The space for “recommendations” invited medical officers to use their expertise to summarily assess the information above.

In Weyulo’s case, the (categorical) assessment of her body rendered no useable information. Her medical history reported no family history of serious disease, insanity or epilepsy, a similar personal history, and no habits of alcohol, bhang, or tobacco. According to her report, Weyulo’s body contained nothing – neither sickness nor substance – to help explain her beliefs and actions. Similarly, Charo Hinzano’s report

⁶² In addition to standard demographic categories, name, tribe, etc., the forms contain the following categories: Family History – Father, Living or Dead? Mother, Living or Dead? History of Insanity? History of Epilepsy? Personal History – Previous Diseases? Venereal Diseases? Epilepsy? Insanity? Habits – Alcohol? Bhang? Tobacco?

suggested only that he had suffered from venereal disease, but seemingly not a case sufficiently serious to influence his perceptions and behavior.⁶³

The assessment of Maganyo's body, in contrast, worked to shore up the "reasonableness" of his purported beliefs in Oyugi's witchcraft which he held responsible for the death of his child and his own severe stomach pains. Under "Family History" Maganyo's mother's cause of death was listed as "abdominal disease." Maganyo's "Personal History," noted that "He says he has suffered from abdominal pain for a long time." And, the report described, "numerous scarifications on abdomen, presumably to cure abdominal pain."⁶⁴ The assessment of Maganyo's body then, posited a genealogy and materiality to his contentions about the type of witchcraft he believed to have been practiced against him.

The forms' questions produced more useable information, querying the extent of the defendants' "intelligence," "delusions of persecution," beliefs in witchcraft and appreciation of the seriousness of the crime. This nexus spoke to the mental and emotional health of the defendant, working to ascertain evidence of diminished capacity or mistaken belief. The Medical Officer in Charge of the Prison Hospital, found Weyulo and Charo Hinzano to be of average intelligence and to show no evidence of mental derangement. Both admitted their crimes and suggested explanations for them. Weyulo felt that "she was compelled to act as she did," while Charo Hinzano stated that he "was not right in his head at the time or he would not have done it." Maganyo did not explain himself in the same way. The medical officer found Maganyo to be unsettled, "intensely

⁶³ *Weyulo; Charo Hinzano.*

⁶⁴ *Maganyo.*

suspicious and frightened,” and perhaps “feeble-minded” to the point that he was “almost unexaminable mentally.”⁶⁵

In each of the cases, of course, the question of witchcraft arose. The answers on Weyulo, Charo Hinzano and Maganyo’s forms simply offered the bare summaries of what they had claimed about witchcraft in more detail in various other judicial settings. Only in Maganyo’s case were the Medical Officer’s physical findings and the defendant’s assertions in conversation. Of Maganyo, the Medical Officer noted, “He believes that his child had been killed by witchcraft and that his own abdominal pains were similarly caused by the deceased.”⁶⁶

The medical officer’s recommendations vary interestingly. In Maganyo’s case, the Medical Officer highlighted the intersection of physical findings and the defendant’s claims about witchcraft noted above. He suggested, that “consideration be given to the extensive scarification of the accused’s abdomen, as corroborating very clearly his statements in regard to his own illness.” Despite Charo Hinzano and Weyulo making similar claims about the role of witchcraft in their crimes, the medical officer suggested Weyulo’s youth be considered – she is listed as between 18 and 20 years old – and that attention be drawn to the “evidence of witchcraft” mentioned in the Charo Hinzano’s examination. Yet in neither case were these recommendations likely to influence the judgments of the appellate court which treated youth as mitigating only in cases where the defendant was under 16 and did not treat witchcraft as legally recognized provocation. The medical officer’s findings, particularly about witchcraft, had the potential, however, to influence the recommendations to clemency that the appellate

⁶⁵ *Weyulo; Charo Hinzano.*

⁶⁶ *Maganyo.*

courts made to the Governor-in-Council. While the Supreme Court justices could not recognize witchcraft beliefs as mitigating factors in rendering their own judgments, they were open to such beliefs being considered and employed in other arenas.

Medical expertise, marked out by the content in and of the form, described the mental and physical states of the defendants. Drawing on broader networks of knowledge about health and disease, it offered another contextualizing layer to the evidence on which the courts drew to transform messy witchcraft killing stories into useable witchcraft murder narratives. The expertise of medical personnel worked analytically too, assessing the statements that defendants made in other judicial forums about their own mental states vis à vis the witchcraft of the deceased and speaking *to* other authorities in different forums about these assessments. Overall, the medical examiner's form provided another space to consider and work with the circumstances under which the question of witchcraft "arose."

Speaking for Themselves? – How the Accused (and their Advocates) Tell Their Stories

So in what ways did the accused tell their stories of witchcraft killings? Thus far, this analysis has focused on the testimony offered by a variety of "experts" designated as such by the colonial courts and on the ways in which the courts' processes of translation and narrativization have molded the information collected and presented in judicial settings. Like the testimony of witnesses, the testimony of the accused was driven by the same expectations of "good testimony" and subject to translation and narrativization. While witness testimony worked to transform stories of witchcraft killings into narratives of witch murder, the testimony of the accused worked instead to (re)orient attention away from the killing of the witch and towards the earlier killings *by* witchcraft. Rather than

being designated as “experts” themselves, the accused were assigned experts, advocates who (re)formulated the accused’s stories according to court categories and conventions.

Testifying (or not) in the High Court

The presence of the accused in his or her own story of witchcraft and death varied according to the judicial space in which they were expressed. The voices of the accused were most clearly present and their stories most completely developed in the trial phase. Pleadings to the Governor-in-Council, in contrast, were highly formulaic and shaped by judicial expectations.

Conforming to the courts’ standards of intelligibility and usefulness, the testimony of the accused shared many of the characteristics of “good” testimony that organized that of witnesses. Witness testimony, as noted above, was targeted towards breaking down the “reasonableness” of the accused’s claims about witchcraft. The testimony of the accused, in contrast, was directed towards (re)establishing the “logic” in the accused’s attitudes about witchcraft through an attention to the interior life –the affect and beliefs – of the speaker that was largely absent in witness testimony. The testimony of the accused entailed dramaturgics absent from the testimony of witnesses. Further, in certain instances, the testimony of the accused referenced the ways in which the courts and their experts were working (or not) on their stories.

Weyulo’s speech most closely attended to the standards of “good” testimony that framed that of witnesses. She stated,

Kathanja was my husband’s father. I killed him because he had bewitched my children. He told me he had done so and next day one child died. I greatly upset (sic). The second child got very ill and I killed him that day. I believed that my turn would be next and I believed that if I killed him I would save my child’s life and my own. I believed that if Kathanja died his spells would die with

him...It was very few days not a month before I killed him that he told me he would finish the children first and them myself⁶⁷

Weyulo's testimony followed a linear narrative which ordered the events of the case. Her speech referenced her relationship with the deceased and established a cause-and-effect for his killing. But at the same time, Weyulo's testimony contained a dramaturgical flair absent in the witness testimony about her case. Weyulo's speech referenced the degree of her emotions, and set up a meta-narrative in which her killing of Kathanja was posed as a (heroic) story in which Weyulo not only "saved" her child's life and her own, but rid the community of a malfeasant presence because, "...if Kathanja died his spells would die with him."

Witchcraft then, did a different type of work in the testimony of the accused. In Weyulo's testimony, attention was focused on the deaths that Kathanja (allegedly) wrought by witchcraft, in turn aiming to locate the "logic" in Weyulo's killing of her father-in-law. Yet while the attention to her emotional state spoke *for* Weyulo's case, hinting at the presence of a potentially mitigating passion, time, a key category in what made "good" testimony worked *against* her, demonstrating that she did not act out of *immediate* fear for her own life or as the result of a passion which had not had time to cool.⁶⁸

As in Weyulo's case, Maganyo's speech to the High Court entailed many of the characteristics of "good" testimony. He stated,

Yes, I stabbed Oyugi at the door of my hut. He came to bewitch me. ..He was praying with a charm that I might die. No I was not afraid. I recognized his voice and I said "This man is a wizard and he is going to kill me." I went outside and saw he had some roots and ashes. He was stirring ashes and roots, so I told him you have threatened to kill me and now you have come. Then Nyangori

⁶⁷ High Court Testimony of Weyulo. *Weyulo*.

⁶⁸ *Ibid.*

arrived and deceased lifted up his stick and said to me “I will kill you today.” Then I said deceased has already killed my child he troubled me and bewitched me and I had sickness in the stomach and now he has raised his stick and threatened to kill me. Then I seized hold of my spear – deceased started to run – I stabbed him but I don’t know where he fell. I counted 2 things he had done to me and I counted myself a dead man. When I saw the ashes, that was the end....

I know people know he is a witch but they won’t come here. I have no witnesses....I cannot call anyone because only I have been bewitched. No one will come here and say deceased is a witch on my behalf....

I realized my story is totally different to the Crown witnesses evidence....I know my Advocate did not ask any questions of Nyangori bearing out my story.”⁶⁹

Maganyo’s testimony too established a linear narrative. It was specific and consistent in the details of the verbal exchanges that transpired between Maganyo and the deceased. In drawing attention to the specifics of Oyugi’s witchcraft paraphernalia, Maganyo’s testimony sought to (re)establish the “logic” in Maganyo’s witchcraft beliefs.

At the same time, Maganyo’s testimony also demonstrated an awareness of the courts’ workings and expectations. Recognizing that the courts would require witnesses to corroborate his allegations of Oyugi’s witchcraft, Maganyo explained why he had no witnesses to call. Maganyo’s testimony suggested also an understanding that the courts and their experts worked to shape the stories that the accused told. Thus, Maganyo located the blame for the discrepancies in his story in his advocate’s failure to ask the appropriate questions. While the category of time worked *for* Maganyo, suggesting the immediacy his response to Oyugi’s threats, his statements about affect – that he was “not afraid” – worked against his case, suggesting that his attack on Oyugi was not driven by passion or fear for his own life.

⁶⁹ Testimony of Maganyo s/o Ochiel. *Maganyo*.

Yet, it was not a requirement that the accused speak for themselves in the High Court. Charo Hinzano, for one, declined to testify before the High Court. His advocate, C.A. Patel, was charged instead with telling Charo Hinzano's story. He stated,

Defence of accused is in statement in Lower Court – he admitted he killed the deceased – allegation of witchcraft in statement. No reason to disbelieve accused's statement – If he was put in such immediate fear of danger to his own life, then he would not be guilty of murder. It is manslaughter because of provocation and immediate danger to his life. Mdago, he says, he would look for medicine with which to bewitch him.⁷⁰

In the advocate's rendering, Charo Hinzano's story was framed by judicial categories and told in legal language. The advocate's speech posed reasons for the reducing charges of murder to manslaughter. Rather than being a narrativization of the events surrounding Mdago's death, the advocate's telling instead offered a syllogism – Charo Hinzano alleged bewitchment by Mdago. Bewitchment creates fear and provocation. Fear and provocation reduce murder to manslaughter. Thus, Charo Hinzano was guilty of manslaughter instead of murder.

Overall, the testimony of the accused contained many of the elements that the court recognized as "good" testimony. But attention to the necessary elements of "good" testimony worked both for and against the cases of the accused. The accused's testimony sought to (re)orient attention towards the deaths that occurred before that of the "witch" and towards the various threats of death the "witch" had leveled. In certain instances, the accused's testimony employed dramaturgics absent in the more measured testimony of witnesses and other "experts." In other instances, however, the accused were willing to let the "experts" speak for them.

⁷⁰ Statement of Charo Hinzano's Advocate. Charo Hinzano stated, "I have already made my statement before the D.C. and I do not wish to give any evidence here or make a statement here." *Charo Hinzano*.

Seeking the Governor's Clemency

The courtroom of the High Court of Kenya is not the last judicial space in which the stories of the accused were told. After the High Court and the Court of Appeal for Eastern Africa rendered their verdicts, Weyulo, Maganyo, and Charo Hinzano had the option of appealing to the mercy of the Governor-in-Council who had the power to commute death sentences. But in much the same way the Charo Hinzano's narrative was remade syllogistically by his advocate's statements to the court, the pleas of the accused largely substituted the categories and concepts of the courts for the voices of the accused. Weyulo and Charo Hinzano pleaded as follows,

Weyulo: I killed Kathanja because he was a well-known witch-doctor and he had bewitched my children. One died and the other was very seriously ill. It was a very few days before I killed my children. He would kill me. I acted under great provocation, and was very upset when I killed him.

Charo Hinzano: I killed the deceased because the deceased had threatened to kill me by witchcraft. The deceased had killed my mother, wife and two relatives by witchcraft. I reported this matter to the Elders. I admit I committed adultery with the deceased's wife so when the deceased discovered he threatened to kill me by witchcraft. I therefore killed him to save my own life.⁷¹

While the pleas of the accused were not presented on standardized forms, they did contain formulaic elements. They reiterated the circumstances of the case, attending to questions of motivation and procedure. And, the pleas framed the circumstances of the cases in referring to the sorts of judicial concepts on which the courts based their decisions. Weyulo acted therefore "under great provocation," while Charo Hinzano killed Mdago to save his own life.

The stories of the accused were told in multiple judicial settings and through the varied voices of the accused and their advocates. The accused's testimony about

⁷¹ *Weyulo; Charo Hinzano.*

witchcraft and death were shaped by the categories and expectations of the court. The accused came closest to telling their own stories in the space of the courts, but their pleas were ultimately taken over by judicial protocols. The (legal) renderings of the accused's stories concluded there.

Rendering Judgments

For many of the participants involved (and certainly for the reader) these stories of witchcraft killings transformed into narratives of witchcraft murders were messy and complicated. But for the justices of the colonial courts, the cases were quite straightforward. The courts' protocols of collection and reportage together with processes of translation and narrativization established for the justices bodies of information that were readily intelligible and useable.

The judgments offered by the justices followed a relatively standard structure: statement and assessment of the defense, acknowledgment of the opinions of the assessors, attention to court categories, and reference to precedent. Also, as witchcraft constituted a key element of defenses like those of Weyulo, Maganyo, and Charo Hinzano, the judgments in such cases also attended to witchcraft. Though judgments in witchcraft murder cases universally denied the *existence* of witchcraft, they assessed the veracity and validity of the accused's witchcraft *beliefs*. While the law-as-written did not afford the courts space to consider witchcraft beliefs as mitigating factors when rendering their verdicts, the courts' recommendations to the Governor-in-Council ultimately turned on whether the accused had demonstrated his or her beliefs in witchcraft to be sufficiently "real." In the cases of Weyulo, Maganyo, and Charo Hinzano, the judgments of the

courts respectively concurred with, contested, and contradicted the accused's claims about witchcraft.

The High Court judgment in Weyulo's case adhered to the typical structure and assessed the validity of Weyulo's claims about witchcraft. Extracts from the judgment in Weyulo's case read,

The defence is that Kathanja who is proved to be a witch-doctor had told the accused about a month before the crime that he had bewitched her 2 children... The evidence given by the accused is not corroborated in any way except that one of her children did die about a month before the killing of Kathanja and that when Kathanja was killed her other child was ill. There was no evidence that she told any one of Kathanja's threats and though like the assessors I am satisfied that the accused believed without any justification that Kathanja was responsible for the death of one of her children and for the illness of the other I am not prepared to believe the rest of her evidence except as to the killing. From the way and manner in which accused gave her evidence I believed her story as to Kathanja telling her he had bewitched the children and as to his threatening her life was not true. The fact that a native is not likely to cast spells on his grandchildren strengthens the belief....

Even were I have to believed her evidence as to the threat to her own life or to her belief that her own life was in danger which I did not do I cannot see how she could believe that there was any immediate danger to her own life when she committed the crime as her second child was not yet dead and of course the danger would had been extremely remote at the time of the alleged threat and the killing occurred if not a month at least some days after the alleged threat. In view of the decision in *Rex v. Kumwaka wa Mulumbi and others* (14 K.L.R. 137) which was followed in *Rex v. Kimutai arap Mursoi* (6 E.A.C.A.117) that this defence "has been consistently rejected except in cases where the accused has been put in such immediate danger to his own life that the defence of grave and sudden provocation has been held proved" I must hold that the defence in this case fails...⁷²

The judgment in Weyulo's cases summarily reiterated her defense that Kathanja had bewitched her and her children. At the same time, it evaluated the validity of claims about her witchcraft beliefs and the role they played in driving her to kill Kathanja, finding that while Weyulo may have believed herself and her family to be bewitched, this

⁷² *Weyulo*.

belief was not reasonable. The judgment attended to what would have made Weyulo's claims reasonable in the eyes of the court; the testimony of witnesses who, according to their own observations or at the least on what Weyulo had told them before Kathanja's death, could corroborate Weyulo's claims that Kathanja had threatened her and her family with witchcraft. The justice also attended to performative elements in Weyulo's testimony when assessing her claims about witchcraft, noting that the "way and manner in which she told her story" led him to believe that her story was false. The judgment also drew on the opinions of the assessors – who argued that it was unlikely that Kathanja would have bewitched his own grandchildren – to cast Weyulo's claims about Kathanja's witchcraft as invalid.

The judgment also read claims about witchcraft against legal categories and in conversation with precedent. Even if the justice had accepted Weyulo's claims about witchcraft as reasonable, her story did not align with the mitigating judicial categories which her advocate had aimed to mobilize. The lag time between Kathanja's alleged threats and Weyulo's attack on him disabled claims that she felt her own life to be in "immediate danger." Similarly, precedent worked to breakdown Weyulo's claim to witchcraft as a mitigating factor. She could neither prove that she believed her own life to be in "immediate danger" through Kathanja's witchcraft nor could Weyulo establish the circumstances of "grave and sudden provocation" that would reduce her case to manslaughter.

Yet, witchcraft still counted in Weyulo's case. Though the justices did not believe that Kathanja had practiced witchcraft against Weyulo – and precedent suggests it would not have matter if they did – they did concur that Weyulo truly believed that



Kathanja had bewitched her family. The courts' recognition of what could be legally termed Weyulo's "real but mistaken belief" in Kathanja's witchcraft rendered her case one that could be recommended to the clemency of the Governor-in-Council.

Although the judgment in Maganyo's cases generally followed the structure of that Weyulo's case, the justices contested Maganyo's claims about witchcraft. Extracts read,

The accused admits that he killed the deceased and his defence is that it was done under grave and sudden provocation and a faint suggestion that he acted in self defence. More strongly put forward is that defence that the deceased was a wizard and that the offence is only manslaughter.

The prosecution witnesses subject to what I say later, say that the killing was nothing to do with the accused's belief that the deceased practiced witchcraft but anger and a quarrel because deceased complained of accused leaving a gate open so that the cattle wandered and ate grass off the roofs...

Accused puts up the 2 defences of provocation and self defence. He destroys the second defence himself when he says in evidence he was not afraid when the deceased came to him just before he (deceased) was killed.

There is a doubt raised by the evidence as a whole whether the accused had in fact an honest and genuine belief that the deceased practiced witchcraft and that the deceased had bewitched his son. The benefit of that doubt must be given to accused.

That is a long way from finding as a fact that the accused was put in immediate fear of danger to his own life or even that he believed himself to be in danger. I am quite convinced that he was not put in any such position such as to amount to grave and sudden provocation and further that he did not believe himself to be in such a position... The accused was not acting of necessity or to protect his own life... There is no reasonable doubt that the accused may have killed the deceased because he the accused believed the deceased was in the habit of practicing witchcraft and believed that the deceased had bewitched his dead child... The element of witchcraft will no doubt receive the attention of the Governor in Council.⁷³

In Maganyo's case, the judgment contested claims about witchcraft, suggesting instead that witchcraft operated as a smokescreen for the real motive for the killing – "anger and a quarrel" proceeding from Oyugi's cattle destroying Maganyo's property.

⁷³ *Maganyo*.

Unlike that in Weyulo's case, witness testimony did not bear out Maganyo's contention that Oyugi practiced witchcraft. And, further, in Maganyo's case, a more material motive for the killing existed.

The judgment also attended to the weakness of the defenses put forward by Maganyo. The intertwined arguments of the defense – that Maganyo feared for his own life and that Oyugi was a witch – faltered on Maganyo's contention that he was *not* afraid of Oyugi. As noted above, rarely were conditions of “grave and sudden provocation” proved in witch-killing cases. Even more rarely did a belief in the witchcraft of the deceased succeed in making a case for self-defense. Neither were the conditions necessary for proving “grave and sudden provocation” present in Maganyo's case even though the case was evaluated without attention to the element of witchcraft. Maganyo's own assertion that he was *not* afraid disabled the lines of defense posed by his advocate.

Yet, witchcraft still had sway in Maganyo's case. While the evidence in the case did not establish incontrovertibly that Maganyo had believed that Oyugi had practiced witchcraft against him and killed his child, neither could the evidence prove that Maganyo had *not* believed these things. In such instances, the justices noted, the “benefit of the doubt must be given to the accused,” and this benefit extended to the consideration of the “element of witchcraft” by the Governor-in-Council.

While judgments in Charo Hinzano's case followed a structure similar to that of the judgments addressed above, the justices contradicted Charo Hinzano's claims about witchcraft. Extracts read,

This is a very clear case of murder. It is not disputed that the accused killed Mdago. ... In this statement is an allegation that the husband Mdago had threatened to bewitch the accused after he had received malu from the accused for the latter's adultery with Mdago's wife. There is not a little evidence to support

this allegation and I am quite satisfied there is no truth in it whatsoever... The Assessors are all of the opinion that the accused is guilty of murder and reject as I do the most unconvincing allegation of the threat of witchcraft by Mdago. There is in the case not the smallest evidence that the accused was in fear of immediate danger of his life, even if the accused's account be true and I am certain that it is not. There is no element or suggestion of intoxication or insanity in the case and I therefore find the accused guilty of murder as charged.⁷⁴

The justice rejected Charo Hinzano's claims about Mdago's witchcraft, focusing instead on the more plausible motive for the killing – the conflict over the *malu* Charo Hinzano had paid under arbitration for seducing Mdago's wife – and on the absence of evidence to support Charo Hinzano's contentions about witchcraft. The justice noted that his opinion coincided with that of the assessors and indicated that even had Charo Hinzano's claims about witchcraft been true, the argument for *self*-defense was untenable because there was still no evidence that Charo Hinzano had feared for “immediate danger of his own life...” Because Charo Hinzano had failed to offer convincing evidence of his belief that the deceased had practiced witchcraft against him or even to establish reasonable doubt that he might have believed in Mdago's witchcraft, the justice read the case as a simple murder and did not recommend Charo Hinzano to the Governor's clemency.

Under the Penal Code of Kenya each of the cases amounted to murder. Weyulo was found to have murdered Kathaja, Maganyo, Ouygi, and Charo Hinzano, Mdago. Confined by the law which stipulated that murder was necessarily a capital crime, the Chief Justices of the High Court of Kenya were bound to sentence each of the accused to death. But judgments in each of the cases reveal the justices *did* consider the existence of “real,” or at least plausible, beliefs in witchcraft even if the law prevented their verdicts

⁷⁴ Charo Hinzano.

from reflecting this. The justices were instead able to take witchcraft into account through their recommendations to the Governor-in-Council. In Weyulo and Maganyo's cases where "real" beliefs in witchcraft were held proved, or at least not *disprovable*, the court recommended clemency. But in Charo Hinzano's case, the justice contradicted his claims about witchcraft and treated the case as an ordinary murder.

Cases resulting in death sentences were automatically appealed to the High Court of Appeal for Eastern Africa. Like those of the colony's high court, justices of the appeal court were constrained by the law-as-written and by precedent in rendering their judgments in witchcraft murder cases. But, at the same time, the justices' recommendations to the Governor's clemency in cases where they deemed that the defendants real and genuine (though mistaken) belief in witchcraft had been established suggested that they were open to witchcraft being considered as a mitigating factor in other legal-administrative arenas. Extracts from the appeals courts judgments in the cases of Weyulo, Maganyo and Charo Hinzano suggest how the justices' recommendations varied according to the strength of the defendants' earlier claims.

Weyulo: The killing in this case was clearly murder but the case may be and probably is judging from the evidence deserving of sympathetic consideration by the Executive.

Maganyo: There being this doubt as to what the real motive was I gave the benefit of the doubt to the accused and held that he had an honest and genuine belief that the deceased practiced witchcraft and that the deceased had bewitched his child.

I recommend, following what appears to be the practice, that the sentence of death be not carried out and that substitution therefore of a term of imprisonment by hard labor be imposed.

Charo Hinzano: The learned trial Judge and the assessors were unanimous in finding the accused guilty of murder. The evidence supports this finding and

the accused admits having decided upon the death of the deceased. On the evidence the case is murder. Appeal dismissed.⁷⁵

The law-as-written and precedent necessitated that the appeals court justices uphold the lower courts' verdicts that killings in cases like those of Weyulo, Maganyo, and Charo Hinzano were necessarily capital murder. But the opinions of the appeals court justices demonstrate their willingness to consider witchcraft even if they could not allow it to alter their rulings that witchcraft-killing cases constituted murder. In addition, they mark out recommendations to the Governor's clemency in such cases a regular form of practice.

Witchcraft in the Courts and On the Books

From the late 1930s to the eve of the Mau Mau period, witchcraft-related murder cases very similar to those of Weyulo, Maganyo, and Charo Hinzano regularly came through the colonial High Courts and the East Africa Court of Appeal and were increasingly recorded in the digests of these bodies. Unlike the opinions pre-*Kumwaka* cases discussed above which did *not* reference each other and took in a range of issues besides witchcraft, those opinions dating from the late 1930s onward were highly referential and concerned primarily with the larger legal issue of "grave and sudden provocation." This section briefly summarizes the witchcraft-related murder cases heard in the East Africa Court of Appeal and recorded in its available digests from the late 1930s to the early 1950s.⁷⁶ It follows the development and refinement of the concept of "grave and sudden provocation" vis à vis defenses claiming the witchcraft of the deceased and traces the "conversations" about these issues within the opinions. These

⁷⁵ *Weyulo; Maganyo; Charo Hinzano.*

⁷⁶ Unfortunately, none of the sets of digests held at the School for Oriental and African Studies Library, the University of Nairobi Law Library, and the Kenya National Archives are complete.

“conversations” in turn contributed to the imperial network of knowledge about witchcraft, custom, British justice and native mentalité. Overall, the digest cases ultimately turn on the same question as did the cases of Weyulo, Maganyo, and Charo Hinzano: When, if ever, is the witchcraft of the deceased sufficient to commute a capital sentence?

The witchcraft-related murder cases recorded in the East Africa Court of Appeal digests between 1939 and 1941 were appeals from death sentences for murders (like those by Weyulo, Maganyo, and Charo Hinzano) in which the appellants claimed that they had killed the deceased after coming to believe that the deceased had somehow practiced witchcraft against them or members of their families. The appeals were made on the grounds that the witchcraft of the deceased had constituted “grave and sudden provocation,” a legally mitigating condition capable of reducing sentences of murder to ones of manslaughter or even lesser charges. In the 1939 case, *Rex versus Kimutai arap Mursoi*, the appellant argued that he had killed the deceased because he believed the deceased was a wizard and had laid a spell on the appellant’s child,⁷⁷ while in the 1940 case, *Rex versus Mawalawa bin Nyangweza*, the appellant admitted he had killed the deceased because “witch doctors” had told the appellant that the deceased had bewitched the appellant’s brother and the appellant then decided to kill the deceased for bewitching his whole family.⁷⁸ Similarly, in the 1941 case, *Rex versus Sitakimatata s/o Kimwage*, the appellant argued that he had been told by the deceased that the deceased had killed the appellant’s wife by witchcraft and would do the same to the appellant. The appellant

⁷⁷ 6 E.A.C.A. 1939.

⁷⁸ 7 E.A.C.A. 1940.

then decided to kill the deceased and did so a few hours later.⁷⁹ The appellants in the 1941 case, *Fabiano Kinene s/o Mukye, Seperiano Kiwanuka s/o Kintu, Albert Iseja s/o Kintu*, argued the witchcraft of the deceased had driven them to kill him by inserting 20 green bananas into his anus after coming on the deceased crawling naked around their compound.⁸⁰

In deciding these cases, the courts debated the constitutive elements of “grave and sudden provocation,” and turned to the precedent established by the decision in *Rex versus Kumwaka*. The following paragraph from *Kumwaka* emerged as a veritable “go-to passage” in adjudicating witchcraft-murder appeals. The passage reads as follows:

The plea has frequently been put forward in murder cases that the deceased had bewitched or threatened to bewitch the accused, and that plea has been consistently rejected except in cases where the accused has been put in such fear of immediate danger to his own life that the defence of grave and sudden provocation has been held proved.⁸¹

In the first case, *Kimutai arap Mursoi*, the appeals court dismissed the appeal on the grounds of the *Kumwaka* passage cited above, and subsequent decisions existed in dialogue with each other. For example, in *Rex versus Mawalawa bin Nyangweza*, the justices dismissed the appeal, citing both precedents established by *Kumwaka* and *Kimutai arap Mursoi*, while the appeal in *Rex versus Sitakimatata s/o Kimwage* was also dismissed, again citing *Kumwaka* and *Kimutai arap Mursoi*. In contrast, the murder convictions were reduced to manslaughter in *Fabiano Kinene s/o Mukye and Others*, the courts relying on *Kumwaka*, *Kimutai arap Mursoi*, and *Mawalawa bin Nyangweza*, to reach the decision that “grave and sudden provocation” had been held proved.

⁷⁹ 8 E.A.C.A. 1941.

⁸⁰ *Ibid.*

⁸¹ 14 L.R.K. 1932.

