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THE PRAXIS OF CHURCH AND STATE IN THE (UNDER)DEVELOPMENT OF WOMEN'S RELIGION FROM FRANCE TO THE NEW WORLD

BARBARA L. BERNIER*

"There is no penalty cruel enough to punish the evil of witches
... since all their wickedness, blasphemies and all their designs
rise up against the majesty of God to offend Him in a thousand
ways."¹

INTRODUCTION

I was surprised to learn of the insurrection of black, white and colored women in New Orleans in the late eighteenth and nineteenth centuries.² My initial research indicated that witchcraft was alive and well in Europe during the sixteenth and seventeenth centuries, but it appeared to be lost as Europeans crossed the Atlantic. Upon further inquiry, I discovered that in certain parts of France women accused of witchcraft were often banished, rather than burned at the stake.³ These banished women often arrived in San Domingue, currently known as Haiti, as indentured servants.⁴

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1. JONATHAN L. PEARL, *THE CRIME OF CRIMES: DEMONOLOGY AND POLITICS IN FRANCE, 1560-1620*, at 121 (1999) (quoting JEAN BODIN, *ON THE DEMON-MANIA OF WITCHES 1580*, at 204 (Jonathan L. Pearl & Randy Scott eds. & trans., 1995)).

2. See William H. Seymour, *A Voodoo Story*, *TIMES PICAYUNE* (New Orleans), Aug. 14, 1806, at 14. This newspaper article discusses a meeting of white and black women engaged in a voodoo ritual with a woman named Celeste as the main character. *Id.* The incorporation of the French influence on witchcraft in New Orleans is evident from the story's conclusion: On the banks of the Seine, in France, on a bright summer day, might be seen, in company with a holy sister, a pale, wan woman; as she walks along she mutters incoherent words; at times a sad smile pervades her countenance, her actions strange, all betray a mind diseased, a body from whence all reason has forever flown. Within the cloistered walls wherein she has resided for years, only to the mother superior is known the melancholy fate of her who at times answers to the name of Celeste.

Id.

3. BRIAN P. LEVACK, *THE WITCH-HUNT IN EARLY MODERN EUROPE* 83-84 (1987).

4. LAËNNEC HURBON, *VOODOO: SEARCH FOR THE SPIRIT* 19 (Lory Frankel trans., 1995) (noting that "[i]n order to meet the pressing demands for labor, the company even imported impoverished whites, called *engagés*, who were treated like slaves for thirty-six months").

The connection between France and Haiti is reinforced by comparing the names given to witches in these areas. A common French term for witches in some regions was *vaudois*.⁵ This is very similar to the Haitian terms voodoo and *voodooiennes*. The Haitian revolution unleashed both slaves and indentured servants onto the shores of North America, specifically in Louisiana.⁶ New Orleans is particularly interesting because the slaves from San Domingue brought the concept of voodoo with them, which the New Orleans culture incorporated.⁷ Furthermore, the French *Code Noir*, which was enacted in Louisiana, prescribed a different approach to the legal rights and responsibilities of both slaves and slave owners than was typical in the colonies.⁸ The legal system in New Orleans provided the opportunity for interaction between whites and people of color.⁹ This in turn permitted women of all colors to unite to practice the woman-based religion known as witchcraft. This Article presents the historical roots of witchcraft in France, the emergence of voodoo and witchcraft in Louisiana and the interconnection of white women and women of color who practiced this religion, which conflicted with patriarchal norms grounded in law and religion.

This Article consists of three components. Part I looks to the historical significance of witchcraft in France. Part II discusses the interconnection of legal slavery, *plaçage* and witchcraft in the state of Louisiana and Part III discusses contemporary social and legal

5. E. WILLIAM MONTER, *WITCHCRAFT IN FRANCE AND SWITZERLAND: THE BORDERLANDS DURING THE REFORMATION* 195 (1976).

6. See GWENDOLYN MIDLO HALL, *AFRICANS IN COLONIAL LOUISIANA: THE DEVELOPMENT OF AFRO-CREOLE CULTURE IN THE EIGHTEENTH CENTURY* 302 (1992) ("Fon and Yoruba [ancient African nations] religious practices deeply influenced the culture, accounting for the emergence and resilience of voodoo in Louisiana. Fon and Yoruba women were present in significant numbers, and they tended to be clustered on estates. Unlike Haitian voodoo, Louisiana voodoo was dominated by women.").

7. See *infra* Part II.B.1.

8. MARY GEHMAN, *THE FREE PEOPLE OF COLOR OF NEW ORLEANS: AN INTRODUCTION* 13-14 (1994).

[T]he *code noir* or Black Code introduced in 1724 . . . prescribed how masters should treat their slaves, under what conditions freedom should be granted, and the rights and obligations of slaves once freed. . . . [T]he French code . . . granted to Louisiana slaves the right to a religious (Catholic) education, redress in the colonial court for mistreatment by a master, and opportunities to be hired out by a master or to hire oneself out for wages. Slave marriages were recognized by the church, slave children were baptized in the church, and slave families were not to be separated through sale.

Id.

9. *Id.* ("The presence of these people of color in the earliest records of the city shows that not only were they free but they held professional positions, had access to the justice of the colonial court and owned property . . .").

difficulties faced by practitioners of women-based religions in New Orleans.

I. HISTORICAL SIGNIFICANCE OF WITCHCRAFT IN FRANCE

Jean Bodin, the French author of the most famous and widely read demonology works of the sixteenth century, embodies the strong views held by many during the sixteenth century against women accused of witchcraft.¹⁰ In order to understand the extreme enmity of the French populace during the sixteenth, seventeenth and eighteenth centuries toward witchcraft, it is necessary to explore both the development of the witch image in France and the nature of witch prosecution in France, including the contributions made by both the government and those who wished to maintain a patriarchal society.

A. *Development of the Witch Image in France*

Many factors contributed to the development of the witch image in France. Various religious sectors of France contributed by labeling a member of another religious group a witch in an attempt to gain power.¹¹ The rural poor also labeled individuals from lower social classes as witches in an attempt to find someone to blame for all of their ills.¹² Furthermore, society labeled outspoken women as witches in an attempt to maintain the patriarchal system.¹³ Aside from identifying witches, well-known demonologists, courts and others created a stereotypical image of the wicked witch and attempted to describe their evil rituals.¹⁴ Together, the identification, or labeling, of women as witches and the creation of a stereotypical witch and her rituals comprised the development of the witch image in France.

10. See PEARL, *supra* note 1, at 112-13.

Robert Mandrou, in his influential study, *Magistrats et sorciers*, stated of [Jean Bodin's] *Démonomanie*, "this vehement appeal to pitiless repression was understood by the magistrates of higher justice who were charged with the repression of all crimes, of which witchcraft constituted a good part." For Mandrou, demonology books, and especially Bodin's, played the central role in the development of the widespread and violent persecutions for witchcraft that he presumed to have taken place.

Id. For a discussion of the impact Bodin and other French authors had on the perpetuation of witch-hunts, see *infra* Part I.C.3.

11. See *infra* notes 15-21 and accompanying text.

12. See *infra* notes 25-29 and accompanying text.

13. See *infra* notes 46-53 and accompanying text.

14. See *infra* notes 57, 85-93 and accompanying text.

Religion was a divisive issue in sixteenth-century France.¹⁵ An underground movement of Protestantism that roused ill will and resentment among Catholic zealots came with the Wars of Religion in 1561.¹⁶ France was generally intolerant of religions other than Catholicism, which resulted in religious rioting.¹⁷ John Calvin, a Protestant reformer, began his movement in the 1530s in France.¹⁸ Although quite small in number, Protestants held a great deal of power.¹⁹ Seeds of serious conflict brewed between Protestants and Catholics and led to strategic accusations of witchcraft in the ongoing struggle for power and converts between the two religions.²⁰ Wherever there were rivals of either the Catholic or Protestant Church, witchcraft was the underlying foundation for a charge of heresy.²¹ Demonic possession, and witches' supposed preoccupation with it, was also at the root of charges of witchcraft by religious groups.²² Certain power attributes were often associated with witchcraft, which were also signs of demonic possession, including:²³

- (1) the ability to speak and understand languages not known to the patient;

15. Jonathan L. Pearl, "A School for the Rebel Soul:" *Politics and Demonic Possession in France*, 16 *HIST. REFLECTIONS* 286, 286-87 (1989). "The outbreak of the Wars of Religion in 1561 in France was the culmination of several decades of complex developments. The illegal growth of Calvinist Protestantism as an underground movement aroused hatred and resentment among devoted Catholics." *Id.*

16. *Id.*

17. ROBERT RAPLEY, *A CASE OF WITCHCRAFT: THE TRIAL OF URBAIN GRANDIER* 9 (1998).

18. *Id.*

19. *Id.* (noting that fewer than "ten per cent of French men and women were Protestant"). "The close cohesion and cooperation of these Huguenot [label Catholics gave to Protestants] communities, their vigorous defence of the centres of their religion, and their determination to spread their faith gave them a military strength far beyond their numbers." *Id.*; see also Pearl, *supra* note 15, at 286-87 ("While the Protestants never attracted over one million adherents out of a population of around seventeen million, their power was disproportionate to their numbers because of the active involvement of some very powerful nobles and scholars, and because of the Protestants' deep personal commitment to their religion.").

20. GEOFFREY SCARRE, *WITCHCRAFT AND MAGIC IN SIXTEENTH- AND SEVENTEENTH-CENTURY EUROPE* 39 (1987).

[Accusations of witchcraft] w[ere] above all a device employed by parties to the savage confessional disputes of the early modern era for quelling religious opposition. The chief protagonist for this view is Trevor-Roper, who has argued that both Catholics and Protestants found it useful to tar their opponents with the brush of witchcraft in order to demonstrate their own godliness. In particular, "Whenever the missionaries of one Church are recovering a society from their rivals, 'witchcraft' is discovered beneath the thin surface as 'heresy'."

Id. (quoting HUGH TREVOR-ROPER, *THE EUROPEAN WITCH-CRAZE* 119 (1969)).

21. *Id.*

22. D.P. WALKER, *UNCLEAN SPIRITS: POSSESSION AND EXORCISM IN FRANCE AND ENGLAND IN THE LATE SIXTEENTH AND EARLY SEVENTEENTH CENTURIES* 9 (1981).

23. *Id.* at 12.

(2) knowledge of other people's secrets, of things hidden or in any way unknowable by natural means—for short, we can call this mark *clairvoyance*;

(3) bodily strength exceeding the patient's normal capacity . . . ;

(4) horror and revulsion at sacred things, at hearing Scripture, . . . being touched by relics, the host, holy water, . . . or other blest objects.²⁴

Death and disease also contributed to the witchcraft phenomenon. The plague, also known as the Black Death, intensified the horror and despair of the fourteenth century.²⁵ Lack of medical knowledge resulted in growing paranoia surrounding the origins of the disease.²⁶ In addition to the plague, which resurged in the seventeenth century, famine also commonly occurred in seventeenth-century France.²⁷ No one knew the causes of plague and famine; consequently, people searched for explanations.²⁸ People presumed that God would not have allowed such suffering unless He was angry.²⁹ People believed witches were the malefactors, when in reality the causes of plague and famine were poor weather conditions, crop destruction by disease or insects and lack of transportation.³⁰ The rise in food prices exacerbated the problems of finding resources to purchase food, staving off starvation and fighting disease.³¹

24. *See id.*

[T]here were in most cases of possession attempts to prove or disprove these marks, which differ one from another in their susceptibility to convincing tests. The third, bodily strength, is too vague to give a decisive result. The other three should, at least in theory, be susceptible to empirical tests. There are no convincing instances of the first, linguistic ability, in the cases we are considering; indeed the devils quite often give feeble excuses for not understanding or speaking Latin or Greek.

Id. at 12-13 (footnote omitted).

25. RAPLEY, *supra* note 17, at 69.

26. *Id.* at 70.

