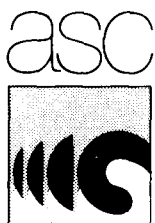

C.F. Fisiy

Palm Tree Justice in the Bertoua Court of Appeal:
The Witchcraft Cases

Working papers No. 12/1990



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**PALM TREE JUSTICE IN THE BERTOUA COURT OF APPEAL:
THE WITCHCRAFT CASES**

C.F. Fisiy

**Institut des Sciences Humaines Yaounde
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1990**

PALM TREE JUSTICE IN THE BERTOUA COURT OF APPEAL : THE WITCHCRAFT CASES.

"At the social and moral levels, you have to fight abuses as alcoholism and witchcraft that are liable to result in a deterioration of moral behaviour thereby slowing down progress in your province".

Paul Biya, Bertoua, 26 May 1983.

1. INTRODUCTION

It is not uncommon in political discourse to attribute blame to witchcraft as being the root cause of most of the ills that plague our society today. The President of Cameroon, Paul Biya, on his first visit to the East Province in May 1983, did not hesitate to instruct party militants to carry out "democratic discussions" on such "day-to-day problems of which we should be aware in order to carry out our collective action, namely: the sanitation of our towns and villages, juvenile delinquency, armed robbery, crime, rural exodus, alcoholism, witchcraft, absence from school, the search for practical means to boost farming and better manage small-size trade and craft enterprises". If witchcraft is here associated with other forms of social deviance, it is because it forms part of the African's "*Weltanschauung*". Most Africans and the people of the East Province believe in the existence of witchcraft and the harm it wrecks on society.

It is therefore not surprisingly that there is heightened interest in academic circles, especially among anthropologists and political scientists, in the study of witchcraft as an "idiom of power" (Bayart, 1983; Douglas, 1980; Fields, 1982; Geschiere, 1980, 1982, 1988a & 1988b; Marwick, 1970; Rowlands & Warnier, 1987). The articulation of the power matrix in witchcraft activities often degenerates into deviant behaviour. Harm is done or deemed to be done to members of society as the participants enlist witchcraft and other occult forces to influence existing power relations. Hence the crystallisation of any witchcraft activity inherently involves harm or the threat thereof to other members of the community. The unfolding of witchcraft activities brings them within the purview of the criminal law. Yet very scanty legal scholarship exists in this domain (Belombe, 1984; Mekongo Mballa, 1976; Njeck, 1976; Seidman, 1965 & 1966; van Rouveroy van Nieuwaal, 1988). This can easily be justified because witchcraft phenomena are within the realm of the paranormal and defy any standard Cartesian patterns of proof. During the colonial era and immediately after independence, the courts consistently rejected to convict witches for lack of proof. Despite the increasing socio-political discourse and scholarship by

social scientists, judges still found it very difficult to convict alleged witches. To convict, the courts had to establish legal proof. How could the courts do this? This was and still is the central question today.

The object of this paper is to examine the various witchcraft manifestations in the East Province and to show how they are handled by the modern state courts. The basic aim is to highlight the nature and sources of witchcraft accusations, the processes of securing a conviction (i.e. proof), and finally, the magnitude of punishment meted out on sentencing. These issues are crystallized by a number of questions: Who initiates a witchcraft accusation and under what circumstances is this initiated? How do the modern courts establish proof in witchcraft accusations? What role does a witch-doctor/diviner play in witchcraft proceedings? Are the modern state courts well suited to judge issues whose manifestations are strictly outside the limits of observable phenomena? Before these issues are considered, a brief review of the colonial legacy on witchcraft and allied phenomena shall be presented.

1.1. Colonial Legacy.

The colonial courts consistently refused to admit that acts of witchcraft could be actionable in the courts for want of tangible proof. As Seidman [1965:49] pointed out, "it is difficult to see how an act of witchcraft unaccompanied by some physical attack could be brought within the principles of English Common Law". This outright rejection of witchcraft practices as constituting provable offences arose from the conception that they were founded on a pre-scientific knowledge of events; what Seidman [1967:1137] claimed was a result of limited and ill-organised factual knowledge. One should look askance at this affirmation which seems to imply that scientific knowledge can rationally explain all human-inspired events. Moreover, can one assert that science will explain all paranormal phenomena - categories within which witchcraft usually manifests itself? Data I collected in the urban settings show that Africans, well educated in Western culture and science, still believe in and fear the occult forces associated with witchcraft.

Thus, in their application of common law and civil law principles, the colonial courts invariably came to the conclusion that "the threats must be physical not metaphysical. The threat must be such that a reasonable Englishman would recognise, not the sort which would seem frightening only to an African steeped in the culture of the bush" [Seidman, 1967:1140]. With such a

Eurocentric bias, colonial judges dismissed as insane delusions all witchcraft accusations which could not be proven by cartesian rationalism. The exasperated African who had already been stripped of his penal jurisdiction in the customary law courts in favour of colonial state courts, also saw in the colonial judge a strong ally of the witch. Witches were constantly set free by these colonial courts for want of substantive proof. Aggrieved persons who took the law into their hands and settled their scores with the witches, either for self-defence or in bouts of extreme provocation, were instantly convicted for their acts and harsh sentences meted out to them. It was part of the courts' mission to drag them out of their depths of darkness and try to inculcate in them the civilising notions of western culture. The courts had a clear explanation for their decisions : the law punishes the man whose reason does not control his passion. Was the law at the service of the aggrieved person or the witch? Here again, mitigating circumstances could not be granted to an aggrieved victim of witchcraft attacks who reacted for,

"mistake of fact, in order to be a defence in criminal law must not only be a bona fide belief but must also be a reasonable belief. The standard to be adopted in deciding whether mistake of fact is reasonable is the standard of a reasonable man, and the race and the idiosyncrasies or superstitions or the intelligence of the person accused do not enter into the question [Seidman, 1966:1151]."

This persistent refusal to take judicial notice of witchcraft practices not only frustrate Africans, it also embarrassed most colonial administrators. Writing in 1950, the then Director of Political Affairs in Cameroon, Soucadaux, remarked that:

"cette recrudescence (de la sorcellerie) est puissamment aidée par l'inadaptation du nouveau régime judiciaire et la meconnaissance systématique par les magistrats de crimes et délits que le Code Pénal Français n'avait pas prévus"¹

This same exasperation was also echoed by Meek [1950], who claimed that "witches and witchcraft do not, of course, exist, but the belief in their existence is one of the most potent in the lives of most African people. And it is a belief which cannot easily be exorcised, for it is not an isolated factor, but an integral part of the whole psychological and magico-religious system". This greater sensitivity of the administrators vis-à-vis African witchcraft beliefs was understandable. They came into very close contact with the people and eventually understood their philosophy of life and death, and other thought patterns. The French even set as one of

¹ National Archives, File No. 900/CF/APA, Enquête sur le fétichisme, 14.10.1950.

their primary goals, the eradication of witchcraft, secret societies, and other occult practices, since these were perceived as a primary challenge to their so-called "civilising mission".

On the other hand, the colonial judge whose dogmatic adherence to the same "white man's burden", adopted the standards of the reasonable man on the "clapham omnibus", notwithstanding the fact that these witchcraft accusations were by Africans against Africans in an African community. How effectively could English judicial and cultural values be transposed and applied to Africans in their community, whose world view of events accepts and integrates witchcraft conceptions in their basic philosophy of life? The irony in the whole situation was that, while administrators were fighting to eradicate witchcraft and secret societies, their counterparts, the colonial judges, were zealously setting witches free in their courts for lack of proof. Both were working for the same ideal - that of civilizing the "natives" - even though the results were diametrically opposite. What a paradox!