But while straightforward in their rejection or acceptance of the appeals, the decisions in these cases also complicated “grave and sudden provocation,” parsing it and reading it in conversation with other legal conditions present in the cases such as “malice aforethought” and a “real but mistaken belief” in witchcraft. In *Malawala*, for instance, the courts were concerned with assessing the veracity and reasonableness of the appellant’s claims about the witchcraft of the deceased, but nonetheless ruled that “There is some evidence tending to support his [the appellant’s] story but even assuming it to be true the decided cases in East Africa establish that it does not amount to such legal provocation as would justify us in reducing the offence to manslaughter.”⁸² Next, in formulating the opinion in *Sitakimata s/o Kimwege*, the justice criticized the “go-to passage” from *Kumwaka*, attending to the subjectivity of the affective element of “fear” and raising the question of “native mentalité.” The opinion explained,

The phraseology used in this passage seems to me, with respect, not to be entirely free from obscurity. It is rather difficult to discover from the concluding phrase what standard of fear is required to establish a defence of provocation based on a belief in witchcraft, and the emotion of fear (which does not seem to me to have any place in the English doctrine of provocation) is confused with the emotion of anger, which is, I think, the natural and only product or result of provocation received.⁸³

The justice’s ultimate conclusion was that while the element of “fear” was ambiguous, the circumstances of the case did not achieve the standard of “suddenness” demanded by the Penal Code to prove “grave and sudden provocation.”

The decision in the case of *Fabiano Kinene s/o Kinene and Others* entailed the most complex analysis by the courts and came to be cited in almost all subsequent witchcraft-related murder cases. While addressing “grave and sudden provocation,” the

⁸² 7 E.A.C.A. 1940.

⁸³ 8 E.A.C.A. 1941.

decision also focused on questions of “malice aforethought,” on the veracity and reasonableness of the appellants’ witchcraft beliefs, and on “native mentalité” more generally. First, the appeals court concurred with the original High Court of Uganda judgment that the statements of Fabiano and his cohort demonstrated that they had killed the deceased with “malice aforethought.” Second, the court drew on the opinions of assessors and on general attitudes about “native mentalité” and witchcraft in deciding that Fabiano and the other appellants did hold a “real but mistaken belief” in the witchcraft of the deceased. The decision explained,

With their strong suspicions of his past history they would need very little to convince them and the sensitiveness of the African mind in this respect is shown by the evidence of the Muruka chief Fenekansi that ‘if in the night I saw a man naked crawling in my compound I would think he was a witch doctor actually practising witchcraft.’⁸⁴

Yet drawing on the opinions in *Kumwaka*, *Kimutai arap Mursoi*, and *Mawalawa bin Nyangweza*, the courts concluded that the appellants’ belief in witchcraft while introducing the *possibility* of a defence of “grave and sudden provocation,” did not alone constitute sufficient grounds to prove “grave and sudden provocation.” Like the decision in *Sitakitmata s/o Kimwege*, the *Fabiano* decision critiqued the notion of “fear” and added that witchcraft could also be regarded as inducement to the sort of *anger* which in turn constituted an element of the “heat of passion” phrasing in the Uganda Penal Code section dealing with “provocation.” The justice explained the principle generally and in regard to the circumstances of *Fabiano*. He wrote,

In our opinion the principle in those cases [*Kumwaka, etc.*] is stated somewhat too narrowly and perhaps not altogether accurately, in that the words ‘in the heat of passion’ used in s. 198 of the Penal Code (Uganda) are more properly referable to the emotion of anger than to that of fear. We think that if the

⁸⁴ 8 E.A.C.A. 1941.

facts proved establish that the victim was performing in the actual presence of the accused some act which the accused did genuinely believe, and which an ordinary person of the community to which the accused belongs would genuinely believe, to be an act of witchcraft against him or another person under his immediate care (which would be a criminal offence under the Criminal Law (witchcraft) Ordinance of Uganda and similar legislation in other East African territories) he might be angered to such an extent as to be deprived of the power of self-control and induced to assault the person doing the act of witchcraft. And if this be the case a defence of grave and sudden provocation is open to him. It must always be a question of fact as to whether he is in all the circumstances of the particular case acting in the great of passion caused by grave and sudden provocation and of course on such an issue he must be given the benefit of any reasonable doubt. We think it not unreasonable to say that in the present case the accused persons, when they seized the deceased in the compound and proceeded to kill him, may have been so acting.⁸⁵

The above passage thus weaves together two important ideas. First, the opinion argues that more than one affective state, “anger” as well as “fear,” is sufficient to induce the immediate and overwhelming passion which is an ineluctable constituent element of “provocation.” Second, the opinion attends to “native mentalité” vis à vis the question of witchcraft, identifying a standard of reasonableness which takes in local mindsets and mores, but also designates witchcraft as it is extrapolated in *colonial* law. The opinion then went on to reference directly *Sitakimata s/o Kimwago*, reiterating the decision in that case that both “gravity” and “suddenness” needed to be held proved in order for a defense or an appeal on the grounds of “grave and sudden provocation” in a witch-murder case to be successful.

Ultimately, appeal court reduced the murder conviction to one of manslaughter. The justice explained how the elements of “grave and sudden provocation” were present in the case. The “highly suspicious actions of the deceased,” crawling naked around the compound at night, could be reasonably considered fear and/or anger-inducing behavior

⁸⁵ Ibid.

according to local standards and also an offense according to colonial anti-witchcraft legislation. Thus, the behavior of the deceased constituted an “immediate provocative act” in the eyes of the courts. Also, the appeals court’s decision emphasized the issue of the time between the “provocative act” and the killing of the deceased, noting how Fabiano and his cohort had almost instantly attacked the deceased upon finding him crawling naked in their space. From the court’s perspective then, the killing had been an immediate response to “grave and sudden provocation.” Nonetheless, the decision concluded by reiterating that despite the decision in *Fabiano*, the justices “in no way mean[t] to suggest that we believe witchcraft per se will constitute a circumstance of excuse of mitigation for killing a person believed to be a witch or wizard when there is no immediate provocative act.”⁸⁶

The decision in *Fabiano* became a key referent in witchcraft-related murder cases from the early 1940s onward in much the same way that the decision in *Kumwaka* was central in the previous decade. Subsequent decisions in both the colony High Courts and East Africa Court of Appeal also asserted the precedent enshrined in *Fabiano* that a proven belief in the witchcraft of the deceased alone could not reduce a conviction of murder. Referencing each other as well as *Fabiano* and other earlier cases, a number of these decisions also aimed to refine the element of “reasonableness” in regard to appellants’ beliefs in the witchcraft of the deceased. In the 1942 case, *Rex versus Nzau wa Mukwata*, the defendant argued that he had killed the deceased, his mother-in-law and a reputed witch, because he believed she had bewitched his children to death, and when confronted, the deceased threatened the defendant with death by witchcraft.⁸⁷ In a second

⁸⁶ Ibid.

⁸⁷ 20 L.R.K. Part II, 1942.

1942 case, *Rex versus Kelementi Maganga s/o of Ochieng, Zadoki Omoiti s/o Okechi*, the two appellants beat the deceased, reputed to be a wizard, and the second appellant also speared him, claiming to be the deceased's son in the course of the beating that he had caught the deceased practicing witchcraft by walking naked around the second appellant's home. In the 1945 case, *Rex versus Kajuna s/o of Mbake*, the appellant claimed that he had killed the deceased, his father, because the appellant believed his father to have been killing the appellant's child by supernatural means.⁸⁸ In the 1949 case, *Rex versus Petero Wabwire s/o Malemo*, the appellant claimed that he had killed his wife because he believed she was practicing witchcraft against him as a result of her having in her possession "medicine" and refusing to tell the appellant where she acquired it.⁸⁹ Finally, in the 1951 case, *Eria Galikuwa versus Rex*, the appellant claimed that he had been threatened with death by the deceased, a witchdoctor, unless he paid the deceased Sh. 1,000, and being unable to pay instead killed the deceased.⁹⁰

Referencing *Fabiano*, the decisions in each of these cases focus on standards of "reasonableness" pertaining to the appellants' perceptions of the behaviors of the deceased as being "provocative" acts of witchcraft. The decision in *Nzau wa Mukwata* held that the circumstances of the case put in evidence by the appellant before the local magistrate seemed to show that the deceased had committed an act of witchcraft according to anti-witchcraft legislation when she threatened the appellant with death-by-witchcraft and that her speech constituted a "provocative" act from the perspective of a "reasonable" person of their community. Reiterating the precedent that a "mere belief in witchcraft will not mitigate a killing" without another factor attaching and the Colonial

⁸⁸ 12 E.A.C.A. 1945.

⁸⁹ 16 E.A.C.A. 1949.

⁹⁰ 18 E.A.C.A. 1951.

Office opinion on the primacy of “local” circumstances in dealing with witchcraft-related murder cases, the appeal court commuted the death sentence. The appeal in *Kelementi Maganga and Zadoki Omoiti* claimed a similarity in facts with *Fabiano*, and the appeal court decision held that both the appellants’ testimony on the deceased’s behavior – “walking naked around another’s property” and the testimony of the deceased sons that he “was commonly regarded as a wizard and than as such his company was shunned by neighbors” was sufficient to reduce the murder conviction to one of manslaughter.

According to the decisions in the two cases discussed above, the appeal court justices had been willing to give the appellants the benefit of the doubt in assessing the “reasonableness” of their claims about the “provocative” witchcraft of the deceased. In the cases of *Kajuna s/o Mbake* and *Petero Wabwire s/o Malemo*, the appeals court rejected the appeals on the grounds that “grave and sudden provocation” was not proved and that the appellants’ witchcraft beliefs were not reasonable. In *Petero Wabwire*, the court found the appellant’s belief that the deceased was practicing witchcraft against him because she possessed substances or “medicine” whose origin she refused to disclose was not reasonable according to local standards. Similarly, in *Kajuna*, the justices found that the appellant’s belief that the deceased was killing the appellant’s family by “supernatural means” was “unreasonable” because the appellant could not cite an immediate, “provocative” act which inspired this belief. The decision explained,

A mere belief founded on something metaphysical as opposed to something physical, that a person is causing the death of another by supernatural means however honest that belief may be has not so far as we are aware been regarded by this Court as a mitigating circumstance in law...⁹¹

⁹¹ 12 E.A.C.A. 1945.

Finally, the decision in *Eria Galikuwa* refined and reemphasized many of the principles laid out in the cases above. Criticizing the imprecision in the decisions in *Kimutai*, *Mawalawa*, *Sitakimatata*, and *Fabiano*, the justice asserted that “anger” as well as “fear” was a necessary constituent of “provocation.” The decision also underscored that the “provocative” act of witchcraft needed to be “overt,” i.e., “physical,” “visible” or “audible” and had to constitute witchcraft according to anti-witchcraft legislation. And drawing on *Petero Wabwire*, the decision expanded the timeframe for “provocation.” It explained,

The Penal Code does not say that the unlawful act or insult done to or in the presence of another person must be one entailing immediate consequences of a wrongful nature, and there might be upon occasion a wrongful act which was indicative of a future intention on the part of the doer and which therefore might be of such a nature as to come within the legal definition of provocation.⁹²

The appeal court found that the conditions for “provocation” were not satisfied because the appellant had shown himself to be motivated by “fear alone” and that he acted in “despair” rather than in the “heat of passion.” Further, the decision added that the appellant’s actions were the result of deliberated intention rather than of being “suddenly deprived of his self-control.” And finally, drawing on the opinion of the assessors, the appeal court found that the appellant had not availed himself of the legal options available for dealing with the threats of the deceased and instead “chose deliberately to take the law into his own hands.”⁹³

In each of these cases, the courts were restrained by the law from considering witchcraft as a defense without attaching it to another legal category of defense, most

⁹² 18 E.A.C.A. 1951.

⁹³ *Ibid.*

often “grave and sudden provocation.” But an attention to witchcraft enabled the courts to distinguish killings in retribution for witchcraft from killings for more mundane reasons. These cases both followed and reinforced the precedent of recommendation to the Governor’s clemency, a practice which often resulted in the reduction or squashing of capital sentences. Overall, the circumstances of the cases discussed above are very similar to those of Weyulo, Maganyo and Charo Hinzano’s cases – and to hundreds of other witchcraft-related murder cases which exist in the archives but were not recorded in the digests.

Conclusion

So how did these stories of witchcraft killing, transformed into narratives of witchcraft murder, end? What sort of work did they ultimately do? Attending to the recommendations of the courts, the Governor-in-Council commuted the sentences of Weyulo and Maganyo to periods of hard labor. Charo Hinzano’s death sentence, in turn, was upheld. The recommendations of the Governor-in-Council effectively concluded the (legal) narratives, and Weyulo, Maganyo, and Charo Hinzano slipped out of colonial bureaucratic consciousness as easily as they entered. Though they contributed to a larger canon of witchcraft murder cases, the cases of Weyulo, Maganyo and Charo did not establish new precedents to be published in the *Law Reports of Kenya* or in the *Reports of the High Court of Appeal for Eastern Africa*. They were not subject to a consistent reference and retelling.

There is no record beyond witness testimony of how these narratives of witchcraft murder and resultant verdicts were apprehended in the communities in which they took place. But the stories of witchcraft killing which commenced long before the colonial

state had any knowledge of them likely persisted in the experience and memory of those who had been directly and tangentially involved in the cases long after the state had deemed the cases closed. Charo Hinzano left behind his lover. Maganyo likely left the Nairobi gaol in the same disturbed state that the Medical Officer described. It is doubtful that Weyulo had any place to go except back to the village where her in-laws lived. And surely for the families and friends of those killed by Weyulo, Maganyo, and Charo Hinzano stories of witchcraft killing retained their proximity and relevance.

Did the sorts of complex legal efforts to manage witchcraft have any lasting result? No, neither in law nor in social practice. The current law on witchcraft, the 1962 Witchcraft Ordinance, essentially recapitulates the 1925 Witchcraft Ordinance. And as noted above, cases with circumstances similar to those Weyulo, Maganyo, and Charo Hinzano appear in colonial records to the eve of independence. And while various colonial and post-colonial commissions and committees have turned their attention to the appropriate place for “custom” in civil law, the role of “custom” in criminal law has been largely ignored. The following chapter addresses the colonial administration’s co-option of the Kamba witchcraft and oathing and highlights the criminalization of another category of supernatural practices during the Mau Mau era.

Chapter 6 The World of Witchcraft and Oathing in Mau Mau-Era Machakos

Introduction

The colonial state in Kenya confronted the ultimate challenge to its authority during the Mau Mau rebellion. From October 1952 to December 1959, Kenya was officially under a state of emergency resulting from a violent, anti-colonial insurgency conducted by (largely) Kikuyu guerrilla fighters. In much the same way that witchcraft carried multiple meanings, “Mau Mau” came to refer the insurgent movement itself, to the guerilla fighters and the rebellion’s more passive adherents, and also to the oaths of allegiance that fighters and adherents took, or were forced to take. The Mau Mau rebellion arose from decades of consistently increasing levels of socioeconomic insecurity and political marginalization experienced by the substantive numbers of Kikuyu squatters in the White Highlands and Kikuyu slum-dwellers in Nairobi, and came to involve members of other tribes, albeit in much smaller numbers than the Kikuyu. Mau Mau violence first flared on settler farms in the White Highlands in 1952, and the colonial government moved to squash the spotty insurgency which quickly “transformed into a formidable guerrilla force.”¹ Bruce Berman explains the state’s response to the insurgency,

With metropolitan political and military backing, the colonial state moved to crush the radical challenge through massive force and the imposition of an extraordinary degree of direct administrative control. At the same time, the

¹ John Lonsdale, “Mau Maus of the Mind: Making Mau Mau and Remaking Kenya,” *The Journal of African History* 31.3 (1990): 393-421. 394.

Provincial Administration became once more the dominant and most important element of the state apparatus.²

With the massive expenditures of force and intensified administration on-the-ground noted by Berman, the colonial state's efforts to put down Mau Mau ultimately successful. Talks surrounding the end of the rebellion were held and Kenya became independent in 1963.

This chapter argues that in addition to expressing grievances over the depredations and depravations of colonial rule, the Mau Mau rebellion can also be understood as constituting another "critical moment" at which violence related to supernatural beliefs and practices challenged the ability of the colonial state to maintain law and order. Mau Mau oathing practices did indeed draw on important elements of local cosmologies. But more importantly, many colonial authorities themselves preferred to read Mau Mau abstractly as a primarily supernatural situation in which atavistic, "black magic" or witchcraft beliefs and practices were an engine and means of anti-colonial resistance, rather than as a situation rooted in more tangible socioeconomic and political concerns, the remedying of which would necessitate the relinquishment of a significant degree of colonial privilege and power. This chapter addresses how readings of Mau Mau as a supernatural situation are reflected in the character of colonial administration policies and practices instituted to "rehabilitate" and "cleanse" Mau Mau known or suspected Mau Mau adherents.

As part of the administration's efforts to combat Mau Mau in the mid-1950s, the British colonial government instituted "de-oathing" campaigns in areas surrounding

² Bruce Berman, *Control and Crisis in Colonial Kenya: the Dialectic of Domination* (East African Educational Publishers: Nairobi, 1992). 347.

Nairobi in order to “cleanse” black Kenyans known or supposed to have taken the Mau Mau oath. These “de-oathing” campaigns were part of the colonial government’s broader strategy of eradication and rehabilitation which entailed tactics such as interning black Kenyans in labor camps and removing them to “safe” villages established by the state. Though Kikuyu from Central Province bore the brunt of these tactics most heavily, other ethnic groups from provinces in proximity to the capitol were also targeted.

Archival and ethnographic evidence demonstrates that known or suspected Kamba Mau Mau from Machakos District also underwent “de-oathing” ceremonies similar to those carried out in Kikuyu areas and that these campaigns contributed an impetus to and prototype for subsequent “witchcraft cleansings” in mid-1950s Machakos. The primary aims of this chapter are thus to address the context of Kamba Mau Mau “cleansing,” to shed light on why colonial authorities in Kamba areas developed “cleansing” ceremonies along the lines which they did, to make preliminary suggestions about how ordinary Kamba viewed Mau Mau oathing and “cleansings,” to posit some of the ways in which Mau Mau “cleansing” ceremonies gave rise to the Machakos “witch-cleansings” of the mid-1950s and how “cleansings” in Ukambani fit (or not) within the larger genealogy of state encounters with witchcraft.³

A Brief Review of Literature on Mau Mau and the Supernatural State

The Mau Mau rebellion has been the most widely addressed topic in Kenyan history. The first texts treating Mau Mau were produced during the conflict’s waning years, and in the intervening half-century, scholars from a range of disciplinary and political perspectives have approached Mau Mau from an assortment of angles. While

³ Oral evidence concerning both the Machakos Mau Mau and witchcraft cleansings is detailed tandem in chapter seven.

the collect of Mau Mau literature (with the exception of the two most recent monographs on the subject)⁴ is certainly concerned with producing narratives of what occurred during the Mau Mau rebellion, its overarching pre-occupations are identifying the origins of Mau Mau and with answering the question, “What *is* Mau Mau?” In addition, the bulk of this literature has focused on Mau Mau as a Kikuyu movement, and read Mau Mau as a moment of historical entanglement between the colonial state and a range of forces - economics, religion, psychology, gender, and even “Kikuyuness.” And, when addressing the roles of supernatural beliefs and practices in Mau Mau, the bulk of the existing literature attends overwhelmingly to Kikuyu cosmology, particularly Kikuyu oathing.⁵

This chapter, in contrast, reads Mau Mau as a moment of historical entanglement between the state and the supernatural. It focuses a micro-historical lens on the last set of events in which the authority of the colonial state was challenged by supernatural beliefs and practices and on how the state produced and deployed knowledge about the supernatural to deal with these challenges. And, it elaborates discussion of Kamba cosmology and oathing practices begun in chapter one. This chapter demonstrates that though influenced by officials in London and Nairobi and by the protocols and practices of their colleagues working in Kikuyu-majority areas, colonial authorities in Kamba-majority areas understood Mau Mau differently and developed varied approaches to dealing with Mau Mau and, later, with witchcraft, in Machakos.

⁴ David M. Anderson, *Histories of the Hanged: the Dirty War in Kenya and the End of Empire* (New York: W.W. Norton and Company, 2005). Caroline Elkins, *Imperial Reckoning: The Untold Story of Britain's Gulag in Kenya* (New York: Henry Holt and Company, 2005).

⁵ For example, Carl G. Rosberg and J.C. Nottingham, *The Myth of "Mau Mau": Nationalism in Kenya* (New York: Praeger Publishers, 1966); O.W. Furley, “Historiography of Mau Mau,” *Hadith* 4 (1971): 105-131; Luise White, “Separating the Men from the Boys: Constructions of Gender, Sexuality, and Terrorism in Central Kenya, 1939-1959,” *International Journal of African Historical Studies* 23.1 (1990): 1-25.

To reiterate, in the context of colonial Kenya this project treats “the state” as broadly encompassing methods, actors, mindsets, and goals of governance in Kenya, or more succinctly, the complex of colonial governmentality. Drawing on Foucauldian notions of governmentality and Derridean ideas about archives, scholars from a variety of disciplines have underscored the importance of knowledge production in the perpetuation of colonial rule.⁶ They have suggested that governmentality in colonial situations can be considered to involve: 1) a complex, discursive exercise, 2) ethnographically specific knowledge of particular populations, 3) ordered methods of documentation, 4) accounts of disorder and backwardness, and 5) concepts of reform.⁷ And, recent literature has also drawn attention to how categories and “logics” of colonial rule reflect the patterns and rhythms of governance both in broad and particularized contexts, and how the strategies discussed above are realized in part by an “archival state” that perpetuates itself through documenting, recording, and reorganizing information.⁸

The Machakos “cleansings” were very much a function of the “anthropologizing” and “archiving” mode of governmentality described above. While considering the colonial state’s efforts at and methods of knowledge production, this chapter also asks why knowledge about Mau Mau, witchcraft and their (perceived) intersections was generated, collected and cataloged, and attends to the ways in which such knowledge was

⁶ Michel Foucault, *The Archaeology of Knowledge* (New York: Harper and Row, 1972); Jacques Derrida, *Archive Fever: a Freudian Impression* (Chicago: University of Chicago Press, 1996); Ann Laura Stoler, “Colonial Archives and the Arts of Governance: On the Content in the Form,” in *Along the Archival Grain: Colonial Cultures and Their Affective States* (Princeton: Princeton University Press, forthcoming).

⁷ Nicholas Thomas, *Colonialism’s Culture: Anthropology, Travel, and Government* (Princeton: Princeton University Press, 1994); Peter Pels, “The Anthropology of Colonialism: Culture, History, and the Emergence of Western Governmentality,” *Annual Review of Anthropology* 26 (1997): 168-183.

⁸ For example, Ranajit Guha, “On Some Aspects of the Historiography of Colonial India,” in *Selected Subaltern Studies*, eds. Ranajit Guha and Gayatri Chakravorty Spivak (Oxford: Oxford University Press, 1988); Sandhya Shetty and Elizabeth J. Bellamy, “Postcolonialism’s Archive Fever,” *Diacritics* 30.1 (2002): 28-45.

subsequently mobilized. Further, it takes into account how the policies, practices and politics emerging from colonial enquiries into Mau Mau and witchcraft have been understood and (re)purposed by the Kamba people towards whom they were directed.

As preceding chapters have demonstrated, the Machakos “cleansings” were not the first set of events in which the colonial state and witchcraft were messily intermeshed in Kenya. Nor was the sort of entanglement which took place in mid-1950s Ukambani unique to Kenya. Indeed, a recent array of anthropological and historical literature has drawn various connections between a range of states and supernatural beliefs and practices.

Scholarship has examined how states’ policies and practices – both in colonial and contemporary situations – have been regarded as adding up to a form of state “magic” or have imbued states, and especially their highest leaders, with “magical” characteristics or supernatural sanction.⁹ It has addressed the deliberate, official intertwining of “modern states” with supernatural forces, for example, the Cameroonian court systems’ employ of “witchdoctors” to act as “expert” witnesses in witchcraft court cases. Recent work has also focused on the efforts of states to discipline witchcraft beliefs and practices in both colonial and contemporary situations and on local people’s incorporation of symbols of state power in supernatural activities.¹⁰ And, literature has

⁹ For example, Adam Ashforth, *Witchcraft, Violence and Democracy in South Africa* (Chicago and London: the University of Chicago Press, 2005); Stephen Ellis and Gerrie Ter Haar, *Worlds of Power: Religious Thought and Political Practice in Africa* (New York: Oxford University Press, 2004). In the Latin American context, see Fernando Coronil, *The Magical State: Nature, Money and Modernity in Venezuela* (Chicago: University of Chicago Press, 1997).

¹⁰ Peter Geschiere, *The Modernity of Witchcraft: Politics and the Occult in Postcolonial Africa* (Charlottesville: University of Virginia Press, 1995). And, Geschiere and Cyprian Fisiy, “Witchcraft, Development, and Paranoia in Cameroon: Interactions between Popular, Academic and State Discourse,” in *Magical Interpretations, Material Reality. Modernity, Witchcraft, and the Occult in Postcolonial Africa*, eds. Henrietta L. Moore and Todd Sanders (New York: Routledge, 2002); Jean Comaroff and John Comaroff, “Occult Economies and the Violence of Abstraction: Notes from the South African Postcolony,”

read upsurges in witchcraft and in witch-finding or witch-cleansing movements as resulting from situations of insecurity and upset wrought by the intrusions of colonial and post-colonial states.¹¹ This chapter, in contrast, traces the efforts of a colonial state to incorporate supernatural practices and beliefs into its own administrative repertoire. It also investigates the Machakos cleansings as an example of an intrusion of state power into local affairs rather than as a *reaction* to state power.

In sum, through its efforts to deal with Mau Mau and also with witchcraft, the colonial state produced knowledge about Kamba witchcraft and oathing and in doing so purposefully remade that knowledge to suit its own aims. In many ways, the “magic” of the colonial state in Ukambani during the Mau Mau era was in its efforts to transform the Kamba quotidian – witchcraft – into the state-managed exceptional and the state itself into wielder of supernatural power.

A “Shadow Across the District”: Mau Mau among Kamba

During Mau Mau, the attentions and resources of the colonial state were directed primarily towards Kikuyu and Kikuyu-populated areas. The extent to which the colonial state focused its resources on Kikuyu people and places does not mean that Mau Mau activities and colonial suspicions about them were confined to the Kikuyu. Indeed, the colonial state viewed other groups who were situated in proximity to Nairobi and/or who had substantial numbers of their members working in the capitol and regularly returning to rural *mashamba* as potential (willing or forced) Mau Mau participants. Kamba people,

American Ethnologist (May, 1999): 279-301; Florence Bernault and Joseph Tonda, “Dynamiques de l’Invisible en Afrique,” *Politique Africaine: Pouvoirs Sorciers* 79 (October, 2000): 5-16.

¹¹ For example, Isak A Niehaus “Witch-Hunting and Political Legitimacy: Continuity and Change in the Green Valley, Lebowa, 1930-91,” *Africa* 63.4 (1993): 498-530; Blair Rutherford, “To Find an African Witch: Anthropology, Modernity, and Witch-Finding in North-West Zimbabwe,” *Critique of Anthropology* 19.1 (1999):89-109.

especially those regularly traveling the easy labor lines between Machakos District and Nairobi, were regarded as vulnerable to Mau Mau influences and activities. As preceding chapters have demonstrated, through the first half of the twentieth century, colonial authorities read witchcraft as a particular obstacle to law, order, and development in Kamba areas. In much the same vein did colonial authorities (both British and black Kenyan) come to regard Mau Mau in Ukambani, linking it with witchcraft and treating each as a “shadow across the district.”¹²

By 1953, colonial authorities were expressing significant concerns about Mau Mau vis á vis Kamba people and places. Colonial documents evidenced a special concern with Mau Mau and Kamba youth in Nairobi, one going so far as to say that the city was to “this District [Machakos] what the forests have been to Kikuyuland,” i.e., the central site of Mau Mau recruitment, activities and sanctuary.¹³ The 1953 Machakos District Annual Report, for example, noted that the year had seen the “..conversion of some considerable numbers of young Kamba in Nairobi – especially those employed by E.A. Railways and Harbours and stone quarries – into Mau Mau agents and thugs; from whence attempts were made to inject the leaven of dissatisfaction into the District.”¹⁴

Colonial officials depictions of the sorts of threats to law and order posed by Kamba youth living and laboring in Nairobi and its environs are best encapsulated in a Ministry of African Affairs file entitled *Akamba in Nairobi*, the contents of which were produced by and circulated amongst the Provincial Commissioners, District Commissioners, and District Officers from Kamba locations and the Secretary for African Affairs. Memos and correspondence cast urban Kamba youth as Mau Mau-

¹² KNA DC/MKS.1/1/32. District Commissioner, Machakos. Machakos District Annual Report, 1954.

¹³ Ibid.