27. *Id.* at 97. Rapley stresses that:

The period between the late Middle Ages and the early seventeenth century was a time of universal fear throughout Europe. The Black Death, the deep economic crises that followed, the shocks and upheavals of the Reformation, and the recurring wars and plagues all caused people to believe that the Devil was intervening in the world with ever-increasing fervour.

Id. (footnote omitted).

28. *Id.* at 71.

29. *Id.*

30. RAPLEY, *supra* note 17, at 97.

31. *Id.*

Witchcraft was blamed for all afflictions, both known and unknown. If an individual could rationalize that his/her affliction was somehow connected to the prior behavior of a woman accused of witchcraft, such as some incomprehensible murmur, then the listener interpreted that prior noise as a curse.³² For example, any ill fate that occurred to an individual who denied a beggar woman food would be automatically connected to that woman.³³ Witches were also charged with other inexplicable events, such as death during childbirth, the death of children, death from infection, impotence and sterility.³⁴

The religious sector furthered these beliefs. Both the Catholic and Protestant churches took the position that women were cavorting with the devil, thereby causing the ills afflicting society.³⁵ They felt that the eradication of evil and, thus, the eradication of any woman accused of witchcraft, was the ultimate solution.³⁶ Church leaders viewed this as the only viable method of restoring society's equilibrium.³⁷

The search began for the responsible parties, focusing first on society's outcasts. Poor women were characterized as contemptible and, thus, deserving of outcast status in the community.³⁸ Witches and heretics were natural targets, as they were alleged to be cohorts of the Devil.³⁹ Evil was the explanation embedded in everyone's minds for such an epidemic.⁴⁰ The pressure of illness, starvation or

32. MARIANNE HESTER, *LEWD WOMEN AND WICKED WITCHES: A STUDY OF THE DYNAMICS OF MALE DOMINATION* 195 (1992) (discussing the accusations of witchcraft that religious organizations made against women).

33. *Id.* For further discussion of how poverty contributed to the development of witch stereotypes, see *infra* notes 62-67 and accompanying text.

34. ANNE LLEWELYN BARSTOW, *WITCHCRAZE: A NEW HISTORY OF THE EUROPEAN WITCH HUNTS* 113 (1994); see also SIGRID BRAUNER, *FEARLESS WIVES AND FRIGHTENED SHREWS: THE CONSTRUCTION OF THE WITCH IN EARLY MODERN GERMANY* 43 (1995) (discussing the Catholic church's association of witches with abortion, birth control and midwifery, as well as male impotence); Jens Christian V. Johansen, *Denmark*, in *EARLY MODERN EUROPEAN WITCHCRAFT: CENTRES AND PERIPHERIES* 337, 356 (Bengt Ankarloo & Gustav Henningsen eds., 1990) (discussing the association between witches and almost any infirmity that occurred during the birthing process as well as illness in small children).

35. See HESTER, *supra* note 32, at 192-97.

36. See *id.* at 131-32 (discussing *Maleficium*, evil caused by occult means, and how it was thought to cause society's ills).

37. See *id.* at 150-55 (discussing the connection between witchcraft accusations and women's "role" in society).

38. See *id.* at 196 (discussing the nexus between poverty, gender and accusations of witchcraft).

39. RAPLEY, *supra* note 17, at 71.

40. *Id.* Rather than focusing on the specific illnesses blamed on witches, modern writers have focused more on how social interaction led to the blaming of witches for any illness. See HESTER, *supra* note 35, at 195.

[I]t was the nature of the social relationship between the victim and the accused

simply bad luck led many to suspect that a spell had been cast on them.⁴¹ As a result, many in France believed that witches had the power to invoke hardship with only an evil glance—or even by means of gifts or praise.⁴² One story, involving a woman who was thought to be a witch, La Kerzeas, exemplifies the fact that many believed that a gift or praise from a witch could invoke hardship.⁴³ In the market at Pont-Croix, La Kerzeas exclaimed to a woman, who had just bought some piglets, “They’re fine little beasts for the price.”⁴⁴ When the piglets fell ill that night, the buyer believed “not that they were a poor bargain but that the jealous witch had cast a spell on them.”⁴⁵

People believed that women were responsible for all unexplained events; however, because it was assumed that women could not act alone, their acts were attributed to conspiracy with the Devil to secure power for their evil deeds.⁴⁶ By conspiring with the Devil, women attained powers that made them witches. By labeling women as witches, there was an explanation for everything that had

rather than the particular nature of the illness which resulted in an accusation of witchcraft. In other words, illness or death was explained by witchcraft only if the individuals concerned had prior reason to fear the use of witchcraft against them, such as being cursed by the suspect or having denied her certain items.

Id.

41. JUDITH DEVLIN, *THE SUPERSTITIOUS MIND: FRENCH PEASANTS AND THE SUPERNATURAL IN THE NINETEENTH CENTURY* 103 (1987).

42. *Id.* at 104.

One of the most widespread magical beliefs in rural France in the nineteenth century was the persuasion that the witch or sorcerer could with a glance, ruin his enemy by making him ill or by hindering his agricultural labours. . . . [T]he peasants of the Morbihan thought that the evil eye caused dangerous illnesses and that they thought of it in naturalistic rather than supernatural terms: ‘. . . They seem to think it natural and to imagine that some people’s eyes give out miasmas or pestilential fluids which are carried on the wind, by which means the contagion is spread afar.’ . . . It suggests that the spell was seen more as a natural than a supernatural phenomenon, not necessarily involving the divine and diabolical superstructure elaborated by Christian theologians. If Mahé is to be believed, the spell, for some people, belonged to this world of dissension and misery, rather than to an exotic domain controlled by occult mysterious beings.

Id. at 103 (alteration in original) (second omission in original) (quoting ABBÉ J. MAHÉ, *ESSAI SUR LES ANTIQUITÉS DU MORBIHAN* 480 (Vannes 1825)).

43. *Id.* at 104.

44. *Id.*

45. *Id.* at 113.

46. See BRAUNER, *supra* note 34, at 34-41 (discussing the fifteenth-century presumption that women were by nature weak and prone to align with the Devil). “Whether as a bad wife who dominates her husband, a concubine who seduces those in power, or a midwife who sabotages childbirth and slaughters the newborn, the female witch turns the world upside down.” *Id.* at 43.

previously had no explanation. Witchcraft explained the inexplicable.

In some regions, witches were regarded as being so dangerous that they could even bewitch themselves and their husbands.⁴⁷ The connection of witch power to male impotence is a recurring theme in historical literature.⁴⁸ It became a main justification for witch persecution, as well as the furtherance of male supremacy. Since it was a patriarchal society, women were subjected to whatever viewpoints men concocted. Although initially "[n]o distinction was made between men and women in the early witch trials,"⁴⁹ by the late fifteenth century, women bore the brunt of witchcraft accusations.⁵⁰ In fact, the profile of witches in rural France was usually "poor, middle-aged or elderly [women]."⁵¹ Cultural commentators also connected witchcraft with female sexuality.⁵² Judge Henri Boguet, the French witch-hunter active around the year 1600, emphasized that it was easier for the Devil to seduce women "because of their inordinate love of carnal pleasures," and "that Satan spoke through a female's 'shameful parts.'"⁵³

In a world that should have been careful when condemning women to death, French society showed no caution regarding the identity of the accuser. Children often condemned women to their doom by accusations of witchcraft.⁵⁴ There have been "well-known cases . . . of prosecutions for witchcraft originating in the evidence of disturbed or attention seeking children."⁵⁵ A French judge who prosecuted witches, Pierre de Lancre, was well known for his skill in "extirpating" witches: he tortured six hundred individuals and

47. Johansen, *supra* note 34, at 357.

48. *See id.* at 356 (discussing "aiguillete," a well-known witch's curse, which is said to produce impotence in males); BRAUNER, *supra* note 34, at 43 (discussing how witches challenged male power by challenging the symbol of male power, the penis).

49. BRAUNER, *supra* note 34, at 6. "In fact, in Inquisitorial trials that began as heresy proceedings, slightly more men than women were charged as witches." *Id.*

50. SCARRE, *supra* note 20, at 25; *see also* BRAUNER, *supra* note 34, at 6 ("The majority of those tried as witches in France . . . were [late fifteenth-century] women."); HESTER, *supra* note 35, at 198 (noting that "the accused were nearly all women").

51. HESTER, *supra* note 32, at 112. For more on the stereotype of witches that developed during this time, *see* discussion *infra* Part II.B.

52. BARSTOW, *supra* note 34, at 66.

53. *Id.*

54. SCARRE, *supra* note 20, at 28. Although children were usually the accusers, at times they were the accused and put on trial themselves for witchcraft. *Id.* "[S]ometimes children . . . incriminated themselves perhaps unintentionally by claiming that certain adults had led them into witchcraft." BARSTOW, *supra* note 34, at 173.

55. SCARRE, *supra* note 20, at 28.

executed eighty during one four-month period, "relying mainly on the evidence of children."⁵⁶

B. The Stereotypical Witch Image and Her Rituals

A stereotypical image of the wicked witch has developed that still exists today: that of an old, ugly woman riding a broom and living with a black cat. The witch was considered to be both of the human world and of the evil world.⁵⁷ This stereotypical image of a witch had its beginnings in France during the height of the persecution of witches. In addition, the rituals typically associated with witches had its origins in the writings of famous French demonologists.

There are several aspects of witchcraft unique to France. The French found demonic possession and witchcraft inextricably related.⁵⁸ For example, if a woman could blame her demonic possession on another person who had conspired with the Devil to cause the possession, then that would inevitably lead to accusations of witchcraft against the conspirator.⁵⁹

As witchcraft was increasingly linked to women,⁶⁰ the image of the wicked witch became all too familiar in the media. She was portrayed physically in the following manner: "an old hag: long nose reaching to a pointed chin; hanks or wisps of grey hair hanging below a pointed hat; long black clothes; and a dog or cat as a companion."⁶¹ The witch was typically poor; she would customarily "go from house to house" looking for handouts.⁶² Although her accusers were also poor, "[t]he witch in many cases was the poorest of the poor"⁶³ Poverty was commonplace throughout the sixteenth century, aggravating the fate of witches.⁶⁴ Peasants were "forced to beg or steal in order to survive."⁶⁵ This magnified the

56. BARSTOW, *supra* note 34, at 173.

57. Robert Rowland, 'Fantasticall and Devilishe Persons': *European Witch-Beliefs in Comparative Perspective*, in *EARLY MODERN EUROPEAN WITCHCRAFT: CENTRES AND PERIPHERIES* 161, 167 (Bengt Ankerloo & Gustav Henningsen eds., 1990). "[The witch] is of this world in that she performs concrete actions against individuals, and she does so in the guise of a normal member of the community. But she is also of the anti-world." *Id.*

58. PEARL, *supra* note 1, at 42.

59. *Id.*

60. *See supra* notes 49-50 and accompanying text.

61. RAPLEY, *supra* note 17, at 99.

62. BARSTOW, *supra* note 34, at 26.

63. *Id.*

64. *Id.*

65. *Id.*

difficult conditions of poor, old, single women.⁶⁶ "When they turned them down, people felt guilty, an uncomfortable state often exacerbated when the beggar cursed them for their refusal. Then when misfortune occurred, people turned on the beggars, a classic example of 'blaming the victim.'"⁶⁷

Witches were not only perceived as ugly and poor, but also old; those proclaimed as witches were typically over fifty.⁶⁸ In the French-speaking region of Lorraine, fifty-eight percent of the suspects were widowed.⁶⁹ No longer beholden to their husbands or fathers, they were free to express themselves and state their true thoughts.⁷⁰ "They were usually old women, often widowed and outside patriarchal control. They were usually very well known to their neighbors, who had both feared and despised them for many years before they were finally arrested."⁷¹

The wicked witch played several roles that French society molded for her: "[w]hether as a bad wife who dominates her husband, a concubine who seduces those in power, or a midwife who sabotages childbirth and slaughters the newborn, the female witch turns the world upside down."⁷² As "the concubines of the great," their power was hailed as immense.⁷³ They held the "three special vices of lust, ambition, and infidelity" within their bosom, and utilized them to control men and conquer faith in God.⁷⁴

As midwives, witches posed a considerable threat. By advocating abortions and birth control, midwives were viewed as anti-life and anti-God.⁷⁵ If those tactics were not readily available,

66. *Id.*

67. *Id.* (footnote omitted).