This rather awkward situation led Glanville Williams to suggest that "if a particular superstition is common in a community, it may be best to deal with it by an explicit statute so that those labouring under the superstitious delusion will know that their practices, independently of the truth or falsity of the belief, are punishable". The Cameroonian post-colonial legislator was more realistic. He included acts of witchcraft, magic and divination in the 1967 Penal Code because they are acts of common occurrence in the community. This provision on witchcraft is being applied in modern courts, despite Seidman's assumptions [1965:59] that "the Africans who now control their own countries, educated as they are to the highest standards of European culture, will not accept a pre-scientific standard of knowledge and behaviour". Seidman ignored the fact that witchcraft notions tie in with power relations and they are all a function of the belief system and religion of the people. In such cases where religious concepts are not necessarily established by cartesian proof, belief becomes the key factor in justifying human conduct. The Cameroonian law-maker believes in witchcraft and other occult forces, and this is provided for in Section 251 of the Penal Code. How then do the courts establish proof based on the Cartesian pattern in witchcraft cases? The Bertoua courts seem to have an idea how this is done.

1.2. General Characteristics of the Witchcraft Offence.

Immediately after independence, the constitution of the country permitted the application of colonial legislation until this was superceded by national legislation. English common law and French civil law and the attendant jurisprudence and caselaw continued to be applicable before national legislation was enacted. In the realm of criminal law, the Penal Code was enacted in 1967. In the interim period, and in keeping with colonial practice, witchcraft accusations were consistently dismissed from the courts while witch-doctors and other counter witchcraft experts were denounced and tried for defamation and quackery. Those who resorted to traditional methods of counter-witchcraft control such as the poison ordeal, were charged with murder [Mekongo Mballa, 1976; Njeck, 1976]. Witches were set free. Rowlands and Warnier (1988) have attempted an explanation for the reticence at that time to punish witches:

"the 1960's probably saw their conditions at its lowest, when African magistrates trained in Western law saw whatever belonged to the domain of sorcery as a shameful phenomenon in a freshly independent country geared to modernisation and making every effort to escape the darkness of past superstitions".

The absence of witchcraft convictions even continued after the enactment of the 1967 Penal Code. On the question of witchcraft, the 1967 Code provides:

S. 251 : "Whoever commits any act of witchcraft, magic or divination liable to disturb public order or tranquillity, or to harm another in his person, property or substance, whether by taking of a reward or otherwise, shall be punished with imprisonment for from two to ten years, and with a fine of five thousand to one hundred thousand francs".

The law punishes these acts only when they are liable to disturb public order and tranquility, or to harm another in his person and/or property. If one can therefore practice his witchcraft without infringing the above provisos, he would in no way fall under the ambit of the law.

Furthermore, Section 228 punishes "dangerous activities". This section provides:

[1] Whoever fails properly to provide against risk of bodily harm to any person from his dangerous activities shall be punished with imprisonment for from six days to six months.

[2] Whoever rashly and in a manner liable to cause harm to any person:

(d) Furnishes medical or surgical treatment, or furnishes or administers any drug or other substance; ... shall be punished.

This section does not specify what these activities are. What is relevant here is that if these activities do lead to bodily harm, they are punishable under this section of the law. The vagueness of this section is further compounded by the fact that it englobes activities such as medical and surgical practices alongside the use and application of drugs and other medicines. Here, a strict construction of this section will incriminate any mal-practice by both the modern university-trained doctor as well as the traditional witch-doctor. What then amounts to mal-practice has not been defined. This has rendered S. 228 virtually dormant. In fact, from the witchcraft files in Bertoua, no action was ever instituted under this head. A better understanding of the law in this area, with special reference to taxonomy, can only be adequately understood from the Bertoua witchcraft files.

1.3. General Characteristics of the Bertoua Witchcraft Cases.

During a period of four years, 1981 - 1984, the Bertoua Court of Appeal reviewed more than thirty witchcraft cases. I had access to thirty of these files of which 27 were accusations brought against witches for their harmful practices. Only in three cases were actions brought against witch-doctors and their assistants for some kind of professional mal-practice. In one of such cases, the witch-doctor and his assistants had beaten to death a person accused of witchcraft in their frantic bid to extract a confession. Extracting a confession from an accused person is the privileged means of founding a witchcraft accusation and securing a conviction in the courts.

At no point whatsoever did an aggrieved party take the law into his hands to do justice himself, either by killing or harming the witch out of provocation or self-defence. This law abiding attitude of the people in the East Province in the realm of paranormal phenomena is rather surprising to me. One would have expected traditional mechanisms within the local patterns of authority to handle such phenomena without resorting to the modern courts as is the case in the

highly centralized societies of the North-West and Western Grassfield Provinces. Does this mean that local traditional institutions have so atrophied as not to provide the appropriate forum for witchcraft settlements? And does this further mean that with the virtual marginalisation of traditional counter-witchcraft institutions (such as the administration of the poison ordeal) people rather solicit the intervention of the state's forces of law and order rather than employ mechanisms that have been driven underground?

This line of reasoning is extremely seducing due to the relative frequency of witchcraft accusations that are taken to the courts in the East province. However, to arrive at such a conclusion, it is extremely important to understand the gradual transformation of witchcraft conceptions from rural to urban areas. A witch in the rural areas would usually choose his victim from within his own family circles, while in the urban areas the group is extended to include friends and close associates. Basic control of deviant behaviour which is quite strong within family circles, is either weaker or totally absent in an urban environment. Control of deviant behaviour in such settings is assumed by the state rather than by traditional mechanisms. It is therefore pertinent to note that most of the Bertoua witchcraft cases were among non kin members, and so could not be settled within family circles. And in the absence of strong centralized local authorities, witchcraft accusations among friends and close associates were rather taken to party officials or government sponsored village chiefs. Since the basis of their power lay with the state, these local authorities invariably solicited the intervention of the Police. Hence, the inevitable drift of such cases to the modern courts.

On the other hand, witchcraft accusations among kin members are hardly ever taken to court. These are settled by traditional counter-witchcraft measures within the family structure. Trial by ordeal, especially the poison ordeal, used to be the final arbiter in instances when accused persons refused to confess and be subjected to lesser measures. People who have persisted with the administration of the poison ordeal have been taken to court and severely punished. As Mekongo Mballa [1976] reports,² a man named Zinga François was sentenced in the Yaounde Criminal Court for administering the poison ordeal to Biloa Josephine thus leading to her death. In this case, the outcome of this traditional counter-witchcraft measure was taken to court. In well organised traditional societies, this would not be allowed to happen. The person who initiated the witchcraft accusation, thereby causing the administration of the poison ordeal, would stand vindicated, justice having been rendered in the harshest and clearest manner - with

² Case No. 348 of April 18, 1968, Yaounde Court of Appeal.

the death of the guilty party. The Bertoua witchcraft cases present great interest since they represent a clear departure from traditional counter-witchcraft measures.

The analysis of these cases show that of the 46 witches accused in the 30 cases, only 6 were women. Almost all of them were of humble origins, most of them claiming to be peasant farmers. Of the 46 accused persons, only 10 were below the age of 30 years. The vast majority of the accused were old people, some of whom were married with numerous children. In fact, one of them had 17 children. From these files, it is difficult to justify the assertion that witches are old childless people [Seidman, 1965:45] who, out of personal failure, poverty or jealousy, resort to witchcraft. Jealousy and poverty may be sound motives for witchcraft attacks which are based on village levelling powers, but childlessness here did not constitute a ground for witchcraft. However, it is conceivable that childlessness might give rise to bitterness and jealousy in a more individualistic world. Within the logic of equalising tendencies, this could give rise to witchcraft attacks; the childless members of a kin attacking those with children or more fortunate.