¹⁴ KNA DC/MKS.1/1/31. District Commissioner, Machakos. Machakos District Annual Report, 1953.

supporting “spivs,” or “gangsters” at the worst or highly vulnerable to Mau Mau “contamination” because of their low standard of living and the influences of their equally debased urban Kikuyu counterparts at the best.¹⁵ They also highlighted the large number of Kamba youth in Nairobi (29,000 by the end of 1954) and pointed out that a third had arrived in the city after the commencement of Operation Anvil, the colonial crackdown on Mau Mau put into motion on April 24, 1954.¹⁶ In this file, the Officer-in-Charge of Nairobi Extra-Provincial District (an area specially demarcated during Mau Mau and taking in market centers on Nairobi’s far reaches and the edges of Kambaland) described the Kamba “as the tribe most liable to contamination at the present time [who] should be placed at the head of the danger list.”¹⁷ Administrative discourse such as that above points to some of the ways in which colonial concerns about Mau Mau and Kamba, especially urban Kamba youth, also took up broader empire-wide issues such as detribalization and shifting gender dynamics, and more concrete problems like rural-urban migration and social welfare.¹⁸

Yet, in addition to such concerns with Akamba urban youth, colonial accounts also attended to the historic “loyalty” of Kamba people to the British colonial state, especially those Kamba who had remained in Ukambani. Drawing in strands of colonial

¹⁵ KNA MAA 7/112. Ministry of African Affairs. “Akamba in Nairobi.” July 1954–February 1955. Memo from Officer-in-Charge, Nairobi Extra-Provincial District, to Secretary for African Affairs with copy to P.C. Southern Province, D.C. Nairobi, D.C. Machakos. 2 December 1954; Luise White, *The Comforts of Home: Prostitution in Colonial Nairobi* (Chicago: University of Chicago Press, 1990); Anderson, 2005.

¹⁶ KNA MAA 7/112. Ministry of African Affairs. “Akamba in Nairobi.” July 1954–February 1955. Memo from Officer-in-Charge, Nairobi Extra-Provincial District, to Secretary for African Affairs with copy to P.C. Southern Province, D.C. Nairobi, D.C. Machakos. 2 December 1954.

¹⁷ Ibid.

¹⁸ For example, Joanna Lewis, *Empire and State-Building: War and Welfare in Kenya 1925-1952*, (Oxford: James Currey Press, 2000); Frederick Cooper, *On the African Waterfront: Urban Disorder and the Transformation of Work in Colonial Mombasa* (New Haven: Yale University Press, 1987); J. Clyde Mitchell, *The Kalela Dance: Aspects of Social Relationships among Urban Africans in Northern Rhodesia* (Manchester [UK]: Manchester University Press, 1956).

discourses about rapid socioeconomic change and relations between Kamba communities and the colonial government, a mid-1950s Machakos Annual Report asserted,

The significant fact about this District, to which everything else must be related if it is to be understood, is that the flood waters of progress and change which are affecting every people in Africa are here running, ever more rapidly, through the channels that are prepared for them – in other words, that there is confidence between the Government and the people. This is the basic reason for the check to Mau Mau from the Kamba as whole, who in matters of security are the first corner stone of the Kenya house.¹⁹

As noted in the introduction, Kamba people had been regarded by the colonial administration as “the first corner stone” of the colony’s security long before Mau Mau, performing military service for Britain during the two World Wars and joining the ranks of the colonial police in substantial numbers during the first half of the twentieth century. But the circumstances of Mau Mau provided the Kamba with additional roles in the maintenance of state security. Three thousand “loyal” Kamba were enrolled as anti-Mau Mau “Homeguards” and many more worked in anti-Mau Mau efforts in less formal capacities.²⁰

Colonial officials read their task as regarded Kamba and Mau Mau as three-fold. The first task was to deal with the Mau Mau threat emanating from Nairobi while the second task was to increase the loyalty of Kamba in town and those remaining in the districts. The third task was to discipline and “rehabilitate” known or suspected Kamba Mau Mau. The first task was to be accomplished by dealing with the conditions through

¹⁹ KNA DC/MKS.1/1/32. District Commissioner, Machakos. Machakos District Annual Report, 1954.

²⁰ For example, Timothy Parsons, *The African Rank-and-File: Social Implications of Colonial Military Service in the King's African Rifles, 1902-1964* (Portsmouth [NH]: Heinemann, 1999). David M. Anderson, and David Killingray, eds., *Policing the Empire: Government, Authority, and Control, 1830-1940* (Manchester [UK]: Manchester University Press, 1991). For a study of Kikuyu Homeguards see, Daniel Branch, *Loyalism During the Mau Mau Rebellion in Kenya, 1952-60* (Ph.D. diss., Oxford University, 2005).

which urban Kamba were thought to be rendered susceptible to Mau Mau. Writing through his secretary to the Provincial Commissioners, District Commissioners and District Officers throughout Kambaland, the Minister for African Affairs stipulated that he viewed “the problem of the care of the Kamba in Nairobi as a serious one which should be tackled without delay” and requested a definite joint plan be now worked out for improved welfare, entertainment and closer administration of the Kamba in Nairobi.” In reply to the Minister of African Affairs and with copies to the District Commissioners of Kitui and Machakos, the Officer-in-Charge of Nairobi Extra-Provincial District suggested a complex of social welfare recommendations like “increased education” and “building of a social hall” which echoed those of an earlier meeting of British Administrative Officers, Kamba Chiefs and district representatives as well as a range of measures targeted to disciplining the movement, employment, and congregation of urban Kamba. More specifically, the officer recommended measures such as tying residence permits to “accommodation and approved employment,” recruiting Kamba only through designated “Labour exchanges,” “concentrating the higher grade Kamba in a single location,” and removing “the numerous Kamba juveniles infesting the city and suburbs.”²¹

In pursuing their second goal, colonial officials aimed to put the onus of building and bulwarking the loyalty of Kamba populations on Kamba themselves. For instance, at a meeting of colonial authorities and Kamba representatives, the “formation of a Society

²¹ KNA MAA/7/112/1. Ministry of African Affairs. “Akamba in Nairobi.” July 1954-February 1955. Memo from the Secretary for African Affairs (K.M. Cowley) to the P.C., Southern Province and the Officer-in-Charge, Nairobi Extra-Provincial District. 5 November 1954. Memo from Officer-in-Charge, Nairobi Extra-Provincial District, to Secretary for African Affairs with cc. to P.C. Southern Province, D.C. Nairobi, D.C. Machakos. 2 December 1954.

to be named ‘The Loyal Akamba Union’ (LAU)” was proposed.²² Indeed, a few days before this meeting, the Provincial Commissioner, Southern Province, had written to authorities about linking “selected elders” in Machakos and Kitui with a new loyalist party, emphasizing that it should not be seen as “an off-shot of the Mbagathi screening camp.” He also advocated setting up a “Kamba Locational Council” in Nairobi to bring together loyal, urban-dwelling Kamba.²³ A few weeks after the initial planning meeting, the Provincial Commissioner, Southern Province, realized that the acronym “LAU” sounded too much like “Mau,” and accordingly the organization’s name was changed to the Akamba Association (AA).²⁴

The use of the (strategic) passive voice in the minutes of the meeting renders unclear the degrees to which the Akamba Association was to be social, political, voluntary, or mandatory. Colonial and Kamba authorities had concurred that if such an association was formed, “all Kamba in Nairobi” should be enrolled and that “every Kamba employer in Nairobi should inform LAU.” They also raised the issue of using a “loyalty” oath to combat the Mau Mau oath, stipulating that “denouncing Mau Mau by means of an oath” would be a necessary prerequisite for membership in the LAU.²⁵ Subsequent correspondence reiterates that a central purpose of the new loyalist association was to organize Nairobi Kamba and keep them isolated from Mau Mau. And,

²² KNA MAA/7/112/1. Ministry of African Affairs. “Akamba in Nairobi.” July 1954-February 1955. Minutes of the Meeting of the Provincial Commissioner Southern Province and the Akamba Elders Held at the Provincial Commissioner’s Office, Ngong, 5 July 1954.

²³ KNA MAA/7/112/2. Ministry of African Affairs. “Akamba in Nairobi.” July 1954-February 1955. Correspondence from Provincial Commissioner, Southern Province, to Officer-in-Charge, Nairobi Extra-Provincial District. 2 July 1954.

²⁴ KNA MAA/7/112/7. Ministry of African Affairs. “Akamba in Nairobi.” July 1954-February 1955. Correspondence from Provincial Commissioner, Southern Province, to Officer-in-Charge, Nairobi Extra-Provincial District. 22 July 1954; Timothy Parsons, communication with the author. March, 2005.

²⁵ KNA MAA/7/112/1. Ministry of African Affairs. “Akamba in Nairobi.” July 1954-February 1955. Minutes of the Meeting of the Provincial Commissioner Southern Province and the Akamba Elders Held at the Provincial Commissioner’s Office, Ngong, 5 July 1954.

in the same year, D.J. Penwill described a re-vamped Akamba Union (the original organization founded in 1938 was an apolitical burial society) that was based in Nairobi and Machakos to counter Mau Mau and which had resolved that any Kamba taking the Mau Mau oath should be stripped of tribal rights.²⁶

In addition to fostering (or forcing) loyalty by bringing together and surveilling Kamba, organizations like the Akamba Association and the Akamba Union were also likely intended as counterpoints to the Ukamba Members Association, the Kamba political association which had emerged strongly during the Destocking Crisis of 1938 and which maintained links with the Kikuyu Central Association.²⁷ Writing to the Secretary for African Affairs and to district deputies in Kambaland about “Akamba Affairs” in early 1955, the Provincial Commissioner, Southern Province, thus reiterated there was a pressing “need to bring loyal Akamba closer together through the Akamba Association.”²⁸

Colonial officials also suggested adding to the number of Kamba involved in local administration and increasing the level of participation on-the-ground of existing Kamba (and British) authorities as means through which to develop and ensure Kamba loyalty. Indeed, the need for closer administration of justice is a theme that runs throughout colonial discourse on Kamba and Mau Mau. The 1953 Machakos Annual Report noted,

²⁶ KNA DC/MKS/1/1/32. District Commissioner, Machakos. Machakos District Annual Report, 1954. Timothy Parsons, communication with the author. March, 2005.

²⁷ For example, Bismarck Myrick, “Colonial Initiatives and Kamba Reaction in Machakos District: the Destocking Issue, 1930-1938,” in *Three Aspects of Crisis in Colonial Kenya*, eds. Bismarck Myrick, David L. Easterbrook and Jack R. Roelker (Syracuse: Maxwell School of Citizenship and Public Affairs, 1975); Robert L. Tignor, “Kamba Political Protest: the Destocking Controversy of 1938,” *African Historical Studies* 4.2 (1971): 235-251.

²⁸ KNA MAA 7/112. Ministry of African Affairs. “Akamba in Nairobi.” July 1954-February 1955. Correspondence from the Provincial Commissioner, Southern Province to D.C. Machakos and D.C. Kitui with a copy to Secretary for African Affairs, D.C., Narok and D.C., Kajiado. 3 January 1955.

for example, that the value of closer administration “cannot be overemphasised.”²⁹ The participation of loyal local authorities in administrative matters, particularly those related to law and order, was important because colonial authorities read areas in which lower members of local administration had gone over to Mau Mau as particularly vulnerable to large-scale Mau Mau penetration. The same Machakos District Annual Report pointed out, “...in Mbitini, Mukaa, and Lower Kilungu, one Headman and three Asili took the Mau Mau oath without much force or persuasion being needed; it is only where the lower ranks of the Administration have been contaminated that we have had Mau Mau troubles.”³⁰ And, always concerned with the problem of Mau Mau in Nairobi, the participants in the meeting of colonial and Kamba authorities discussed above proposed “more Kamba Chiefs in Nairobi.”³¹ Overall these varied suggestions for bolstering Kamba loyalty turn on the notion proffered in 1954 Machakos Annual Report that, “it must be clearly understood that in the long run nobody can keep such an insidious, secret, evil as Mau Mau out of an African tribe, save the members of that tribe.”³²

The extent to which the various proposals outlined above were implemented is unclear. The context and idiom of crisis through which British officials were communicating also makes it difficult to judge how serious they were about these various strategies they proposed and the degree to which these proposals constituted another example of the sorts of colonial “good practice narratives” discussed in preceding

²⁹ KNA DC/MKS/1/1/31. District Commissioner, Machakos. Machakos District Annual Report, 1953.

³⁰ Ibid.

³¹ KNA MAA 7/112. Ministry of African Affairs. “Akamba in Nairobi.” July 1954-February 1955. Minutes of the Meeting of the Provincial Commissioner Southern Province and the Akamba Elders Held at the Provincial Commissioner’s Office, Ngong, 5 July 1954.

³² KNA DC/MKS 1/1/32. District Commissioner, Machakos. Machakos District Annual Report, 1954.

chapters.³³ At the same time, the crisis context of Mau Mau also produced very real stakes for British colonial authorities in Kenya and the metropole.

Nonetheless, these proposals remain important whether they were implemented or not. As Ann Laura Stoler has argued in the context of colonial Indonesia, it is significant that colonial policies were conceived of at all even if the means to carry them out were not available or if situations shifted before they could be put into effect because the debates and discourses surrounding such policies highlight the issues that colonial authorities imagined as important.³⁴ Such policies do not only provide keys to colonial imagination, but also give rise to traceable tactics of governance.

What is clear, however, is that extensive coercive and disciplinary measures – the third prong of the colonial strategy for dealing with Mau Mau and the Kamba – were implemented. The Machakos Annual Report of 1954 emphasized Nairobi as the point of origin of Mau Mau penetration of Kamba people and places, noting that “the threat came to us primarily from Nairobi, and in August of 1953 we had set up our own Investigation Centre” which was run by the D.O. and “a local Kamba-speaking farmer.”³⁵ The previous year’s report had noted a “screening and investigation team” had been sent from Ukambani to Nairobi and explained that during the later part of the year,

... special arrangements were made both in Nairobi and within the District for screening and cleansing – the “Kithitu” oath proved especially valuable amongst the older men and women. The aim was always to take the initiative to be “one step ahead.” The few Kamba oath administrators discovered had case files prepared and forwarded to C.I.D. for speedy hearing at Emergency Assizes.³⁶

³³ Mark Dressman, “Theory into Practice?: Reading Against the Grain of Good Practice Narratives,” *Language Arts* 78.1 (2002): 50-58.

³⁴ Ann Laura Stoler, “Developing Historical Negatives: Modernist Visions of the Colonial State” in *From the Margins: Historical Anthropology and Its Futures*, ed. Brian Keith Axel (Durham: Duke University Press, 2002).

³⁵ KNA DC/MKS/1/1/32. District Commissioner, Machakos. Machakos District Annual Report, 1954.

³⁶ KNA DC/MKS/1/1/31. District Commissioner, Machakos. Machakos District Annual Report, 1953.

The language of these reports generates the impression that the discipline directed against Mau Mau and Kamba was largely bureaucratic, an easy co-option of local “custom.” Elderly Kamba who experienced the “cleansings” or knew people who did also describe the “cleansings” as series of orderly steps presided over by administrative authorities and duly recorded by the same. But the coercive nature of the “cleansings” themselves and the fears that the rounding-up of the known/suspected/potential Kamba Mau Mau engendered among ordinary Kamba also emerge from these accounts, which are discussed in more detail later in this chapter.

The details of the “cleansings” are absent from colonial accounts for a number of reasons. In some instances, colonial officials themselves were absent, having put the organization and work of the round-up and “cleansings” largely in the hands of local authorities. Also, in certain instances, details of anti-Mau Mau activities were not simply left unsaid, but were “unspeakable.”³⁷ For instance, in the course of a conversation about anti-Mau Mau activities in Kambaland, the former District Officer stationed in Mbooni in Machakos District during Mau Mau commented that as a young officer he was appalled when he learned of the anti-Mau Mau activities which had taken place on the ranch of a British farmer whom he did not name. When asked to describe these activities, the ex-D.O. deemed them “unspeakable” even fifty years later.³⁸ But overall, outlines, rather than the details, of Mau Mau “cleansing” programs in Ukambani make up the administrative correspondence and reports cited here because bureaucratic accounts can

³⁷ See, Michel-Rolph Trouillot, *Silencing the Past: Power and the Production of History* (Boston: Beacon Press, 1995).

³⁸ Interview with John Nottingham conducted by the author. Nairobi, Kenya. July, 2004. Hereafter, Nottingham Interview III.

be by their nature self-sanitizing as the protocols of their production do not necessarily demand detail.³⁹

Despite all the attention given to the problems - real and imagined - of Mau Mau among Kamba people and places, state actors were generally unwilling or unable (or both) to deal with the land issues which rendered Mau Mau appealing to significant numbers of Kamba, either as active participants at the most and passive supporters at the least. In much the same way that many colonial accounts sought to gloss over the socioeconomic concerns driving Mau Mau amongst Kikuyu and in Kikuyuland, the colonial state largely ignored Kamba land-hunger and its political implications in arid, famine-prone Machakos despite the dramatic, highly politicized destocking controversy of a mere decade-and-a half earlier which had produced the Ukamba Members Association and Paul Ngei, the anti-colonial Kamba “Big Man” detained with Kenyatta and other alleged architects of Mau Mau.⁴⁰

Also, in a similar way to which they explained the overarching cause of Mau Mau among Kikuyu as a “perversion” of Kikuyu “traditional religion” and/or a retrogression to a “primitive” witchcraft-ridden mentalité, the colonial state also drew a connection between Mau Mau and witchcraft in Machakos. While in the Kikuyu context, however, colonial actors read activities like oathing, witchcraft, etc. as aberrations of “traditional Kikuyuness,” they perceived a relation between Mau Mau and witchcraft in Kambaland as another permutation of the Kamba propensity for malevolent witchcraft – the “shadow

³⁹ George Bornstein, “How to Read a Page: Modernism and Material Textuality,” *Studies in the Literary Imagination* 32.1 (1999): 29-58.

⁴⁰ See, François Grignon, *Le Politicien Entrepreneur en Son Terroir: Paul Ngei à Kangundo (Kenya), 1945-1990* (Ph.D. diss. Université Montesquieu, 1997). Ngei and the Ukamba Members Association appear not to have played a role in the Machakos cleansings.

across the district” – which they had been struggling to manage over the preceding 50 years.

It is not surprising then that the colonial strategies to deal with Kamba Mau Mau through “cleansing” methods and more mundane coercive tactics gave rise similar efforts to deal with Kamba witchcraft. Yet, though Mau Mau-era witchcraft “cleansing” activities in Ukambani reflected elements of anti-Mau Mau “cleansings,” they also drew upon longstanding colonial debates about witchcraft itself and about how to deal with witchcraft’s challenges to state authority. These witchcraft-cleansings are addressed in detail in the next chapter.

Mau Mau Oathing and “De-Oathing” Generally

The procedures, politics and presentations of Mau Mau oathing and cleansing or “de-oathing” activities were debated in a range of colonial documents during the course of Mau Mau, and such debates have persisted in secondary literature on Mau Mau produced since the 1960s. While this chapter attends briefly to Mau Mau oathing and “cleansing” among Kikuyu, the central concerns of the next two sections are to address the context of Kamba Mau Mau “cleansing,” to shed light on why colonial authorities in Kamba areas developed “cleansing” ceremonies along the lines which they did, to suggest how ordinary Kamba viewed Mau Mau oathing and “cleansings,” and to posit some of the ways in which Mau Mau cleansing ceremonies gave rise to the Machakos witch-cleansings of the mid-1950s.

In many ways, Mau Mau oathing was mysterious to colonial authorities, and they struggled with defining its origins, its elements and their meanings. It was neither patently clear to nor easily agreed upon by members of the colonial administration 1)

which categories of persons administered the oath, 2) who exactly had taken the oath – voluntarily or otherwise, 3) what precisely oathing entailed, and 4) if the oath was unitary or if different oaths corresponded to varying levels of Mau Mau participation. Indeed, the term “Mau Mau” was itself obscure although John Lonsdale has cogently suggested that it derived from the Kikuyu phrase, “*kiama kia mau mau*,” or “council of greedy eaters,” used by Kikuyu squatters in the late 1940s to describe the Kikuyu political leadership and later adopted into broad use during the 1950s conflict.⁴¹

What Mau Mau scholarship has resolved in the intervening five decades since the rebellion is that there were “multiple Mau Maus” and various types of “Mau Mau” oaths, whose administration and elaborateness were contingent upon the oath-taker’s level of participation and rank within Mau Mau *writ large*. Attention to “multiple Mau Maus” begs the question of whether the administration and components of Mau Mau oaths varied along ethnic lines as well. Would a Kikuyu oath have carried the same powerful resonance and coercive capacity when administered to a Kamba or would it have been more effective to oath Kamba (or members of other ethnic groups) according to their own specific oathing practices? Since the Mau Mau oath was not applied uniformly, it is possible that oaths for other ethnic groups incorporated elements of their own ethnically-specific oathing practices. Unfortunately, oral evidence about Mau Mau oathing and cleansing among Kamba does not shed light upon the specifics of Mau Mau oathing practices among the Kamba. For example, as one Kamba informant who described himself as having been “forced” to take the Mau Mau oath explained, he could not talk about the specifics of Mau Mau oathing practices because the oath entailed swearing on pain-of-death not to disclose specifics of it and the “cleansing” ceremony he had

⁴¹ Lonsdale, 1992. 426.

undergone did not negate this promise. He concluded simply, “I went through oath and there are some things I can’t talk about.”⁴² Archival and oral evidence does reveal, however, the ways in which Mau Mau “cleansing” procedures in Ukambani were ethnically specific, drawing upon pre-existing Kamba oathing and “cleansing” protocols and adapting them to the particular context of Mau Mau.

Mau Mau “cleansing” or “de-oathing” was initially developed at the outset of the conflict as a way to combat Mau Mau among Kikuyu. “Cleansing” was in significant part an idea of Louis Leakey, the renowned white Kenyan anthropologist, whose expertise and intimacy with Kikuyu culture had been officially recognized by the colonial government long before the outset of Mau Mau. During the early years of Mau Mau, Leakey’s research and experience, particularly that related to Kikuyu “magic” and “medicine” informed colonial anti-Mau Mau policies, particularly those regarding the identification and “rehabilitation” of Mau Mau participants.⁴³ The details of Leakey’s long and complicated career have been analyzed in a range of other scholarship. For the purposes of this chapter it is important to note, as Daniel Branch has explained, the “...ritual cleansing of oath-takers was rapidly adopted as official policy in mid-1952 as a consequence of Leakey’s influence and standing within government circles.”⁴⁴

The ideas of British “ethnopsychiatrist” J.C. Carothers were also central to the program of “rehabilitation,” focused in large part upon the “cleansing” of known and suspected Mau Mau. In a semi-official, but widely circulated report based on two months

⁴² M.W., Imani, September 2004.

⁴³ For example, L.S.B Leakey. *Mau Mau and the Kikuyu* (Methuen and Company, Ltd., 1954). And, *Defeating Mau Mau* (1954. Reprint, 1977. London: Methuen and Company).

⁴⁴ Daniel Branch, “*On Her Majesty’s Supernatural Service: Ethnography, Magic and the War Against Mau Mau*,” unpublished paper. November 2004. 7. Bruce Berman and John Lonsdale “Louis Leakey’s Mau Mau: A Study in the Politics of Knowledge,” *History and Anthropology* 5 (1991): 143-204. Cited in Branch.

of work in Kenya, Carothers's highlighted retrogressive and "magical" elements driving the collective "psychosis" of Mau Mau.⁴⁵ Both Carothers' and Leakey's work, together with the conclusions drawn by a British political delegation that visited Kenya in the middle of the Emergency, spoke to what has been dubbed "the myth of Mau Mau," or the notion that "Mau Mau was a conspiracy using magic and terror to manipulate the Kikuyu psychologically into a return to savagery."⁴⁶

While Leakey's conceptions of Mau Mau oathing and "cleansing" are addressed in his Mau Mau-era monographs and Carothers's attitudes are consolidated in his report, they are also reflected in the Rehabilitation Advisory Committee's 1954 secret dossier entitled, *Report on the Sociological Causes Underlying Mau Mau with Some Proposals on the Means of Ending It*.⁴⁷ Assembled by former administrator T.G. Askwith who was Commissioner of Community development during Mau Mau, the committee also had Harry Thuku and Leakey as members, and "was advised by J.C. Carothers."⁴⁸ The committee's avowed aim, carried out in a series of ten meetings, was "to inquire into and report on the sociological causes of Mau Mau," the term "sociological" having been "...taken to embrace economic, psychological, political, and religious causes in their

⁴⁵ See, J.C. Carothers, *The Psychology of Mau Mau* (Nairobi: Government Printer, 1954); Berman, 1992. Jock McCollough, *Colonial Psychiatry and "The African Mind"* (Cambridge: Cambridge University Press, 1995). In the 1930s, the issue of Africans' "mental aptitudes" was a hot topic in anthropological circles. In the 1930s, Dr. L.H. Gordon, a British psychiatrist conducted studies on the "mental aptitudes" of Africans using black Kenyans as research subjects. See, Gordon's, "The Mental Capacity of the African," *Journal of the African Society* 33.132 (July 1934): 226-243. Gordon's work was met with a call from the *International Congress of Anthropological and Ethnological Sciences for further investigation along anthropological lines*. LSE. IAI/2/1. International Institute of African Languages and Cultures Bureau Minutes. 26 October 1934. Gordon's work was sharply criticized by Louis Leakey, Bronislaw Malinowski, and J.H. Oldham, Administrative Director of the International Institute for African Languages and Culture for its excessive and outdated focus on cranial capacity. LSE. Malinowski/Afr/13. Letter from Bronislaw Malinowski to *The Times of London*. 8 January 1934.

⁴⁶ Berman, *ibid.* 357; Rosberg and Nottingham, 1966.

⁴⁷ KNA VP/2/2/21. Rehabilitation Advisory Committee, 1954. *Report on the Sociological Causes Underlying Mau Mau with Some Proposals on the Means of Ending It*, 1954.

⁴⁸ Berman, *ibid.* 359.

widest sense.”⁴⁹ Focusing on Mau Mau oathing among Kikuyu, the report offers a range of hypotheses about and recommendations for effectively dealing with psychological and/or sociological elements of Mau Mau.

First, the report addressed the character of Mau Mau oathing, reading it as an aberration of “Kikuyuness” and as rejection of Kikuyu tradition. Complementing official colonial discourse (or propaganda) about Mau Mau, the committee members wrote, “...it is made plain that the filthy practices of the Mau Mau oath are a complete flouting of all the old traditions...” and that the “...object must be, and the effect certainly is, to make the initiate feel himself completely cut off from his old associates and loyalties dedicated to a new dispensation.” And the report suggested a fluidity to oathing practices, asserting that “the oath became progressively more bestial as the atrocities of Mau Mau increased. It is presumably felt that, the more horrible and inhuman the crimes to be performed, the more loathsome and inhuman must be the initiation.”⁵⁰

Second, the report advocated and enumerated a “screening” process for identifying Kikuyu who had taken the Mau Mau oath. This process entailed repeated, public interviews of suspected Mau Mau conducted by teams of screeners led by local headmen. Following the colonial chain of command, the headmen would then advise the District Commissioner via the local District Officer and Chief, of the results of the interviews and suggest a course of action as regarded the suspect.⁵¹ The report stipulated that the headman should report: “a) that they are satisfied that the person concerned is not Mau Mau; or (b) that he is a minor offender who should be allowed home on safeguards;

⁴⁹ KNA VP/2/2/21. Rehabilitation Advisory Committee, 1954. *Report on the Sociological Causes Underlying Mau Mau with Some Proposals on the Means of Ending It*, 1954.

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

or (c) that they recommend a detention order be issued against him.”⁵² Significantly, the Rehabilitation Advisory Committee also urged that that “parallel steps on the same general lines should be taken in Nairobi and the Rift Valley,” and oral and archival evidence indicates that Mau Mau screenings were conducted according to these recommendations in Machakos District as well.⁵³

Third, again reflecting dominant colonial discourse, the committee attended to the “psychology” of Mau Mau and the affective states that they thought Mau Mau oathing and “cleansing” produced. Preceding chapters have noted some of the ways that colonial discussions of witchcraft and related disorder turned on the notion of “fear.” In a similar vein, the Rehabilitation Advisory Committee report drew connections among Mau Mau, the supernatural, “superstition,” disorder, and fear. In a section entitled, “Fear of the Oath,” the report suggested that “disillusioned” Mau Mau participants were “afraid to break their oath” and attributed this fear, particularly among “less sophisticated and pagan element... which forms most of the striking force of Mau Mau,” not to an “expectation of Mau Mau vengeance,” but rather to a “superstitious dread.” The “superstitious awe” with which the average Mau Mau participant regarded oaths – both the Mau Mau oath and the “cleansing” oath – the report posited, had resulted in “...instances....when a man first cleansed has been visibly overjoyed to be rid of his burden.”⁵⁴ According to the committee members, the disorder of Mau Mau and its remedies were relatable to the affective states – fear, awe, and joy - that each produced.

⁵² Ibid.

⁵³ Ibid. See also, J.C. Nottingham, “Sorcery Among the Akamba of Kenya,” *Journal of African Administration*, 11.1 (Jan. 1959): 2-14.

⁵⁴ KNA VP/2/2/21. Rehabilitation Advisory Committee, 1954. *Report on the Sociological Causes Underlying Mau Mau with Some Proposals on the Means of Ending It*, 1954.

Fourth, reflecting the strain of colonial discourse which opposed the “pagan” retrogression of Mau Mau to the enlightenment of colonial Christianity, the report employed a Christian idiom to highlight “confession” as the touchstone of the “cleansing” of Mau Mau participants and to stress the need for such confessions to be voluntary and sincere. It stipulated,

The most important and valuable feature in reclaiming a person from Mau Mau is his confession, if freely and voluntarily made in the presence of people who know him well. In many cases if this is followed by a cleansing ceremony properly conducted, this may be of great value in setting a seal of sincerity upon his confession, and also to free his mind and conscience from the oppressing burden of the Mau Mau oath.