68. SCARRE, *supra* note 20, at 25.

69. *Id.* at 26.

70. BARSTOW, *supra* note 34, at 27.

The typical scold [outspoken, independent woman] and the typical witch were older females, and both were criminalized during the same period. Each had their own kind of power. By laying curses and giving "lip," old women used what power they had to make others fear them, give them "space," and maybe respect them. The fact that people feared their curse was proof that their words carried numinous [spiritual, supernatural] power.

Id. at 28.

71. MONTER, *supra* note 5, at 200.

72. BRAUNER, *supra* note 34, at 43. "Accordingly, the *Malleus* [*maleficarum* (*The Hammer of Witchcraft*), the first work on the heresy of witchcraft to argue that witches were women] warns of an invading army of female witches—often in the form of domineering wives and concubines—whose final aim is to destroy Christianity." *Id.* at 42.

73. *Id.* (footnote omitted).

74. *Id.*

75. *Id.* at 43; see also Merry E. Wiesner, *Spinning Out Capital: Women's Work in Pre-Industrial Europe, 1350-1750*, in *BECOMING VISIBLE: WOMEN IN EUROPEAN HISTORY* 203, 222 (Renate Bridenthal et al. eds., 3d ed. 1998) ("She swore not to perform abortions, use

"they induce[d] miscarriages and even [ate] the newborn or offer[ed] them to the devil."⁷⁶ These acts were so reviled that two authors concluded, "no one does more harm to the Catholic faith than midwives."⁷⁷ Despite the low regard society held for midwives, women's work as healers was one role that had some positive underpinnings. Just as witches were considered powerful enough to invoke evil, healers were considered powerful enough to invoke justice.⁷⁸ Professional healers could easily be targeted during witchcraft accusations, though, due to their admitted knowledge of spells and witchcraft.⁷⁹

implements to speed the birth, or repeat superstitions. City councils often called upon midwives to give opinions in legal cases of infanticide and abortion . . . in the hope of delaying their corporal punishment or execution."). See generally FRITZ GRAF, *MAGIC IN THE ANCIENT WORLD* (G.W. Bowersock, ed., Franklin Philip trans., 1997) (describing the terminology, words, acts and history of magic); GERHILD SCHOLZ WILLIAMS, *DEFINING DOMINION: THE DISCOURSES OF MAGIC AND WITCHCRAFT IN EARLY MODERN FRANCE AND GERMANY* (1995) (discussing the myth of transgression, different witchcraft tracts and religious diversity); MARTINE SEGALÉN, *LOVE AND POWER IN THE PEASANT FAMILY-RURAL FRANCE IN THE NINETEENTH CENTURY* (Sarah Matthews trans., Univ. of Chi. Press 1983) (1980) (recounting a woman's place in society, the home and her personal relationship).

76. BRAUNER, *supra* note 34, at 43.

77. *Id.* (footnote omitted); see also UTA RANKE-HEINEMANN, *EUNUCHS FOR THE KINGDOM OF HEAVEN: WOMEN, SEXUALITY AND THE CATHOLIC CHURCH* 231-32 (Peter Heinegg trans., 1990) (referring to a well-known statement made by inquisitors of the time); THOMAS SZASZ, *THE MANUFACTURE OF MADNESS* 84 (1970) (noting that "[m]idwives in particular were often suspected of being witches").

"Because midwives so often were in bad repute, . . . even an innocent practitioner might be accused of witchcraft if the delivery had an unhappy outcome or if the non-obstetrical patients whom some midwives attempted to treat did not recover Even more serious were the charges that midwives destroyed infants before or just after birth [T]he *Malleus Maleficarum* charged that witch-midwives destroyed the child in utero, causing an abortion, or found a moment of privacy in which to offer the newborn infant to Satan."

Id. (quoting THOMAS ROGERS FORBES, *THE MIDWIFE AND THE WITCH* 126-27) (second and third alteration in original).

78. See DEVLIN, *supra* note 41, at 105.

The view of nature here implied was coloured not so much by mysterious supernaturalism as by ignorant naturalism. Here, counter-magic worked both as a kind of justice—punishing the guilty sorcerer and setting the world to rights—and as a form of medicine, like the techniques of folk-medicine when no foul play was suspected.

Id.

79. MONTER, *supra* note 5, at 184-85.

This was of course the single most common source of anyone's arrest in sixteenth- and seventeenth-century Jura witch trials, but professional healers were very well known and made especially obvious targets for such accusations because of the general belief that anyone who cured spells could also cause them if he wished.

Id.

The "bad wife" or "shrew" is another motif of the stereotypical depiction of the wicked witch.⁸⁰ She was "a woman who insist[ed] on having her own way. Her obstinacy [was] characterized by self-centered actions, resistance to her husband, and rebellion against marital codes."⁸¹ She was also depicted as vying with her husband for power within the relationship in order to control the family household.⁸² The bad wife's unsightly appearance only highlighted her evilness, "suggest[ing] that defiance and disobedience make women unattractive."⁸³

As the connotation of "witch" has evolved, characteristics such as healer and sorcerer have been replaced with more modern traits.⁸⁴ "Four characteristics distinguish the modern witch: using magic to harm others, attending secret 'Sabbath' meetings, flying through the air at night, and sealing a pact with the devil by copulating with him."⁸⁵ It is believed the witches live for the Sabbath. The Sabbath is defined as "a nocturnal, demoniac meeting of witches and warlocks."⁸⁶ Some scholars suggest that the Sabbath was merely a strategic invention of theologians to combat meetings of witches.⁸⁷ All people in society knew what a Sabbath was—or did they? The common populace believed that they knew "what was *supposed* to happen at Sabbat[h]s—dancing, strange food, ice-cold sexual intercourse with the Devil—" and they pictured women engaging in such activities.⁸⁸

The Sabbath was composed mainly of devil worshipping and any other acts that were viewed as contrary to social order and values.⁸⁹ The substance of the Sabbath defied acceptable cultural

80. BRAUNER, *supra* note 34, at 72.

81. *Id.*

82. *Id.* at 73.

83. *Id.*

84. *Id.* at 7.

85. *Id.*

86. Robert Muchembled, *Satanic Myths and Cultural Reality*, in *EARLY MODERN EUROPE WITCHCRAFT: CENTRES AND PERIPHERIES* 139, 139 (Bengt Ankarloo & Gustav Henningsen eds., 1990).

87. *Id.*

Drawing on the composite tradition of persecutions of the Jews, the early Christians, and various heretical sects[,] . . . the theologians revived stereotypes that had no popular basis, in order to demonstrate the existence and progress of a huge satanic plot designed to make the powers of evil triumph upon earth. Such ideas unquestionably reflected the disarray of authority and especially of churchmen, confronted with the fissures that portended the disruption of Christian unity in the sixteenth century.

Id. at 139-40 (footnote omitted).

88. MONTER, *supra* note 5, at 200.

89. Rowland, *supra* note 57, at 166.

customs, such as engaging in incest or cannibalism.⁹⁰ Additional strange behavior that goes against the norm is that of consuming "food without salt," eating but "not satisfy[ing] the appetite" and "inverted dancing."⁹¹ "At her regular visits to the sabbath she makes, or is given, the ointments, potions, and powders . . . [T]hese instruments of malefice are sometimes made from . . . bones of infants the witch has made to die."⁹² Francesco Maria Guaccio of Milan offered the typical Sabbath structure:

When the faithful of the Devil are gathered together they light a great bonfire. The Devil presides over the meeting and is seated on a throne, clothed in fearful goat- or dog-skins. They approach him to worship him in a variety of ways, sometimes on bended knee, sometimes with their backs to him, sometimes with their legs in the air and with their heads bent backwards and their chins turned toward heaven. Then they offer him candles black as pitch or children's navels and in sign of homage they kiss his anus. They take their places at the tables which have been laid out and begin to eat the food which the Devil supplies or which each has brought. It is certain that these banquets are so disgusting that even a starving stomach would be revolted by seeing the display or smelling the odour. In a filthy cup the Devil pours out wine for his guests which is like black and rotten blood. There is a great abundance of all kinds of food except bread and salt. Human flesh is also served. And many of the guests say their hunger and thirst are not satisfied by these foods and beverages. The banquets are followed by dancing in circles, always by the left [i.e. the wrong way]. And whereas our dances have enjoyment as their aim, these dances produce only fatigue, boredom and dreadful torments. When they approach the demons to worship them they turn their backs and retreat backwards like crabs, and to supplicate them they turn their hands backwards. To speak they fix their gaze on the ground, a gesture somewhat different from the customs of men. Sometimes they dance before eating, sometimes afterwards. Usually several tables—three or four—are prepared, at which each takes his place according to his rank and wealth. Each meal is blessed by the Devil with blasphemous words, according to which Beezlebub is declared to be who creates, gives and conserves all things. And with the same formula they give

90. *Id.* "The sabbath can, in fact, be seen as an elaborate representation of an anti-world and, simultaneously, as an implicit assertion of all the rules which are broken there. This emerges clearly from the systematized descriptions which later demonologists constructed out of earlier confessions and accusations." *Id.* (footnotes omitted).

91. *Id.*

92. *Id.* at 167.

thanks after the meal. After the banquet each demon takes by the hand the disciple whom he has in charge—everything takes place according to a senseless ritual—they turn their backs to each other and holding hands in a circle they shake their heads like lunatics and often dance holding the candles which they had previously used to worship the Devil. They sing very obscene chants in honour of the Devil, and the demons and their charges have intercourse in a filthy manner.⁹³

C. *The Nature of Witch Prosecution in France*

France saw a wave of witchcraft prosecutions that took hold of the country through the better part of three centuries. As Robert Mandrou observed, "[t]he wave [of prosecutions] did not spare, it seems, any region of France."⁹⁴ Witch-hunts erupted in phases.⁹⁵ The first period of scattered witch trials occurred from 1435 to 1500.⁹⁶ After that, witch trials nearly ceased until 1560.⁹⁷ Another wave of witch trials began in 1560 and lasted for 200 years.⁹⁸

In order to comprehend how witchcraft accusations led to convictions, one needs to understand the actors. Theologians, demonologists, judges and the patriarchal society all actively worked together to formulate a politically charged, often self-serving, belief in the existence of witchcraft.⁹⁹ The theologians developed the methodology to apply this witchcraft belief. "The works of the demonologists are seen to have been taken seriously by the judges and were used as guides to the legal prosecution of witches. The work of judges . . . is cited as proof that the legal community was totally committed to the violent eradication of witchcraft."¹⁰⁰ In their efforts to maintain control over women, the patriarchal society ensured that witches (predominately women)

93. *Id.* at 166-67 (quoting FRANCESCO MARIA GUACCIO, *COMPENDIO DELLE STREGONERIE* 49-53 (1967) (1st ed. 1608)) (alterations in original). Francesco Maria Guaccio was a friar born in the last quarter of the 1500s and envoy in 1605 to Clèves, who was an advisor in matters of witchcraft.

94. PEARL, *supra* note 1, at 112 (alteration in original).

95. BRAUNER, *supra* note 34, at 5.

96. *Id.* "The first witch trials took place in the mid-fifteenth century in the French Alps and Switzerland." *Id.* at 10. Within the mountains, Papal Inquisitors found "peasants rooted in pre-Christian folk beliefs." *Id.* at 5-6. Uncertain of such practices, the Inquisitors chose to interpret the folk practice as a form of devil worship and confirmed their interpretation through torture. *Id.*

97. *Id.* at 5.

98. *Id.*; see also PEARL, *supra* note 1, at 10 (noting that the most intense period of witchcraft prosecution in France occurred between 1560 and 1610).

99. PEARL, *supra* note 1, at 31-32.

100. *Id.* at 31.

were identified. This symbiotic relationship enabled them to "get the job done," so to speak, in their conviction and persecution of witches.