In fact, the Bertoua data present no conclusive patterns with regards to the relationship between socio-political viability and witchcraft practices. However, the method of data collection has obvious limitations since it is only concerned with cases which were reported to the police and gendarmes and with those cases that went up to the courts. The more influential and powerful citizens will certainly stifle witchcraft accusations against them before these ever get to court. The data presented here cannot therefore be a conclusive representation of the various witchcraft conceptions and their manifestations. What is obvious from the data is the confirmation of the ambivalence that characterises the witchcraft idiom : it is the privileged weapon of both the weak and the powerful.

1.4. Nature and Sources of Witchcraft Accusations and Court Sanctions.

A close review of the thirty cases presents some very striking features. The witchcraft accusations can be loosely classified into five main groups. These are accusations arising from :

- Village unrest and menace to state institution;
- Jealousy and hatred;
- Quest for power;
- Mystical cannibalism and irresistible impulse
- Mal-practice by a witch-doctor.

1.4.1. : Village unrest and menace to state institutions.

Nine of the 30 cases which went up to the Court of Appeal for review arose from the collective fear of a given community - usually a village - to acts of witchcraft. In these villages, repeated unexplicable deaths, persistent failure at school exams, and other unexplained misfortunes, had led the village chief or the local party leader to invite a witch-doctor to seek out the causes of these misfortunes. It is highly relevant to bear in mind that no accusation of witchcraft was made before the divination process in any of the nine cases. It was only after divination that the witch-doctor overtly accused a person for blocking progress in the village by witchcraft. The bringing in of the witch-doctor occasioned the holding of a village palaver, the ideal forum for witchcraft accusations.

The central role of the witch-doctor stands out in these witchcraft accusations. He is the first to accuse a person of witchcraft practices. It is he who gathers the elements of proof and presents them to the court for appreciation. His role then is pivotal in securing a conviction. On the other hand, the predominant role of the witch-doctor in establishing proof raises the question whether he cannot be manipulated by extraneous local circumstances to invent accusations. Is he really a reliably expert witness?

These witchcraft accusations concerning village unrest contrast sharply with similar accusations at family group level. In the former, the accusations are only uttered after divination and by the witch-doctor; while in the latter, individuals are already accused at the occurrence of an uncountable misfortune, and prior to divination. The diviner is only consulted to confirm earlier accusations [Feierman, 1985:79]. This is obviously because social deviance is identified even before any damage actually takes place. The family is an effective counter-witchcraft institution. It initiates and resolves witchcraft conflicts.

In the village palavers, if the accused party or parties do not confess, the next step would be for the witch-doctor to establish his accusations by unearthing witchcraft material. In these Bertoua cases, it was achieved by a visit to the locus of the accused party where such objects were extracted from their hiding places. It is also instructive to note that in most of these cases, the objects for casting spells were either "*les brindelles de bois*" or "*les moustaches de panthère*". These two classes of products were particularly prevalent in the accusations. In some cases, once these objects were found, the accused party confessed. It was only after such a discovery or confession that the accused party was handed over to forces of law and order "for the law to take its course". A typical confession would sound very convincing. For example, in a judgment³ of August 1, 1981, the accused boasted:

"Needless asking me questions. I admit having killed by drowning, the young Lambeya in the River Lom using witchcraft. I practice witchcraft. The object is to take revenge against the people of Lom who hate me. Moreover, I am taking revenge against those persons who killed my son last month by witchcraft". (my translation)

Once an accused party makes a confession like the one above, the community considers him guilty by their traditional standards of proof, and he is only handed over to the State in the expectation that he will be convicted and sentenced. The question that remains is whether the courts should endorse such traditional patterns of proof. Should the courts accept the evidence of witch-doctors as conclusive? How reliable are confessions? The colonial courts refused adamantly to adopt such patterns of proof. Witch-doctors were refused the status of "expert witnesses", and in fact, they themselves were convicted of defamation of character because of their accusations. This lack of recognition of witch-doctors as expert witnesses has persisted in some parts of the country, especially in the Southern Province where they have been consistently prosecuted for organising public sessions of witchcraft accusations known locally as *Bissima* [Belombé Yombi, 1984:9]. Since they cannot establish their accusations by Cartesian rationalism, these have been judged untenable by the courts.

On the other hand, heavy reliance on the evidence of witch-doctors by the courts in the East Province leads one to think that they have been rehabilitated as expert witnesses in this part of the country. This development has led these witchcraft experts to play a central role in most witchcraft accusations. This is but obvious from a class of publicity-conscious persons in quest

³ Affaire Mbouffou Narmai, 01.08.1981, Bertoua Court of Appeal.

of recognition from the state. With such recognition, witch-doctors can boast of impressive visiting cards, and this enhances their business. The centrality of the role played by witch-doctors is quite evident from the following case.

*Case No. 5. Affaire Medang Jacques & Mpome Moïse c/ Ministère Publique
Mpel Mathurin & Baba Denis. Arrêt No. 8/COR du 04.10 1983*

During the month of August 1982, the inhabitants of Angossas, Abong-Mbang, were terrified by the numerous inexplicable deaths in the village, failure in school, and the strange noises that were coming from Medang Jean's residence. The village chief convened a village palaver in order to exorcise the strange happenings from the village. A renowned witch-doctor, Baba Denis, was invited to preside over the divination and exorcism. The arrival of Baba Denis caused certain guilty persons to come forward and hand in their malefic objects. These persons were simply exonerated from any witchcraft accusations. Those who failed to tender in their own witchcraft objects, especially Medang Jean, Mpome Moïse, and Mpel Mathurin, were overtly warned to tender their own objects or bear the consequences. They resisted and this led to the witchcraft accusations in this case.

In pursuance of this, Baba Denis led the population to Medang's residence in order to unmask witchcraft objects. Brandishing a charcoal pressing iron full of fire in his left hand, Baba Denis recited his incantations in a bid to locate the objects in question. In the process, he designated Medang's bed as containing some of the objects. There, a parcel containing hair from a panther's upper lip was found, enough to decimate an entire village.

Soon after, Nkounk Michinga, a schoolboy, came forward with more panther hair given him by Mpome Moïse with which to kill the headmaster of the school. Another schoolboy brought another parcel, this time containing "*brindelles de bois*", one of which was to be planted in the school compound to occasion the death of the headmaster - who actually was now dead - Another twig was to be planted in the Catholic mission premises, precisely where the priest says mass; and the third at the site of the protestant mission in order to frustrate the construction of the church. This youngster was then to wait on Mpome for further instructions on how to apply the remaining twigs.

While still at Medang's residence, Baba Denis disclosed that the unexplained noises were caused by mystical planes taking off and landing on a mystical landing strip in Medang's house. Medang used these "*aeronefs magiques*" with his accomplices to wreak havoc in the neighbourhood and the neighbouring villages. However, none of these mystical planes was discovered and no material artefact was tendered in evidence. The search at Medang's residence was even conducted in his absence. The only evidence was the hair found in his bed. The only material evidence against Mpome Moïse was the two parcels presented by the two youngsters. Nonetheless, Baba Denis strongly claimed that it was due to his incantations that the malefic objects surfaced from their hiding places. Furthermore, in his bid to neutralize the landing strip, Baba Denis was mystically attacked by Medang Jean. Suddenly, Baba realised that his strength had been drained away. He almost collapsed and was helped away limping. Later in the day, he proudly claimed that he had only survived this sudden attack by defeating Medang in their mystical fight.