It was agreed that a cleansing ceremony was only valuable for a person who believed in it, and while a person might be advised to take it, he should never be forced to do so...⁵⁵

Accordingly, the committee recommended a series of steps reminiscent of Christian adult baptism for the “cleansing” of confessed Mau Mau participants. They advocated that persons who confessed before colonial authorities to having participated in Mau Mau should then make a formal and public confession, and then be

...cleansed by either a Guthahiko [Kikuyu] Christian or Mohamedan ceremony, after which he should be exhorted to take a Githathi or similar Christian or Mohamedan oath, undertaking never again to participate in the Mau Mau movement.⁵⁶

At the same moment, however, the report contained a strong emphasis on (and anthropological echoes of) the importance of keeping screenings and “cleansings” local, both in terms of those responsible for overseeing them and in the particular modes “cleansings” should take. The committee members “generally agreed” that “the degree of utility of the Guthahiko ceremony or any other form of cleansing is bound to differ

⁵⁵ Ibid.

⁵⁶ Ibid.

widely according to the individual, the locality, and the social and educational development of the persons concerned.” The report advocated a policy in which the “details” of cleansings “should be left mainly in the hands of the local authorities in any area, subject to the exercise of a benevolent supervision by the provincial and district administration.”⁵⁷

In sum, the report referenced elements of dominant colonial discourses about Mau Mau, reading the conflict as (1) an aberration of Kikuyu tradition, (2) a psychological and affective disturbance, and (3) a pagan retrogression. The tripartite remedy of screening-confession-cleansing at local level was accordingly “attractive to European opinion as a solution to Mau Mau.”⁵⁸ Though by the mid-1950s Mau Mau “de-oathing” was falling out of favor among colonial officials in Kikuyu areas, such was not the case in Machakos where screening and cleansing of known or suspected Mau Mau ultimately gave rise to similar treatment of local “witches” alleged to be working with Mau Mau or to be simply taking advantage of the insecurity of Mau Mau overall to practice their malevolent witchcraft more intensively.

As noted above, oral and archival sources indicate that during the mid-1950s, colonial administrative officials in Machakos District instituted a Mau Mau screening, confession, cleansing program along the lines laid out in the Rehabilitation Advisory Committee Report. In keeping with the report’s recommendations, Mau Mau “de-oathing” in Machakos District had a “local” character. Kamba chiefs were appointed

⁵⁷ Ibid.

⁵⁸ Berman and Lonsdale, 1991. Cited in Branch, 2004. 7. See also, Anupama Rao and Steven Pierce, “Discipline and the Other Body: Correction, Corporeality, and Colonial Rule,” *Interventions* 3.2. 159-168.

specifically to participate in Mau Mau screening and cleansing activities. In Mbitini, for example, Simeon Musyoki was appointed Chief “to fight the Mau Mau oath.”⁵⁹

Further, in Ukambani, Mau Mau cleansing oaths were themselves a form of *kithitu*, the well-known and widely respected Kamba oath. As explained in chapter one, like witchcraft, *kithitu* can be explained as being simultaneously a substance, a power, and a practice used generally as “...a remedy against any threat of disunity or conflict that can hit the community.”⁶⁰ *Kithitu* should not be taken to refer, however, to a single oath applicable in only one set of circumstances. While the contravention of a *kithitu* oath is always believed to be lethal, *kithitu* can be subtly adapted in order to apply to a range of situations from settling domestic disputes to proclaiming political allegiance.

During Mau Mau, cleansing *kithitu* were administered by pre-existing specialist *kithitu* administrators in Machakos. Screening and cleansing activities were applied primarily to Kamba returning to Machakos from Nairobi or other Kikuyu-heavy areas, reflecting colonial officials’ concerns that migrant Kamba workers would have been “infected” by the Mau Mau through their exposure to Kikuyu, and would in turn spread the “contagion” throughout Machakos District. The perceived lethal power of *kithitu* and the existence of recognized specialists at the ready to administer the oath together with the *kithitu*’s flexibility likely contributed to the selection of *kithitu* as the Mau Mau cleansing oath of choice in Kambaland.

According to written sources, a “system of confessions and free pardons for those who had merely taken the [Mau Mau] oath and had otherwise not been deeply involved”

⁵⁹ Nottingham, 1959. P.K.M., Welfare, September 2004.

⁶⁰ Grignon, 1998. 5.

was developed to deal in part with Mau Mau in Machakos District.”⁶¹ Oral sources, in contrast, describe a much more comprehensive and coercive program in which together with returning Kamba migrants who were routinely stopped as they crossed in Kambaland, adult men and women were collected by local Kamba authorities and brought to administrative centers where they were subjected to intensive interviewing before being required to undergo anti-Mau Mau *kithitu*.⁶²

Both sets of sources, however, link the Mau Mau cleansings to the Machakos witch-cleansings of the mid-1950s, albeit from different perspectives. Documentary sources suggest that Mau Mau confessions “snowballed,” and also that,

...in addition to their stories of Mau Mau oathings many of the women concerned began to come out with strange tales of ‘Witchcraft’ practices, producing to the Chief articles which they alleged were in the habit of using to bring about death and injury to others.⁶³

These sources evidence clearer divisions – practical, epistemological and chronological – between Mau Mau cleansing ceremonies and the witchcraft cleansing ceremonies in Machakos. Contrastingly, in informant testimony, narratives and analyses of Ukambani Mau Mau cleansings and the Machakos witchcraft cleansings bleed messily together, suggesting that the divisions between witchcraft and Mau Mau were not nearly so clear in the experience of ordinary Kamba people as they were in the conceptions of colonial authorities.

Sorting Through Kithitu: the Perceived Power of Mau Mau-era Kamba Oathing

What then were some of the perspectives from which colonial authorities and ordinary Kamba viewed Mau Mau oaths, Mau Mau cleansing oaths, and witchcraft

⁶¹ Nottingham, 1959.

⁶² E.M.M., Tawa, September, 2004; M.K., Tawa, September 2004; W.N, Machakos, September 2004.

⁶³ Nottingham, 1959.

cleansing oaths? As discussed in chapter one, Kamba cosmology entails a complex and varied system of oaths. To reiterate briefly, the basic Kamba *kithitu*, can be applied to a range of situations. Archival evidence suggests that colonial authorities read *kithitu* as broadly applied and applicable in the context of 1950s Machakos, and informant commentary indicates that Mau Mau oaths and Kamba oaths to cleanse Mau Mau were taken seriously by ordinary Kamba people, and that they read government-sponsored cleansing oaths as authentic and efficacious.

At the same time, overlaps in the Kikamba terminology used to describe Mau Mau oaths, Kamba oaths to cleanse Mau Mau oaths and witchcraft cleansings oaths persist. This chapter suggests that such overlaps are not merely semantic functions of a language with a relatively small descriptive vocabulary, but also reflect the shared characteristics of all three types of oaths and of the situations that brought about the employ of these oaths. And further, the overlap in terms used to name the various oaths highlights some of the ways in which both Mau Mau and witchcraft derived their power – both in official colonial narratives and recollections of ordinary Kamba – from their ambiguity.

In reviewing the discussion of *kithitu* in chapter one, it is useful to note that in Kikamba, various *kithitu* are generally differentiated their by modifiers. For example, they often referred to as the “*kithitu cha...*” or “*kithitu of*” the situation which the *kithitu* are intended to sanctify, rectify, etc. In the context of Mau Mau in Machakos, informants name both the Mau Mau oath and the oath to *cleanse* Mau Mau *kithitu cha Mau Mau* or the *kithitu of Mau Mau*, and the processes of taking or “eating” the Mau Mau oath and Mau Mau cleansing oath as “*kuusya kithitu.*” And, they also refer to the witch-cleansing

oaths administered during the Machakos witch-cleansings as *kithitu cha Mau Mau*. But in other instances, particular forms of *kithitu* are called by entirely different terms, for example, *ng'ondu*, the anti-witchcraft form of *kithitu*. Indeed, the *ng'ondu* oath is alternately cited by informants as a type of Mau Mau oath, as an oath used to cleanse Mau Mau, and, of course, as an oath used to cleanse witches.

At first glance, it might seem that the overlapping oathing terminology found in narratives of Mau Mau and of the Machakos witch cleansings simply reflects informants' confusion. But when analyzed more deeply, this overlap in terms can be read as indicative of an overlap in the conceptual, procedural and practical elements of Mau Mau oathing, Mau Mau oath-cleansing, and witchcraft cleansing oaths. Further, these overlaps point to some of the ways in which Mau Mau and witchcraft became intertwined, both in the understandings of colonial authorities and of ordinary Kamba.

First, the use of *kithitu cha Mau Mau* and *ng'ondu* talk about Mau Mau oathing, Mau Mau de-oathing and witchcraft cleansing suggests commonalities in the ways in which Mau Mau and witchcraft were conceived. Violence and separation are central, common threads underlying the narratives of both Mau Mau and witchcraft. Certainly in the minds of colonial authorities and also in stories of many Kamba people both Mau Mau and witchcraft were treated as bearers of violence. Both the violence of Mau Mau and the violence of witchcraft, in addition to doing material and spiritual harm, also caused significant divisions within communities – rendering those involved in Mau Mau and/or witchcraft activities literal and figurative outsiders whose membership in recognized communities, be it the local community of the village or the colonial community of “loyal” subjects, needed to be restored through cleansing. Because both

Mau Mau and witchcraft wrought violence and separation and could be employed to reinforce each other, they could be cleansed by overlapping oathing practices.

In a related vein such an overlap in terms suggests that Kamba people accorded a killing capacity to Mau Mau oathing, to Mau Mau de-oathing, and to the oaths used during the Machakos witch cleansings. A key element of any oath that falls under the rubric *kithitu* is its ability to instantly kill an adherent who later violates the oath. Calling Mau Mau oaths, Mau Mau de-oathings, and Mau Mau-era witchcraft cleansing oaths *kithitu*, and/or *ng'ondu*, suggests that Kamba people took seriously the bonds of the Mau Mau oath, and of the Mau Mau de-oathing and witchcraft cleansing oaths even though these movements originated from outside Kamba communities.

Second, the use of *kithitu cha Mau Mau* and *ng'ondu* to discuss Mau Mau oathing, Mau Mau de-oathing and witchcraft cleansings points to additional shared characteristics of Mau Mau and witchcraft. Like violence and separation, secrecy and ambiguity are also common themes in stories of Mau Mau and witchcraft. Despite years of anthro-administrative inquiry, Kamba witchcraft was still in many ways obscure to British colonial authorities during the 1950s, due in large part to Kamba people's attitudes towards witchcraft as a power and a substance necessarily shot through with secrecy. Further, as noted above, colonial discourse about Mau Mau among Kikuyu drew strong connections between Mau Mau, the subversion of Kikuyu "traditional" religion, and Kikuyu "black magic" or witchcraft, and also concentrated on the killing capacity of Kikuyu Mau Mau oaths. It is not surprising then, that with the persistent obscurity of Kamba witchcraft and the consistency of colonial attitudes about the ambiguous divide between "black magic" and "white magic" that British colonial authorities would

perceive relations between Kamba Mau Mau and Kamba witchcraft, could read Kamba Mau Mau oaths as a corrupted *kithitu*, and would agree to the use of *kithitu* and/or *ng'ondu* deal with the intertwined problems of Mau Mau and witchcraft in Machakos.

While the oral encyclopedia of Kamba witchcraft is common knowledge to nearly every adult Kamba (even if he or she frequently prefers to leave the specifics of this knowledge secret or “unsaid”), the particulars of Mau Mau among Kamba were and remain ambiguous. As noted above, the pledge to secrecy and the killing capacity of Mau Mau *kithitu* rendered their details unspeakable. And, since like British colonial authorities, Kamba people often read witchcraft and Mau Mau as constituent elements of the same situation of disorder, it is logical that they viewed Mau Mau and witchcraft as rectifiable through the same or similar varieties of *kithitu*.

The overlaps between Mau Mau oaths, Mau Mau de-oathing, and witchcraft cleansing oaths were not simply semantic and conceptual, however. They were procedural as well. First, known or suspected Mau Mau and known or suspected witches were collected by the same sorts of authorities and in similar manners during the mid-1950s. Once brought to administrative centers, alleged Mau Mau and alleged witches were interviewed by colonial authorities in an effort to determine the scope of their activities. And, similar Mau Mau and witchcraft cleansing procedures were carried out by specially appointed “experts” in oath administration recognized as such both by colonial authorities and by ordinary Kamba. The overlap in terms used to discuss Mau Mau oathing and de-oathing, and witchcraft cleansing in 1950s Machakos thus can also be read to connote commonalities in procedures and practices applied to the intertwined problems of Mau Mau and witchcraft.

In sum, from the perspectives of colonial authorities and ordinary Kamba, oathing practices and the situations that precipitated their use, shared a range of common characteristics. Overlaps in the terminology used to discuss Mau Mau oathing, Mau Mau de-oathing and witchcraft cleansing speaks to semantic, conceptual, procedural and practical overlaps in the ways in which these situations were managed. The killing power accorded *kithitu* made it usable as a way of oathing Kamba to Mau Mau. But at the same time, the same power had rendered varieties of *kithitu* rehabilitative tools for cleansing Mau Mau adherents and witches. In the context of Mau Mau, *kithitu cha Mau Mau* first created a separate community of Mau Mau adherents (willing or otherwise). But in the same context, it was also returned to its pre-existing function, (re)forming broken communities, serving as Grignon has noted as “a remedy against any threat of disunity or conflict that can hit the community.”⁶⁴

The Colonial Government, Oathing and Witchcraft

The Mau Mau-era cleansing ceremonies entailing *kithitu* and *ng'ondu* were not the first set of instances in which colonial officials had considered or used supernatural methods and means to deal with challenges to state authority related to supernatural beliefs and practices. Rather, the state's use of Kamba cleansing ceremonies and recognized Kamba ritual “experts,” were another chapter in a broader, longstanding series of debates about the roles of local cosmologies and cultures, and how their concomitant supernatural practices and beliefs could, or should, play in colonial governmentality. Prior to Mau Mau, members of the colonial state had considered whether legislation should distinguish between practitioners of “black” and “white” magic, if the colonial administration should sanction the importation of “witchdoctors” or

⁶⁴ Grignon, 1998. Ibid.

“waganga” if the presence of such practitioners was requested by local people, and if colonial law permitted the application of local “witch cleansing” oaths in addition to or in substitution for colonial legal sanctions against “witches” convicted under the witchcraft ordinance. The primary themes of these discussions are present in varying degrees in Mau-Mau era policies of cleansing Mau Mau and witchcraft in Ukambani.

As noted in chapters one and two, interwar-era debates over the development and revision of the Kenya Witchcraft Ordinances included important discussions over whether the legislation should draw a distinction between “white” and “black” magic. To review, the Chief Justice of the Supreme Court of Kenya voiced his opinion that the 1909 anti-witchcraft legislation was too broad and created “the possibility of bringing within the purview of the Ordinance healing or beneficent “white” magic, or proceedings by priests of recognised religions which, though partaking of the supernatural are otherwise harmless.”⁶⁵ In dealing with this issue, subsequent legislation turned on the notion of fear. The legislation constructed the creation of fear through witchcraft activities, rather than witchcraft activities *writ large* as the crime to be prevented and disciplined by the legislation. The legislation effectively set up a protection for “white” witchdoctors, while outlawing the practice of “black” witchdoctors. Subsequent late 1940s and early 1950s legislation dealing with oathing set up a similar distinction between oathing for the resolution of conflicts and the restoration of relations, and oathing directed to cause fear and for the ultimate purpose of challenging the state’s authority

Distinctions between “black” and “white” magic are also present in correspondence transmitted among District Officers and District Commissioners in

⁶⁵ KNA AP/1/1009. Judicial Department. The Witchcraft Ordinance, 1909. Letter from R. W. Hamilton, Chief Justice, to the Chief Secretary. 22 August 1917.

Kamba areas of Kenya and dating from the fifteen years before Mau Mau. The officials' discussions concern whether or not it would be efficacious and appropriate to "import" "witchdoctors" or "waganga" from the Coast to perform "cleansings" at the request of local Kamba populations. These discussions touched on issues such as the "reputation" of the "witchdoctor" or "mganga," on the sorts of services they would perform, on Kamba people's requests that such services be obtained, and how regularly Kamba people employed the "witchdoctor" in the past. These strands are apparent in the 1940 letter from the District Commissioner, Machakos, addressed to his counterpart in the coastal province of Kwale. The District Commissioner's office wrote,

The people of Kikumbuliu Location North of Kibwezi have asked that Mwaka Tengu, a well know general practitioner of Mariakani should pay them a visit for the purpose of exorcising certain of their number – mainly women – who have recently become adepts in witchcraft.

I would be most grateful if you would find out whether Mwaka Tengu is willing to undertake this task and what his charges would be.⁶⁶

This letter touches on Mwaka Tengu's reputation, on Kikumbuli Kamba people's desire to employ him, and the purposes for which they wished to "import" the "witchdoctor." An ealier letter from the District Commissioner, Kwale, to the District Officer, Kitui, also attends to these issues. The District Commissioner wrote,

With reference to your note on the subject of Mwakatengu, an mganga of this district, I have made enquiries and have found Mwakatengu is a well known and respected mganga, whose principal function among Duruma (the tribe to which he belongs) is the administration of native oaths. If the necessary traveling expenses are forthcoming, I will endeavour to persuade him to visit Kitui.⁶⁷

⁶⁶ KNA CC/13/39. Native Medicines and Witchcraft, Kwale. Letter from the Office of the District Commissioner, Machakos, to the District Commissioner, Kwale. 21 November 1940.

⁶⁷ KNA CC/13/39. Native Medicines and Witchcraft, Kwale. Letter from the District Commissioner, Kwale, to the District Officer, Kitui. 12 November 1936.

These letters foreground another element of relations between the state and the supernatural – the bureaucratization of the “witchdoctor” and magical activities. With the sort of spectacular matter-of-factness characterizing much colonial discourse about African witchcraft, the letters evidence classically bureaucratic concerns with efficiency and finances, and cast the Mwakatengu as in the employ of the state. The Mau Mau and witchcraft cleansings in 1950s Machakos were not the first occasions when cleansing, oathing, and “witchdoctors” were woven into the fabric of colonial bureaucracy.

The five years immediately pre-ceding Mau Mau also witnessed a heated debate about oathing that formed part of a larger discussion among members of the colonial administration about the inefficacy of the Witchcraft Ordinance and the extent to which “Native Law and Custom” could be legally employed to deal with witchcraft and related crimes. The discussion is captured in an exchange of letters between District and Provincial authorities in Kikuyuland, and the Nairobi administration. It came about in part through a case put forward by District Commissioner in Central Province in response to an earlier, but oft-ignored, request from Nairobi that District Officers and Commissioners forward particulars of witchcraft cases to Nairobi. In the District Commissioner’s jurisdiction, a Kikuyu man had been tried and convicted under the Witchcraft Ordinance. However, while this might seem an acceptable result to members of the colonial administration, the District Commissioner explained, a conviction under the colonial law was essentially meaningless to Kikuyu people because it offered no way of “cleansing” the convicted “witch” so he could be reintegrated into the local community. As the District Commissioner explained to his provincial higher-ups,

Unfortunately the Witchcraft Ordinance does not allow a settlement of this case which is acceptable in Kikuyu law. The Native Tribunals of this District feel

strongly that when a man has been convicted of witchcraft and sentenced to imprisonment, on his release his clan are entitled to order him to cleanse himself by taking the “Muma” oath...⁶⁸

The District Commissioner thus acknowledged the parallel Kikuyu system of law existing alongside the colonial one, and recognized the authority that “Native Law and Custom” retained in the eyes of black Kenyans in his district.

Raising the issue to the next level of the administration and articulating its terms more sharply, the Provincial Commissioner, Central Province, explained more fully the District Commissioner’s dilemma in a letter to the Judicial Adviser in Nairobi. He explained,

The District Commissioner, Fort Hall considers that if a man is convicted under the witchcraft ordinance only imprisonment can be given, and that the cleansing ceremony would be illegal. As the cleansing ceremony is in Native eyes the essential part, he desires to uphold the authority of the elders in insisting on such ceremony.⁶⁹

This extract points not only to the co-existence of colonial and local codes and authorities, but also to how they typically came into conflict and contradiction. The Provincial Commissioner then queried the Legal Adviser if,

...it would be legal and desirable in witchcraft cases, if instead of trying them under the Ordinance, (the intention of which is entirely obscure to the Native mind) I would be proper to charge the accused with witchcraft contrary to Native law and custom, and if after evidence is led he is convicted, for the Tribunal to give the correct sentence in Native law i.e. “to take the Muma oath and pay two rams for cleansing purposes.”⁷⁰

The Provincial Commissioner’s query thus reiterates long-standing colonial debates over the efficacy of the witchcraft ordinance vis á vis “native mentalité,” and

⁶⁸ KNA MAA/7/835. Ministry of African Affairs. Criminal Jurisdiction, Witchcraft.

⁶⁹ Ibid.

⁷⁰ Ibid.

suggests substituting “Native law and custom” in the *criminal* arena. Asserting the primacy of colonial law over Kikuyu codes, the Judicial Adviser replied,

In view of the existence of a comprehensive statutory enactment, expressly designed to apply to cases of native witchcraft, it would not be legitimate, in my opinion, to invoke native law and custom, either in substitution for, or even in addition to, the law contained in the Ordinance. This is clearly a matter in which we are obliged to apply the maxim that statute ousts common law. If the Witchcraft Ordinance is unsatisfactory the proper remedy is to get it amended.⁷¹

These discussions of what role that “Native law and custom” related to witchcraft should be allowed to play in the colonial administration of justice indicate that while in some instances local “supernatural” practices and authorities could be incorporated into colonial governance, they could not be permitted to supplant colonial codes. While in certain circumstances oathing and cleansing were regarded as bulwarks to law and order, in other instances they could be read as a potential challenge to the primacy of the state’s legal system. In short, colonial authorities’ perspectives on and employment of local supernatural methods and means were fluid in the period leading up to Mau Mau.

By the eve of Mau Mau, colonial debates about the utility and legality of oathing practices included a new element and resulted in increased legal strictures on oathing. As noted above, in the period preceding Mau Mau, colonial authorities had considered oathing as a method of dispute settlement and a means to restore individuals or groups to the larger community. In contrast, with the beginnings of anti-colonial unrest in the late 1940s colonial officials began to attribute a political character to oathing and then later to regard oathing as a political tool. In his legal history of politicized oathing in Kenya,

⁷¹ Ibid.

Philip Durand argues that Mau Mau era oathing had a different aim and nature than earlier oathing practices. He writes,

...when oathing began to be used to further political aims, the oath assumed a different character than when used in traditional form and for traditional purposes. The object of the oath, rather than to settle disputes, was to foster unity.⁷²

While in the course of his article Durand raises a number of important issues about politicized oathing in Kenya, I would suggest that he is mistaken in regarding the settlement of disputes and the fostering of unity as separate issues and goals. As this dissertation has noted at length, the re-integration of disputants and malefactors and the concomitant restoration of community cohesion was and remains a key end of oathing practices. In the pre-Mau Mau period, colonial proponents of the use of local oathing practices in the resolution of conflicts – over land, family, witchcraft, etc. – read oathing as a means to foster the sort of unity or community that would support the state’s goals of the maintenance of law and order. During Mau Mau, many colonial officials regarded oathing practices as creating a new sort of unity or community centered on its direct, active opposition to the colonial state. In turn, by establishing Mau Mau and witchcraft “cleansing” programs which incorporated oathing practices, members of the colonial administration drew upon oathing as a means by which to reformulate a “loyal” community and to foster unity contra Mau Mau.

Concerns about political oathing contributed to revisions of the sections of the Kenya Penal Code related to oathing in 1950 and again in 1955. Sections on oathing in earlier additions of the code had focused primarily on disciplining oaths to commit

⁷² Philip P. Durand, “Customary Oathing and the Legal Process in Kenya,” *Journal of African Law* 14 (1970): 17-33. 19.

political oathing with the broadly defined offense of sedition. The 1950 and 1955 changes to the Kenya Penal Code thus spoke to the context of Mau Mau oathing.

In sum, colonial concerns about Mau Mau oathing certainly took in political issues – challenges to the state’s ability to maintain law and order, the constitution of anti-colonial communities, etc. – and the state drew upon law in efforts to deal with these issues. But many colonial officials also read Mau Mau as a supernatural situation that could be dealt with through methods and means like “cleansing.” The colonial state’s practices of Mau Mau “cleansing” or “de-oathing” were in various ways exponents of longstanding debates over what role local supernatural beliefs and practices should play in colonial governmentality. They were also part of far-reaching discussions over how the state should legally define and discipline local beliefs and practices.

In addition, the “compulsion” defense to charges of illegal oathing also suggests that many members of the colonial state regarded Mau Mau oathing as motivated not simply by politics, but centrally and importantly by people’s fears of material and supernatural Mau Mau retribution. In Ukambani, colonial concerns with Mau Mau and the supernatural went further. Colonial authorities in Kamba areas regarded material and supernatural challenges to the state’s authority as emanating not only from the activities of Mau Mau insurgents themselves, but from the witches and witchdoctors adhering to the Mau Mau cause and from those taking advantage of the period’s instability to practice their witchcraft more broadly and fiercely.

Since many colonial authorities in Ukambani saw witchcraft practices as contributing to the environment of fear and the fracturing of the “loyal” community in the Kamba districts in much the same way that Mau Mau activities did, British and black

“capital” or other “unlawful offences.”⁷³ Reflecting colonial concerns and black Kenyans’ assertions that people were being forced to take political oaths, the 1950 revisions introduced a new emphasis on the role of “compulsion” in oath taking. The code’s stand on what constituted “compulsion” in the context of politicized oathing can be succinctly summed up as follows:

Compulsion is a defence to a charge of taking an unlawful oath providing that the person oathed, within five days of its administration (or within five days after the termination of any physical force or sickness which prevents the person from acting), reports to the stipulated authorities (the police or a commanding officer if within the services) everything he knows about the matter, including person or persons by whom and in whose presence, and the place where and the time when the oath or engagement was administered or taken.⁷⁴

The “compulsion defence” summarized above also set-up the bureaucratic procedure through which the state aimed to curb and combat anti-colonial oathing. Indeed the above paragraph echoes with informant testimony describing the “interviews” which preceded Mau Mau and witchcraft “cleansing ceremonies.” Overall, the introduction of “compulsion” as a defense in cases of anti-colonial, political oathing thus served to give people who had participated – willingly or otherwise – in Mau Mau oathing a means by which to reestablish their loyalty to the state and to reintegrate themselves into the larger “loyal” community.

Together with Supreme Court of Kenya case law another revision to the code, the 1955 Penal Code Amendment Ordinance, rendered administering “unlawful” oaths a separate, capital offence.⁷⁵ Also, the penal code and related case law served to link

⁷³ *The Kenya Penal Code (1948)*.

⁷⁴ Durand, *ibid.* 21.

⁷⁵ See, *The Laws of Kenya, Ordinance. No. 52 of 1955*; Durand, *ibid.* The Ministry of African Affairs index of capital cases contains numerous cases of Mau Mau oathing.

Kenyan officials developed a witchcraft cleansing program which strongly resembled the bureaucratic model for “cleansing” Mau Mau through interviewing and oathing. The following chapter describes and analyzes the Machakos “witch-cleansings,” querying their short and long-term efficacy and asking to what extent they were a part of the larger imperial “fantasy” of the “civilizing mission” and to what degree they were an outgrowth of the particular socio-historical context of mid-1950s Machakos.

Chapter 7 Cleansing Ukambani Witches

Introduction

The Machakos “witch-cleansings” constituted the last episode in which colonial state power was demonstrably exercised and challenged in relation to the supernatural beliefs and practices of Kamba people. The “cleansings” constitute a significant *lieu de mémoire* both in the history of Mau Mau and in the broader narrative of the Kenyan state’s historical entanglement with the witchcraft.¹ Accordingly, this chapter examines how and why the colonial administration in Machakos District came to believe that there was a connection between Mau Mau and Kamba witchcraft. It also addresses where the Machakos “witch-cleansings” fit into a history of state-sanctioned witchcraft activity and situates them within in larger colonial debates over whether the state should endorse or forbid the use of supernatural methods and means to manage supernatural problems. And, tracing how the production of anthropological knowledge about witchcraft in Ukambani contributed to colonial administrative policy and practice during the Mau Mau era, this chapter reads oral and archival sources in conversation to show why the Machakos “witch-cleansing” ceremonies took the particular forms that they did.

Oral accounts of the Machakos “witch-cleansings” point to significant variations in Kamba people’s recollections of the participation in and the origins, purposes, and

¹Pierre Nora, “Between Memory and History: *Les Lieux de Memoire*,” *Representations* 0.26 Special Issue: Memory and Counter-Memory (Spring 1989): 7-24.

organization of the “witch-cleansings.” Dissonances among these accounts highlight the ways in which Kamba have figured themselves and their communities vis à vis fluid attitudes about religion and governmental authority, and underscore the malleability of the meanings and uses of Kamba oathing.

The juxtaposition of archival and oral sources about the Machakos “witch-cleansings” foregrounds the scope and the limits of official knowledge. On the one hand, the Machakos “witch-cleansings” constitute a group of “critical moments” at which British colonial officials could argue that they had dealt with a witchcraft-related challenge to state authority by rendering it “knowable” through the combined instruments anthropology and administration. On the other hand, the Machakos “witch-cleansings” demonstrate the extent to which British colonial officials were ignorant (willfully or otherwise) of the ways in which policies were being carried out by their black Kenyan deputies and interpreted in local communities.