1. *The Government Contribution*

Probably the highest rate of witchcraft execution in France was in Pays de Vaud, with a rate that reached as high as ninety percent.¹⁰¹ This point is underscored by a jurist from Pays de Vaud who said in 1756, "witches were burned in former times; today, there aren't any."¹⁰² Fortunately, however, the judiciary in the jurisdiction of the Court of *Parlement* of Paris, which comprised at least half of France, was more leery than local courts of the witchcraft accusations.¹⁰³ The *Parlement* was among the more lenient jurisdictions in the prosecution of witches, at least after 1580.¹⁰⁴ The reason, in part, is because "an enormous social and intellectual gap" existed between the judges sitting in *Parlement* and the local judges in rural France.¹⁰⁵ Whereas *Parlement* judges enjoyed the social and political connections that came with lifelong wealth and a good education, the local judges were newly wealthy peasants, lacking even the most basic education or training.¹⁰⁶ As judges, those in *Parlement* enjoyed considerable autonomy, whereas those serving locally were under more political pressure.¹⁰⁷ Thus, local judges tended to hand down rulings that were "severe and even abusive to many of those accused of witchcraft."¹⁰⁸

101. LEVACK, *supra* note 3, at 19. Incessant witch-hunts also occurred outside of France, as the French extended their influence to French-speaking territories outside of the political boundaries of France. PEARL, *supra* note 1, at 10. During the era of the Holy Roman Empire, several areas became hot spots of intense witch prosecution. SCARRE, *supra* note 20, at 20 (identifying western regions such as Lorraine and Franche-Comté as the hot spots). The area of Lorraine, in particular, showed no mercy: "semi-literate judges" presided over most of the trials there resulting in incredibly high conviction rates. BARSTOW, *supra* note 34, at 65. Between 1657 and 1659 within Franche-Comté alone, "an inquisitor . . . ordered every parish to hunt out its witches [and] sent 'more than a hundred' to their deaths." *Id.*

102. MONTER, *supra* note 5, at 40 (footnote omitted).

103. PEARL, *supra* note 1, at 14-15 (noting that the jurisdiction of *Parlement* of Paris included over half the population of France).

104. *Id.* at 122; see also LEVACK, *supra* note 3, at 102 ("In the 1580s, for example, the Roman Inquisition, acting in the spirit of the Counter-Reformation, turned its attention increasingly to cases of superstition, magic, and sorcery.").

105. *Id.* at 15.

106. *Id.* at 14-15.

107. *Id.*

108. *Id.* at 15.

A case of witchcraft would come to the court by either an individual complaint or by "a complaint in the king's name."¹⁰⁹ The significant difference is that in the former, the individual plaintiff would be responsible for court costs, whereas in the latter, the costs would be charged to the regional crown.¹¹⁰ Thus, for economic reasons, individual petty offenses were often dismissed.¹¹¹ Once at trial, guilt was proven by confessions, the standard of proof required for "condemnation."¹¹²

Unlike the modern American mantra of innocent until proven guilty, an accusation of witchcraft virtually ensured conviction, a proposition supported by Robert Mandrou, author of *Magistrats et Sorciers en France*.¹¹³ Once accused, "[h]ostile leading questioning, intimidation, false evidence like diabolical marks and especially torture were frequently used in order to squeeze confessions from the accused."¹¹⁴ These forced confessions were meant to ensure that witches would be the "keeper of the flames."¹¹⁵ One common method of identifying a witch, and thereby forcefully extracting a confession, was by way of a "Devil's mark."¹¹⁶ It was regarded as being "key proof of the reality of the witch's pact with the Devil."¹¹⁷ Jacques Fontaine, a professor of medicine at the University of Aix in Paris, examined a person with the Devil's mark and "published an account of [his] examination . . . [whereby h]e stated . . . that the Devil's mark was one of the best ways to discover a witch."¹¹⁸

Torture is one of the oldest tactics used to elicit confessions.¹¹⁹ "In the revival of Roman law in medieval Europe the use of torture was broadened, and it became an integral part of the legal system, as a means to confessions."¹²⁰ In some areas, like those within the jurisdiction of the *Parlement* of Paris, torture was less frequently used.¹²¹ This was in sharp contrast to many of the lower local

109. *Id.* at 32.

110. *Id.* at 32-33.

111. *Id.* at 33.

112. *Id.*

113. *Id.* at 10-11 ("When people were accused of witchcraft and associated crimes, they were handled in such a way that most of them were convicted and accused, according to Mandrou.").

114. *Id.* at 11.

115. *See id.* (referring to the practice of burning witches at the stake).

116. Pearl, *supra* note 15, at 300.

117. MONTER, *supra* note 5, at 159.

118. Pearl, *supra* note 15, at 300.

119. PEARL, *supra* note 1, at 33 (noting that torture was used in ancient Greece).

120. *Id.*

121. *Id.* at 34-35; *infra* note 122 and accompanying text.

jurisdictions, in which torture was both frequent and severe and "persisted throughout the seventeenth century."¹²²

As can be expected, as part of the torture practices, regions also developed methods of testing the accused. For example, beginning in the 1650s, the Vaud region used "witch-pricking procedures" to test for the Devil's mark.¹²³ As the name suggests, this involved testing the suspected witch with a needle.¹²⁴ The accusers were incessant in their pursuit, claiming "that suspects must be tested for the Mark on three separate occasions both before and after confession."¹²⁵ Another testing procedure was the water test to see whether suspected witches sank or floated.¹²⁶ Overall, because witchcraft was "an essentially secret crime as well as a very serious one, authorities felt justified in employing the strappado, the heated chair, vices for the arms and legs, thumbscrews, and other painful devices to uncover the truth."¹²⁷ For the accused, denial was a way out, but few utilized it. Although the denial of guilt could eventually clear the charge, "few were able to withstand [the] severe and prolonged torture"¹²⁸ that led to the erasing of the charge.

With regard to punishment, witches in Europe were usually burned at the stake.¹²⁹ Jean Bodin, arguably the most famous French demonologist, recommended that in accordance to the severity of their offenses, witches "should be slowly roasted alive over a fire of green wood,"¹³⁰ however, this was not regularly adhered to. Instead, "many of the condemned were granted the

122. Alfred Soman, *The Parlement of Paris and the Great Witch Hunt (1565-1640)*, 4 SIXTEENTH CENTURY J. 31, 41-42 (1978).

As Monter has argued, the exceptionally high execution rate in the Pays de Vaud (90%) was probably due to a failure to observe the limitations on torture prescribed by the 1532 *Carolina*. The limitations were far more tightly drawn in France. A case in 1610, originating in Pagny-sur-Meuse, where there was some dispute whether the village lay in the territory of France or the bishopric of Toul, illustrates a desire on the part of the local population to take advantage of the mansuetude of the Paris court.

Id.

123. MONTER, *supra* note 5, at 163 ("Vaud was less careful than Catholic Fribourg in testing, as in torturing, its suspected witches. Besides, the pastors of Vaud were persuaded of the critical importance of the Mark, as a logical consequence of their belief in the reality of the witch's pact with the Devil.").

124. *Id.*

125. *Id.*

126. PEARL, *supra* note 1, at 15; see also MONTER, *supra* note 5, at 164 (discussing how some physicians were as critical of the efficacy of pricking as they were of water torture).

127. SCARRE, *supra* note 20, at 27.

128. *Id.* at 28.

129. *Id.* at 29.

130. *Id.*

mercy of strangulation before the fire was well alight."¹³¹ For those who were not sentenced to death, punishments by "imprisonment, flogging, fines or exile" were common.¹³² Imprisonment was especially grueling considering the dreadful conditions and more akin to an extended death sentence than a prison term.¹³³ The local authorities' acceptance of torture may have led to the perpetuation of, and even popular support for, witchcraft allegations and even vigilante justice.¹³⁴ In one case, an old woman who had not received an invitation to a marriage-feast "swore vengeance and was burned to death by a number of people anxious to forestall her retribution."¹³⁵ This old woman was burned "on the public square in the presence of the local authorities, who made no attempt to stop the proceedings."¹³⁶

The more lenient *Parlement* of Paris jurisdiction adhered to the following rules of evidence for guidance in reaching a decision with regard to interrogations:

[T]here were only three kinds of acceptable proof: a) tangible evidence, such as written pacts with the devil, or pots of unexplained grease or powders, especially if poisonous; b) free confessions, that is, not made under torture or the threat of torture; and c) the testimony of unimpeachable witnesses to an act of sorcery.¹³⁷

Parlement considered any evidence not falling into one of these categories presumptive and not conclusory.¹³⁸ Jean Bodin wrote extensively on the *Parlement's* strict burdens of proof and advocated a lower burden for witch trials.¹³⁹

131. *Id.*

132. *Id.*

133. *Id.*

134. DEVLIN, *supra* note 41, at 117-18.

135. *Id.* at 118.

136. *Id.*

137. Soman, *supra* note 122, at 37.

138. *Id.*

All other forms of evidence—denunciations by convicted witches at the foot of the scaffold, confessions made under torture and later retracted, deep-rooted suspicion on the part of the witch's neighbors, the devil's mark, failure to sink when subjected to trial by water—were only *presumptions* of guilt. Conviction upon presumptions could entail severe punishment, but without one of the three proofs there could be no death sentence.

Id.

139. *Id.*

It was the purpose of [Bodin's] book to urge the *Parlement* to relax its standards of evidence (e.g., to admit the testimony of prostitutes and other social undesirables normally unacceptable as witnesses, to reduce the amount of

The *Parlement* of Paris did not deal with witchcraft as the French demonologists advocated. Although it is true that up until the mid-1620s, "the *Parlement* routinely confirmed the vast majority of death sentences it reviewed upon appeal,"¹⁴⁰ after that date, the *Parlement* changed its perceptions of witchcraft forever.¹⁴¹ Although

evidence necessary to proceed to torture, etc.) in order to close some of the legal loopholes through which so many sorcerers seemed to be escaping execution.

Id. Bodin was also concerned that judicial skepticism of confessions would let too many witches go unpunished:

Bodin showed his concern with judicial skepticism and incredulity stating, "often judges are puzzled by the confessions of witches and are reluctant to base a sentence on them, given the strange things they confess, because some think that they are fables from what they say." This puzzlement could be a serious problem, if it led to witches going unpunished, letting their evil flourish and spread.

PEARL, *supra* note 1, at 119-20 (quoting JEAN BODIN, ON THE DEMON-MANIA OF WITCHES 1580, at 190 (Jonathon L. Pearl & Randy Scott eds. & trans., 1995)) (footnote omitted).

140. In fact, "only 5% to 10% of the accused managed to escape execution." Soman, *supra* note 122, at 32-33. The *Parlement* often acquitted appellants or commuted their sentences. PEARL, *supra* note 1, at 15-17.

141. Soman, *supra* note 122, at 33 ("It was not until a series of sensational scandals, involving demonic possession in urban convents of middle-class nuns, aroused a lively debate, that the magistrates began to re-examine their superstitions and adopt what may loosely be termed rationalistic standards . . ."). A landmark decision in 1624 changed the fate of those accused of witchcraft by decreeing that all sentences that prescribed corporal or capital punishment were to be granted automatic appeal. *Id.* See MONTER, *supra* note 5, at 105 ("[T]here were no known deaths for witchcraft after 1614."). In fact, by 1640 *Parlement* had implemented procedures to enforce lower courts' adherence to its guidelines. See PEARL, *supra* note 1, at 15 ("They endeavoured to supervise the local courts more closely and end abusive illegalities in prosecutions. In some instances, this involved bringing criminal charges against local officials."). As a result, members of the French populace who became victims to witch spells devised ways to attack accused witches outside of the formal court system; their methods took on a sort of primitive justice. Kay S. Wilkins, *Attitudes Toward Witchcraft and Demonic Possession in France During the Eighteenth Century*, 3 J. EUR. STUD. 348, 352 (1973). The populace developed several antidotes to guard against witchcraft, reflecting the popular superstitions of the time. *Id.* These remedies included: "putting salt and onions in your pockets, spitting on your urine and washing your hands and feet in it, spitting on your right shoe, [spitting on] your hair . . . thrice on your breast, etc." *Id.* (citation omitted). In addition, due to the need for an informal route to reverse the spells of witches, the counter-sorcerer was born. *Id.* The counter-sorcerer "introduced a degree of formality . . . and legitimacy" to those who were searching for guidance and support. *Id.* The role of the counter-sorcerer is exemplified by the following story:

[A] young woman's attack of hysteria was suspected as being due to a spell cast by an old neighbour. A counter-sorcerer was called in who administered a potion and held up a mirror to the girl, asking her if she recognized her enemy. She affirmed that the enemy was her neighbour and promptly recovered.