It should be noted that this alleged attack was carried out in broad day light during a session of a public palaver involving witchcraft accusations. The principal accused, Medang Jean, was not even present at this palaver. Medang never suffered any negative consequence to his health as a result of this defeat by Baba. Was it an imaginary or genuine attack? The fact that Baba was helped away limping convinced his audience that something malefic had been done to him. Baba joined the village chief in reporting the matter to the gendarmes. This village palaver was the sole source of witchcraft accusations on which the trial judge came to the following conclusions:

In view of the fact that Medang Jean and Mpome Moise had nothing to say in their defence concerning the following: the death of Mballa, the teacher; the departure of the priest from the village; the work stoppage on the construction site of the protestant church; the handing in of the panther's hair and twigs covered in black powder to Baba in broad daylight; and the general restlessness of the people of Angossas; constitute pieces of evidence to charge Medang Jean and Mpome Moise with the offence of witchcraft as punished by Section 251 of the Penal Code; which acts are carried out intentionally and with the aim of practising witchcraft. (my translation)

On the basis of this evidence, Medang and Mpome were both found guilty, convicted and sentenced to five years' imprisonment each, and a fine of CFA 30,000frs. CFA. Medang was further sentenced to pay CFA 40,000 frs as damages to Baba Denis for the mystical attack with the resultant drainage of Baba's physical forces. On appeal, the judgment of the lower court was upheld in its entirety.

This case highlights the pivotal role played by witch-doctors in witchcraft accusations. Their assertions, especially when backed by other material evidence (such as the panther hair), are readily accepted by the Courts in the East Province. Such evidence forms the basis of conviction in most cases. For example, the court readily accepted Baba's claim that he was attacked by Medang when the latter was not even present at the palaver. It never crossed the court's mind to think that the malaise might have resulted from the strenuous counter-witchcraft activities. If he had defeated Medang during their fight, why did the latter not suffer any consequence therefrom? Maybe, by asking these questions, I might also be accused of falling into the trap of Cartesian rationalism in a domain governed by paranormal phenomena. Yet not to ask these questions would be to assume that all witch-doctors are genuine and act in good faith. And that their dicta in most cases, constitute conclusive evidence. That is not always the case. As I shall seek to establish later on (in section 1 4.5.) some witch-doctors, if not most, are

just quacks. Their competence is relative and depends on the apparent gain to be obtained from making or not making such accusations. For the courts to accept their evidence without critical scrutiny might be very dangerous for the rights of the accused.

In these cases, the absence of any clear patterns renders the task of the judge very unenviable. He has to render justice according to the law. Yet, the basis of any conviction in any of these cases is based on "belief" and the constellation of local circumstances. If the community and their witch-doctor drag a devious character to the courts, they would want to see that justice was being done. Whether the justice is according to the law or according to local aspirations, is the dilemma of the judge - the symbol of the state and its justice. It is not surprising that the courts look up to witch-doctors for their expertise. This is because the local communities believe "to their very bones" in the existence of witchcraft. And their witch-doctors help them resolve these enigmas. Hence, why should the courts not share in such expert advice? An outsider from a community where such beliefs are on the wane would be surprised to see that the courts in this area have degenerated into village palavers, at which those who have knowledge of the mystical world can redefine societal values. It might not be far-fetched to claim that this reliance on the evidence of witch-doctors by these judges, who claim the "Africanity" of such beliefs, is tantamount to rendering "palm-tree " justice - justice rendered not by strict reliance on Cartesian logic, but rather inspired by the personal conviction that the harm alleged has been done. Did a judge in Bertoua not claim that appreciation of such phenomena depended on "*l'intime conviction du juge?*".

1.4.2. Jealousy and Hatred.

Witchcraft conceptions which are based on "levelling tendencies" always result in acts of jealousy and hatred. A person is bewitched and killed because he is becoming too popular or rich or both. The weak and under-privileged members of the family or community employ their occult powers to destroy the more powerful, more enterprising and more successful members of their community. It is within this framework that the urban elites and the so-called "evolués" avoid contacts with their places of origin because they fear the levelling forces of the villages. Working among the Maka of South Eastern Cameroon, Geschiere, [1988a:43] observed that

"(t)he 'evolués' ... emphasised that they had to keep their distance from the village. Any Maka must be aware of the fearsome impact of the levelling forces operating in the village. As several 'evolués' complained, 'we are often afraid that we shall be eaten by these villages'".

My own research findings among the centralized societies of the North West Province show that these levelling forces of witchcraft are seen mainly among kin members. There is a greater acceptance of accumulation of wealth and social differentiation. Hence, where levelling tendencies exist, they are usually crystallized in accusations of mystical cannibalism. This is in sharp contrast with witchcraft conceptions that are based on accumulation of wealth. That is when people acquire unexplained wealth and are therefore suspected of having enlisted occult powers to enrich themselves. Under this conception, the bewitched person is said to have been enslaved - a form of zombism. People who are enslaved die in this our world, yet continue to toil for their master in the hereafter, and the proceeds of their labour accrue to their master, the man who suddenly becomes rich. This sort of social differentiation through mystical accumulation, is not based on jealousy and hatred. Rather you are expected to offer your loved ones and close associates.

On the other hand, the witchcraft files in Bertoua had a good number of cases based on jealousy and hatred. Of the eight files which I classified in this group, three were genuine love affairs which unfortunately ended up in the courts. For example, Judgment No. 372/COR of January 4, 1984, concerns a suitor who bought a "love powder" from a *Haoussa Marabout* with the intention of seducing the woman he loved but who was giving herself to another. She failed to reciprocate to his advances and this led him to become really jealous. He then hired another woman quite close to this lady and instructed her to put the love powder into food and serve it, so that his advances would be reciprocated in full. Out of fear that this might be a poison, the woman who was supposed to carry out the act instead handed over the love powder to the gendarmes - hence the witchcraft accusations. In passing judgment, the Court of First Instance reasoned as follows:

"Considering that the defendant employed a product whose real effects he did not know with the stated intention that he intended to win back Mbezele Ndi Michilin's love, which product could be harmful to her body;

Considering that the introduction of this product - the charm intended for the preparation of the food - gave rise to the practice of witchcraft, magic and divination punishable by Sections 251 and 74 of the Penal Code;

Also, considering the fact that this is his first offence, he is therefore entitled to benefit from extenuating circumstances; convicts the defendant for the practice of witchcraft, sentences him to one year's imprisonment with three years' suspended sentence". [my translation].

It is strange that the court classified this accusation under witchcraft practices. The powder tendered as evidence was not even sent for analysis, to find out whether it was toxic when taken internally, and, even if it was toxic, it would not have been a case of witchcraft which inherently involves occult practices. Placing a toxic substance in food liable to cause bodily harm is provided for under articles 277 and 278 of the Penal Code. This defendant gave full testimony of his love for this woman and explained how this was just one of his strategies to win her love. The prosecution made no attempt to arraign and charge the *Haoussa Marabout* who provided the powder as an accessory. Does the law not include within this category, those who participate "whether by taking of a reward or otherwise"? (S. 251 of the Penal Code). Strangely enough, the presence of the *marabout* was not deemed necessary by the court. As a consequence of this poor classification, the accused was convicted and sentenced to one year's imprisonment and three years' suspended sentence.

The Court of Appeal in Judgment No. 203/COR of May 22, 1984, upheld the sentence but quashed the three years' suspended sentence. That this case was tried under the offence of witchcraft shows the obsession of the courts in the East Province to combat witchcraft practices in whatever form they manifest themselves. It further highlights the seriousness with which the witchcraft menace is perceived. Since it can take varying forms, anything that resembles witchcraft should be dealt with, hence the laxity in matters of classification.