Overall, the Machakos “witch-cleansings” comprised the final set of incidences in which British colonial authorities linked a breakdown in law and order to witchcraft beliefs and practices. Preceding colonial anti-witchcraft policies had sought to discipline witchcraft by denying its existence, or at least its efficacy. The Machakos witchcraft-cleansings, in contrast, aimed instead to discipline witchcraft beliefs and practices by acknowledging and mobilizing their power.

Witchcraft, Anthropology and Bureaucracy

Written records and the recollections of the former District Officer who was the British authority most directly involved in organizing the Machakos witch cleansings offer an orderly narrative in which close to one thousand seemingly self-identified

Kamba “witches” responded to state officials’ requests that they surrender their witchcraft paraphernalia for public burning and publicly renounce the practice of witchcraft – a pair of practices that British colonial authorities imagined would “cleanse” the witches and witchdoctors of prior bad acts. In return, the “witches” could expect amnesty from the government and a clean slate from their neighbors. This neat narrative, however, invites a range of questions. First, why did colonial authorities perceive a mutually reinforcing relationship between Mau Mau and witchcraft in Ukambani? What do the Machakos witchcraft cleansings reflect about longer standing concerns about witchcraft and administration in Ukambani? What other sorts of colonial concerns did the witchcraft cleansings take up? What motivated people to go along with the cleansings?

While archival sources indicate colonial concerns with the penetration of Mau Mau into Kamba areas, they are not particularly explicit about *why* colonial officials perceived a link between Mau Mau and witchcraft. According to J.C. Nottingham, the District Officer largely responsible for organizing the witchcraft cleansings, fears of links between Mau Mau and witchcraft originated with black Kenyan members of the colonial administration like chiefs and headmen, who brought their concerns to the British administrators in their areas. Convinced of the degree to which witchcraft beliefs and practices permeated Kamba communities and cognizant of widespread discussions of Kikuyu witchcraft being tied up in Mau Mau, British administrators were willing to take seriously the arguments of chiefs and headmen that Mau Mau was making its way into Kambaland via witchcraft and being supported by local witches and witchdoctors. As the 1954 Machakos Annual Report noted (perhaps somewhat hyperbolically), Mau Mau had

“crept in not along modern politico-nationalistic channels, but through the dark sewers of sorcery and magic in the south...”²

Further, British colonial officials in Ukambani were also open to the following the lead of chiefs and headman on the issue of Mau Mau’s relation to witchcraft because of an emphasis on “closer administration” during the Emergency. As J.C. Nottingham recollected, “During this period the chiefs were functioning almost as junior D.O.s.”³ He had explained in the “Witchcraft Appendix” of the 1955 Eastern Africa Handing Over Report, that the question of why the state did not intervene in witchcraft had been broached initially by Chief Muthoka at an August, 1954 meeting of the Eastern Area Chiefs and that at the November meeting the group agreed to set up protocols for dealing with witchcraft in Ukambani.⁴

Both oral and archival evidence indicates that the Chief of Mbitini, Simeon Musyoki, was particularly influential in the organization of the Machakos witch cleansings. Drawing a relation not simply between Mau Mau and witchcraft, but also between the methods developed to combat them, Nottingham noted that between the August and November Eastern Area Chiefs meetings he “saw and heard some of the results of an attempt by Chief Simeon Musyoki to grapple with the problem in Mbitini. Admittedly he traded on the power Government had shown in destroying Mau Mau in his location, but he succeeded.”⁵ In a similar vein, the 1954 Machakos Annual Report explained, after the situation of 2,000 Kamba across two locations having taken the Mau

² KNA DC/MKS/1/1/32. District Commissioner, Machakos. Machakos District Annual Report, 1954.

³ J.C. Nottingham, Nairobi, January 2004. Hereafter, *Nottingham Interview I*.

⁴ KNA BB.PC/EST/12/15. Provincial Commissioner’s Office, Eastern Province. Witchcraft, General. 30th Oct., 1954 – 11th July, 1961. Eastern Area Handing Over Report. “Witchcraft Appendix.” 21 November 1955. MORE

⁵ Ibid.

Mau oath had been "...cleaned up, it was thought gently but firmly to tackle the witchcraft problem. Chief Simeon Musyoki, the new Chief of Mbitini, gave the lead, which was followed in Nzau and Kikumbulyu."⁶

Oral evidence draws even closer connections between witchcraft and Mau Mau, and again highlights the role of Chief Musyoki in the witchcraft cleansings and suggests that he was also instrumental in efforts to combat and cleanse Mau Mau. In the following exchange, an elderly Kamba man from Machakos explains how concerns about Mau Mau, oathing and witchcraft were tied together and notes the role of Chief Musyoki.⁷

PKM: Chief Simeon (Musyoki) was brought to Mbitini to finish Mau Mau and witchcraft. The Chief who was previously in Mbitini failed to do so.

Q: Why did the Government feel the need to finish witchcraft at this time?

PKM: Because witches were killing people the same way Mau Mau killed. The previous Chief resigned because of threats from the Mau Mau. Simeon came, and people were participating in oathing (Mau Mau) suspects. They were asked the process that was followed in oathing and it was revealed.

Q: Why was the Government concerned with witchcraft?

PKM: The previous Chief had a letter threatening him and asking him to step down. That's why they wanted to finish witchcraft at this time.

Q: Why was witchcraft an important issue?

PKM: People were killing using witchcraft.⁸

From the perspective of this elderly Kamba man, in the mid-1950s witchcraft and Mau Mau emerged as administrative problems to be dealt with by an official of the colonial state, at least in part through administrative means. Witchcraft and Mau Mau invited the concern of colonial officials because each impeded administration and because each produced dead bodies and disorder that the state could not ignore.

⁶KNA DC/MKS/1/1/32. District Commissioner, Machakos. Machakos District Annual Report, 1954.

⁷The author and her research assistant looked for Chief Musyoki and his family in the Mbitini area. Unfortunately, the chief had died some years before and his family dispersed.

⁸P.K.M., Welfare, September 2004.

Other elderly Kamba portray a more direct relation between Mau Mau and witchcraft in their recollections of the period. These men indicate that Mau Mau insurgents allied with Kamba witches and witchdoctors to employ Kamba witchcraft – both power and paraphernalia – against members of the colonial administration. Elderly interviewees from Nzawi and neighboring markets explain that *muti*, a general term indicating a mélange of harmful witchcraft substances, and *nzevu*, the type of Kamba witchcraft power used to “confuse” its object, were used by Mau Mau adherents against black Kenyan and British colonial officials – *muti* being applied more often to chiefs and headmen and *nzevu* to British officials.⁹ The following statements made by elderly Kamba link Kamba witchcraft to Mau Mau resistance:

I can remember about *nzevu*. This *nzevu* was used by Mau Mau members to fight the European colonialists.

During Mau Mau, many people were going to witchdoctors to get paraphernalia. People who were involved with Mau Mau got some *muthea* (the same thing as *muti* or *nzevu*) and then used it to fight the Europeans. They got this *muthea* from the witchdoctors.

The Mau Mau was using witchcraft to fight Europeans –*nzevu* – a type of magic used to confuse people. It diverts them from their intentions.¹⁰

Thus, while much Mau Mau-era colonial propaganda turned on how the Emergency was evidence that black Kenyans had lost their senses, Kamba narratives address how Mau Mau used *nzevu* against members of the colonial administration to make them lose theirs.

While many elderly Kamba draw connections between the Machakos witchcraft cleansings and efforts to combat Mau Mau in Machakos, there is less consensus about the extent to which British officials were aware of the specifics of the type of witchcraft that

⁹ See chapter two for explanations of *muti* and *nzevu*. Nzawi has a reputation as the most witchcraft-saturated location in Machakos. See chapter four.

¹⁰ M.M., Machakos, September 2004; K.N., Nzawi, September 2004; M.M., Nzawi, September 2004.

Mau Mau was deploying against the administration. The following statements reflect different conceptions about how precisely informed British authorities were.

Q: Did the Europeans know that *nzevu* was being used?

JMN: They did not know about it. It was used secretly.

Q: Did African members of the administration know about the use of *nzevu*?

JMN: Yes, they knew because they were close to the natives.

During this time [mid-1950s] the Mau Mau movement was at its peak. Then the Government was accusing the old people of giving the young people witchcraft (*muti, nzevu*), so that they could win their struggle against the British. The Chiefs were then ordered to collect all the known witches, men and women, and to gather all their witchcraft paraphernalia and burn it in Mulala at the D.O.'s office.

They [Europeans] had the people who had the *nzevu* arrested and told them to burn their witchcraft so they could not give it to people involved in Mau Mau. They [Europeans] were informed by the Africans working for them, by the Kamba people close to the administration, especially the Chiefs. They [Chiefs] just knew because they were from the community.¹¹

While the first account states explicitly that British authorities did not know of *nzevu*, the next two accounts are less clear. While they state that British authorities acted on their black Kenyan subordinates' information that Kamba witchcraft was being used to support Mau Mau, it is less clear whether references to *nzevu* reflect the interviewees' categorization of the situation or the exact explanations imparted to British officials. What these accounts do share, and what is ultimately more important, is an emphasis on the "local expertise" of Kamba chiefs vis à vis the particulars of witchcraft.

The central role of the Kamba chiefs is borne out in archival information and in the recollections of J.C. Nottingham. Though both bodies of evidence address the compendium of Kamba witchcraft, neither focuses on the specifics of the type of witchcraft leveled against the colonial administration during Mau Mau, suggesting

¹¹ J.M.N., Nzawi, September 2004; M.W., Imani, September 2004; K.N., Nzawi, September 2004.

perhaps that this was less important to British colonial authorities than the overall perception in Kambaland that Kamba witchcraft and Mau Mau were intertwined. Both written records and Nottingham's recollections do attend strongly to the central role of Kamba chiefs in the Machakos witch-cleansings and the exigencies of the Mau Mau period which motivated them. In the "Witchcraft Appendix" to the 1954 Eastern Area Handing Over Report, Nottingham attributed the impetus for the cleansings to the chiefs and stipulated, "I want to emphasise here that I was pushed into this by the Chiefs, who were in turn pushed into it by public opinion; and that, through-out I have gone as slowly as they would let me."¹² And, fifty years later Nottingham succinctly explained to the author,

The witch-cleansings were only possible because of the Emergency and the closer administration of the period. The program was wholly at the instigation of the chiefs. I wouldn't have touched it without the chiefs' pressure – not because I was afraid of being bewitched, but rather because I was concerned about opening a can of worms.¹³

In sum, black Kenyan colonial officials and their British counterparts were concerned about the mutually constitutive relationship between Mau Mau and witchcraft in Ukambani. Oral evidence and the documented activities of chiefs like Simon Musyoki suggest that black Kenyan colonial authorities were concerned with witchcraft *per se* and the threats it potentially posed to their own persons and to administrative authority in their locations. British colonial officials, in turn, authorized and helped organize witchcraft cleansing activities on the advice of their black Kenyan subordinates. But while Mau Mau may have deployed *nzevu* against British colonial administrators, various

¹² KNA BB/PC/EST/12/15. Provincial Commissioner's Office, Eastern Province. Witchcraft, General. 30th Oct., 1954 – 11th July, 1961. Eastern Area Handing Over Report, 1955. Witchcraft Appendix. 21 November 1955.

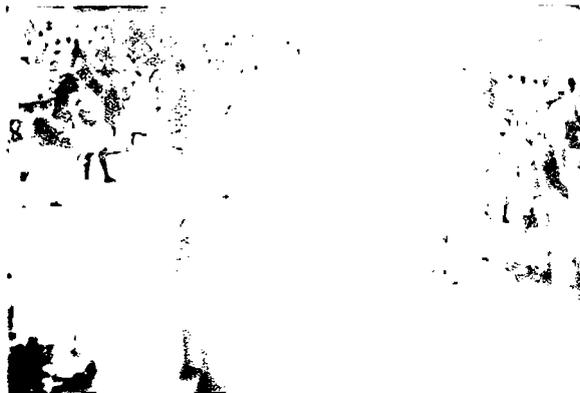
¹³ Nottingham Interview I.

administrative documents indicate that officials were *not* confused about the long history of witchcraft beliefs and practices challenging colonial law and order in Ukambani. As Nottingham concluded in the “Witchcraft Appendix” of the 1955 Eastern Area Handing Over Report, “I am convinced now that witchcraft, which was until recently the real government of Eastern Area, is the biggest single barrier to progress in Ukambani today.”

And he added,

On witchcraft all movements such as Mau Mau must be built. I would like to draw attention here to the reliance that Mau Mau have placed throughout on the advice of witchdoctors. No battle will they enter on, no oath ceremony, properly, should be held, no meeting should take place, and no journey should be undergone without their sanction.¹⁴

The exigencies of Mau Mau thus demanded more radical and systemized efforts to manage witchcraft in the province.



Photograph 6. Burning witchcraft in Mau Mau-era Machakos.
Photograph courtesy of J.C. Nottingham.

The Machakos witchcraft cleansings reflected a range of longstanding concerns about witchcraft in Kambaland. As discussed in previous chapters, various crimes related to witchcraft beliefs and practices had at regular intervals impeded the ability of the state

¹⁴ KNA BB.PC/EST/12/15. Provincial Commissioner’s Office, Eastern Province. *Witchcraft, General*. 30th Oct., 1954 – 11th July, 1961. Eastern Area Handing Over Report, 1955. “Witchcraft Appendix.” 21 November 1955.

to maintain law and order in Machakos and Kitui, and challenged the state's monopoly on spectacular, didactic violence. But as these chapters have also shown, colonial officials were concerned as well by the barriers to "development" and "progress" that they believed witchcraft beliefs and practices – "superstitions" – produced. In all of these discussions of witchcraft in Ukambani, British colonial officials consistently tried to define and distinguish "black magic" and "white magic." And colonial authorities consistently queried the efficacy and appropriateness of using witchcraft to fight witchcraft. An extract from the section of the 1955 Machakos District Annual Report concerning the witchcraft cleansings incorporates a number of these strands. It reads,

Witchcraft has a very considerable hold among the Akamba, and it is desirable to do all that can be safely done to reduce its practice, particularly in its black magic forms. But the greatest care must be taken that the steps taken do not result in entrenching the belief in, and efficiency of, witchcraft on a whole. Care must also be taken not to destroy the undoubted good which underlies white magic as a means of healing certain types of nervous disorders.¹⁵

The above extract's admonition that "it is desirable to do all that can be safely done to reduce its practice, particularly in its black magic forms," introduces a new element into the colonial administrative approach to Kamba witchcraft – formal anthropological inquiry by government authorities. As noted in preceding chapters, colonial administrators like Hopley and Dundas, and H.E. Lambert had produced studies of Kamba culture and cosmology while working in Ukambani, and in many instances their "ethnological" findings were transposed verbatim into their administrative reports. And, as discussed in chapter one, W.H.E. Stanner, the Oxford-trained anthropologist and

¹⁵ KNA PC/SP1/3/2. Provincial Commissioner. Machakos District Annual Report, 1955.

protégé of Margery Perham, produced a fieldwork-based study on Kamba societies in the 1940s.¹⁶

The Machakos witchcraft cleansings, however, were one of the first instances of a formalized anthro-administrative project in Ukambani. The anthro-administrative studies cited above were a sideline to officials' other duties and their findings were used in policy and practice only on an *ad hoc* basis, as was the data produced by academic studies like Stanner's. In contrast, Nottingham's witchcraft inquiry was instituted specifically to deal with challenges to colonial authority and its findings used to develop and to implement related policies and practices. In his article for *The Journal of African Administration* about the witchcraft cleansings, Nottingham explains how the inquiry into Kamba witchcraft and the Machakos cleansings emerged from worries over a relationship between Mau Mau and witchcraft, and the directions of the District Commissioner, D.J. Penwill. Nottingham wrote,

But at this particular juncture, as clear indications came in that the Kikuyu and Kamba Mau Mau were using and adapting Kamba 'witchcraft' in their campaign of subversion, the District Commissioner of Machakos felt that the opportunity which a properly controlled inquiry might give to learn something of its techniques and their alleged effects should not be missed and so he gave advice and instructions for carrying out an investigation.¹⁷

Supplementing the work done by Nottingham, Dr. Godfrey Wilson, the Government Anthropologist, was also tasked by the administration to conduct a formal inquiry into Kamba witchcraft in the same period. In addition to reporting his own findings – which did not vary significantly from Nottingham's – Wilson was also charged

¹⁶ KNA DC/KTI.6/2/1. District Commissioner, Kitui. The Kitui Akamba. W.H.E. Stanner, "The Kitui Akamba," n.d.

¹⁷ Nottingham, 1959.

with critiquing Nottingham's work for officials in Nairobi.¹⁸ The 1955 Machakos District Annual Report portrays the witchcraft cleansings growing out Nottingham and Wilson's inquiries. It explains,

Mr. John Nottingham was District Officer, Eastern Area, and delved considerably into the problems of witchcraft in his area. It is, of course, not possible to eradicate witchcraft here more than in any other parts of the world, but he amassed much useful knowledge, which has since been considered by the Government Anthropologist, Dr. Wilson. Further, lines of approach are being explored on the recommendations of Dr. Wilson. Of interest is the ceremony at Mumbumbuni in Kisau Location in October, 1955, when 700 witches, 50 warlock and 20 witchdoctors burnt their paraphernalia. In Western area there was an extra small experimental campaign into the realms of sorcery, and in December, 204 witches and 50 witchdoctors in the Wautu section Kilumbu openly admitted their arts and crafts and gave up a formidable number of implements.

Nzawi in the Southern Area had previously conducted a big ceremonial burning of witches' paraphernalia in May and a large cleansing ceremony held at Makueni was attended by every woman in the settlement. A small experiment in the Northern Area, especially in Mwala Location, towards the end of the year revealed still further the extent to which both black "Uoi" and white "Uwe" witchcraft have a grip on the lives of the people.¹⁹

On the first level, this report describes the participants, scope, and procedures of the witchcraft cleansings. But on a deeper level, the report equally concerns how and why "official" knowledge is produced and deployed. And while the entirety of the report situates the Machakos witchcraft cleansings within context of Mau Mau, this extract indicates some of the ways in which the witchcraft cleansings also took in longstanding colonial concerns about and conceptions of witchcraft in Ukambani particularly the impossibility of eradicating witchcraft given "the extent to which both black 'Uoi' and white 'Uwe' witchcraft have a grip on the lives of the people."²⁰

¹⁸ KNA BB.PC/EST/12/15. Provincial Commissioner's Office, Eastern Province. Witchcraft, General. 30th Oct., 1954 – 11th July, 1961. Godfrey Wilson, Witchcraft and Medicine in Machakos; Godfrey Wilson, Comment on the Report of Mr. John Nottingham. 1955.

¹⁹ KNA PC/SP1/3/2. Provincial Commissioner. Machakos District Annual Report, 1955.

²⁰ Ibid.

The Machakos witchcraft cleansings also served to establish witchcraft as a “knowable” and, hence, potentially “governable” category of administration bounded by colonial expertise and productive of fresh policies. In implementing the witchcraft cleansing programs, officials like Nottingham aimed to transform inherently secretive and hidden witchcraft beliefs and practices into public, performative, spectacle-centered performances of colonial governmentality. As noted above, Nottingham detailed the Machakos witchcraft cleansings for *The Journal of African Administration*, and the journal’s editorial notes reflect the constitution of witchcraft as a “useable” colonial category and indicate how local concerns were drawn into broader “circuits” of imperial knowledge production. The publication’s editor wrote,

Some of the most difficult and delicate problems which confront administrative officers in Africa arise from widespread belief in witchcraft and the practice of sorcery. Witchcraft in one form or another is still a most powerful influence in Africa today but it is not easy to obtain articles which describe its administrative and legal repercussions in a practical and dispassionate manner. We are therefore fortunate in being able to publish in this number of the Journal a (sic) article by Mr. J.C. Nottingham, of the Kenya administration, who, after much study of the subject in the Kamba country describes the local manifestations of witchcraft in the Machakos district and the administrative problems to which they give rise. This is followed by an article by Mr. H.R. J. Lewis, Solicitor-General, Fiji, who reviews some of the legal implications of a belief in the non-natural. Many of our readers will have experiences similar to those described by Mr. Nottingham and we hope that the publication of these two articles will stimulate them to send us the fruits of their studies in this field.”²¹

These notes portray “supernatural” beliefs and practices across the empire not as exoticized anthropological curiosities, but instead as pressing problems requiring serious inquiry, constitutive of policy, and subject to discipline by colonial administrations. Further, the editor indicates that witchcraft (and other beliefs in the “non-natural”) is not

²¹ PRO CO 955/21. *Journal of African Administration*. Editorial Policy & Editors’ Notes. January, 1959.

simply the localized concern of individual administrators-on-the-ground, but an empire-wide issue. And the notes suggest that the knowledge produced by colonial officials like Nottingham could be applied beyond local contexts.

Nottingham's *Journal of African Administration* article, published four years after the Machakos cleansings, begins to address issues and raise questions absent from or less explicitly stated in administrative documents pertaining to the witchcraft cleansings. For example, the article takes note of local Kamba precedents for dealing with witches and how Kamba people responded to the state's inquiries into witchcraft. At the same time, the article also offers different perspectives on issues and questions raised in official reports. In the article's narrative of the Machakos witchcraft cleansings, Nottingham cites as the cleansings' impetus the clamor of ordinary Kamba for the government to take charge of the recently revealed witchcraft problem. He also points out that "traditional" Kamba modes for cleansing witches were rendered unacceptable with the institution of colonial rule, and hence alternatives which would not violate the famous colonial "repugnancy clause" or offend Christian Kamba had to be developed. And, the text portrays the cleansings as solidly non-magical, administrative exercises. The article's main points are neatly summed up in the following paragraphs:

As a result of the revelations of the inquiry, a considerable public demand arose for an effective, once for all, cleansing of the witches. The usual Kamba method of cleansing a self-confessed witch, of any category, is to recircumcise her, however advanced her age in the presence of her family. Apart from the Government and the Church, many of the more advanced Kamba were extremely angry when unconfirmed rumors came in that such ceremonies were in fact taking place, organized by families tired of waiting for the Government to decide what they were going to do. Needless to say such remedies were wholly unacceptable to Government. Another way employed with a witch who is wholly suspect but is not judged bad enough for *king'ole*, is to give her an *ndundu* oath within the family circle. This oath, which involves the slaughter by her relatives of a valuable bull, would never be idly given. In Kamba tradition, the witch who has

been given such an oath, takes her paraphernalia and hides it away very secretly, and from that day forth never touches it again. Were this custom still binding, it might have been a relatively unobjectionable means of cleansing witches who did not shelter beneath the Christian umbrella, but it no longer retains any force.

But all the methods contained seeds of their own inevitable failure in that magical elements were intrinsic in the ceremonies attached to them; nor were they universal in that they ignored the large numbers of at least nominal Christians concerned. A small African committee which had been trying to find a solution, eventually recommended a wholly unmagical approach which was finally adopted. At Mbumbuni in Kisau on 14th October 1955, all the witch-doctors and witches assembled together to a full-locational *baraza* of several thousand people; one by one they filed past a large pit and threw their trash on to the expectant furnace blazing beneath. They were then lectured by their Chief. Several of the more prominent ex-(we hope) witchdoctors gave demonstrations of the conjuring trickery by which they had duped their clients for many years. Government's ace of trumps, the Witchcraft Ordinance, was read and handed out, and three heavy sentences recently imposed under it were announced. This ceremony had a deep immediate effect: how long it will last is impossible to assess.²²

The article's account of the witchcraft cleansings varies from archival evidence – some produced by Nottingham himself – and from ethnographic evidence in a number of ways. First, while administrative reports and interviewees accounts cite the impetus for the cleansings as arising largely from black Kenyan officials concerns about Mau Mau and witchcraft and the willingness of British authorities to heed these concerns, the article locates the impetus for the cleansings in the popular demand of ordinary Kamba and its organization in the efforts of a specially appointed committee's "unmagical" plan. The article also foregrounds systematic character of the cleansings, treating them as another variety of "*baraza*" – the Kiswahili word used by colonial authorities to describe any large meeting of ordinary Kamba and their Kamba representatives which was typically presided over by a District Officer or District Commissioner and held to deal with an administrative matter.

²² Nottingham, 1959. 11-12.



Photograph 7. British and Kamba authorities at a Machakos witch-cleansing, circa 1955. J.C. Nottingham, second from right. Photograph courtesy of J.C. Nottingham.

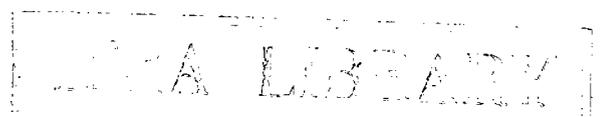
These variances can in large part be treated as a function of the type of publication for which Nottingham was writing. Directed towards an the audience of colonial administrators outside Ukambani and metropolitan authorities, the witchcraft cleansings are figured as a “performance” of the power of the colonial state, as a bureaucratized spectacle incorporating the “poetics of incredulity” and the systems of discipline and denial which officially characterized the state approach to witchcraft across the British empire. In narrating the Machakos witchcraft cleansings for *The Journal of African Administration*, a publication aimed to instruct in and to celebrate British colonial bureaucracy, it was important to conclude that imperial practice, not local beliefs, held the ultimate sway.

At the same moment, the article would seem to reveal significant gaps in colonial knowledge, not simply about what precisely transpired in the course of the witchcraft cleansings, but also in understandings of Kamba witchcraft and cosmology. First, the emphases on the destruction of witchcraft paraphernalia and on the debunking of witchdoctors’ practices suggests that cleansings were targeted primarily towards “*bought*” witchcraft rather than towards “*inherited*” witchcraft, which Kamba (and oftentimes colonial authorities) have typically perceived as the more virulent and

pervasive form of Kamba *uoi*. Second, the descriptions of the cleansings seem to reflect a very European perspective on the cleansings, one in which fire would be sufficient to destroy witchcraft without the addition of any supernatural mechanism.²³ But, the destruction of witchcraft paraphernalia alone is insufficient to cleanse a witch or witchdoctor completely, and an oath is also required to complete the cleansing process. Third, in discounting *ndundu*, a variety of witchcraft cleansing oath described in chapter one, the article underestimates the persistent power of oathing practices among Kamba and the regularity of Kamba Christians' participation in oathing. On one hand, these seeming gaps in colonial knowledge could perhaps be attributed to the four years intervening between the cleansings and the publication of the article. Or, similar to the variances discussed above, they could be simplifications of an equally complex cosmology and colonial situation made for the benefit of an audience without nuanced knowledge of Kenya and anticipating widely applicable narratives of colonial knowledge production and governmentality.

Finally, colonial accounts of the Machakos witchcraft cleansings all raise the following question: “*Why* did Kamba men and women agree to bring their witchcraft to be burned and subject themselves to this spectacular exercise in disciplinary colonial bureaucracy?” Drawing upon Euro-American images of witchcraft, Nottingham attempts to answer this question in his article by suggesting that there is no concrete answer. He wrote, “What made them [witches and witchdoctors] reveal their secrets, the real motive behind their mass surrender of these objects is not easy to assess, though there have been similar episodes in the historical past; nor can one even now be absolutely sure that they

²³ Nottingham sprinkles his writings with Shakespearian quotes concerning the Macbeth witches. In conversations with the author he offered the caveat that he knew nothing of African witchcraft before commencing the Machakos inquiry. Nottingham Interview I; Nottingham Interview II. Nairobi, June 2004.



were not deluded as those involved in the Salem tragedy in America.”²⁴ When more than 50 years later the author posed the “why” question to Nottingham, he paused thoughtfully and said, “I don’t really know. I suppose you would have to ask the people who brought it.”²⁵ Following his suggestion, the author collected elderly Kamba people’s memories of the Machakos witchcraft cleansings; memories which wove together stories of the cleansings that were in many ways different from those found in colonial-era documentary sources.

Deciphering Historical Dissonances

The oral recollections of elderly Kamba concerning both the Machakos Mau Mau and witchcraft cleansings vary not only with archival sources, but also amongst themselves. Oral histories evidence a range of understandings and articulations about a number of significant issues: chronology, authority, methods, precedent religion, etc. At first glance, it might seem that the dissonances (some would argue discrepancies) in oral recollections would preclude using them to tease out more meaningful stories of the witchcraft cleansings. But, as Justin Willis explains, dissonances themselves offer historical information. He writes,

Dissonances can tell us very much both about the ways in which people structure and understand the past – that is, about ways in which they turn disparate fragments of knowledge into history – and they can also help us to formulate our own understanding of the past and write academic histories.

Dissonances often show that people are aware of conflicting interpretations of the past and that they have a considerable and diverse range of historical knowledge, and they reveal something of how people deploy their knowledge in difference circumstances.²⁶

²⁴ Nottingham, 1959.

²⁵ Nottingham Interview II.

²⁶ Justin Willis, “Two Lives of Mpamizo: Dissonance in Oral History,” *History in Africa* 23 (1996): 319-332. 321-22. The telling of oral histories, Mariano Pavanello notes, entails three aspects: the informative, the performative and the re-creative, the reshaping and enlivening anew of something which already exists. See, Mariano Pavanello, “L’ Événement et la Parole, la Conception de l’histoire et du Temps Historique

As in Willis's work on rural Tanzania, the dissonances in stories of cleansing Mau Mau and witchcraft in Machakos are revelatory of ways of being and knowing, both past and present. In much the same way that documentary sources like Nottingham's article and official reports are shaped by attention to audience, aims and protocols of production, so are oral histories actively considered rather than simply recounted. Oral histories like those shared by elderly Kamba are first a way of imparting information about past people and events, but the act of telling entails elements of affect and embodiment which add another layer of meaning to speech.²⁷ And, as much as they are a catalogue of the past, oral histories are a project of recreating that past vis à vis present-day concerns and audiences. The dissonances that necessarily emerge in the telling of oral histories can be rendered meaningful to a broader audience through a process of contextualization that reads oral histories in conversation with each other, and also with the documentary records of the people, places and events which oral recollections discuss.