MONTER, *supra* note 5, at 110 ("The Vendeeenne cited by Trebucq had identified her witch before the ceremony: the healer merely enabled her to confirm her suspicions. As her case makes clear, the counter-sorcerer provided a mise-en-scene, which enabled her worries to be expressed with dramatic formality and then resolved."). Counter-sorcerers used various techniques to quench anxieties and expose the truth, such as showing the culprit in a mirror. *Id.* at 109-11; see also LEVACK, *supra* note 3, at 153 (noting that "[c]ounter magic might have been used against the suspect in the past but this time, either because the misfortune was

Bodin's approach to the rules of evidence appears stricter than the ordinary approach, he in fact "does not really stray far from the 'half proof' criterion that was used in ordinary proceedings."¹⁴² That is, many local proceedings assigned torture if the prosecution had met only half of the elements of proof.¹⁴³

2. Patriarchal Society's Contribution

The patriarchal nature of French society also contributed to the prosecution of witches in sixteenth, seventeenth and eighteenth century France. Women were supposed to be submissive; when they were not, they were often ostracized and labeled witches. This was especially true given the fact that women were held in very low esteem. In addition, some women actively sought out folk religion in their religious pursuits. The folk religions were labeled as witchcraft because they did not conform to society's beliefs about women and religion.

A patriarchal system does not esteem a quarrelsome and aggressive woman. "Traditionally, peasant women in bad marriages [who voiced their dissent] . . . were branded as 'traitors' to their husbands . . . [O]utspoken wives were called shrews and suspected of witchcraft; when they spoke out against neighbors, . . . they were hauled into court for being a nuisance and a witch."¹⁴⁴ Her accuser backed the archetypal witch into a corner because society disdained her unattractive appearance, eccentric behavior and refusal to submit to patriarchal control. Already socially ostracized, women accused of witchcraft were too poor to resist; their status in society sealed their fate.¹⁴⁵

In the French patriarchal society, women were historically blamed for inexplicable harms and tragedies.¹⁴⁶ Women did not receive compassion in the trial process. This was mainly because those in position of authority were men¹⁴⁷ and perpetuating the notion of women as the cause of evil required that no mercy be given

especially difficult to bear or because local authorities were encouraging prosecutions, the wronged party decided to have recourse to the law"). Similar to the court system, counter-sorcerers often utilized torture. DEVLIN, *supra* note 41, at 100. It was "common practice to kidnap suspects, imprison them in the victim's house and attempt to extort a confession . . . by threatening to burn and abuse them." *Id.* at 114.

142. PEARL, *supra* note 1, at 119 (footnote omitted).

143. *Id.*

144. BARSTOW, *supra* note 34, at 28.

145. *Id.* at 29.

146. See *supra* notes 25-50 and accompanying text.

147. BARSTOW, *supra* note 34, at 142.

to them at trial. Men were the "accusers, the ministers, priests, constables, jailers, judges, doctors, prickers, torturers, jurors, and executioners, and the court of appeal as well."¹⁴⁸ Women could play virtually no role in the prosecution process; except for initiating accusations. To illustrate women's powerless status, females could testify only if there were a sufficient number of corroborating witnesses.¹⁴⁹ Under this male-dominated system, it is not surprising that "80 percent of those accused and 85 percent of those executed were female."¹⁵⁰

Women were repressed in their religious pursuits as well. Because the church barred women from entering the priesthood, witchcraft was the only avenue open to women who wanted to preach.¹⁵¹ These women found an outlet in "medieval heretical groups" that gave them the leadership roles they were seeking.¹⁵² What was commonly perceived as witchcraft was, in effect, the practice of folk religion, the only alternative of the day.¹⁵³ What becomes evident concerning witchcraft is that it was part of an ongoing sex war.¹⁵⁴

148. *Id.* (footnote omitted).

149. PEARL, *supra* note 1, at 118 ("Disreputable characters or women [whose testimony was worth half that of men, because of 'the imbecility and fragility of the sex'] could testify[,] as long as there were several witnesses.") (quoting JEAN BODIN, *ON THE DEMON-MANIA OF WITCHES* 1580, at 185-87 (Jonathon L. Pearl & Randy Scott eds. & trans., 1995)) (alterations in original).

150. BARSTOW, *supra* note 34, at 142.

This all-male establishment paid off As for the appeal process, few women attempted it: in France, 50 percent of the appeals to *Parlement* were by men, although only 20 percent of the accused were male. The power of the courts trying witches, operating as they were under an extraordinary dispensation from normal legal procedure, gave these men exceptional power over women, and many of them used it to carry out sadistic sexual practices on the victims. Therefore when women asserted themselves, challenging this patriarchal system in any way, they were punished.

Id. (footnote omitted).

151. WALKER, *supra* note 22, at 77.

152. BARSTOW, *supra* note 34, at 5.

153. *See id.* (reviewing the scholarly debate as to whether witchcraft should be considered a folk religion).

154. *See, e.g.,* BARSTOW, *supra* note 34, at 113.

Unfazed by their own complicity in relying on magic, the churches still insisted on attacking folk healers. These latter were in fact the priests' competition But the women had a special edge over the clergy; as the authorities on matters of sex, they asserted what control was possible over fertility, conception, successful pregnancy, and safe childbirth.

Id.

3. Authors' and Demonologists' Contributions

Authors in the Middle Ages and early modern period in France perpetuated the witchcraft phenomenon by introducing significant concepts in the areas of witchcraft and demonology.¹⁵⁵ The work of the famed Lorraine magistrate Nicolas Remy discussed how "supreme worship that is only due to God is given to the Evil One, in a sacrilegious and abominable manner."¹⁵⁶ He "boasted that he sent eight or nine hundred to their deaths."¹⁵⁷ Remy also "sentenced children of convicted witches to be beaten with rods as they watched their parents being burned alive (and then wondered if he had been too lenient)."¹⁵⁸

Other French authors wrote equally horrific accounts of witchcraft and the treatment it warranted, including Henri Boguet in 1596, Franche-Comté's demonologist.¹⁵⁹ In his treatise, *Examen of Witches*, he contended that:

the devil is interested only in those [individuals] past puberty. Still, he condemned young children, believing that once possessed, no one could struggle free of the devil's hold. Boguet is best known for his extreme cruelty, his insisting on burning some victims alive . . . and lashing and burning children. One frantic woman, Claude Janguillaume, tore herself free from the stake three times, only to be dragged back each time by the executioner.¹⁶⁰

Jean Bodin¹⁶¹ published "one of the most influential guides to witch-hunting, the *Demonomanic des Sorciers*."¹⁶² He expounded "extreme arguments" concerning witches and believed that "witches promised Satan babies still in the womb, ate human flesh, drank human blood, had intercourse with the devil, and sacrificed their own children to Satan."¹⁶³ He advocated torture and the death

155. Julio Caro Baroja, *Witchcraft and Catholic Theology*, in *EARLY MODERN EUROPEAN WITCHCRAFT: CENTRES AND PERIPHERIES* 1, 35 (Bengt Ankarloo & Gustav Henningsen eds., 1990).

156. *Id.*

157. BARSTOW, *supra* note 34, at 65.

158. *Id.*

159. MONTER, *supra* note 5, at 69.

160. BARSTOW, *supra* note 34, at 66 (footnote omitted).

161. See *supra* note 10 and accompanying text (discussing Jean Bodin's work as an eminent French demonologist).

162. BARSTOW, *supra* note 34, at 175.

163. *Id.*

penalty.¹⁶⁴ He believed "it was better to kill innocent persons than to allow a witch to live."¹⁶⁵ His views also reflected his wariness of women. "Claiming that he had known a few wise men but never a wise woman, Bodin confirmed that the female sex was a potential threat to society."¹⁶⁶

An author possessing contrasting views from most of the writers of his time was Michel de Montaigne.¹⁶⁷ Pronounced as "the best known French writer of the sixteenth century," he held views opposing writers like Bodin, and was heavily criticized for such.¹⁶⁸ In his *Essays* concerning witches, he argued that "it is to put a very high value on your surmises to roast a man alive for them."¹⁶⁹ He was prepared to defend his unpopular beliefs on witch punishment, a posture difficult to maintain during this time period.¹⁷⁰

4. *The Demise of Witch-Hunts*

During the latter Middle Ages and early modern period in Europe, "[p]eople of all social classes, from peasants to the élites, shared views of the reality of spells and magical manipulations of the natural world."¹⁷¹ These views, many of which were initiated by men of the cloth, were shared by a broad class of citizenry.¹⁷² It was not until the 1630s and 1640s that "intellectuals and judges began to question traditional approaches to witchcraft and the Parlement of Paris reduced and gradually ended prosecutions for that crime."¹⁷³ In the seventeenth century, witchcraft prosecutions in France ended forever, upon the order of Louis XIV.¹⁷⁴

Even though the elite's focus on witchcraft diminished, the lower classes' belief in such supernatural forces continued.¹⁷⁵ Much of this is to be expected due to the fact that the peasants took out

164. *Id.*

165. *Id.*

166. *Id.* See generally WITCHCRAFT IN EARLY MODERN EUROPE: STUDIES IN CULTURE AND BELIEF (Jonathan Barry et al. eds., 1996) (discussing the connectors between witchcraft and cultural beliefs).

167. PEARL, *supra* note 1, at 102-06.

168. *Id.*

169. *Id.* at 105 (footnote omitted).

170. *Id.*

171. Pearl, *supra* note 15, at 286.

172. *Id.* "Spread by preachers, this new Christian demonology spread among the upper classes and trickled down to the common people, who were already imbued with pagan magical world views." *Id.*

173. PEARL, *supra* note 1, at 10.

174. *Id.*

175. Pearl, *supra* note 15, at 286.

their frustrations over crop failure, disease and starvation on the only society members in a more inferior position.¹⁷⁶ The perpetuation of witch-hunts "cast light on people's feelings and how they coped with them."¹⁷⁷ Commoners held steadfast to their beliefs in an effort to calm and rationalize their fears.¹⁷⁸

With all the discourse on the phenomenon of witchcraft, it must be realized that witch-hunts were not "a unique event to be filed under the 'historical unrepeatable past.'"¹⁷⁹ Rather, they were, and continue to be, a reflection on the diverse and ever evolving methods used to repress those groups in society which question the patriarchal norm: mainly the poor and women.¹⁸⁰

II. SLAVERY, *PLAÇAGE* AND WITCHCRAFT IN NEW ORLEANS

In New Orleans, the sixteenth and seventeenth centuries were times that earmarked the perpetual subordination of women by men whose control extended over natural resources, wealth and, last but not least, human beings.¹⁸¹ Most Europeans saw slaves as being sub-human, "exploitable cheap labor and nothing more."¹⁸² The mirrored growth of the slave trade and the "violent misogyny of the witch-hunts" during the sixteenth century is all too clear.¹⁸³ In

176. BARSTOW, *supra* note 34, at 265.

From a social point of view, the peaks in the persecution of witchcraft coincided with an overcrowded rural world in which life was made very difficult indeed by higher prices—that is, they coincided with a "conjunctural" impoverishment of the peasant masses. This impoverishment was felt all the more keenly during these periods because it was an intensification of a centuries-long process of "real pauperization of the rural mass" and of "growing parcellization" of agricultural holdings.