The other two 'love affair' cases differ substantially from the above, since both involve the infliction of temporary impotence on the man by a jealous woman. In the first case, *Ministère Public & Mvondo c/ N. Jacqueline*⁴, the impotence was inflicted by the girl friend / concubine so that the man could no longer enjoy sexual intercourse with women apart from her. In this case a police constable named Mvondo had an administrative transfer to Batouri and decided to leave his wife and children back in his village of origin. While living single in Batouri, he fell in love with Jacqueline and they lived ostensibly as husband and wife. After four months of such

⁴ Arrêt No. 355/COR of March 22, 1984, Bertoua Court of Appeal.

cohabitation, the policeman, Mvondo, announced that he intended to bring his family to Batouri. This sparked off a serious quarrel, the concubine expressing her exclusive possessive rights over the man's company. The scene of bewitchment a few days after the quarrel is described in very vivid language in the judgment:

"At 5.00 a.m. on January 27, 1984, N. Jacqueline entered M. Mvondo's room, took up his hand and struck her genital parts saying : 'I shall show you that I am a Kaka woman; have you not seen the policeman whose legs are paralysed?'" [my translation].

Later on that same day, the policeman attempted to make love to another woman, but realised that he had become impotent. He made numerous subsequently attempts, including with his own wife, but to no avail. He had become impotent. On advice of his colleagues in the office, he went back to the defendant, Jacqueline, and tried making love to her, and it worked - "il le fait avec le plus de facilité". This temporary impotence vis-à-vis other women, including his own wife, led Mvondo to take up lodgings with Jacqueline for a week during February 1984. He could not bear the humiliation any further, so he caused Jacqueline to be arrested and charged with witchcraft practices under sections 251 and 74 of the Penal Code.

On the question of proof, the court relied heavily on circumstantial evidence. For example, the court concluded that:

"Considering the fact that Mvondo could not make love to another woman except N. Jacqueline, especially in an area where many women are at his disposal;

Considering the fact that Kadey Division has the notorious reputation of women rendering men impotent by using traditional medicines;

Considering the fact that love charms are in rampant use in this Division;

Holds that the mystery in this case lies in the fact that whenever Mvondo wanted to have illicit sexual relations with his concubine, Jacqueline, he regained his virility".

(my translation)

Based on this reasoning, the court established what it claimed was a cause and effect relationship between the policeman's impotence and the threats issued in the house, coupled with the fact that at one point, the defendant urinated in her lover's room. How else could the court explain this temporary impotence if not for the fact that it was caused by her. If the impotence was natural, why should the plaintiff only entertain sexual relations with the accused

to the exclusion of all other women? The court further relied on circumstantial evidence which pointed to the fact that jealous women in this locality had a tendency to render men impotent when intimate relations were about to come to an end. How would our "reasonable man" in the afore-mentioned colonial cases have reacted here? Would the colonial courts have considered this as insane delusions? Or was the Kadéy Court of First Instance correct in taking account of local beliefs and behavioural patterns in its quest for legal proof?

On the question of legal proof in witchcraft cases, the court had this to say:

"Considering the fact that witchcraft cannot be established scientifically;

Considering the fact that modern medicine was ineffective in this case;

Holds that only the *firm conviction of the judge* can guide him during the submissions in court..." (my translation)

The court decided that on the totality of the evidence tendered, a genuine case had been established, and the accused was convicted. Exemplary punishment was meted out for what the court considered as egoistic and unwarrantable behaviour based on jealousy. The defendant was sentenced to 8 years imprisonment and a fine of CFA 100,000 frs. She was further ordered to pay damages of 300,000 frs. CFA. to the plaintiff. The Court of Appeal in Judgment No. 252/COR of August 7, 1984 upheld the judgment of the lower court in its entirety.

With regards to the question of proof, the magistrate did not mince his words when he claimed that witchcraft manifestations are scientifically unprovable. Hence the only guide is the judge's conscience. It is here submitted that this subjective notion should be based on some objective criteria that can be drawn from an appreciation of all the evidence. For example in this case, the court took into consideration such aspects as the man's virility vis-à-vis the defendant only; her earlier threat that she will prove to him that she was a Kaka woman; and as reference of her prowess, she referred to the policeman with paralysed legs as a victim of her witchcraft. When all these factors are put together in their local context, there is overwhelming evidence against the woman. Here, the test of the reasonable man as a standard of proof is that of the reasonable man in Kaka land, not the reasonable man on the clapham omnibus. A reasonable man in Kaka land would see that justice has been done.

The other case of jealousy also resulted in impotence when the first wife rendered her husband impotent and left the home because the husband had decided to take in a second wife. She promised the new couple hell for the next ten years or until this second wife abandoned the matrimonial home. She went around bragging of her deeds. When the action came to court, evidence of her statements were tendered by witnesses and used as elements of proof in convicting her. The male-dominated court sentenced her to five years' imprisonment with CFA 2,000,000 frs.in damages to the plaintiff. The Court of Appeal upheld the judgment of the lower court.

On the question of proof in this case, one can simply conclude that the court interpreted her boasting to third parties as tantamount to a confession. For the only evidence available was that of the plaintiff and "hear-say" evidence by the witnesses. There was nothing concrete or physical to pin her down on the alleged witchcraft practices. This reinforces our claim that judges rely solely on their conscience to ascertain that the alleged reprehensible acts have been committed. These cases are proven mostly by circumstantial evidence. These two cases further highlight how difficult and elusive it is to obtain proof in cases of witchcraft. In the first place the manifestations themselves are extremely vague and diffuse. Coming up then with rational patterns for establishing proof is also very elusive. Each case is decided on its own merits. In these two cases, it was circumstantial evidence not the testimony of witch-doctors that formed the basis of proof.

In the remaining five cases, also based on jealousy and hatred, the court actions arose from quarrels among non-kin members which gave rise to a show of strength with the contestants employing occult forces. In the five cases, two deaths occurred. In one of the two cases, the Court of Appeal⁵ overturned the judgment of the lower court because the only incriminating evidence was tendered by the deceased. In this case, a 21 year old boy, in bouts of sudden pain, averred that he had been attacked by the two accused persons and only they could treat him from his malaise. The young man subsequently died at the dispensary without such treatment having been administered. The defendants flatly denied having any connection with the deceased boy.

⁵ Arrêt No. 152/COR of March 6, 1984, Bertoua Court of Appeal.

On the question of proof, it is instructive to note that the witchcraft accusations were neither initiated by a witch-doctor nor was any witch-doctor called as a witness. Even though a witch-doctor had earlier averred in the neighbourhood that the victim would die if he was not treated by the accused persons, he was never called up to give evidence in court. This out-of-court pronouncement of the witch-doctor, coupled with the evidence of the deceased, probably prompted the Court of First Instance to convict and sentence the accused persons. Maybe, if the witch-doctor had initiated the witchcraft accusations and also given evidence in court, he might have secured a firmer conviction.

In the second case⁶ involving the death of a 10-year old boy, his rival, a 13-year old confessed to their occult competition and his responsibility in the death of his rival. The witchcraft attack in this case consisted simply in spitting saliva into his rival's eye by simply tricking him to get something out of his (the defendant's) own eye. The deceased, by trying to examine his friend's eye, instead had saliva spat into his own eye. That night there was a grotesque swelling of the face. On advice of a witch-doctor that only the defendant could treat his ailing rival with this monstrously swollen face, the defendant adamantly refused to intervene thereby allowing his rival to die after six months of agony, consulting both modern and traditional medicine. I should like to note in passing that the initial dispute was between the parents of the two boys, the father of the defendant promising death to the entire family of the deceased boy.

The evidence of the witch-doctor and the confession of the 13-year boy were sufficient to establish proof. Since the boy was a minor and thus not criminally liable, he was simply let off with the promise to stop all witchcraft practices.⁷ His father was simply ordered to pay damages of 200,000 frs CFA. to the bereaved family. The court of appeal upheld this judgment.