Drawn from thirty interviews in Machakos District conducted by the author and her Kamba research assistant during 2004, oral narratives of cleansing of Mau Mau and witches in Machakos can be loosely group according to their central themes. Each set of oral recollections reflects an aspect of the cleansing Mau Mau and witchcraft either absent from or underdeveloped in archival sources. Among the central themes of these

dans les Traditions Orales Africaines : Le Cas des Nzema," *Cahiers d'Etudes Africaines* XLIII 3.171 (2003): 461-481.

²⁷For example, Ann Laura Stoler, *Carnal Knowledge and Imperial Power: Race and the Intimate in Colonial Rule* (Berkeley: University of California Press, 2002); Paul Stoller, *Embodying Colonial Memories: Spirit Possession, Power, and the Hauka in West Africa* (New York: Routledge, 1995); Renato Rosaldo, *Culture and Truth: The Remaking of Social Analysis* (Boston: Beacon Press, 1993).

are: coercion, local administrative organization, Christianity, protective magic and cleansing precedents.

Oral narratives also evidence a number of overlapping understandings of the cleansings as well. Informants link (explicitly or implicitly) Mau Mau and witchcraft, and in some instances demonstrate a tendency to conflate anti-Mau Mau and anti-witchcraft cleansing activities. They share an emphasis on the non-voluntary nature of participation in Mau Mau and witchcraft cleansings and on the role of the chiefs. These recollections thus raise important questions about the degree of authority British colonial officials practically exerted over their black Kenyan subordinates, the extent to which local people situated effective the authority of the state in headman and chiefs, and the degree to which ordinary Kamba read their own concerns in concert with the avowed aims of the state during Mau Mau. At their core, the narratives attend more strongly and specifically than do documentary sources to the question of *why* Kamba people participated in Mau Mau de-oathing and witchcraft cleansings. Finally, informants indicate that the cleansings were beneficial and efficacious because they indeed “finished” witchcraft and Mau Mau.

The next section identifies common themes in oral histories of Mau Mau and witchcraft cleansings, and interrogates the broader significance of such themes. It takes a further look at archival evidence on the Mau Mau and witchcraft cleansings, tracing where oral narratives accord with and depart from written records, and positing the significance of these overlaps and departures. And it draws upon archival records first to contextualize oral histories and to suggest further how dissonances in written sources too have meaning.

Coastal Cleansers and Kamba Chiefs in Machakos

First, the oral recollections of elderly Kamba from Nzawi and its environs introduce new elements and actors into narratives of cleansing Mau Mau and witchcraft in Machakos. As the preceding sections have illustrated, documentary accounts attend strongly to the intertwined administrative rationales and methods underlying the cleansings of Mau Mau adherents and witchcraft practitioners while glossing over the reactions and activities of those Kamba that state actors regarded neither as Mau Mau nor witches. In contrast, Nzawi oral histories indicate that ordinary Kamba used “protective” magic in the fraught context of mid-1950s Machakos. They suggest that burning and oathing were not the only methods available for cleansing witches in Machakos, and that non-Kamba practitioners like coastal witchdoctors such as the noted Kabwere were involved in managing witchcraft and Mau Mau in Ukambani. In a related vein, oral histories also incorporate an attention to space and movement, asserting that while Machakos Mau Mau were sent to internment camps, Kamba witches were banished to Mombasa. And they evidence varying conceptions of the degrees and kinds of coercion used to make Kamba witches produce their paraphernalia.

The variations in written and oral sources on cleansing Mau Mau and witchcraft should not be taken to mean that one group of accounts is “true” while the other is necessarily false. Rather, they point to variations in local people’s conceptions of colonial power, and less abstractly, the extent to which black Kenya officials may have been acting outside the purview of their British higher-ups. While oral histories demonstrate some significant dissonances with documentary records, among themselves and internally, they also agree on several key points. These oral histories agree that there

was relation between Mau Mau and witchcraft recognized by colonial authorities and that as a result the prominent coastal witchdoctors like Kabwere conducted a spate of anti-witchcraft activities in which the use of “magical water” was a central ingredient. At the same moment, oral recollections depart on the precise role of the “magical water,” the extent of the coercion government officials exercised in the round-up of witches and Mau Mau, and the degree to which British authorities were aware of and participatory in various cleansing activities.

As noted earlier, numerous oral histories of 1950s Machakos establish connections between Mau Mau and witchcraft, and suggest that colonial officials recognized these connections. Like the histories discussed above, accounts from Nzawi and neighboring markets cite *nzevu*, the magic of confusion, as the sort of witchcraft deployed against the state. While archival documents foreground the role of chiefs and headman in bringing about anti-witchcraft activities and Mau Mau, oral histories explain state authorities’ worries about witchcraft as ultimately rooted in the complaints of local people and suggest that colonial authorities might have regarded these worries as a sort of popular mandate to squash witchcraft and Mau Mau together. As one elderly Kamba man recalled, “There was a lot of witchcraft during Mau Mau. There was an outcry from the people, so the Government had to take action. The Colonial Government had a directive to “finish” witchcraft.”²⁸

Yet, in contrast to documentary sources which portray participation in witchcraft and Mau Mau cleansing ceremonies as largely voluntary, oral histories foreground the coercive activities through which colonial authorities like chiefs and headman saw to the collection and cleansing of Kamba witches and Mau Mau. Thus, one elderly Kamba man

²⁸ S.M., Mbooni, September 2004.

explained generally, “The colonial government came to the villages and exposed those who used witchcraft because they equated witchcraft with Mau Mau” and his contemporary stated more specifically, “They [colonial authorities] had the people who had the *nzevu* arrested and told to burn their witchcraft so they could not give it to people involved in Mau Mau.”²⁹ Generally, coercive activities of state actors constitute a central theme in oral historical discussions of Mau Mau and witchcraft in Machakos.

In addition, the following comments counter documentary narratives about the voluntary nature of the cleansings. One elderly Kamba man explained, “There was a policeman who arrested women [witches] and took them to court. They were to bring their paraphernalia, and it was burned... It was the government policy to use the Headmen to identify the women” while another noted that, during Mau Mau, Kamba who had been exposed as witches were “...arrested and taken to camps as Mau Mau.” And a third elderly Kamba man noted that “Witches from every village were taken to the Chief’s office. Assistant Chiefs organized it with the *atumia*. They sent the youth to bring the witches. Because they were known, they were all gathered up and taken to the Chief’s Office at Nziu for cleansing. The *atumia* knew who the witches were.”³⁰ Though subtle differences exist among these accounts, they concur that Kamba witches did not participate in cleansings of their own accord but were instead coerced into doing so by various representatives of the colonial state.

Oral histories of cleansing Mau Mau and witches also introduce new methods, means, actors, and spaces. Citing specific roles and aims of particular actors, they break down the monolith of “the state,” and peel away layers of colonial bureaucracy and point

²⁹ K.N., Nzawi, September 2004; L.N.N., Kilungu, August 2004.

³⁰ K.N., Nzawi, September 2004.

to the potential disconnects among various levels of officials. Further, they speak to the bureaucratization of witchcraft practitioners and the creation of official knowledge about witchcraft. While documentary sources describe a system of burnings and the employ of Kamba ritual specialists to cleanse Machakos witches and Mau Mau, a number of oral histories (especially those emanating from Nzawi and surrounding markets and *mashamba*) focus on the centrality of Coast practitioners and spaces in combating witchcraft and Mau Mau.

In explaining what took place after witches and Mau Mau were rounded up by agents of the colonial state, many elderly Kamba describe the activities of the renowned Mombasa witchcraft-cleanser Kabwere and his lesser-known coastal counterparts.³¹ For example, as one elderly Kamba man explained, “The famous cleanser from Kilifi, Kabwere, came. The Chief and the *nzama* wanted to finish witchcraft using Kabwere.”³² Some of these accounts note that Kamba witches and Mau Mau were sent to Mombasa to be cleansed by people like Kabwere, though the majority indicates that Kabwere and other Coast specialists were called to Machakos District. An elderly Kamba noted that during Mau Mau “People were taken to Mombasa to be cleansed by Kabwere” and that “they were cleansed and then allowed to come back.”³³ Despite such variations, taken together, oral recollections such as these indicate that in certain parts of Kambaland

³¹ Among many communities in Kenya, cleansers or witchdoctors who are recruited from outside the community are believed to be more efficacious than “local” practitioners. Kamba people often cite practitioners from the Kenya Coast like Kabwere as being particularly effective. See the discussion surrounding *Mwaka Tengu* in the previous chapter. In his well-regarded treatise on Kamba customary law in Machakos District, D.J. Penwill, a Machakos District official, explained, “The Kamba themselves consider that the most potent wizards come from Tharaka, and speak highly of the work of the Nyamwezi (whom they regards as peculiarly allied to them and with whom they stand in a special relationship), the Giriama and the Duruma. The island of Pemba is recommended for advanced study.” D.J. Penwill, *Kamba Customary Law* (Nairobi: Kenya Literature Bureau, 1956). 93.

³² S.M., Mbooni, September 2004.

³³ M.M.N., Kilungu, August 2004.

cleansing witchcraft and Mau Mau was not solely the purview of Kamba ritual specialists.

Oral evidence, again particularly that concerning Nzawi, also indicates that the type of cleansing ceremony performed by Kabwere and his coastal counterparts was different from the *kithitu*-based ceremonies described in documentary sources. The activities attributed to the coastal witchdoctors used “magical water” as a central element. The multi-functionality of this “magical water” is reflected in the informant accounts of the coastal witchdoctors’ cleansings. The “magical water,” which one elderly Kamba pointedly described as a “truth serum,” induced a possession-like state in witches that caused them to confess their malevolent activities, drove them to produce their witchcraft paraphernalia, and ultimately neutralized their power. It is worth quoting at length the descriptions of the coast witchdoctors’ activities and of the efficacy of the “magic” water.

Kabwere came to the market and people fell down because of his magic... He gave special water to those who refused to surrender their witchcraft and water to others to neutralize them. The people drank it and fell down. Normal people took it as protection. The witches were forced from their homes.³⁴

Kabwere was giving people some special water which made those who had witchcraft become possessed and run to get their hidden paraphernalia and give it to Kabwere. Kabwere took the paraphernalia away. The water had protective qualities against witches.³⁵

They [colonial officials] looked for assistance from witchdoctors to administer a “truth serum.” They got Kibauni and others from the Coast. When they administered the substance (“truth serum”), innocents were not affected, but witches “fell down” and confessed. Then they were sent to produce their witchcraft paraphernalia.³⁶

The Chief took the *atumia* to the D.C. They wanted permission to “finish” witchcraft. They organized someone from Mombasa, an Mdigo... Before no one

³⁴ S.M., Mbooni, September 2004.

³⁵ J.M.N., Nzawi, September 2004.

³⁶ W.N., Machakos, September 2004.

had been brought from Mombasa...He was famous. People had been going to him for their own business... There was no one equally effective in this area...The *atumia* gathered witches and asked for their witchcraft paraphernalia. It was collected, and the witches were given something to make them act possessed and fall down.³⁷

These accounts reveal continuities and subtle differences in the ways in which people perceived and recalled the activities of the coast cleansers. In certain instances, the account suggest that the “magical” water used to identify witches, while others maintain that the substance was applied to those already identified as witches. All the accounts are shot through with the notion that the “magical water” was what induced the witches to produce their paraphernalia. Nonetheless, these statements vary slightly in regard to what sort of effect the “magical water” was believed to have had had on ordinary Kamba. While some elderly Kamba indicate that ordinary Kamba took the “magical water” with the deliberated aim of protecting themselves from witchcraft in the dangerous context of mid-1950s Machakos, others describe its protective aspects as mere side-effects.

These variations may be indicative of differences among the cleansing protocols which did in fact exist from location to location, of people’s varying knowledge and conceptions during Mau Mau, or simply of the ways in which time shapes memories. But what these oral histories share is an important emphasis on the use of “magical” water to mark out a “category of dangerous persons,” and on the production of witchcraft paraphernalia as a coerced rather than voluntary activity.³⁸ Further, these discussions incorporate other aspects of the supernatural in Ukambani: outsiders’ participation in the

³⁷ M.N., Kilungu, August 2004.

³⁸ Suzette Heald, *Controlling Anger: the Anthropology of Gisu Violence* (Athens [OH]: Ohio University Press, 1998).

supernatural, the particular caché of coastal witchcraft practitioners, possession's importance in Kamba cosmology, and the use of protective magic by ordinary Kamba.

Finally, this body of oral evidence speaks to the hierarchy of colonial power at work in Mau Mau-era Machakos, differentiating among the actors, activities, and accoutrements composing the institution of the state. And it points to the bureaucratization of the witchdoctor and to the establishment of official knowledge about the supernatural. The accounts of elderly Kamba attend to how and why Kabwere and lesser known coastal witchdoctors came to be called to Machakos, under whose authority they acted, and by what means this authority was indicated. They also speak more generally to politics of knowledge and power surrounding the state's intervention in witchcraft in Machakos. It is worth quoting at length elderly Kamba people's recollections of the organization of power surrounding the witchcraft cleansings.

Local people were fed up with witches and sent for him [Kabwere]... They didn't know anyone else who could cleanse perfectly. They didn't know any powerful witchdoctors around. They [the colonial government] gave him [Kabwere] permission to operate.³⁹

They [D.O.s and D.C.s] authorized the round-up of the witches.... The D.C. would give the Chief a permit... The witches had to produce their paraphernalia... Refusal was not an option... It was burned during the day time. It even caused other witches to fear. Nobody could practice witchcraft.⁴⁰

The D.O. gave the Chief the authority to administer the burning... The ex-witches donated lambs, the stomach contents were removed, they were spilled over the burned paraphernalia... The witchdoctor from Mombasa directed the witches' families to make sure all the paraphernalia had been given up... If not, the process was repeated and there was a fine of 1 bull or cow. It was announced using drums... The D.C. talked to the people... Everyone had to attend. The elders could approach... Others had to watch from a distance.⁴¹

Q: Who was responsible for the cleansings?

³⁹ J.M.N., Nzawi, September 2004.

⁴⁰ K.N., Nzawi, September 2004.

⁴¹ M.N., Kilungu, August 2004.

SM: *Nzama* were responsible for the cleansings. They met secretly without women and identified all the witches. They arrested them with *askaris*. They asked them questions about witchcraft, and those who refused to answer were given the substance.

Q: Who else was involved?

SM: The Chiefs, the Assistant Chiefs, the Elders and the APs.

Q: Were the D.O. and D.C. involved?

SM: They gave instructions to the Chiefs to do the cleansings. Sometimes they were present.

Q: Were they responsible for sending to Mombasa for help?

SM: The Chiefs and the *nzama* did it for the location.

Q: Did they get a permit or permission?

SM: No.⁴²

Various dissonances exist among these interview extracts and between the body of oral evidence they compose and the documentary evidence discussed above. These seeming discrepancies, I would suggest, simply point to the ambiguities present in professional and popular historical practice. As Pavanello notes, in “doing” history professionally, an ambiguity exists between investigation and narration while in “doing” history locally, an ambiguity persists between narration and event.⁴³ Such ambiguities can be rendered meaningful with attention to historical context and through the problematization of key concepts like “authority,” “responsibility,” “force,” etc.

The comments of the first interviewee are seemingly at odds with oral and documentary sources which indicate that colonial authorities were responsible for bringing Kabwere and other “cleansers” and/or “witchdoctors” to Machakos. At the same moment, however, both bodies of sources suggest in varying degrees that anti-witchcraft activities in Machakos were rooted ultimately in the complaints of ordinary people made to the black Kenyan colonial officials. Thus, this elderly Kamba informants’ claim that “local people were fed up with witches and sent for him

⁴² S.M., Mbooni, September 2004.

⁴³ Pavanello, 2003. 471.

[Kabwere]” does not necessarily contradict other claims about how Kabwere came to Machakos. Rather, this elderly Kamba man’s account situates primary “responsibility” in the local people rather than in the agents of the state. In this anecdote, the authority of the state is located not in what its actors *do*, but rather in its sanction of an ultimately local initiative.

The next two statements address further the issues of “authority” and “responsibility.” From the perspectives of these elderly Kamba men, the role of British colonial officials was again to sanction policies/practices that had been imagined by their black Kenyan subordinates. In Mau Mau-era Machakos, the concerns of ordinary Kamba did not find their first audience in the District Officer or District Commissioner, but rather in the headmen and chiefs. Accordingly, many elderly Kamba like the pair quoted here cite the practicalities of governing as the purview of black Kenyan officials, even if they recognized the ultimate authority in British higher-ups. The statements of these two men also speak to the various degrees and types of coercion underlying the cleansings of witchcraft (and Mau Mau). In the first instance, witches were forced by agents of the state to produce their paraphernalia, while in the second case the state-sanctioned cleansing incorporated the more “traditional” mechanism of familial authority to drive the witches to turn in their wares. Both accounts attend to the didactic character of the cleansings. Not only were the cleansings a lesson to witches, but they also intended to offer a broader audience a spectacular demonstration of state-sponsored, intermediary-implemented authority over the supernatural.

Questions of “authority,” “responsibility,” etc. are addressed most explicitly in the third interview extract. The meeting of the *nzama* – the group of elders to whom

responsibility for the cleansings is accorded – is reminiscent of the pre-colonial (and colonial) meetings of the *king'ole* to deal with witches but in the context of Mau Mau, the Kamba elders worked with agents of the state, *askaris*, to discipline witches. While questioning witches was a “traditional” element of elders’ confrontations of witches, in this instance, the questioning of witches also references the interrogations of Mau Mau and witches carried out in administrative offices and internment camps across Kambaland. Citing the participation of the “Chiefs, the Assistant Chiefs, the Elders and the APs,” the elderly Kamba man quoted here indicates his familiarity with the hierarchy of state authority. The phrasing describing the role of British colonial authorities renders their activities somewhat ambiguous. In giving “instructions to the Chiefs to do the cleansings,” did British officials provide their black Kenyan subordinates with plans to be carried out or with sanction for the plans that Kamba people themselves had imagined?

While documentary evidence indicates the former, the elderly Kamba informant’s contentions that the “*nzama* was responsible for the cleansing” and that the Chiefs and *nzama* had sent to coast for a witchdoctor on behalf of the local people, and without a tangible permission from their British colonial superiors, suggest that local people perceived of the protocols of the cleansing programs as having been envisioned by black Kenyan officials and sanctioned by British authorities. Finally, this informant’s suggestion that British authorities did provide chiefs and headmen with a permit to call in assistance from Mombasa raises questions about the extent to which District Officers and District Commissioners were truly cognizant of the activities carried out by their subordinates on the ground.

Each of these elderly Kamba men indicates that ordinary Kamba people have envisioned the state not as a monolith but instead as encompassing a range of actors and operating at numerous levels. Their narratives shed light on some of the ways in which ordinary people have perceived authority, who exercised it, and how this was indicated. They also indicate how ordinary Kamba have problematized governmental “responsibility” in this period, situating it in state actors who practically implemented policy rather than in those at the apex of the administrative pyramid.⁴⁴ Further, they emphasize the didactic nature of the cleansing suggested in other oral and in documentary sources and how the state aimed to subject witchcraft – both “black” and “white” – to administrative discipline and protocols.

Very little documentary evidence speaks directly to the involvement of coastal witchdoctors in anti-witchcraft and anti-Mau Mau campaigns in Machakos. In his “Witchcraft Appendix,” J.C. Nottingham noted, “It was also suggested we should bring up the famous Ghiriama Wizard from Kilifi; in this game reputations grow with distance, and the further you live away the more mysterious, and hence the more terrifying your medicine is.”⁴⁵ According to files on the witchcraft and Mau Mau cleansings, this suggestion went nowhere officially, likely in part because of the British squeamishness with importing witchdoctors across tribal and administrative lines for official administrative purposes, a reservation which persisted despite the Machakos administration’s employ of Kamba ritual specialists.

⁴⁴ It is impossible to ascertain without a doubt how time and shifting circumstances have influenced people’s perceptions and recountings of the past. Narratives such as those addressed in this chapter point to consistencies and overarching themes in Kamba people’s ways of talking about the past.

⁴⁵ KNA BB.PC/EST/12/15. Provincial Commissioner’s Office, Eastern Province. Witchcraft, General. 30th Oct., 1954 – 11th July, 1961. Eastern Area Handing Over Report, 1955. “Witchcraft Appendix.” 21 November 1955.

So which account is accurate? The dissonances between oral and documentary sources do not suggest that set of narratives is necessarily “true” while the other is equally “false.” Rather such dissonances instead suggest practical, historical gaps between colonial discourse and practice, between nominal and practical authority, and between exercised and perceived responsibility. Oral narratives of the Machakos witchcraft cleansings raise again the question of the extent of state authority (particularly in the persons of its British agents) in the face of witchcraft-related challenges.

Church Challenges and Pre-Mau Mau Cleansings

Many of the oral recollections of elderly Kamba men and women from across Machakos introduce new sources of authority and sets of actors in the sociopolitical landscape of 1950s Ukambani. In numerous oral narrative of the cleansing of Mau Mau and witchcraft, churches, clergy and Christianity *writ large* are accorded a central role. This is also the case in archival documents and in the oral recollections of J.C. Nottingham. With varying degrees of specificity, both oral and documentary sources address the ways in which the Protestant fundamentalist churches, especially the Africa Inland Church/Africa Inland Mission (A.I.C./A.I.M.), engaged with cleansings of witchcraft and Mau Mau in the 1950s. But oral recollections, particularly those of elderly Kamba men and women from in and around Kilungu and Mbooni, point out that the Mau-Mau era witchcraft cleansings were not the first instance in which white institutions and actors had established witchcraft cleansing programs in Machakos District. Indeed, a number of elderly Kamba note that first witchcraft cleansing campaigns were organized by the Mukaa branch of the A.I.M./A.I.C.

Yet, other informants' references to and relationships with the A.I.C./A.I.M. shape their narratives in way such that they deny not simply the efficacy of witchcraft – and to a lesser extent Mau Mau – but the presence of witchcraft and Mau Mau in Machakos at all. In addition to offering stories of cleansing witchcraft in Machakos, oral recollections and documentary sources foreground the fraught meanings of Christianity and conversion in colonial Kenya. Memories of cleansing Mau Mau and witchcraft in Ukambani illustrate also the often conflicting relations between British colonial and church authorities. Further, oral sources cite the intrusion of religious adherence on administrative practice. In an interpretive move similar to that suggested above, this section argues again that dissonances (and even denials) illustrate ways of being and knowing, and that in certain instances claims of *forgetting* and/or *not knowing* themselves form a kind of knowledge.

In the course of discussions about cleansings of Mau Mau and witchcraft in the 1950s and Machakos witchcraft generally, some elderly Kamba, particularly those from around the Kilungu location of the district, brought up a series of earlier witchcraft cleansing campaigns sponsored by the Mukaa branch of the A.I.M./A.I.C. mission during the mid-1920s. In their scope and methods, the Mukaa cleansings were similar to the Mau Mau-era cleansings. As one Kamba woman pointed out, “People used to gather their witchcraft and burn it in the church compound.”⁴⁶ Explaining how Christianity had led to a “deterioration of the strength of local witchcraft” and an increase in the purchase of witchcraft from Kitui and Tanzania, another elderly Kamba described the Mukaa cleansings in more detail. He noted,

⁴⁶ M.N., Kilungu, August 2004.

...In 1924 I saw people burning witchcraft at the Mukaa A.I.C. church. They used to burn it using open fire and I saw some of the paraphernalia “jump” from the fire. The same people who burnt their witchcraft later started going out [to Kitui and Tanzania] to purchase witchcraft. From 1940 they started going other places to purchase witchcraft. They could not get it locally...In 1926, most of the witchcraft in this area was burned...The *kanisa*, the African Inland Church at Mukaa, organized it. I saw the burning myself. It was done after church services, not once, but several times...Between 400 and 600 [people]. The burning was after a church service. It was done occasionally for those who were accepted as Christians, new members of the church. It was done when they joined the church. After the generation that burned the witchcraft in 1926, there came another generation in the 1940s of people who started going back to witchcraft.⁴⁷

Despite these organizational similarities, the goals of Mukaa cleansings and the Mau Mau-era cleansings were different. While the Machakos cleansings of the 1950s had the practical goal of reducing intertwined witchcraft and Mau Mau-related disorder, interviewees explain that the goal of the Mukaa cleansings was as much about ensuring a complete conversion by cleansing the spiritual stain of “pagan” witchcraft beliefs and practices as it was about purging paraphernalia. And while oral recollections of the Mau Mau-era cleansings attend to the coercion which drove witches to burn their paraphernalia, many discussions of the Christian cleansings seek to emphasize the voluntary nature of the burnings, and by extension on the voluntary nature of Christian conversion more generally. While the Kamba man quoted above added, “People were told and advised that witchcraft was bad. The burning was not a ‘must.’ It was for those who accepted Christianity after the preaching against witchcraft. It was voluntary,” his contemporary brought up a Mau Mau-era cleansings and highlighted the coercive aspect of the 1950s campaign, explaining “There was also another burning at Ithemboni. People were arrested and forced to produce their paraphernalia.”⁴⁸

⁴⁷ P.M., Kilungu, August 2004.

⁴⁸ P.M., Kilungu, August 2004; M.N., Kilungu, August 2004.

Both the Mukaa cleansings and the Mau Mau-era cleansings relied on Kamba people who had been incorporated into the institutional hierarchy of the church and the state, and who worked with white church and governmental authorities. In the case of the Mukaa cleansings, Christian *atumia* did a substantial part of the outreach work of convincing current and potential Kamba Christians to burn their witchcraft, while as noted above, the efforts of the colonial state in 1950s were very much in the hands of Kamba headman and chiefs. Adding to earlier comments, the first informant cited above explained further the procedures and participants in the organization of the Mukaa cleansings. He noted,

They [church leaders] went to every family. There were no Headmen like there are now, and the Chiefs and Sub-Chiefs were not Christians. There was no Government policy on the matter, but the church representatives preached against witchcraft... The church representatives were Africans. The Europeans used to live at the church station. There were also white ladies... They used to take old Kamba men, the *atumia*. They were accompanied by white ladies.⁴⁹

Thus, presaging the some of sorts of activities that would be taken on in the 1950s cleansings by Kamba chiefs and headman working under varying degrees of supervision by British colonial authorities, black Kenyan Christian elders worked against witchcraft with different levels of oversight and participation by white church authorities. The Mukaa cleansings were conducted without the participation of state officials and perhaps without their knowledge as well since a complete survey of Machakos Annual and Provincial reports makes no mention of them.

But additional comments on the Mukaa cleansings raise the same sorts of questions about the meaning of “responsibility” and “authority” discussed above. Conversing further about the Mukaa cleansings, the second interviewee emphasized that

⁴⁹ P.M., Kilungu, August 2004.

the “cleansings were done by people who were ‘changing’ to Christianity.” Responding to questions about who had organized the cleansings and if the colonial government was involved, the informant added, “The *atumia*. I’m not sure of the process... The Christians were the ones were involved in kinds of practices like burning witchcraft.”⁵⁰ Yet as the following exchange indicates, the distinction between Christian actors themselves and the institution of the church, remained ambiguous.

Q: Was it the believers who were burning the witchcraft or was it the churches?

MM: People who became Christians. It was not a church policy.

Q: Did the churches have anything to say about the cleansings?

MM: They proposed that witchcraft should be burnt. They supported them because witchcraft “brings loss.”⁵¹

While in their recollections of the Mau Mau-era cleansings, elderly Kamba readily peel back the onion-like layers of colonial governmental authority, they are often less precise about levels in the hierarchy of church power. In a typical sort of exchange, this informant first asserted that the cleansings arose from the initiatives of converts themselves and was not a church policy. In the next instance, however, he maintained that the churches “proposed” the witchcraft cleansings, thus implying the granting of institutional authority and institutionalized involvement in the cleansings. Such lack of precision raises again of the issue of the meanings of “responsibility” and “authority,” and suggests many Kamba people accorded ultimate authority to Christian actors on-the-ground rather than to their institutional higher-ups in much the same way that they located primary authority and responsibility for the 1950s cleansings of witches and Mau Mau in Kamba chiefs and headmen.

⁵⁰ M.N., Kilungu, August 2004.

⁵¹ M.M., Tawa, September 2004.

Despite the various dissonances discussed above, sources concerning both the Mukaa cleansings and the Mau Mau-era cleansings highlight the objections of protestant churches in Machakos, particularly the A.I.M./A.I.C., to witchcraft and their attitude that witchcraft practices and beliefs were completely incompatible with Christianity. Yet, while Christianity and Christians were clearly driving forces in the Mukaa cleansings, both sources evidence the virulent objections of A.I.M./A.I.C. authorities and adherents to the cleansings of Mau Mau and witchcraft. There remains a reluctance even up to the present day of some A.I.M./A.I.C. members to admit that they were even aware of the 1950s campaigns and the presence of witchcraft in their locations. When addressed separately, disparate behaviors of the A.I.M./A.I.C. adherents and authorities in the 1920s and 1950s seem irreconcilably at odds. However, reading sources on the Mukaa cleansings in conversation with those on the 1950s cleansings suggests that the Mau Mau-era reactions of A.I.M./A.I.C. stemmed in large part from their belief that they had stamped out witchcraft from among their members earlier and from their anger at finding witches among their converts. The reluctance of A.I.M./A.I.C. members to discuss even the existence of witchcraft reflects not only the strength of the churches' anti-witchcraft position, but also the notion held by many Christian Kamba that knowledge of witchcraft and witchcraft-related activities necessarily implies practice and participation.