Id.; see *supra* notes 25-29 and accompanying text.

177. DEVLIN, *supra* note 41, at 102.

178. See *supra* notes 32-34 and accompanying text (discussing some of the ways peasants blamed their hardships on witchcraft).

179. HESTER, *supra* note 32, at 202.

180. *Id.*

The witch-hunts are particular to a specific historical period. Very significantly, they are a product of a society with a prevalent superstitious belief in evil and magic. But they also appear to have been a particular response to a possibly long-lived problem: a part of the dynamic process whereby men as a group actively attempted to maintain dominance over women, who were rarely passively compliant. With regard to this it is especially interesting that the accusation of witchcraft also appears to have been used among the peasantry in the centuries prior to (and after) the witch-hunts as a means of controlling women socially.

Id.

181. BARSTOW, *supra* note 34, at 159.

182. *Id.*

183. *Id.*; see also ORLANDO PATTERSON, *RITUALS OF BLOOD: CONSEQUENCES OF SLAVERY IN*

order to see the similarities between suppressed persons in the patriarchal New Orleans system, and the witches of early France, it is first necessary to understand the transcontinental origins of both slaves in New Orleans and the emergence of witchcraft in New Orleans.

A. The History of New Orleans: Economics and the Arrival of Slaves

New Orleans, Louisiana boasts a thriving economic history. This, coupled with the *Code Noir*, paved the way for the emergence of witchcraft in America in the form of voodoo. New Orleans became the hub of the slave trade.¹⁸⁴ "By the beginning of the territorial period, . . . lower Louisiana was entering an agricultural and commercial boom."¹⁸⁵ Saint Domingue, the world's leading producer of sugar, was feeling the aftershock of France's war with Britain and Louisiana's sugar industry began to profit.¹⁸⁶ By 1804, the region "above and below New Orleans boasted nearly eighty sugar plantations, which may have produced more than five million pounds of sugar."¹⁸⁷ Cotton plantations were also booming, which, in conjunction with the sugar plantations, increased the demand for slave labor.¹⁸⁸ In terms of population, the colony saw unprecedented growth.¹⁸⁹ New Orleans also flourished because it was "Louisiana's primary urban center and port."¹⁹⁰ As an international port, various products traveled through New Orleans on their way to Europe and the Americas, including "furs, hides, timber, and agricultural products."¹⁹¹ New Orleans also served as the "entrepôt for slaves and various goods such as flour and cloth that colonials could not

TWO AMERICAN CENTURIES 216 (1998) ("The vulnerable and despised Afro-Americans were easy substitutes for the poor and despised women of seventeenth-century England accused of "necromancy and nigromancy.").

184. Robert L. Paquette, *Revolutionary Saint Dominique in the Making of Territorial Louisiana*, in *A TURBULENT TIME: THE FRENCH REVOLUTION AND THE GREATER CARIBBEAN* 204, 211-14 (David Barry Gaspar & David Patrick Geggus eds., 1997).

185. *Id.* at 211.

186. *Id.* at 210-11.

187. *Id.* at 212.

188. *Id.*

189. KIMBERLY S. HANGER, *BOUNDED LIVES, BOUNDED PLACES: FREE BLACK SOCIETY IN COLONIAL NEW ORLEANS, 1769-1803*, at 10 (1997).

190. *See id.* at 11 (noting that there was a "royal *cédula* (decree) of 1782 [that] admitted slaves disembarked from French West Indies ports duty-free").

191. *Id.* at 10.

supply on their own."¹⁹² Therefore, New Orleans had a rich history, in part from all its exchanges with various regions.

The majority of free men in the Louisiana territory in the early 1700s were trappers, miners, soldiers and adventurers, although there was a small contingent of government officials from France.¹⁹³ These French officials brought their wives to the colonies; the other white women in Louisiana "were not only few in number, but also were frequently former inmates of asylums and houses of correction in France who had been brought to the frontier territory by force."¹⁹⁴ Many of the men described these women as "ugly, ignorant, irascible, and promiscuous."¹⁹⁵ This description of white women in New Orleans during this period correlates with the description of women accused of witchcraft in sixteenth- and seventeenth-century France.¹⁹⁶

The voyage of slaves to New Orleans was facilitated by the fact that Louisiana was "part of a mutually dependent system of colonies in the Caribbean."¹⁹⁷ France ruled, and claimed ownership of, Louisiana, the colony named for the "Sun King," Louis XIV.¹⁹⁸ Louisiana, as part of the colonial system, supplied the French islands with lumber for the sugar industry and naval stores.¹⁹⁹ In return, Louisiana received sugar and slaves.²⁰⁰ Louisiana did not flourish, either economically or demographically, during this period of French rule.²⁰¹

French rule of Louisiana did not last long, however. "After ruling—or actually neglecting—Louisiana for almost seven decades, France ceded its territory west of the Mississippi River, plus the Isle of New Orleans, to Spain following the Seven Years' War."²⁰²

192. *Id.*

193. Joan M. Martin, *Plaçage and the Louisiana Gens de Couleur Libre: How Race and Sex Defined the Lifestyles of Free Women of Color*, in *CREOLE: THE HISTORY AND LEGACY OF LOUISIANA'S FREE PEOPLE OF COLOR* 57, 60-61 (Sybil Kein ed., 2000).

194. *Id.*

195. *Id.* (citation omitted).

196. *Id.*; RAPLEY, *supra* note 17, at 99; see *supra* notes 61-62, 68-71 and accompanying text.

197. HANGER, *supra* note 189, at 6-7.

198. *Id.* at 6.

199. *Id.* at 6-7; see also Carolyn E. Fick, *The French Revolution in Saint Domingue: A Triumph or a Failure?*, in *A TURBULENT TIME: THE FRENCH REVOLUTION AND THE GREATER CARRIBBEAN* 51, 52 (David Barry Gaspar & David Patrick Geggus eds., 1997) (discussing the connection between the slave trade and the economies of France and its colonies).

200. *Id.*

201. See HANGER, *supra* note 189, at 7-8 (describing Louisiana's economic and demographic problems during this time).

202. Kimberly S. Hanger, *Conflicting Loyalties: The French Revolution and Free People of Color in Spanish New Orleans*, in *A TURBULENT TIME: THE FRENCH REVOLUTION AND THE GREATER CARRIBBEAN* 178, 178 (David Barry Gaspar & David Patrick Geggus eds., 1997). The

Thereafter, although the population of Louisiana consisted of settlers of French origin and slaves of African descent, Spain ruled the territory.²⁰³

Spain's objectives were "to attract settlers to the region in order to defend it, balance the somewhat hostile French population remaining in the colony and promote agricultural and commercial growth."²⁰⁴ To achieve these goals, Spain created an attractive immigration policy, one more effective than the previous French policy. "With generous grants of land, tools, and foodstuffs the crown enticed Isleños, Malagueños, and refugees from Acadia and Saint-Domingue to Louisiana."²⁰⁵ Spain governed Louisiana for approximately forty years, at which point the colony was again under French rule until the United States purchased Louisiana.²⁰⁶

During the initial years of United States rule in Louisiana, the population soared. "[A] substantial portion of the rapid population growth in Orleans territory derived from legal and illegal immigration from Saint Domingue."²⁰⁷ The influx of Saint Dominguais profoundly influenced the development and economic vitality of Louisiana.²⁰⁸ In addition to the economic and cultural effects of the migration of Saint Dominguais to Louisiana, the French-owned slaves and free people of color brought their beliefs and practices concerning witchcraft to America as well.

transfer was made through "the secret Treaty of Fountainebleau, signed on 3 November 1762, and the public Treaty of Paris that ended the Seven Years' War in 1763." HANGER, *supra* note 189, at 7.

203. Hanger, *supra* note 202, at 178.

204. HANGER, *supra* note 189, at 8.

205. *Id.* Saint Domingue is now known as Haiti. Paquette, *supra* note 184, at 204. Saint Domingue was populated by free people of color, growing in numbers and power. Fick, *supra* note 199, at 56. Many Saint Dominguais were well-educated and employed in business and the trades. *Id.* "Moreover, the free people of color of Saint Domingue . . . owned one-third of the colony's plantations, one-quarter (over 100,000) of the slaves, and one-quarter of the real estate property." *Id.*

206. HANGER, *supra* note 189, at 8.

207. Paquette, *supra* note 184, at 214.

208. *See id.* at 214-15.

Whites filled roles as legislators, jurists, artists, educators, physicians, and journalists as well as planters, and in the process reinforced besieged French culture; free people of color occupied a wide range of arts and skilled trades, from cabinetry to fencing instruction; slaves provided muscle, skills, and knowledge that contributed to the success of Louisiana's nascent sugar industry.

Id. at 214.

B. *The Emergence of Witchcraft in New Orleans*

Witchcraft has slowly emerged in New Orleans as a result of a variety of factors. Immigrants from Saint Domingue brought with them their belief in voodoo. The slaves of New Orleans contributed to the emergence of witchcraft with their own version of voodoo: Hoodoo. The practice of *plaçage* in New Orleans contributed greatly to the modern form of witchcraft. There are a great deal of similarities between witchcraft in France and voodoo in New Orleans. These similarities provide us with insight as to the modern practice of witchcraft in America.

1. *Plaçage*²⁰⁹ and the Emergence of American Voodoo

The origin of the voodoo cult—voodoo being a spiritual power—is often associated with witchcraft.²¹⁰ The voodoo practice made its way to the United States through the slave trade, as well as through the migration of French colonists and free people of color from Saint Domingue.²¹¹ “Packed in narrow spaces, in leaky and unseaworthy ships,”²¹² they made their way to New Orleans with only the bare essentials, among them, their belief in voodoo. Hence, the beginning of voodoo in America.²¹³ The practice of *plaçage* allowed the voodoo to evolve through integration.

Some writers maintain that “hoodoo,” the African-American form of voodoo, has its roots in the *vaudois*, French for witch, that emigrated into Saint Domingue.²¹⁴ Modern witches are reluctant to link the *vaudois* with hoodoo; an alternate view is that the term has African, not French roots.²¹⁵ The fact that French witches emigrated to Saint Domingue,²¹⁶ and then to Louisiana during the Saint

209. See *infra* note 219 and accompanying text.

210. David C. Estes, “Hoodoo? God Do:” *African American Women and Contested Spirituality in the Spiritual Churches of New Orleans*, in *SPELLBOUND: WOMEN AND WITCHCRAFT IN AMERICA* 157, 157-59 (Elizabeth Reis ed., 1998).

211. ROBERT TALLANT, *VOODOO IN NEW ORLEANS* 9 (1946); Paquette, *supra* note 184, at 214; see also *supra* notes 207-08 and accompanying text (discussing the population growth of Louisiana following its transfer to the United States).

212. HENRY C. CASTELLANOS, *NEW ORLEANS AS IT WAS: EPISODES OF LOUISIANA LIFE* 301 (Pelican Publ. Co. 1961) (1895).

213. NEWBELL NILES PUCKETT, *FOLK BELIEFS OF THE SOUTHERN NEGRO* 177 (1969).

214. *Id.*; see also MONTER, *supra* note 5, at 195 (connecting French and African witchcraft). “Equally singular and much more important is the fact that the same parts of the Jura which first equated witchcraft with heresy . . . were calling witches *vaudois*.” *Id.*

215. PUCKETT, *supra* note 213, at 177. “[The word voodoo is] derived from the *vo* (to inspire fear) of the Ewe-speaking peoples and signifying a god—one who inspires fear.” *Id.*

216. HURBON, *supra* note 4, at 168.

Domingue revolution of the early 1800s,²¹⁷ underscores the intermingling of the races on a social basis under the *Code Noir*.²¹⁸ *Plaçage* was the outcome of racial intermingling in New Orleans society.²¹⁹ Thus, it is not difficult to recognize the outcome of the intermingling between religions as well.²²⁰

New Orleans was firm in its approach to interracial sexual unions. American colonial areas did not condone interracial unions publicly, but New Orleans permitted the openness.²²¹ In New Orleans, factors that contributed to a free black population and mixed unions included "a flexible, diverse economy and a scarcity of white women, artisans, and soldiers."²²² "Because there were few white women, white males engaged in forced and consensual relations with Indians, Africans, and castas."²²³ Even more interesting for the time period is that these relations were not publicly condemned.²²⁴ In fact, slave women's offspring were often recognized after the death of the father.