In the other three cases⁸ in this group, evidence of witch-doctors was extremely relevant in providing the basic information for founding witchcraft accusations. In these cases the court relied on exhibits such as "*les brindelles de bois*" or "*les moustaches de panthère*" as

⁶ Arrêt No. 158/COR of April 9, 1985, Bertoua Court of Appeal.

⁷ It is interesting that the court did not deem it necessary to send this deviant lad to one of the Borstal institutes in the country where young convicts are sent for re-education. These centres may not have the appropriate know-how to handle deviant behaviour bordering on paranormal phenomena such as witchcraft.

⁸ Arrêt No. 98/Cor of January 11, 1983 C.A.; Arrêt No. 121/COR of March 22, 1983 C.A.; Arrêt No. 267/COR of June 11, 1983 C.A.

incriminating evidence on charges of witchcraft. However, in one of these cases, the judge on appeal⁹ overturned the judgment of the lower court even though evidence was tendered by a renowned witch-doctor who had secured the conviction of many witches. He was not just convinced. This further highlights the element of *l'intime conviction du juge* which must be taken into serious consideration when assessing whether there is any shift of policy towards witchcraft convictions in the entire country. This particular judge showed more scepticism towards evidence tendered solely by witch-doctors. On the other hand, he readily convicted when such evidence was corroborated by a confession or other circumstantial evidence.

The preponderant trend in this section has been that where the witch-doctors give evidence and extract witchcraft material as exhibits, a conviction is usually secured. This is further enhanced when the accused person confesses. There is no evidence that anybody who has confessed to witchcraft practices has been set free. Hence a confession is equal to a conviction. Furthermore, reliance on circumstantial evidence has been at the base of most of the convictions. This demonstrates the relative discretion enjoyed by witchcraft judges, even in state courts. Their interpretation of section 251 of the Penal Code therefore depends on *l'intime conviction du juge*. The fundamental quest in these matters now is to provide for some objective criteria which should guide the judges in the use of their discretion. How 'discretionable' should the judge's discretion be?

1.4.3. The Quest For Power.

Some of the ambivalence associated with witchcraft is its implications with power relations in a given community. People in authority can enlist witchcraft forces to enhance their grip on power or ensure the mastery of their various specialties. Hence, to succeed in highly competitive activities such as football (or any other aspect of sports), war, education, etc., it is not uncommon to enlist the use of occult powers. Geschiere [1988:46] clearly identified the *djambé idjouga* among the Maka as the magic of command which is associated with ascendancy in village palavers. The person who dominates village palavers by his oratory and command of the issues can also lay claim to leadership during decision-making in the village. The person with a powerful *djambé idjouga* will not hesitate to use his occult powers to dominate village palavers. Possession of such mystical powers is therefore highly relevant in the power equation in this

⁹ Arrêt 121/COR of March 22, 1983, Bertoua Court of Appeal.

area. The question that arises here is under what circumstances would the manipulation of occult powers in quest of socio-political power give rise to reprehensible conduct punishable under the witchcraft law?

The data available from the Bertoua witchcraft files reveal that only two cases came up on appeal due to the quest for power. In the first case, *The People v. Mbele André & another* (1981), the action was initiated by the village chief of Petit Bello in Bétaré Oya (East Province), who claimed that children in his village were dying without visible signs of illness. A foreign witch-doctor was hired to preside over the village witchcraft palaver. When he arrived, he instantly accused Mbele André as the man responsible for the deaths and malaise in the village. The strange but interesting point about this accusation is that it was made against another witch-doctor, the accused himself being a local witch-doctor. Rather than fight back, this witch-doctor instantly confessed thus :

"I have killed my father and son to augment my healing powers. Subsequently, I gave my left eye in witchcraft ... My healing powers work well when I kill somebody". (my translation)

His frank confession earned him a conviction on witchcraft charges, a sentence of ten years' imprisonment and a fine of CFA 5,000frs.

This case further highlights the contradictions inherent in witchcraft practices. The witch-doctor who is the counter-witchcraft expert also uses the same witchcraft manoeuvres to kill near relatives and associates in order to augment his powers. He operates in a dual antinomical capacity : saving life as a witch-doctor and destroying life as a witch. Furthermore, if this witch-doctor had not ended up in jail, his overt claim to power consequent to this confession should have augmented his business as a powerful witch-doctor in the community, thereby enhancing his respectability. This case proves that power can be rejuvenated or reactivated by offering others in witchcraft or by maiming organs of the beneficiary's body - as was the case with his blind left eye. Here again, the witchcraft accusation was initiated by a witch-doctor before the confession was obtained.

The second case¹⁰ concerned the scramble for village headmanship and this led to death threats. In this case, the plaintiff laid claim to the succession of his father without an election. The 79-year old Bongo Charles issued the death threats because he wanted his son-in-law to be the next chief of the Canton. To cause the death of the plaintiff, the defendant consulted a witch-doctor, hired him to prepare bad medicine, collected the same and buried it in the village so that those who are against him would eventually die. The plaintiff claimed he took ill because of this bad medicine and he now feared for his life. The witch-doctor who prepared the bad medicine gave evidence claiming that his medicine was against anybody falsely accusing Bongo Charles of being a witch. And since the plaintiff was one of those propagating Bongo's name in the village as a witch, his bad medicine was now attacking him. The same witch-doctor was brought to unearth the said bad medicine in the presence of gendarmes.

On the basis of this evidence, Bongo Charles was convicted on charges of witchcraft and sentenced to three years' imprisonment and CFA 50,000 frs. damages. This conviction was upheld by the Court of Appeal, but the sentence was reduced to two years' imprisonment. It is very strange that the witch-doctor who prepared the bad medicine was not even charged as an accessory. Article 251 clearly stipulates that those who use occult powers to do harm, even if they are paid for their activities, violate the law. How can the courts claim they are fighting witchcraft when those at the base of the practice (the hired killers) are allowed to go scot free? The witch-doctor who prepares the poison or the bad medicine talks overtly about his prowess without being charged while the man without occult powers who merely hires the services of another is convicted and sentenced. Who poses a more dangerous threat to society, the former or the latter? It seems that the courts in East Province value their expert witch-doctors to the extent that they would not want to be seen as fighting them. The witch-doctors seem to have been co-opted into the machinery that is fighting witchcraft. Unfortunately, the courts do not realise that the same witch-doctors are basically witches - hence part of the material to be combatted. Alas, witch-doctors are riding high with the tides as part of counter-witchcraft machinery of the State! At least in the East Province.

¹⁰ Arrêt No. 151/COR of March 6, 1984, Bertoua Court of Appeal.

1.4.4. Mystical Cannibalism and Irresistible Impulse.

Mystical cannibalism seems to be one of the oldest forms of witchcraft practice whereby people are eaten on cannibalistic sabbaths. Urban workers who avoid going to their areas of origin on holidays fear mostly this aspect of witchcraft - that they will be "eaten". According to some vivid accounts by some informants, witches who partake in mystical cannibalism are organised in witchcraft fraternities. And in accordance with the principle of reciprocity, members take turns in offering their close ones to be "eaten" during their night-time witchcraft orgies. Once a new member is initiated into one of the fraternities, his admission is consummated by his offering a close relation for the cannibalistic sabbaths.