A range of informants, particularly those who describe themselves as A.I.M./A.I.C. members or who come from A.I.M./A.I.C. strongholds such as Mbooni, explain that they did not witness the cleanings of the 1950s because they were discouraged from doing so, but do not necessarily deny the presence of witchcraft in Machakos. The description offered by an elderly Kamba man is typical of that of many

Kamba A.I.M./A.I.C. members. He explained that he did not attend the cleansings because, “Church people did not go... Christians did not go because they did not believe in witchcraft.” When asked if Christians thought the cleansings were pointless, he noted that “They did not cooperate... According to the Bible, Christians are not supposed to cooperate with non-Christians.” Another elderly Kamba man reiterated churches’ discouragement of the cleansings. He noted, “Some Christians did not go to the burnings because of their faith. The churches said that witchcraft was not ‘true’ and so the cleansings were ‘false.’” At the same moment, however, he suggests that the churches were simply unaware of the witchcraft occurring in Machakos. He added, “The church did not believe that there was witchcraft because they were not going to diviners at that time.”⁵²

Other informants, in contrast, take a much stronger line vis à vis the cleansings of witchcraft and Mau Mau in Machakos, insisting in some instances that they have no recollection whatsoever of the high-profile and well-publicized events, and asserting in other instances that Mau Mau and witches did not exist in Machakos or that witches and Mau Mau were cleansed on a wholly voluntary (and sometimes cheerful) basis. The following exchange expresses views typical of many elderly Kamba A.I.M./A.I.C. adherents.

Q: Was it difficult to get people to admit to having taken the Mau Mau oath.

EKM: No, they admitted freely.

Q: Did you hear stories or rumors about Mau Mau mixing with witchcraft?

EKM: No. Here there was nothing like that.

Q: Why might the Government have gotten that idea?

EKM: No idea.

Q: Were there witchcraft cleansings in other parts of Ukambani?

⁵² S.M., Mbooni, September 2004; J.K.K., Tawa, September 2004.

EKM: Yes, in Kibauni, but I don't know anything.⁵³

Such claims are as interesting for what they do not say as for what they do. The denials of Mau Mau, witchcraft, and their relationship in 1950s Machakos, as well the interviewee's statements about his own lack of knowledge, suggest not simply what many elderly A.I.M./A.I.C. adherents think should be left unsaid, but what sorts of knowledge they deem unspeakable. Additional oral recollections reveal that such views influenced (and continue to shape) not only personal conduct and presentation, but also intruded on administrative practice in 1950s Ukambani. A number of elderly Kamba recall that chiefs and headmen who belonged to the A.I.M./A.I.C. refused to participate in cleansing Mau Mau and witchcraft, or to even admit that witchcraft and Mau Mau existed in their locations. For example, one Kamba man explained the perspective of a chief who belonged to the A.I.M./A.I.C. and who had declined to have anything to do with witchcraft cleansings. He noted,

The Kiteta Chief at the time refused because he said witchcraft didn't exist...He said witchcraft didn't exist because he was a Christian. The witches brought their paraphernalia accompanied by a goat to be slaughtered for the *atumia*... There was only one denomination, the A.I.C., and its members did not involve themselves in the witchcraft cleansings.⁵⁴

Another elderly Kamba man pushed the relationship between A.I.M./A.I.C authority and administrative practice even further. He explained,

In our area people were not arrested because the Chief refused to have people arrested. He said in his area there was no witchcraft. There was some

⁵³ E.K.M., Machakos, September 2004. For various perspectives on the importance of rumor, gossip and sentiment in understanding occult issues, see Pamela J. Stewart and Andrew Strathern, eds., *Witchcraft, Sorcery, Rumors and Gossip* (Cambridge: Cambridge University Press, 2004).

⁵⁴ E.M.M., Tawa, September 2004.

influence from the A.I.C. church because the Village Headman were sometimes heading up the church as well.⁵⁵

Overlaps in religious and political authority were mutually reinforcing in certain chiefs' denial of witchcraft and their subsequent refusal to discipline it.

The frustrated writings of J.C. Nottingham and his recollections 50 years after the cleansings contain similar themes. Writing on the tacit support lent to him by a Catholic priest in Machakos, Nottingham expressed his frustration with the philosophical and practical intractability of the protestant missions. He wrote, "I regret, however, to have to say that the other evangelising bodies, the Africa Inland Mission (which has a long record of civilising service among the Akamba, since 1895), the Gospel Furthering Fellowship (a militant splinter group of Mr. Rhodes' AIM), the Salvation Army, and the Seventh Day Adventists, all combined to resist the Government's campaign by every means in their power." Nottingham attributed objections of the A.I.C./A.I.M. et al. to what he called, "...the split-second, blinding flash, conversion nature of their Christianity. They cannot believe that anyone who has come to know Jesus in their Church, and who has once been saved, could possibly still hide their witchcraft materials from them and come to Church..."⁵⁶ Fifty years later, the virulence of the A.I.M./A.I.C. reactions to and their disillusionment in the face of the 1950s cleansings was still so present in Nottingham's mind that he recounted readily during a 2004 interview how a reverend affiliated with the Mbooni branch of the A.I.C./A.I.M. had confronted him on the street outside the Mbooni *boma* shortly after the 1950s cleansings, calling Nottingham a "devil" for instituting the

⁵⁵ W.N., Machakos, September 2004.

⁵⁶ KNA BB.PC/EST/12/15. Provincial Commissioner's Office, Eastern Province. Witchcraft, General. 30th Oct., 1954 – 11th July, 1961. Eastern Area Handing Over Report, 1955. "Witchcraft Appendix." 21 November 1955.

cleansings and expressing his appall at having witches in his congregation so publicly exposed.⁵⁷

Reading Nottingham's recollections in conversation with oral sources on witchcraft in Machakos begins to put into perspective the seemingly sharp disconnect between a church that had actively encouraged the public cleansing of witchcraft in the 1920s and a church which objected almost viscerally to similar government-sponsored efforts in the 1950s. As noted above, the generation which underwent cleansings in Mukaa remained free of witchcraft, but subsequent generations picked up the practice again. It would seem that for the intervening decades, various adherents of the A.I.M./A.I.M. church likely either operated under the misapprehension that Kamba adherents had undergone a "complete" conversion and that witchcraft was thus a non-issue among Machakos A.I.M./A.I.C. or that they had succeeded simply in denying the continued efficacy of witchcraft. In either case, the witchcraft cleansings of the 1950s shattered both these notions while exposing the weakness of the church, revealing Christian conversion as veneer, and juxtaposing these failures with the relative success of the colonial state. Most simply then, oral and written narratives treating Christianity and cleansing in Machakos add another set of actors and institutions to the sociopolitical landscape of Kambaland. But further, they indicate another space in which witchcraft-related disorder challenged the authority of the state and offer an instance in which the *de facto* colonial policy of "discipline and denial" in regard to witchcraft was taken to an even greater extreme by extra-state (and a few state) actors.

⁵⁷ Nottingham Interview I.

Rounding-Up Witches, Witchdoctors and Bureaucrats

The accounts of cleansings discussed up to this point address broadly the methods and meanings of cleansing witchcraft and Mau Mau in Machakos, attending largely to the moments at which oral (read local) and documentary (read official) sources depart. Accounts of the cleansings offered by elderly Kamba employed by the colonial administration during the 1950s offer more specifics about the organization and aims underlying the cleansings and generally concur with the more detailed explanations of the cleansings offered in colonial documents. At first glance, it is tempting to read the accounts offered by elderly Kamba ex-government employees as lingering, colonial “good practice narratives” – narratives which privilege what *should* happen if “good” administrative practice is implemented properly rather than what actually occurs in the messy realities of governmentality.⁵⁸ Yet, these narratives also include an important dissonance with written accounts of the cleansings. While documentary sources persist in asserting the voluntary nature of the cleansings, the accounts of elderly Kamba inside the colonial administration detail the sorts of coercion hinted at by the accounts discussed above and foreground the seeming disconnect between policy and practice at varying administrative levels. In addition, accounts of other elderly Kamba outside the colonial administration reiterate claims of coercion, “enfleshing” more administratively-oriented narratives and re-imagining for their interlocutors “what it was like” to be cleansed of witchcraft and/or Mau Mau in 1950s Machakos.⁵⁹

⁵⁸ Mark Dressman, “Theory *into* Practice?: Reading Against the Grain of Good Practice Narratives,” *Language Arts* 78.1 (2002): 50-58.

⁵⁹ Maurice Bloch, *How We Think They Think: Anthropological Approaches to Cognition, Memory and Literacy* (Boulder: Westview Press, 1998).

Overall, these oral histories attend more closely to the nuts-and-bolts organizations of the cleansings. They point to various (overlapping) categories of persons involved in the cleansings – “dangerous” persons like witches and Mau Mau, ritual experts-cum-bureaucrats, Kamba Homeguards and “witchcraft managers.” And like the oral recollections discussed above, they again raise questions about the meanings and perceptions surrounding concepts like “authority” and “responsibility.”

These strands emerge in the recollections of a Kamba man who served as an Assistant Chief in Mbitini from the Mau Mau period into the 1980s. Addressing the bureaucratization of cleansing witches and Mau Mau and describing himself as being “in charge” of the cleansings in his area, he explained the organization of the cleansings. He noted,

I had people in every village who were working for the government to find out who had witchcraft and a manager whose work it was to know all the witches in a village, and then to take those people to their Chiefs. The managers brought all the witches in the village to their Sub-Chiefs... They [witches] used to leave their paraphernalia at the Chief’s office. It was burned... There was not one big *baraza*. Witchcraft was burned Monday-Friday from 10 a.m. to 4 p.m. The witchcraft was brought and burned continuously.⁶⁰

In his recollections, the ex-Assistant Chief establishes a hierarchy of witch-finding and a new category of expert, the “witchcraft manager,” tying each to the state’s bureaucratization of activities once the sole, impenetrable purview of Kamba diviners and elders. He also cites the spatial and temporal bounds of the witchcraft cleansings – regular business hours at the Chief’s office. At the same moment, this account does not situate the primary responsibility and authority for the cleansings in the District Officer and/or District Commissioner, but rather establishes a more localized pyramid of

⁶⁰ P.K.M., Welfare, September 2004. The phrase “Monday-Friday from 10 a.m. to 4 p.m.” is likely this informant’s backward projection. The phrasing suggests that the witchcraft burnings were all day affairs.

administration which locates authority and responsibility for the cleansings in himself and his associates, those doing the on-the-ground work of rounding-up witches. And, finally, his narrative again points out how the production and surrender of witchcraft paraphernalia was *not* a voluntary activity.

Though he acknowledges the role of Kamba elders in selecting “witchcraft managers,” noting that “the *atumia* chose people, and those people were approved by the Assistant Chief” and that “every person with knowledge of the village could potentially bring people. The person was supposed to be a *mutumia*.”⁶¹ The ex-Assistant Chief’s narrative casts witch-finding and witchcraft cleansings primarily as neat, performative exercises.

Nottingham’s account, in contrast, delves more deeply into the role of Kamba cosmology in the Machakos cleansings, and portrays the more syncretic aspects of witch-finding and the round-up of witches. The “Witchcraft Appendix” explains,

First, the elders of the *utui* and the Section Council discuss with the *musili* those in the Section who are known to be of the “Ukoo” of “Uoi.” The “Ukoo” is the female line of descent. These can usually be traced through those whose mothers and grandmothers were denounced by their fathers casting soil at them, which was the signal of the *Mbai* elders to send the young men of the *king’ole* to stone them to death. (See Lindbolm and Penwill). These names are then brought in to the Chief, who goes through them to eliminate any which he thinks may be just ‘fetina.’ After this final sieving, the *musili* brings them in batches of five to the Location Centre, where the Witchcraft Investigation Teams are in action.⁶²

Nottingham’s description obliquely references two precedents, the first of drawing on anthropology to adapt pre-existing mechanisms and structures of authority for use in colonial governmentality. Second, the style of and the actors involved in the

⁶¹ Ibid.

⁶² KNA BB.PC/EST/12/15. Provincial Commissioner’s Office, Eastern Province. Witchcraft, General. 30th Oct., 1954 – 11th July, 1961. Eastern Area Handing Over Report, 1955. “Witchcraft Appendix.” 21 November 1955.

round-up and investigation of witches are reminiscent of the rounding up and interrogation of Mau Mau discussed above, reinforcing both the involuntary nature of Mau Mau de-oathing and witchcraft cleansing and the assertion that the Mau Mau de-oathing campaigns offered models for the Machakos witchcraft cleansings.

Despite a stronger focus on the work of black Kenyan officials, the ex-Assistant Chief's memories do mention the District Officer and the District Commissioner, citing their primary function as issuing permits for the cleansings. The ex-Assistant Chief explained,

We got permits from the D.O. so that if a witchcraft victim went to report the witchcraft there would be no consequences. The witches were beaten hard if they refused to surrender their paraphernalia and they could not report this to the D.O. and D.C. because there was good cooperation with the Chief and the Assistant Chief. The D.C. and D.O.s were aware of the cleansings.⁶³

Then, responding to a question as to whether local authorities could organize and orchestrate cleansings themselves, the ex-Assistant Chief explained further,

No... We feared being reported by the suspects of practicing witchcraft ourselves. If we had consent from the D.O./D.C., then we wouldn't have witchcraft. There was a woman at the Chief's place who used to identify witchcraft. She was called Kathembe Manguu. She was chosen because she could identify all the paraphernalia....She was expert witch retained by the Government to identify witchcraft.⁶⁴

The ex-Assistant Chief's narrative raises again the issue of the tension between knowledge of witchcraft and the practice of witchcraft, suggesting that having too much knowledge of witchcraft could have disciplinary, or in the case of the woman witchdoctor Kathembe, (who was later killed), even deadly consequences. And, it offers another yet another instance in which the inutility of colonial anti-witchcraft laws comes to the fore.

⁶³ P.K.M., Welfare, September 2004.

⁶⁴ Ibid.

Because the Witchcraft Ordinance of 1925 rendered witchcraft *accusations* a crime, black Kenyan members of the colonial administration could not identify witches (even in the course of a government sanctioned anti-witchcraft campaign) without the express permission of British colonial officials, lest the alleged witches turn accusations back at them in the courts.

At its conclusion, Nottingham's description of the events surrounding the actual burnings of witchcraft paraphernalia foregrounds the formulaic quality of the proceedings, stepping back from an earlier attention to Kamba cosmology and instead focusing on the administrative and didactic elements of the cleansings. After describing the "stereotyped form" which recorded the witch's official statement of her knowledge and practice of *uoi*, Nottingham explained,

... the sub-committee and myself had come to the unanimous conclusion that all these methods, in so far as they all employed the powers of darkness and magic, were based on a fundamentally wrong principle. To admit in a public ceremony that witchcraft could only be cured by further witchcraft would have made our campaign illogical, and, in the long run, useless. We therefore decided that we would try a non-magic method. We would gather all the witches and their material together in a full locational baraza at which, sole concession to the traditional ways of dealing with this, they would cast all their trash into a burning, fiery, furnace. At the same time each person would be given a copy of the Witchcraft Ordinance printed in Kikamba – the fact that ninety percent of them could not read would only make this more effective. I myself proposed to talk to them at some length, followed by Michaeli and Chief Muthoka. We would also announce the conviction, to heavy sentences, of three of the most notorious exponents. Other prominent witchdoctors would confess to the crowd how they had been deceiving them for financial reasons over the years. *But most of all we would rely on the reading of the witchcraft ordinance, and demonstrating that it was not, as it was described to me by a Roman Catholic Father, "stillborn" ...*⁶⁵

⁶⁵ KNA BB.PC/EST/12/15. Provincial Commissioner's Office, Eastern Province. Witchcraft, General. 30th Oct., 1954 – 11th July, 1961. Eastern Area Handing Over Report, 1955. "Witchcraft Appendix." 21 November 1955. See also, transcripts of interviews conducted by Jeremy Newman in Machakos in the mid-1970s. Ex-Senior Chief David Kaindi, Mbooni Location. 13/2/74. I am grateful to Jeremy Newman and John Lonsdale for giving me permission to use these papers and to François Grignon for sharing his copies of the transcripts with me.

Though oral histories, and indeed many administrative documents themselves, show that cleansings of Mau Mau and witchcraft drew upon central points of Kamba cosmology, upon the “expertise” of various ritual experts and supernatural actors, and upon anthropological knowledge about the intricacies of Kamba oathing and witchcraft. In wrapping up his report on the Machakos witchcraft cleansing Nottingham highlights the *non*-magical aspects of the cleansings as if to suddenly deny any element of the supernatural being mixed up in state policy and practice. Instead, he privileges the sway of the law-as-written, asserting a squarely administrative and British form of “magic,” the ascendancy of the written word over the mentalité of the illiterate colonial subject.⁶⁶ Indeed, in responding to a question on about how government knew witchcraft was finished, the ex-Assistant chief explained that it was not watching all the paraphernalia going up in smoke that convinced them, but instead colonial record-keeping. He added, “Every village manager brought a report to the Sub-Chief that all the witches had been cleansed. There was a record of witches in every village and the witches were checked off. The Sub-Chief forwarded the records.”⁶⁷

Many aspects of the cleansing proceedings described by the ex-Assistant Chief and Nottingham are present in the recollections of other elderly Kamba. These additional narratives also highlight the elements of coercion tied up in the cleansings. Further, these narratives of the witchcraft cleansings in Machakos often bleed directly out of those about the earlier cleansings of Mau Mau in Kambaland, at their least suggesting, and at their strongest asserting, connections between the two. For example, in responding to a

⁶⁶ For example, Derek Peterson, *Creative Writing: Translation, Bookkeeping, and the Work of Imagination in Colonial Kenya* (Portsmouth [NH]: Heinemann, 2004); Simon Gikandi, *Maps of Englishness: Writing Identity in the Culture of Colonialism* (New York: Columbia University Press, 1996).

⁶⁷ P.K.M., Welfare, September 2004.

question about what had prompted investigations into witchcraft, one ex-Headman noted, “Oathing – Mau Mau oathing prompted the investigations,” and then offered a tangled narrative of cleansing Mau Mau and witches in which each group was forced by members of the colonial administration to confess their transgressions.⁶⁸ And, another elderly Kamba asserted that in addition to anti-Mau Mau activities, Kamba Homeguards were also enlisted in the anti-witchcraft campaign. He explained, “The Homeguards reported the cases [of witchcraft] to the Chief, then the Chief to the D.O. and then the D.O. took the information to the D.C....He gave a “*barua*” - a permit, a letter, at a public meeting announcing the day on which the witches would be taken.”⁶⁹

Like those discussed above, additional recollections also situate responsibility for the cleansings primarily in black Kenyan authorities with the District Officer and/or District Commissioner playing a more limited sanctioning role. As the ex-Headman elucidated the situation further, “First the Headman met with the Chief, the Chief informed the D.O. in Makueni, and he gave the authority to look for witches.”⁷⁰

Another elderly Kamba explained similarly, “Assistant Chiefs organized it [cleansing] with the *atumia*. They sent the youth to bring the witches...Because they were known, they were all gathered up and taken to the Chief’s Office at Nziu for cleansing...The *atumia* knew who the witches were... The D.C. would give the Chief a permit.” But woven into these accounts of administrative organization are also strands of violent coercion, both epistemological and practical, threatened and carried out.

Ordinary Kamba people’s descriptions of coercion answer most clearly *why* people came to burn their witchcraft or to be cleansed of the Mau Mau oath. In

⁶⁸ M.M., Nzawi, September 2004.

⁶⁹ J.M.N., Nzawi, September 2004.

⁷⁰ M.M., Nzawi, September 2004.

answering the “why” question, stories of Mau Mau and witchcraft most easily bleed into each other, perhaps in large part because the coercive methods and means that members of the colonial administration applied to suspected Mau Mau and alleged witches in order to make them produce evidence of their guilt and then to be cleansed were very similar. Also, participation in Mau Mau and witchcraft were each read by local people and colonial officials as transgressions requiring supernatural sanctions, and as such both turned on fear.

The types of coercion described by ordinary Kamba can be loosely grouped together according to their methods and to the sorts of reactions they engendered, or were intended to engender, in people. A range of recollections explain that people were driven to surrender themselves and/or their witchcraft paraphernalia because of threats of arrest and subsequent violence. As one elderly Kamba recalled, “The Chief told the Headmen that they should threaten the people involved with arrest and severe punishment... The people involved were threatened that there would be a letter to the D.C., Machakos, and that those involved in Mau Mau would be jailed or killed.” And responding to a question about the forced or voluntary nature of the Mau Mau cleansing oath he added, “People were forced to take it... No one refused... Those who refused would be beaten.”⁷¹

Another elderly Kamba man added that witches identified by diviners were “taken by force,” to be cleansed of their witchcraft, while a contemporary explained simply that local witches had agreed to burn their witchcraft because “they were threatened with beatings” and a third noted simply that refusal to surrender oneself for cleansing of witchcraft was “not an option.”⁷²

⁷¹ M.M., Nzawi, September 2004.

⁷² J.M.N., Nzawi, September 2004; M.N., Machakos, September 2004; K.N., Nzawi, September 2004.

But in some instances, elderly Kamba cite threats or incidences of more extreme coercive violence, particularly the sexual torture of women. Explaining that the local chief was responsible for the cleansings, one Kamba woman explained,

Witchdoctors from Tharaka got people to bring their witchcraft. If they refused, something was applied to them to make them bring their paraphernalia. Then it was burned. It was all done at the Chief's office. Sometimes soda bottles were inserted in women's private parts to make them bring their witchcraft... The substance was used later. The torture came first.⁷³

And his account is supported by that of a contemporary who elucidated,

Some people denied having witchcraft and refused to surrender their witchcraft paraphernalia voluntarily. They were forced through beatings and torture. In some instances, objects like bottles would be inserted in women's private parts to force them to reveal their witchcraft after they experienced pain.⁷⁴

At first glance these accounts of sexualized violence against women witches appear jarring. As earlier chapters have discussed, repentant Kamba witches were generally cleansed via oathing and recidivist witches often killed in relatively straightforward ways by *king'ole*, and neither Kamba cosmology nor legal code would seem to contain a precedent for the sexualized torturing of witches. However, Nottingham's "Witchcraft Appendix" introduces a heretofore unacknowledged method of cleansing witches. He wrote, "The usual Kamba way of cleansing a self-confessed witch (whether their powers have been purchased, or whether they were cut in their bodies in seven places by their mothers) is to re-circumcise her, whatever her age."⁷⁵ Given that both anthro-historical accounts and popular discourses through the present day locate the most powerful form Kamba witchcraft squarely in women's bodies, citing how this

⁷³ M.W., Machakos, September 2004.

⁷⁴ W.N., Machakos, September 2004.

⁷⁵ KNA BB.PC/EST/12/15. Provincial Commissioner's Office, Eastern Province. Witchcraft, General. 30th Oct., 1954 – 11th July, 1961. Eastern Area Handing Over Report, 1955. "Witchcraft Appendix." 21 November 1955.

witchcraft is passed from the body of the mother to that of her daughter at birth and then generally activated at the time of the daughter's circumcision, it is not difficult to see how elderly Kamba men and Nottingham brought up methods of torture/cleansing centered on women's reproductive regions. Nottingham's contention that women who *bought* their witchcraft were "cleansed" in the same way as hereditary witches is more puzzling. Perhaps this suggestion is attributable to the context of Mau Mau in which gendered and sexualized violence constituted central elements of pro and anti-Mau Mau discourse *writ large*.

At the same time, more mild varieties of coercion also emerge from the recollections of elderly Machakos residents. Wrapped up in these other forms of coercion are ideas about how the state had previously dealt with dangerous and disorderly persons and how Kamba people had managed witches. For example, an elderly Kamba man explained that people did not agree to be cleansed but were rather forced by "the Government and the villagers." He explained, "They were coerced. The D.C., the Chiefs, and the villagers coerced them. A date was set by which the witches had to be cleansed or leave the area" and if they did not agree to cleansing or moving away that they were "chased away."⁷⁶

This statement takes in both colonial and Kamba precedents for disciplining witches. As noted earlier, the colonial Deportation Ordinances were a key means through which the state had dealt with recidivist witches and other intractable supernatural practitioners, often "shifting" them from their home locations to opposite ends of the colony. And, to many people in Kambaland, the internment of suspected or potential Mau Mau in camps often far from their home villages might have seemed like an

⁷⁶ J.N.K., Kilungu, September 2004.

exponent of earlier colonial deportation ordinances. The expulsion of witches was not solely a colonial tactic however. As explained in chapter one, driving unrepentant witches away from their villages was an alternative to *king'ole* killing. Thus, though such recollections of “chasing away” witches during Mau Mau are not typical of oral histories about the period, they are not without context, drawing on earlier colonial and Kamba practices.

Finally, in a 1974 interview with the Australian anthropologist Jeremy Newman, an elderly Machakos man attributed a mercenary quality to the cleansings, depicting them as a money-making enterprise on the part of local members of the colonial state. He explained,

... This was also the time of the movement against witchcraft. It didn't mean that witchcraft had increased. Those people just wanted money and this was one of getting it. People were threatened and told to pay Shs.30/-. They were taken into the Chief's centers and questioned about the kithitu and other charms. Shs.30/- had to be paid before release and for being treated as a normal person. Those who did not pay were taken away to camps as at Kibaoni with an askari and the next day they would come back hungry and most of them then agreed to pay and were then released. Some suspected of taking the oath were arrested and treated in the same way. It was mostly old men and women who were the victims and after the money was collected it was taken to the DO's office. There was a time also when the askaris were taking young girls and one was engaged and her man came to try to get her released and he was shot. The askari said the DO had told them to shoot when guarding. The DO then stopped that regulation.⁷⁷

Like those about “chasing away” witches, these statements about Mau Mau, witchcraft and money are not typical of oral recollections of the era. Nonetheless, they reflect important attitudes about the colonial state as a primarily money-making enterprise and hint at the ways in which local people might have read the state's avowed

⁷⁷ Transcripts of interviews conducted by Jeremy Newman in Machakos in the mid-1970s. Zachayo Mulandi Ngao. Kiteta Location. 2/11/74.

concerns with local problems as excuses for intervention and extraction. These recollections also suggest the physical displacements caused by colonial anti-Mau Mau and anti-witchcraft policies, as Mau Mau and witches were generally removed from their villages for questioning and cleansing. While colonial policies entailed marking out categories of dangerous persons, these statements instead highlight vulnerable categories of people. And they point to the violence tied up in colonial policy of the period and varying levels of authority through which it was enforced.

Overall, ordinary Kamba people's descriptions of coercion answer most clearly *why* people came to burn their witchcraft or to be cleansed of the Mau Mau oath. These discussions reveal a tension between administrative/didactic and coercive elements of the cleansings, and between the official statements about the cleansings and how the cleansing campaigns were actually carried out. Recollections of the Mau Mau era situate responsibility for the cleansings primarily in black Kenyan authorities with the District Officer and/or District Commissioner playing a more limited sanctioning role. It is not clear how much colonial officials actually knew about the activities of chiefs and headman, but it is evident that local people located authority and responsibility for the cleansings more squarely in the work of black Kenyan officials on-the-ground than in British officials the top of the administrative hierarchy.

Yet although strands of violence, displacement, and discord shoot through local narratives of the cleansings, many elderly Kamba cite the celebrations that accompanied the conclusions of the cleansings and retain the opinion that the cleansings were useful. Statements like the cleansing campaign "was a good idea because it 'finished' witchcraft" or that the cleansings "were thought to be a good idea because witchcraft is not a good

practice...the Government had the authority and ability to enforce measures” are typical.⁷⁸ Both oral and documentary sources also describe the public, locational celebrations that put an official, participatory stamp on the conclusion of the cleansing campaigns. One elderly Kamba described the fête near his home. He explained,

Witchcraft was bad. The policy was to finish witchcraft and Mau Mau. The final day was at Malala. There was a gathering to celebrate... There was a celebration with meat, etc. People were told to love each other... Each sub-location had to produce a bull. This meant that everyone contributed and went to witness the end of the Mau Mau and the cleansings.⁷⁹

Despite the elements of coercion clearly underlying the cleansings, many Kamba people regarded the cleansings as authentic and efficacious. The cleansings of Mau Mau invoked the serious work of *kithitu* while the witchcraft cleansings did have the material effect of destroying copious amounts of witchcraft paraphernalia and revealing many witches whose activities, though long suspected, were cloaked in the secrecy typically surrounding witchcraft. Also, it is important to recall that Kamba methods of cleansing social malefactors were never purely voluntary. Indeed, members of the colonial administration came to understand this as well. In discussing cleansing witchcraft, Nottingham explained that the initially conceived cleansing method relying on the witches voluntarily admitting their witchcraft and producing their wares was ineffective. He noted,

The original method we used, and which we have since abandoned, was to collect all the people concerned into a mass baraza at the Location Center, and assume that there would be a general wish to bring all their stuff in and burn it.

⁷⁸ L.N.N., *Kangundo*, August 2004; E.M.M., *Tawa*, September 2004.

⁷⁹ P.K.M., *Welfare*, September 2004.