The offspring of these [interracial] unions were sometimes recognized in a planter's will, perhaps by a white man making public admission of his alliance only after his death. In 1825, Philip Henshaw made a clear declaration of paternity and affection for a slave offspring:

"I give and bequeath to my daughter (for such I believe her to be) Floreal Floretta . . . her freedom. I also bequeath her one half my estate of every description whatsoever, to her and her

217. *Id.*

218. The *Code Noir*, or Black Code, was issued by Louis XIV in 1685 and lists in detail the "nonrights of black slaves and the rights of the white masters." *Id.* at 28. The Code classified black slaves as personal property, forbade African religious ceremonies and regulated every aspect of their work, rest, family and nourishment. *Id.* at 23, 28.

219. Martin, *supra* note 193, at 57-58. "*Plaçage* was the practice that existed in Louisiana (and other French and Spanish slaveholding territories) whereby women of color—the option of legal marriage denied to them—entered into long-standing, formalized relationships with white European men." *Id.*

220. PUCKETT, *supra* note 213, at 178. Within Africa, "[i]n the southeastern portions of the Ewe territory . . . the adoration of the snake god was carried to Hayti by slaves from Ardra and Whydah, where the faith still remains today." *Id.* African voodoo (or *vodu*) entered when the "Dahomies invaded Ardra and subjugated it" in 1724. *Id.* Whydah was conquered soon thereafter. *Id.* These two conquests led to the selling and shipping of great numbers of tribes people, along with their *vodu* religion, to America. *Id.*

221. Violet Harrington Bryan, *Marcus Christian's Treatment of Les Gens de Couleur Libre*, in CREOLE: THE HISTORY AND LEGACY OF LOUISIANA'S FREE PEOPLE OF COLOR 42, 48 (Sybil Kein ed., 2000). But see HANGER, *supra* note 189, at 97 ("The free black women who engaged in sexual relationships with white men . . . were condemned as 'lewd,' 'lascivious,' and 'licentious' in New Orleans and throughout the Americas.") (citation omitted).

222. HANGER, *supra* note 189, at 11.

223. *Id.* "Castas" are individuals of mixed race. *Id.* at 2.

224. *Id.*

heirs forever. It is my desire that my sister Sallie Gatewood, out of the estate I have devised to Floreal Floretta, shall board her at some decent white woman's house and have her educated . . . in the event of my sister Sallie Gatewood complying with the foregoing request, I give her and her heirs forever one-half of my estate."²²⁵

A unique characteristic of lower Louisiana was the "relatively equal proportion of whites and slaves and the size of the free colored class, which by 1810 amounted to almost 10 percent of the total population."²²⁶ Even so, "[s]ex ratios amongst slaves were much more balanced than among libres and almost evened out in the early 1790's."²²⁷ Uneven sex ratios "contributed to racial mixture in New Orleans, . . . where white females were scarce and women of indigenous or African descent were plentiful. White conquerors . . . believed that one of the rewards of conquest consisted of sexual favors from subordinated peoples, and thus there emerged a casta population."²²⁸ Consent was not an issue in a societal structure where "slaveowners maintained despotic rule."²²⁹ Moreover, the slave female "could not really give herself 'freely,' for she did not have herself to give: she already belonged to the master."²³⁰ Falling in love was an impractical concept for the female slave in southern society.²³¹

In most urban centers like New Orleans, there were more slave females—mainly domestics—than males, in contrast to the countryside, where planters preferred men slaves to work the fields and perform skilled and managerial tasks. Among libres, however, the disparity was much greater: females outnumbered males about two to one . . .²³²

The sheer multitude of black women can also be explained, in part, by the number of Saint Domingue immigrants who moved to

225. CATHERINE CLINTON, *THE PLANTATION MISTRESS* 213 (1982) (omissions in original).

226. Paquette, *supra* note 184, at 214. The 1721 Census of New Orleans revealed striking figures: "145 white men, 65 white women, 38 children, 29 white servants, 172 blacks, and 21 Indian slaves." HANGER, *supra* note 189, at 12. The 1777 New Orleans Census demonstrates this continuing trend of white males outnumbering white females; the ratio was one hundred seventy-five white males to every one hundred white females. *Id.* at 23.

227. HANGER, *supra* note 189, at 23. Libres are free persons of African descent. *Id.* at 1.

228. *Id.*

229. CLINTON, *supra* note 225, at 213.

230. *Id.*

231. *Id.*

232. HANGER, *supra* note 189, at 23; see also Bryan, *supra* note 221, at 55 (discussing the growing population of free blacks).

New Orleans during Napoleon's invasion of Spain.²³³ Of the 9,000 refugees who came to New Orleans, "about 70 percent were women and children; about the same proportion were persons of color, almost equally divided between slaves and [libres]."²³⁴

Although uncommon, official marriage unions between whites and libres occurred frequently enough to rouse suspicion.²³⁵ However, interracial marriages violated the "Royal Pragmatic," which was issued by the crown in 1776.²³⁶ Getting married was difficult for those who disregarded the law. Spain instituted the requirement that all persons under twenty-five years of age wishing to marry needed parental consent.²³⁷

The [Royal] Pragmatic exempted castas and blacks, because it was assumed that they were illegitimate and did not know who or where their parents were. . . . Nevertheless, after receiving special permission and the consent of their families, a white and free black couple could marry in the Catholic Church . . . in New Orleans. . . . One scholar of Saint Domingue notes that "even during the last few decades of the colony, marriage between . . . impecunious white Frenchmen and comfortably placed women of color were common enough to inspire bitter comment." . . . Interracial marriage, however, was primarily of concern to status-conscious white aristocrats; few poor Spanish and wealthy mixed-race families objected to unions between their members and darker-skinned castas.²³⁸

Marriages between whites and free blacks were even infrequently recorded in white marriage registers; however, this appears to be the result of the free person of color "passing" as white.²³⁹

For interracial couples to whom marriage was denied, *plaçage* was a socially acceptable alternative.²⁴⁰ In combination with posthumous recognition of mixed race children,²⁴¹ *plaçage* enabled many free people of color in New Orleans to acquire wealth and

233. Paquette, *supra* note 184, at 214-15.

234. *Id.* (footnote omitted); see also H.E. STERKX, *THE FREE NEGRO IN ANTE-BELLUM LOUISIANA* 264-65 (1972) (providing a very interesting discussion regarding the life of the libres in Louisiana, specifically their ability to assemble for religious purposes).

235. HANGER, *supra* note 189, at 93.

236. *Id.* at 92.

237. *Id.*

238. *Id.* (citation omitted).

239. *Id.*

240. Bryan, *supra* note 221, at 57-58, 65. But see *id.* at 65 (noting that lawmakers attempted to end the practice of *plaçage*).

241. See *supra* note 225 and accompanying text.

land.²⁴² Along with the accumulation of wealth, these free people of color "equal[ed] in education, refinement, and culture the best of their white fellow-citizens."²⁴³ It is important to note the significant difference between English slave law and the French *Code Noir*. Slavery as a social institution was accepted in the English colonies without legal authorization.²⁴⁴ The *Code Noir* differed from laws governing slavery in the rest of the South in that slaves could be manumitted, could sue in court and could own property.²⁴⁵ Thus, the English paradigm of slavery was based solely on race, whereas the French paradigm was non-racist.

It is true that families in New Orleans exhibited mixed patterns of living arrangements, with anywhere from "some members maintaining long-term common-law relationships with one partner," to others "seeking legitimate marriages," to "still others having relationships with many partners."²⁴⁶ Instead of establishing a "harem," the slave owner would coalesce with a habitual lover.²⁴⁷ The offspring of these unions, as discussed above, were sometimes recognized only after the man's death.²⁴⁸ Thus, "some did acknowledge their partners and their natural children in wills, inter vivos donations, and sacramental records."²⁴⁹ This showing of adoration after the planter passed, however, evoked tensions between remaining blood family members.²⁵⁰ One man, Philip Henshaw, who willed property to his daughter, a slave offspring, had to bribe his sister in order to ensure that his wishes would be carried out after his death.²⁵¹ This proved to be a common thing for the deceased to worry about because records indicate that "manumissions and other bequests to mulatto or slave individuals owned by the deceased were often challenged if legal white heirs, especially widows or legitimate offspring, were living."²⁵² As a result, courts saw an increasing number of suits brought by white widows and sons. The family's efforts were not in vain because the law was often on their side.²⁵³ The law leaned toward favoring the

242. Bryan, *supra* note 221, at 65. "In New Orleans a class of rich families of color became known as the 'cordon bleus.'" *Id.* at 65.

243. *Id.*

244. ALAN WATSON, *SLAVE LAW IN THE AMERICAS* 64 (1989).

245. *Id.* at 132.

246. HANGER, *supra* note 189, at 99.

247. CLINTON, *supra* note 225, at 213.

248. *Id.*; see *supra* note 225 and accompanying text.

249. HANGER, *supra* note 189, at 98.

250. CLINTON, *supra* note 225, at 213-14.

251. *Id.* at 213.

252. *Id.*

253. *Id.* at 214.

widow, "especially if she was in debt."²⁵⁴ Freedom was often taken away as well. "The wish of a testator to emancipate a slave was frequently dismissed as deathbed delirium and the slave disposed of by the executor of the will."²⁵⁵

The colored class in society was bound into a position of inferiority and immobility by a white culture that harbored fear of unrest and uprising. The proportion of slaves and free persons of color increasing relative to whites, and the migration of resistant peoples from Saint Domingue, fed the pool of anxiety "about governance and social control."²⁵⁶ "Territorial officials and planters repeatedly confronted real and imagined rumblings from below, influenced to greater or lesser degrees by Saint Domingue/Haiti."²⁵⁷ The fear had a long history in Louisiana, stretching back from the days the French and Spanish ruled the territory.²⁵⁸ The belief that the free blacks would have a rebellious effect on orderly slave societies and disturb the "hierarchical order" increased the fear.²⁵⁹

Throughout history, all of the countries that governed New Orleans feared the worst and took preventive action.

During the years of the French and Haitian Revolutions the Spanish government increased enforcement of its system of checks and balances among several corporate groups in society in order to avert mayhem, especially in the unstable Caribbean. These entities were components of "a hierarchical order, to be manipulated and counterbalanced against one another." An absence of overt rebellion and the failure of insurrectionary plots in late eighteenth-century Louisiana indicate in part that Spanish officials triumphed in their handling of the various interest groups.²⁶⁰

Indeed, that the French and Spanish took such action before the Saint-Domingue rebellion indicates their fear of libre-slave collusion.²⁶¹ Officials under American rule espoused the same

254. *Id.*

255. *Id.*

256. Paquette, *supra* note 184, at 215.

257. *Id.*

258. HANGER, *supra* note 189, at 151-52.

259. *Id.* at 152.

260. *Id.* at 151 (quoting 2 CHRISTIAN SCHULTZ, TRAVELS ON AN ISLAND VOYAGE THROUGH THE STATES OF NEW YORK, PENNSYLVANIA, VIRGINIA, OHIO, KENTUCKY, TENNESSEE, AND THROUGH THE TERRITORIES OF INDIANA, LOUISIANA, MISSISSIPPI, AND NEW ORLEANS, PERFORMED IN THE YEARS 1807 AND 1808; INCLUDING A TOUR OF NEARLY SIX THOUSAND MILES 197 (New York, Isaac Ripley 1810)).

261. *Id.* at 150.

sentiment. In 1804 William C. Clairborne, provisional governor of the Louisiana territory and the first governor of Orleans territory, warned that "at some future period, this quarter of the Union must (I fear) experience in some degree, the misfortunes of St. Domingo."²⁶²

Fear became a reality in January of 1811 when the largest slave revolt in United States history occurred in Louisiana.