The important point to note is that such witchcraft practices are restricted within close associates, witches recruiting their victims mainly from their kin group. The tie of kinship is therefore the essential link that poses the threat. The danger comes from one's immediate entourage. The threat is from within. Mystical cannibalism is therefore at the base of village levelling forces, be it in the highly centralized societies of the North-West Province or among the Maka of the East Province. Geschiere [1987a:46] acknowledges this fact thus:

"To the Maka, witchcraft is particularly shocking because it comes from the intimacy of the 'house'. The witch betrays the most sacred bond in Maka society - the bond of kinship. They have special powers over their relatives so that they can deliver them to their fellow witches."

Since such witchcraft accusations are within the family, they are usually settled within family circles. It is very rare to find a person dragging his close relatives to court on accusations of witchcraft. It is therefore very striking that accusations concerning mystical cannibalism are now in the courts. Does this mean that recruitment of victims to be "eaten" now transcends family ties? Can a stranger now be "eaten"? Or is there a total break-down of family authority over its members? The Bertoua witchcraft files provide some clues to these intriguing questions.

The important observation here is that, of the three cases classified in this group, all the accused parties confessed. These confessions seemed to have been given voluntarily. For example, in

Ministère Public c/ Narko Hikure dit 'Samba' (April 12, 1981), during witchcraft accusations at a village palaver, the accused immediately confessed in these terms :

"That I killed the child is the work of the devil. I am certain that I killed the child using witchcraft. This is the work of Satan. The reason is because I was jealous ... I admit the charges levied against me." (my translation)

On a question on how the occult powers operate in him, he further said

"At night, we transform ourselves into *Taon* and kill people. I acquired this power from my father during my infancy. I swallowed it and it is now situated in my stomach. It is only at night that I transform myself into a *Taon*". (my translation)

The accused person was convicted on the basis of his confession and sentenced to ten years' imprisonment. One wonders why such confessions are given so generously? Is this because the accused person is expecting some clemency in return for his co-operation? What are the real motives behind these confessions? There is no evidence that by confessing the defendant gets mitigating circumstances from the courts. For some classes of people, such as the local nobility, confessions as to the possession of occult powers might tend to enhance the social standing, but not a confession to the effect that they use such powers for killing others. This would rather give rise to social ostracism. Then why do people still make this type of confessions when they know that it would earn them a jail sentence? Within the traditional society of this area, when someone comes forward and hands over witchcraft material or confesses during a public palaver, the general tendency is for the presiding witch-doctor to neutralize the occult powers by some form of exorcism, and measures are taken to re-socialize the deviant person. He is not ostracized or scorned. Such public confessions to mystical cannibalism are interpreted as a sign of remorse and a new search for harmonious co-existence. The public palaver is a process by which the community lets off collective steam after a period of destabilizing occurrences, and then embarks on a fresh start. Social harmony is re-established.

On the other hand, when the same confession is taken to court, this earns the confessing party a harsh jail sentence and fines. The court immediately interpretes this confession as conclusive evidence of witchcraft practices which must be dealt with squarely. The court is insensitive to the ulterior motives of the confessing party, who is simply expressing his remorse and asking for resocialisation. If the traditional patterns of authority were effective and reliable, cases based

on such genuine confessions would not be taken to court, but sorted out within the local power framework. The manner of appreciation of confessions within the traditional milieu is at variance with the modern State courts.

The second file dealing with irresistible impulse depicts the helplessness and addiction of those who are involved in mystical cannibalism. In *Affaire Madjong Bénait*¹¹ witchcraft accusations were initiated by a witch-doctor against the defendant for causing the death of a certain Doko André after a brief illness. Consequent to this accusation, the witch confessed, claiming that he and Manga Emmanuel (who had now fled from the area) killed the deceased because the latter had refused to offer them beer. He demanded pardon, and promised never to kill again. In his confession, he gave some valuable insides on how his witchcraft operates. This is what he said:

"At night, witchcraft surges into my mouth and I place it on my victim, sucking the blood from his heart thus rendering it useless. This is the technique we used to kill Doko André". (my translation).

When this vampiric urge is experienced, the defendant is irresistibly led to kill by witchcraft. This confession was apparently made with the intention that such malefic forces would be neutralized by the witch-doctor. When it dawned on the accused that his confession had earned him 10 years' imprisonment and CFA 100,000 frs. damages, he immediately retracted his confession and appealed. In withdrawing his confession, he claimed that it was extorted from him by the gendarmes. This retraction was ignored by the Court of Appeal¹² which upheld the judgment of the lower court.

This case reinforces the earlier claim that the purposes of a confession are misinterpreted by the courts, which see in a confessing party, a genuine threat to society who must at all cost be sent to jail. It is also extremely difficult to get a clear picture of how interrogations are conducted by the gendarmes. No law officer ever admits to any beatings or torture. Yet, some witches have raised such claims during trials. These have been ignored by the courts.

¹¹ Arrêt No. 226/COR du 12 Janvier 1984, Bertoua Court of Appeal.

¹² Arrêt No. 259/COR du 28 Août 1984, Bertoua Court of Appeal.

On the question why accusations of mystical cannibalism go to the courts, it should be noted that in the above case, it was the son of the deceased who took the action to court. Those who killed his father were not relatives but merely close associates. At this point, the boy had three possible options : to enlist occult forces (by hiring a witch-doctor if he did not possess the required occult powers himself) to carry out a vendetta against the accused; to take the matter to the forces of law and order (gendarmes); or to do nothing. He opted to take the matter to gendarmes and that is why the case came to court.

In the third case in this category, the four accused witches were members of a witchcraft fraternity. They bewitched the son of one of their members. And before the victim died, he accused the mother of having offered him to be "eaten" by this fraternity. When the boy died, the village chief took the matter to court after a village palaver had been held as a result of the boy's declarations on his death bed. The case clearly shows that the village chief never had any viable counter-witchcraft mechanism to handle witchcraft accusations. It is important to note that, during the village palaver, three of the accused witches prayed the presiding witch-doctor to destroy their witchcraft powers, since they could not resist the impulse for mystical cannibalism. This was never done. They were instead taken to the gendarmes and their confessions used as evidence against them. The poor peasants were expecting their malefic powers to be neutralized so that they could live peacefully thereafter in their community, but they were dragged to court and handed 5 years' jail sentences, plus fines.

These cases show one prominent trend, that although witchcraft accusations are first pronounced by a witch-doctor or the victim of witchcraft attacks, most of the cases are reported to the forces of law and order, either by the village chief or the local party leader. There is a clear alliance between the village chief and the local party leader on the one side, and the forces of law and order on the other. The village chief and party leaders act more like representatives of central administration within their communities. They do not act as the spokes-persons of their communities in these matters to the State. The circuits flow in one direction, from the State down to the people with no reverse flow back to the State. The witchcraft records show no account of any village chief, let alone party leader, who had intervened on behalf of an accused member of his community when the latter was picked up by the gendarmes. With that zeal to prove their loyalty to State institutions, it is not surprising that most public sessions of witchcraft accusations end up in the courts. The real power base of these local leaders is the State.

1.4.5. Mal-Practice by Witch-Doctor.

If witch-doctors are the centre piece in witchcraft accusations, why are witchcraft actions brought against them? Which type of accusations are levied against them? Only three cases are reported whereby witch-doctors were accused of malpractices. Of the three cases, two were acquitted and discharged. The facts of these two cases will clearly illuminate the respect accorded witch-doctors in the Bertoua courts.

In the first case¹³ a female witch-doctor was accused of causing the death of a young woman brought to her for treatment. When the patient was brought to her, she made this strange and equivocal statement : "If I kill people, you shall die, but if I do not kill, you shall live"¹⁴ That same night the patient died. In their bout of anger, the parents of the deceased immediately accused the witch-doctor for being responsible for her death. To confirm their suspicion, two non-indigenous witch-doctors were consulted who unanimously accused this woman for being responsible for the death. The whole village was rightened and they called on their municipal counsellor to take the matter to the gendarmes. At the brigade, she admitted having spoken the afore-quoted words, she also admitted to being a witch and a witch-doctor. But she disclaimed responsibility for the death, and rather accused another person for it. The Court of First Instance dismissed the action on the ground that the facts alleged had not been established. The degree of proof was insufficient.