This, in view of what we now know about its workings and its hold on the Akamba, seems incredibly naïve, and did not work.⁸⁰

What the cleansings accomplished was first to publicly recognize Mau Mau adherents and witches, and then to publicly accomplish and recognize their transformation into “good” people who could be reincorporated into their respective communities. However, despite the avowed success of the 1950s cleansing campaigns, witchcraft threats in Ukambani did not end with the Mau Mau era. The epilogue briefly traces the proliferation of “witchcraft” and other aspects of supernatural insecurity in Kenya.

⁸⁰ KNA BB.PC/EST/12/15. Provincial Commissioner’s Office, Eastern Province. Witchcraft, General. 30th Oct., 1954 – 11th July, 1961. Eastern Area Handing Over Report, 1955. “Witchcraft Appendix.” 21 November 1955.

Chapter 8 Conclusion

In his study of a high-profile murder case in colonial Ghana, Richard Rathbone enjoins the reader that “written and oral records dealing with an explosive issue like this tell us about politics and emotions in a small part of Africa.”¹ This dissertation has aimed to spring-board from Rathbone’s contention, demonstrating the ways in which an anthropological analysis of witchcraft “in a small part of Africa” can tell broad stories about the messy intersections of culture and crime, violence and law, and the state and the supernatural. It has argued that the continuous problem of violence related to “witchcraft” beliefs and practices has consistently challenged the Kenyan state’s authority from the early twentieth century to the present day.

This dissertation has traced how “witchcraft,” termed *uoi* in Kikamba, has been of particular concern to Kamba people and composed a key building-block of Kamba cosmology. *Uoi*, which can be most simply explained as the harnessing of malevolent supernatural power for the purpose of harming people or property, has constituted a way-of-being-in-the-world for communities and individuals. The pervasiveness of *uoi* has imparted a consistent disquiet to members of Kamba communities while at the same moment working to explain seemingly inexplicable misfortune. *Uoi* has also been productive of social interactions predicated on avoidance, distrust and fear. And, Kamba

¹ Richard Rathbone, *Murder and Politics in Colonial Ghana* (New Haven: Yale University Press, 1993). 1.

“witchcraft” practitioners and victims of “witchcraft” alike have been regarded as being saturated with *uoi*.

In addition, *uoi* has been a key constituent of “Kamba-ness” because of its historical intertwining with institutions and issues of law and order. In pre-colonial and colonial-era Kamba societies, “witchcraft” was a central concern of the bodies of elders responsible for maintaining law and order. In Kamba communities, the *king’ole*, a council of elders, was empowered by law to administer a juridical process through which serial social malefactors like “witches” were disciplined.

With the advent of colonialism, Kamba cosmology collided with a colonial “cosmology” centered on bureaucratic practices and beliefs. This dissertation has detailed the ways in which Kamba *uoi* became increasingly significant to British colonial authorities because “witchcraft” beliefs and practices consistently produced a variety of impediments to effective administration. Most generally, British officials contended that “superstitions” like *uoi* impeded their efforts at propelling Kamba people along a continuum of colonial development.

Violence related to “witchcraft” beliefs and practices further challenged the formation of an efficacious, uncontested state apparatus of law and order. The disciplining of “witches” – whether through institutionalized actions like *king’ole* or via individualized initiatives – often resulted in damaged and dead bodies that the state could not ignore. More abstractly, “witchcraft”-related violence also signaled that Kamba systems of justice existed alongside British ones. In short, “witchcraft” showed the singularity of British justice to be something of an imperial fantasy.

Yet, at the same moment that British authorities denounced “witchcraft” as a “superstition,” they recognized the sway that it held in Kamba communities.

“Witchcraft” created a complicated double-bind for British officials who sought simultaneously to discipline and deny it. In short, competing Kamba and colonial cosmologies collided in an awkward nexus around *uoi*.

Colonial concerns about “witchcraft,” particularly about “witchcraft” accusations and the dead bodies of “witches” they so often seemed to produce, prompted the colonial state to develop and refine a series of anti-“witchcraft” ordinances between 1909 and 1925. As discussed in chapter two, these ordinances set out a variety of offences related to “so-called witchcraft,” thus mobilizing an official “poetics of incredulity” to enshrine an approach of discipline and denial vis à vis “witchcraft.” During this period, cases of “witchcraft”-related violence were dealt with largely on an *ad hoc* basis in East Africa’s highest courts.

In Ukambani in particular, “witchcraft” had emerged by the late 1920s as an ever-burgeoning concern in a range of colonial arenas – from the administrative to the judicial. Anthro-administrative discourse about “witchcraft” permeated bureaucratic reportage and such discourse figured “witchcraft” as a central challenge to state authority. Overall, this dissertation has demonstrated how “witchcraft” was productive of “critical events” in which colonial concepts of justice, law, and order collided with those of Kamba people.

In the early 1930s, a high-profile “witch”-killing case brought to the fore simmering concerns about “witchcraft” and its implications for colonial justice, law, and order. As detailed in chapter four, during the Wakamba Witch Trials, or *Rex versus Kumwaka* as the trials were officially known, 70 Kamba men were tried in the High

Court of Kenya for killing Mwaiki, their neighbor-woman whom they alleged to have been a “witch.” The men raised the defense that in killing Mwaiki, they had been exercising *king’ole* justice against a recidivist “witch.” While this defense was rejected by both the Supreme Court of Kenya and the High Court of Appeal for Eastern Africa, the appeals court recommended the men to the clemency of Kenya’s Governor-in-Council. The Governor ultimately commuted the death sentences, instead substituting varying terms of hard labor.

The Wakamba Witch trials opened up circuits of debate among a range of political camps in Kenya and in the metropole over what sort of law was appropriate for governing “natives.” More broadly, the case raised hotly contested questions of what made British justice in colonial contexts, and what role, if any, local methods of justice and local juridical codes should be accorded. The decisions of the colonial high courts worked to retrench the authority of the state, to assert the state’s monopoly over judicial violence, and to dismiss Kamba codes. At the same time, the Governor’s commutation of the death sentences created a space for the courts to consider (tacitly) the alleged “witchcraft” of the deceased in cases of “witch”-killings. The case also spurred the Colonial Office’s *Inquiry into the Administration of Justice in Kenya, Uganda and the Tanganyika Territory in Criminal Matters Affecting Natives*. Members of the Kamba administration testified during the inquiry, and in many cases their testimony evidenced more sympathy for the complexities of “witchcraft” and promoted more nuanced administrative and judicial approaches to “witchcraft” than were advocated in official reports.

Through a survey of Kenya Ministry of Legal Affairs files on “witch”-killing cases, this dissertation has demonstrated how judicial debates inaugurated during the Wakamba Witch Trials were carried over and refined in the 1940s. Read in conversation with opinions from the Supreme Court of Kenya and the High Court of Appeal for Eastern Africa, these files show how *Rex versus Kumwaka* emerged as the legal touchstone in cases of “witch”-killing and highlight the development of a body of precedent in “witch”-killing cases. Analyzing cases like those detailed in chapter five reinforces that point that “witch”-killing cases were not simply about “witchcraft” *per se*, but also constituted important spaces in which broader legal categories of concepts, constructs, actors, and expertise were contested.

This dissertation has also illustrated how in the post-*Kumwaka* period, “witchcraft” was not simply a highly localized concern of interest to administrators on-the-ground or other colonial authorities who had to deal with it immediately. Rather, colonial documentation details the elaboration of a colonial network of knowledge-for-policy/practice concerning “witchcraft.” Indeed, “witchcraft” offers an important lens through which to view the enhancement of an archived and archiving colonial bureaucracy in Kenya and in the metropole from the mid-1930s onward. Enhanced efforts at collecting and cataloguing “official” knowledge about “witchcraft” coincided with the beginning of a concerted movement towards increased professionalism among the colonial administrative cadre and with the inauguration of new development schemas in the colonies.

In the 1950s, the colonial state in Kenya faced the ultimate challenge to its authority during the Mau Mau rebellion. This dissertation has argued that colonial

authorities read Mau Mau in large part as a supernatural struggle. Accordingly, the exigencies of Mau Mau motivated British colonial authorities to break with the longstanding policy of not *officially* employing “witchcraft” methods and means to deal with “witchcraft”-sourced disorder. In Ukambani, colonial officials first co-opted the Kamba supernatural through the institutionalization of a program of ethnically-specific Mau Mau “de-oathing” protocols. These “cleansings” of known or suspected Mau Mau adherents gave rise to a series of state-sponsored “witch”-cleansings in Machakos during the 1950s.

The synergy of anthropology and administration begun early in the colonial era reached its highest point through the cleansings. Machakos District Officer J.C. Nottingham consulted with Government Sociologist Godfrey Wilson to develop a “useable” body of anthro-administrative knowledge about *uoi* which in turn shaped the *official* contours of the Machakos “witch”-cleansings. Yet, at the same time that official discourse about the cleansings would show the authority of the state to be paramount, ethnographic sources highlight how Kamba “middle figures” – various categories of “functionaries” working in the service of the state – (re)shaped and implemented the cleansings according to their own coercive protocols. Such evidence also indicates that Kamba people generally located the state’s power in these functionaries rather than situating it at the apex of the administrative pyramid. Overall, instead of illustrating the resolution of state power, the cleansings showed “witchcraft” again to be a challenge to the state’s ability to establish justice, law, and order.

Considering Critical Events

By taking “critical events” related to “witchcraft” as a means through which to analyze state power in Kenya this dissertation departs from a range of literature on “witchcraft” and colonial states. Broadly speaking, such scholarship has tended to take a somewhat compartmentalized of “witchcraft” and the development of legal systems within colonial contexts. It has tended to treat “witchcraft” as a localized, rather than empire-wide, concern. And it has also tended to focus on the civil legal arena and on how “customary” justice was negotiated by state and non-state actors.

What these approaches often miss is the intersections of “witchcraft” and the state. “Witchcraft” created worries about the maintenance of law and order both in Kamba communities and throughout colonial networks. And “witchcraft” brought local and colonial ideas of justice into conflict in the criminal arena. The anxieties and activities that “witchcraft” produced in Kamba communities bled messily into administrative and legislative situations, creating scenarios that challenged the ability of the state to establish law and order. “Critical events” related to “witchcraft” highlight the fissures and fractures in colonial control.

While this dissertation has shown that “witchcraft” was clearly subjected to extensive discursive discipline, it has also illustrated that actual discipline proved much more difficult. Most obviously, problems arose because the state’s evidentiary-based legal system demanded tangible evidence for a crime that was inherently invisible. The flexibility of “witchcraft” as claims-making category of the state also left it open to remaining a claims-making category of colonized people as well. Though colonial officials largely agreed that the state’s powers, particularly in the judicial realm, should

be preeminent, differences of opinion over precisely how and by whom the state's hegemony should be asserted often rendered it difficult for administrators and judicial authorities to do anything but wring their hands over "witchcraft." And while there were strong efforts to generate knowledge-for-policy/practice, putting such knowledge to use in order to assert colonial control was often somewhat problematic. Overall, in "critical events" throughout the colonial period, "witchcraft" showed itself a central site of conflicting codes and contested justice.

Post-colonial Understandings of Uoi



Photograph 8. An extract from "Shetani," a woodcut of Swahili malevolent spirits by the noted Tanzanian artist, George Lilanga. Private collection of the author. Photograph by the author.²

This dissertation has argued that shape of beliefs and practices related to *uoi* have remained remarkably consistent from the colonial-era into the present day. However, whether the level of witchcraft practices *writ large* has increased or decreased since independence in the early 1960s is a point of contention among Kamba people. In response to the broad question, "Has the level of witchcraft (*uoi*) activity increased, decreased, or remained the same over your lifetime?" the bulk of elderly Kamba

² I am grateful to Dr. Hervé Maupeu for helping me to acquire this work.

interviewees responded that malevolent supernatural activity had both increased *and* decreased in their lifetimes.³

These men and women explained that while “traditional” *uoi*, the form(s) of harmful Kamba “witchcraft” discussed throughout this dissertation, had decreased over their lifetimes they had also witnessed an upsurge in new or revitalized forms of malevolent supernatural activities which they maintained could be equally categorized under the broad rubric of “*uoi*.” Christianity, and to a significantly lesser extent “government law,” elderly Kamba argue, are each responsible for the decline in “traditional” *uoi*. Responses such as “Witchcraft has gone down...more people have become Christians” and “Witchcraft has gone down due to Christianity” are typical.⁴

Indeed, domestic and foreign mainline, evangelical, and Pentecostal churches operating in Kenya have focused a harsh lens on “witchcraft” in recent years. In a shift away from earlier dicta proposing Christianity and “witchcraft” only as ineluctably incompatible,⁵ recent Christian discourses have argued instead that Christian beliefs and practices from the mundane to the metaphysical can and should be mobilized to combat broad-spectrum “witchcraft.” For example, in the well-stocked bookstore of Nairobi’s august Catholic Cathedral, numerous texts dealing with Catholicism’s role in countering African “witchcraft” are available for purchase while a few streets over vendors hawk “gutter press” pamphlets with such dramaturgic titles as “The Dangers of Witchcraft

³ For example, B.M., Nairobi (Pipeline), August 2004; K.K., Kangundo, August 2004; R.K., Kilungu, September 2004; J.M.N., Nzawi, September 2004.

⁴ M.M., Tawa, September 2004; S.M., Mbooni, September 2004.

⁵ See chapter five.

Covenant Practices!” and “How to Identify and Break Curses” produced by the plethora of millenarian-oriented “store-front” churches that has exploded around Nairobi’s east.⁶

But at the same moment, informants’ testimony that “traditional” *uoi* is on the downturn could indicate a shift in discursive practices related to *uoi* rather than in *uoi* practices themselves. As one elderly Kamba man noted with subtlety, “People don’t talk much [about witchcraft] because of Christianity. It has driven people underground.”⁷ The inherently invisible and largely secretive character of *uoi* renders a quantifiable assessment of “traditional” *uoi*’s upsurge or diminishment virtually impossible.

The discussions of elderly men and women also introduced new categories of harmful supernatural actors and actions into Kamba cosmology. Many interviewees assert that there has been an increase in the presence and activities of *majini* in Ukambani, particularly in recent years.⁸ *Majini*, evil spirits, are believed to be mobilized by humans to help people achieve material success. Assessing the supernatural situation in contemporary Ukambani, informants typically stated simply that “*Majini* have gone up.” Others asserted that *majini* activity had supplanted “traditional” *uoi* because of the efficacy of *majini* mobilization for achieving worldly wealth and power. As one elderly Kamba man suggested, “‘Traditional’ witchcraft has gone down, but *majini* have gone up

⁶ See for example, Aylward Shorter and Joseph N. Njiru, *New Religious Movements in Africa* (Nairobi: Paulines Publications of Africa, 2001). Also, *AFER African Ecclesial Review* 45.3 (September 2003), a special volume on “Evil Practices in Africa, Obstacles to Authentic Christianity.” Both works were purchased at the Catholic Cathedral shop. I am grateful to Dr. Hervé Maupeu for suggesting I visit the bookstore. The two pamphlets cited above were produced in mid-2004 by Steven Gichuhi Ministries International in Nairobi. I am grateful to Matthew and Jolene Carotenuto for obtaining these pamphlets for me.

⁷ J.K.K., Tawa, September 2004.

⁸ M.N., Kilungu, August, 2004; B.M., Kilungu, August, 2004; J.K., Kilungu, August 2004. *Jini*, plural *majini*, in Kiswahili or “jinn(s)” in English, are evil spirits originating from the Swahili Coast and more broadly from the Indian Ocean World. In 2004, informants in Kilungu told the researcher and her assistant about a recent spate of *majini* activity brought about by outsiders posing as thermos salespeople.

because they can be used for gain.”⁹ *Majini* then are key constituents of a larger coterie of malevolent supernatural actors mobilized in the service of material gain in contemporary Kenya.¹⁰ The swell in money-making “black magic” actors and activities is an ironic turn in light of the colonial-era decision to strike the phrase “for the purposes of gain” in revising the Witchcraft Ordinance of 1909.¹¹

“Witchcraft” and the Post-Colonial State

This dissertation has argued that during the colonial period the state maintained a policy of “discipline and denial” vis-à-vis “witchcraft” and discounted the ability of “witches” to actually do “magic.” Yet, state officials recognized the power of *beliefs* in the efficacy of “supernatural” practitioners like “witches” and the concomitant power of such persons to challenge authority of the state. In the post-colonial period, relations between “witchcraft” and the state have worked a bit differently. Rather than being considered simply as a potentially political challenge to state authority, “witchcraft” has also been mobilized as a tool in struggles over access to and maintenance of state power.

“Witchcraft” has been used by officials of the post-colonial Kenyan state and aspirants to political power to explain why they have been unable to adequately access and/or retain power or why their opponents have been able to do so. For example, in 2003, gossip about malevolent “witchcraft” swirled around the election-eve death-by-

⁹ M.M., Nzawi, September 2004.

¹⁰ For analysis of the currency of discourse of “devil worship” and politics among Kikuyu and Kalenjin communities, see, Yvon Droz, “Si Dieu veut...ou suppôts de Satan. Incertitudes, Millénarisme et Sorcellerie chez les Migrants Kikuyu,” *Cahiers D’Etudes Africaines* 37.1 (1997): 85-117. 105. Droz’s analysis is one of the most comprehensive on devil worship in Kenya. See also, Hervé Maupeu, “Les Élections Comme Moment Prophétique. Narrations Kikuyu des Elections Générales de 2002 (Kenya),” *Politique Africaine* 90 (Juin 2003): 56-77. And, Stephen Ellis and Gerrie Ter Haar, *Worlds of Power: Religious Thought and Political Practice in Africa* (New York: Oxford University Press, 2004). The Kikamba-language audio cassette, “Frederick Muule,” offers a narrative of “devil worship” in Kamba communities. I am grateful to Hervé Maupeu for purchasing this cassette for me on River Road in Nairobi in July, 2004.

¹¹ See chapter two.

drowning of a prominent Kamba MP, and six weeks later newspapers carried reports of the arrest of a “suspected witchdoctor” interfering in the campaign of another Kamba politician. As the *Daily Nation* reported,

The man was handed over to the police by agents of Mr. Charles Kilonzo, who accused him of having ill motives against their candidate. The suspect told his interrogators that that he was sent by one the aspirants to work against Mr. Kilonzo.¹²

But the post-colonial intertwining of “witchcraft” and politics is not always necessarily “negative.” While “witchcraft,” certainly explains away political misfortunes and missteps, claims-making about “witchcraft” has also operated as way of developing political power within or in opposition to the state. For example, in 2000 a pair of opposition leaders took a public stand against “witchcraft.” As press reports summarize,

A Cabinet minister and an opposition party leader led a Kitui mob in a raid on the clinic of Tanzanian herbalist-cum-magician on Monday and threw him out. Minister Francis Nyenze and Social Democratic Party leader Charity Ngilu accused Dr. Juma Ibrahim of unleashing evil spirits on residents and vowed to use all means to protect the people...they took an assortment of funny paraphernalia.¹³

In this instance, taking a stand against “witchcraft” enables the two politicians to highlight their concern for and active attention to the welfare of their constituents which is endangered by “supernatural” activities. At the same moment, such an engagement with “witchcraft” enables the opposition politicians to foreground the *absence* state concern with and presence in the “supernaturally”-fraught space of Kitui.

¹² Katherine Luongo, “A Self-Evident Death? Reading Water and Witchcraft in the News of a Kenya MP’s Death,” *The Journal of the University of Michigan International Institute* (March, 2005): 15. Also, Bob Odalo and Victor Nzuma, “Man Held Over Witchcraft Claim in Yatta,” *The Daily Nation* 27 June 2003.

¹³“Ngilu and Nyenze Lead Raid,” *The Daily Nation* August, 2000.

Overall, from the colonial period to the present day, “witchcraft” has been consistently treated as a means of accessing political power. During the colonial era, state officials generally viewed “witchcraft” as a potential political challenge to the state’s authority whereas in the recent past, politicians inside and outside the state apparatus have read “witchcraft” as means for acquiring some of the power of the state.

Summations

Throughout the twentieth century, “witchcraft” has persisted as a central concern for Kamba people and the state. Kamba people have expressed anxieties about the violent disorder and misfortune that “witchcraft” has cultivated within their communities. In turn, colonial and post-colonial state officials have regarded “witchcraft” as a fundamental source of violence that has challenged the state’s ability to establish justice, law, and order. And, state authorities of both eras have mobilized “witchcraft” as a means by which to explain away the administrative intractability of the people under their charge. But, following a shift begun during Mau Mau, post-colonial state actors have also treated “witchcraft” a means through which to access political power.

Legislative interventions into “witchcraft” have been fewer in the post-colonial period than they were in the colonial era.¹⁴ As we recall from earlier chapters, a “poetics of incredulity” permeated colonial legislation (and legal discourse) on “witchcraft.” The same poetics frame the present-day law about “witchcraft.” And, narratives of “witch”-killing that mirror the cases detailed in colonial documents appear regularly in the Kenyan press.

In sum, the contemporary “critical events” through which “witchcraft” and the state have collided are best analyzed as part of the broader historical story about how

¹⁴ See, the Witchcraft Act, (Chapter 67, 1981).

“witchcraft” has constituted an important space in which larger questions of power have been disputed. Overall, “witchcraft” has constituted a popularly and practically recognized source of violent disorder in Kenya. Until “witchcraft” is really recognized as such, conflicting codes and contested justice will persist.

Appendix

INTERVIEWS

A targeted conversation with J.C. Nottingham constituted the first oral source gathered for this dissertation. My first meeting with Nottingham was facilitated by Peterson Kithuka of the Kenya National Archives and took place in an office at the archives. Nottingham graciously answered my logistical and narrative queries about the Machakos witchcraft cleansings and volunteered anecdotes about his encounters with witchcraft as a District Officer in 1950s Ukambani. Two more interviews took place in the offices of Nottingham's downtown Nairobi publishing firm. Over tea, Nottingham discoursed freely about the totality of his experiences in dealing with witchcraft and Mau Mau as a colonial officer. He allowed me to tape the interviews at his office, graciously permitted me to take pictures of some of his colonial-era photos with my digital camera for use in my dissertation and generously gave me a booklet published by his firm on the urban history of Kamba people.

In Nairobi and Machakos District all other interviews were conducted with the assistance of a paid research assistant. I employed J. Mbithi wa Mutunga, a Kamba man in his 30s who hailed from Machakos District. Mutunga is affiliated with the Maryknoll Institute of African Studies in Nairobi and works as a professional research assistant for both foreign and Kenyan researchers. He was recommended to me by Dr. Cyprian Kavivya of the Kenyatta University Department of Religious Studies. Mutunga's invaluable assistance entailed identifying interviewees, scheduling interviews, and translating during interviews. He also transcribed and translated interview tapes and a published Kikamba text, *Mukamba wa Wo* as well as a Kikamba audio cassette, "Frederick Muule."

Interview subjects were identified by myself and by Mutunga. At a series of pre-fieldwork meetings, I provided Mutunga with a detailed synopsis of my dissertation, a basic "oral script" of interview questions and themes, a list of locations in Machakos gleaned from archival material, and a list of individuals, also culled from archival materials. Using these materials, Mutunga arranged interviews several days in advance by visiting a relevant location, identifying and visiting local elders, explaining my project and the sorts of information in which we were interested, and if people agreed, scheduling an interview. The resources enumerated above produced an informant pool of elderly men and women born between 1898 and 1939 who were interviewed in the course of 30 sittings.

A typical interview cycle entailed leaving Nairobi at the beginning of the week and traveling with Mutunga via public transport to Machakos District and returning with him via public transport to Nairobi on Friday evenings. We ordinarily set-up a base in a guest

house in the market center of a particular location and then traveled to outlying sub-locations and homesteads via public transportation or on foot, returning each evening to the guest house. Typically an interview day involved leaving the guest house early in the morning and traveling to interview sites in multiple “country bus” rides of 20 minutes to an hour-and-a-half or more rarely reaching interviews on foot in hikes between half an hour and three hours. In my Kamba *kiondo* basket I carried my notebook, tape recorder, blank tapes, digital camera, and a quantity of low-denomination Kenyan shilingi notes. Interviews generally lasted between two and three hours. We often had multiple interview appointments a day in the same general location. In some instances, interviewees introduced us to neighbors or friends who we had not contacted previously and who were generally amenable to speaking with us. On rare occasions we visited the same household more than once. Interviewees sometimes provided us with tea and I received gifts as diverse as raw sugar cane and a *kiondo* used in a Kamba *kilumi* spirit possession dance. The areas in which we conducted interviews were drought areas and thus Dr. Kavivya advised me to gift interviewees with small monies which they could use to buy necessary food and sundry items rather than with the more typical researchers’ gifts of tea, fabric, tobacco, etc. I followed his advice, presenting interviewees with Ksh. 200 (approximately \$3.00) at the conclusion of each interview noting that the monies were “zawadi ndogo kwa chai,” i.e., “a small gift for buying tea.”

The first set of interviews was conducted in the Nairobi locations of Kibera, Pipeline and Industrial Area. We then made day trips to Kangundo, a market center on the border of Nairobi and Kambaland. Our next set of interviews was conducted over several days in Kilungu where we were graciously hosted by the family of Dr. Kavivya. Subsequent interview junkets took us to market centers and homesteads in and around Machakos Town, Nzawi, Imani, Mbooni, Welfare and Tawa.

The majority of interviewees preferred to discourse in Kikamba even if they were amenable to questions being asked in Kiswahili, or more rarely in English. Some interviewees injected some Kiswahili and the occasional English term into their discourse. I had acquired sufficiently strong Kiswahili skills to pose questions in Kiswahili, but I spoke virtually no Kikamba and thus could not conduct Kikamba language interviews on my own. I posed questions to the interviewee in Kiswahili or, as they overwhelmingly preferred, in English to Mutunga who translated the questions into Kikamba. Mutunga then translated the interviewee’s replies into English, enabling me to pose the next question depending on the interviewee’s response. In some instances, Mutunga responded directly in Kikamba to an interviewee’s replies and then translated the entirety of their exchange into English for me.

Interviews began with casual introductory pleasantries and continued with broad questions about Kamba witchcraft. While interviews followed a loose structure, interviewees’ replies also gave rise on the spot to new lines of questioning. In almost all instances, interviewees volunteered anecdotes, knowledge and narratives that far exceeded the scope of our questions. Mutunga and I took notes in Nairobi, and all interviewees in Machakos District agreed to be tape recorded and many permitted me to take pictures around their homesteads. I also took written notes of the interviews. I then

consolidated my written notes with the transcripts of interview tapes to create a set of field notes. All tapes and notes remain in my possession.

In the following list, Kamba informant names are coded by initials and place-names in Machakos District refer to the closest location or market-center while those in Nairobi to the particular Nairobi neighborhood. Kamba people are cited in the dissertation text by their initials.

Nairobi

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- B.W. Born circa 1930. Interviewed by J. Mbithi wa Mutunga and the author. Notes.
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Nairobi. Industrial Area. July 2004.

Machakos District

- K.K. Born circa 1918. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Kangundo. August 2004.
- K. M. Born circa 1910. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Kangundo. August 2004.
- M. N. Born circa 1910. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Kangundo. August 2004
- L. N. N. Birth date unknown. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Kilungu. August 2004.
- M. M. N. Birthdate unknown. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Kilungu. August 2004.
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- J. M. Born circa 1918-1919. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Kilungu. August 2004.
- M. N. Born circa 1920. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Kilungu. August 2004.
- B. M. Born circa 1925. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Kilungu. August 2004.
- R.K. Born circa 1925. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Kilungu. August 2004.
- J.N.K. Born circa 1922. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Kilungu. September 2004.
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- K.N. Born circa 1921. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Nzawi. September 2004.
- M.M. Born circa 1898. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Nzawi. September 2004.
- J.M.N. Born circa 1939. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Nzawi. September 2004.
- J.K. Born circa 1916. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Tawa. September 2004.
- J.K.K. Born circa 1922. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Tawa. September 2004.
- E.M.M. Born circa 1902. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Tawa. September 2004.
- N.D.M. Born circa 1904. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Tawa. September 2004.
- M.M. Born circa 1930s. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Tawa. September 2004.
- M.K. Born circa 1927. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Tawa. September 2004.
- S.K. Born circa 1934. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Tawa. September 2004.
- S.M. Born circa 1913. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Mbooni. September 2004.
- W.N. Born circa 1919. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Machakos. September 2004.
- E.K. M. Born circa 1914. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Machakos. September 2004.
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- M.W. Born circa 1930. Interviewed by J. Mbithi wa Mutunga and the author. Tape recording and notes. Machakos. September 2004.
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Judicial Department (AP)

AP/1/1009

AP/1/1339

AP/1/1579

Law and Custom (BB)
BB/22/2

Provincial Commissioner, Eastern Province (BB.PC)
BB.PC/EST/22.12

Kwale (CC)
CC/13/39

Kiambu District (DC/KBU)
DC/KBU/1/4
DC/KBU/3/25

Kitui District (DC/KTI)
DC/KTI.1/1/1
DC/KTI.1/1/3
DC/KTI.1/2/9/1
DC/KTI.6/2/1
DC/KTI.6/2/2

Machakos District (DC/MKS)
DC/MKS/3/6
DC/MKS 4/3
DC/MKS 4/9
DC/MKS 10A/6/1
DC/MKS 10B/8/1
DC/MKS 1/1/25
DC/MKS/1/3/6
DC/MKS.1/2
DC/MKS.1/3/1
DC/MKS.1/1/24
DC/MKS.1/1/31
DC/MKS.1/1/32
DC/MKS.4/1
DC/MKS.4/6
DC/MKS.14/5/1
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Kwale District (DC/KWL)
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