Judging from the other cases in the locality, this decision was out of line with the prevailing trend. In other cases, evidence of witch-doctors alone was sufficient to convict witches. Here, two neutral witch-doctors confirmed that she was guilty; she admitted to being a witch, but only shifted the responsibility to another, and the court acquitted her. The embarrassed state counsel appealed but his appeal was disallowed. What can one make of this case ? That special evidence is needed to convict witch-doctors of witchcraft ?

¹³Ministère Public c/ Boula Esther 1984, Bertoua Court of Appeal.

¹⁴ In its original version in French it reads as follows : "Si je tue les gens, tu mourras, mais si je ne tue pas, tu vivras".

In the second case¹⁵ another female witch-doctor was accused of having caused the death of her husband by planting bad medicine in the compound. This caused the death of her husband and father to the plaintiffs. Although this woman was a witch-doctor, she hired another witch-doctor to prepare the bad medicine since the entire family was suffering from persistent ailments. The hired witch-doctor buried a life cat, an egg and some herbal concoctions for the protection of this family and was paid CFA 30,000 frs. Forty-five days later, the husband of the witch-doctor suddenly became ill and died. The two sons of the deceased immediately accused their step mother for causing this death by burying the bad medicine. They therefore took action by *citation directe* against her and the hired witch-doctor. She in particular was accused of charlatanism or connivance to kill the deceased.

Here again, the court dismissed the action on the grounds that since the sons of the deceased knew that their father and his wife had buried the bad medicine for protection, why did they not report the matter then. And that they were only reporting it now because their father was dead. Moreover, the said protection was against evil spirits, not against old age and disease, the court reasoned. From the facts, the case was held not to have been proven and the defendants acquitted and discharged.

One of the intended objectives of this action was to cause the bad medicine to be unearthed. The fear of the plaintiffs was that the bad medicine would wipe out the entire family. This was not ordered by the court. Again the plaintiffs wanted to get back their father's property from the step-mother, but to no avail. Their action failed on all fronts.

Can one be justified in claiming that the courts in this area are more sympathetic to witch-doctors? To judge from the Bertoua files, there is a marked departure from colonial practice, when witch-doctors were easily convicted on charges of defamation for having uttered witchcraft accusations during public palavers. These accusations now form the basis of proof in actions against witchcraft practices. Not even one case among the files to which I had access was brought against a witch-doctor for defamation due to witchcraft accusations. The evidence available rather shows that witch-doctors have emerged as the centre piece in combatting witchcraft in the East. They provide the vital information for securing a conviction.

¹⁵ Arrêt No. 1068/COR du 8 Septembre 1982, Bertoua Court of Appeal

Are they all trustworthy ? The last case in this category is one of gross mal-practice by a witch-doctor and his assistants in an attempt to extract a conviction. A peasant, accused of witchcraft in his village, denied the charge. The village chief sent him, accompanied by two emissaries, to the witch-doctor, Gberi Henri, for verification. Gberi claimed that the accused was a witch. This, he denied adamantly. Gberi and his apprentices therefore decided to extract the confession by beating him up with an electric cord. This did not work, and the old man stood his ground. Gberi now got a pin and started pricking the man all over his body, claiming that he was looking for the location of the witchcraft in his body. After having pricked the whole body, he rubbed the skin with freshly ground pepper. Twenty minutes later, the old man died without confessing. Overtaken by fright, Gberi ground 20 tablets of nivaquine and attempted to force them down the victim's throat, but it was too late. The deceased's body could no longer swallow. Gberi then threatened the two emissaries saying that they should cooperate with him or face the consequences. After some time, he went to the gendarmes and told his story. He expected them to believe that the accused had died in his premises because he was a witch and refused to confess. But that was not the case. Charged under the witchcraft section, he and his assistants were convicted; he was sentenced to 15 years and the assistants to 10 years each. It should be pointed out that he had been a witch-doctor only for 18 months.

This case shows how some of these confessions are sometimes obtained. Torture, or the threat thereof, can cause many people to confess. It is therefore dangerous to rely totally on witch-doctors who exploit the "mass power" at their disposal during the village palavers to make public witchcraft accusations. During such public witchcraft palavers, it might be unwise not to confess when an excited and anxious crowd expects you to. Hence, some accused persons might confess just out of fear for hostile mob action. Playing to the crowd and drawing support from the same crowd are part of the stock in trade of witch-doctors. One should always be sceptical when witchcraft accusations are uncorroborated by material exhibits or other circumstantial evidence. How to determine whether a witch-doctor's accusations or the witches confessions are genuine depends only on the judge, and this is a question of evidence. The ultimate guide, alas, is *"l'intime conviction du juge"*.

1.5. Conclusion.

The Bertoua witchcraft cases represent a turning point in the history of witchcraft convictions by the modern courts. These cases represent a marked departure from long standing judicial

precedent whereby witches were formerly set free for lack of concrete evidence and witch-doctors prosecuted and convicted for defamation when they accused people of witchcraft. The roles seem now to have been reversed. The courts in the East Province are prepared to convict witches when one or more of the following circumstances are present:

- when witchcraft accusations are initiated and supported by the expert evidence of the witch-doctors;
- when witchcraft accusations are followed by a confession of the accused;
- when witchcraft accusations are supported by material exhibits such as "*les brindelles de bois*" or "*les moustaches de panthère*";
- and finally, when witchcraft accusations are supported by overwhelming circumstantial evidence, including 'hear-say' evidence.

When any of these pieces of evidence is tendered, the probability is that the courts in the East Province will convict the defendant. This remarkable shift in establishing proof stems from the fact that the courts in the East are now presided over by Cameroonian judges, most of whom believe in witchcraft itself. They react sharply when confronted with cases which contain elements of witchcraft, a force most of them fear. During fieldwork in the East, when I manifested my scepticism towards this manner of establishing proof, a State Counsel in Bertoua sharply retorted that:

"We are all Africans. We should not pretend that witchcraft does not exist. It is very much alive here in the East Province. We cannot allow all these primitive villagers to threaten government agents who are transferred to work here in the East. It is witchcraft that is drawing back development in this province."

This statement says it all. This missionary fervour in his perception of his functions is very similar to Joseph Kipling's "whiteman's burden" - the "civilising mission" of the early colonialists and missionaries. The only difference is that the Cameroonian judge applied the standard of the reasonable man in the defendant's community. The question now is, does the reasonable man in the Bertoua region believe in the existence of witchcraft and other paranormal phenomena? And the answer is an overwhelming "Yes". This accounts for the numerous convictions of witches during witchcraft trials. The judge has as his ultimate guide his conscience - *l'intime conviction du juge*. When he is satisfied that a good case has been established, he will not hesitate to convict the defendant.

The unfortunate part of these convictions and sentences is that they do not strike at the foundation of witchcraft itself. The problem is not handled at its source. How do people acquire occult powers and why do they use such powers to do harm? Can such forces, if they really do exist, not be channelled into more productive activities? These questions are not within the purview of this study. The courts only attack the phenomenon when harm has been done to the community *and* is reported to the forces of law and order. The consequent sanctions meted out do not in any manner ensure the rehabilitation of the witch after a jail sentence. If anything, they only create more hard feelings, good material for further witchcraft attacks when the witch leaves prison. The legal machinery, without more, is obviously not the most appropriate mechanism for combatting witchcraft.

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