Hundreds of slaves—perhaps as many as five hundred—revolted in the river parishes of Saint Charles and Saint John the Baptist They rose on the sugar plantation of Manuel Andry in Saint John the Baptist Parish, less than forty miles northwest of New Orleans. They wounded Andry and killed his second son, . . . advancing "rapidly" toward New Orleans. Along the way they burned plantations and destroyed other property and gathered into their ranks slaves from neighboring plantations.²⁶³

Wade Hampton of South Carolina, commander-in-chief of the United States in the Southern Division, arrived on January 6, 1811, and moved with his troops.²⁶⁴ Major Homer Virgil Milton, with troops from Baton Rouge met the challenge as well.²⁶⁵

[They] surprised the rebels on the sugar plantation of Bernard Bernoudi. About seventy slaves . . . were killed in battle or summarily executed immediately thereafter. Survivors fled to swamps Some of those captured stood trial; at least twenty-one were found guilty and put to death. Only two or three whites appear to have been killed.²⁶⁶

In an extreme example of what could happen when slaves revolted, authorities left a vivid example, in order to be sure that this would never happen again. They ordered those awaiting execution to be decapitated; "their heads were stuck on poles for display from Andry's plantation downriver along the east bank to New Orleans."²⁶⁷ The white population became paranoid not only because of the history of the Saint Domingue revolt, but because of "the loose and fluid" life that persisted in New Orleans.²⁶⁸ For instance, "[s]laves often lived away from their masters and hired

262. Paquette, *supra* note 184, at 218 (footnote omitted).

263. *Id.*

264. *Id.*

265. *Id.* at 218-19.

266. *Id.* at 219.

267. *Id.*

268. *Id.* at 215.

themselves out up and down the Mississippi River."²⁶⁹ Apprehension about an uprising was never far from anyone's minds. "Claiborne repeatedly warned his superiors of the bands of 'young adventurers' in New Orleans from France and the French West Indies, who are 'troublesome for this society,' 'desperate,' and possessed of 'revolutionary disposition.'"²⁷⁰ Whenever dissent was taken up by a suspicious group of people, the groups were labeled and ways were found to quench their power, much like what was done to witches and voodoo queens.

"White apprehension of subversive activity among large groups of African slaves and libres in the context of the Saint-Domingue rebellion forced the performance of African religious practices into the back rooms or outskirts of the city."²⁷¹ One such practice to express their beliefs was by dancing. As an early nineteenth-century witness observed, the "sight of twenty different dancing groups of the wretched Africans, collected together [in the rear of the town] to perform their *worship* after the manner of their country," scared many people who didn't understand their practices.²⁷² "On one Sunday in 1799 another visitor remarked on the 'vast numbers of negro slaves, men, women, and children assembled together on the levee . . . dancing in large rings' at the edge of town."²⁷³ Expression through dance, and the resulting fear of it, is comparative to how the witches and voodoo queens worshipped and how greatly they were feared.

The Americanization of Louisiana brought the same dread of insurrection. On December 20, 1803, the former French and Spanish colony was transferred to the United States.²⁷⁴

With the Americanization of Louisiana and the commercialization of sugar and cotton production, free blacks encountered increasing discrimination and legal restrictions that would draw them together and more clearly define their position in New Orleans society. They, like the "large mulatto populations of Saint-Domingue and Cuba, suffered persecution and exclusion during periods of rising expectations, sugar boom, and self-generated economic competition."²⁷⁵

269. *Id.*

270. *Id.* (footnote omitted).

271. HANGER, *supra* note 189, at 139.

272. *Id.* (alteration in original) (footnote omitted).

273. *Id.* (alteration in original) (footnote omitted).

274. *Id.* at 163.

275. *Id.*

With the "harsh Black Codes," a further effort was made to subjugate slaves to an even further inferior status to prevent any uprising.²⁷⁶ Officials decreed:

that slaveholders could not free slaves under the age of thirty, that they had to post bond upon manumission, and that the newly freed had to leave the territory. Laws also required free black residents to carry proof of free status with them at all times and forbade marriage between whites and blacks and even between libres and slaves. In addition, free blacks from the West Indies or anywhere else could not enter Orleans Territory under threat of a twenty-dollar fine for every week they stayed.²⁷⁷

Although at times there was unrest, during much of the New Orleans colonial period free blacks "generally accepted and identified with the colonial status structure."²⁷⁸ "Free blacks in New Orleans . . . imitated white vecinos in manner and attitude in order to distance themselves from slave status, gain acceptance, and cultivate patronage."²⁷⁹ "America the free" was truly no better at keeping its promise than any other country to date.

2. Similarities Between Voodoo and Witchcraft

Upon a closer look at witchcraft in France and voodoo in New Orleans, it becomes apparent that there are a number of similarities between the two. First and foremost, both witchcraft and voodoo have a very strong spiritual component. Both have startling similarities between their structures and rituals. In addition, both have been feared by the patriarchal society because of their lack of conformance to patriarchal norms and societal expectations of women.

Voodoo is a misnomer; rather than inspiring fear, it is a form of spiritual empowerment for women. Despite its spiritual basis, its manifestations are suspect to the outsider.²⁸⁰ Those who follow the

276. *Id.* at 165.

277. *Id.*

278. *Id.* at 168.

279. *Id.*

280. Elizabeth Reis, *Introduction* to David C. Estes, "Hoodoo? God Do." *African American Women and Contested Spirituality in the Spiritual Churches of New Orleans*, in *SPELLBOUND: WOMEN AND WITCHCRAFT IN AMERICA* 157, 157 (Elizabeth Reis ed., 1998) ("Yet their religious behavior did (and still does) come under suspicion because of its emphasis 'on the manipulation of one's present condition through magico-religious rituals and esoteric knowledge.'" (citation omitted)).

voodoo faith believe that mediums have the power to communicate with spirits.²⁸¹ Believers profess that "the spirits bring messages from beyond this world; spirits are invoked during special rituals and have the gift of prophecy."²⁸² The similarities between voodoo and witchcraft are inextricably tied to the concept of spiritual expansion and prophecy.

The voodoos have African symbols of worship and terms that are similar to witchcraft. In Africa, *Dañh-gbi*, "the deity of the python, is esteemed as omniscient."²⁸³ The devil has a similar connotation in witchcraft.²⁸⁴ This *Dañh-gbi* python holds within his power an "order of priests and many wives, termed *kosio*, who devote their lives to licentious dancing and debauchery—a sort of religious prostitution."²⁸⁵ The spirit of *Dañh-gbi* is said to possess the body of a priest and speak through him.²⁸⁶ In New Orleans, "the two ministers of this serpent god—the king and the queen— . . . communicate the will of the sacred serpent."²⁸⁷ These ministers hold life tenure and disobeying them is considered horrifying, since it "[i]s an offense against the deity himself."²⁸⁸ Voodooism in New Orleans centered on "worship of the serpent."²⁸⁹

Just as witchcraft was marked by secret Sabbaths,²⁹⁰ Louisiana voodoo held secret meetings as part of the rite.²⁹¹ These secret meetings were generally held at night.²⁹² More similarities to witchcraft are found throughout the voodoo ritual. "[Voodoo] blends the practices of three continents into one tradition. It contains

281. PUCKETT, *supra* note 213, at 178.

282. Reis, *supra* note 280, at 157; *see also* Zora Neale Hurston, *Hoodoo in America*, 44 J. AM. FOLK-LORE 317, 319 (1931).

Spiritualism, as a technique for communication with the dead, has a ready appeal to the black, and is often closely combined with hoodoo practices. There are many advantages to a hoodoo doctor in embracing spiritualism. . . . A spiritualistic name protects the congregation, and is a useful devise [sic] of protective coloration. Not all spiritualistic congregations practice hoodoo. The original Spiritualist church in New Orleans is apparently free of hoodoo.

Id. "The practice of Voodooism, which emphasizes ritual and secrecy, had widespread appeal to Louisiana's free Negro population and even for some White devotees." STERKX, *supra* note 234, at 264-65.

283. PUCKETT, *supra* note 213, at 178.

284. SCARRE, *supra* note 20, at 15.

285. PUCKETT, *supra* note 213, at 178.

286. *Id.*

287. *Id.*

288. *Id.* at 179.

289. *Id.* (quoting THE PICAYUNE'S GUIDE TO NEW ORLEANS (1986)).

290. *See supra* notes 85-93 and accompanying text.

291. *See* TALLANT, *supra* note 211, at 7-8.

292. *See id.* at 12 (describing the nighttime ceremonies in New Orleans).

African ancestor reverence, Native American earth worship and European Christian occultism.²⁹³

There are striking similarities between the Haitian voodooienne and the European witch. Individuals paid their respect to the voodoo god and "implore[d] the voodoo god—to invoke blessings upon friends and curses upon enemies."²⁹⁴ Likewise the curse was an all too familiar feature attributed to the witch.²⁹⁵ It is the voodooienne who made physical contact with the snake deity, whereby her body was "seized with convulsions as the oracle talked through her inspired lips."²⁹⁶ Just as the witch was regarded as more sensitive to hypnotic influence, the invocation of the deity by the voodooienne implies that voodoo shared this belief too.²⁹⁷ Once all formalities are finished, such as offerings and oaths, the voodoo dance can begin.²⁹⁸

The voodoo dance marks the initiation of new members to the cult:

The voodoo king traces a large circle in the center of the room with a piece of charcoal and places within it the sable neophyte. He now thrusts into his hand a package of herbs, horse hair, rancid tallow, waxen effigies, broken bits of horn, and other substances equally nauseating. Then lightly striking him on the head with a small wooden paddle, he launches forth into . . . [a] chant [T]he candidate begins to squirm and dance—an action called "*monter voudou*." If he steps out of the ring in his frenzy, the king and queen turn their backs to neutralize the bad omen. Again the candidate enters the ring, again he becomes convulsed; drinking some stimulant, he relapses into an hysterical fit. To stop this the king sometimes hits him with a wooden paddle or with a cowhide. Then the initiate is led to the altar to take the oath, and from that moment becomes a full-fledged member of the order.

The king then places his foot upon the box containing the snake. He seems to get a sort of shock which is transmitted to his queen, and through her to every one in the circle. Violent convulsions take place, the queen being the most violently affected. From time to time the serpent is again touched to get more magnetic power. The box is shaken, and tinkling bells on

293. LUISAH TEISH, JAMBALAYA: THE NATURAL WOMAN'S BOOK OF PERSONAL CHARMS AND PRACTICAL RITUALS, at x (1985).

294. PUCKETT, *supra* note 213, at 178.

295. SCARRE, *supra* note 20, at 3-4.

296. PUCKETT, *supra* note 213, at 181.

297. *Id.*

298. *Id.*

the side increase the general delirium already under way, aggravated by much drinking of spirituous liquors. "Then is pandemonium let loose. Fainting fits and choking spells succeed one another. A nervous tremor possesses everybody. No one escapes its power. They spin with incredible velocity, whilst some, in the midst of these bacchanalian orgies, tear their vestments and even lacerate their flesh with their gnashing teeth. Others, entirely deprived of reason, fall down to the ground from sheer lassitude and are carried, still panting and gyrating into the open air."²⁹⁹

The voodoo initiation dance and the witches' Sabbath devil dance³⁰⁰ have similar ritualistic components. For instance, descriptions of both ceremonies include a ritual circle, frenzied dancing and bacchanalian revelry.³⁰¹ The similar nature of the ceremonies supports the argument that it was the social heterogeneity of New Orleans that enabled French witches to mix with Caribbean émigrés to create the modern form of voodoo practiced in Louisiana, which was dominated by women, unlike its Haitian counterpart.³⁰²

Voodooiennes' association with evil is also important because of the similar characterizations of witches, as discussed in Part I of this Article. "[T]hey use philters, drugs and poisonous substances in their wicked operations"³⁰³ called "gris-gris."³⁰⁴

[Voodooiennes] use dirt taken from graveyards. They employ certain powders, which they scatter around such places as they suppose their victims are apt to touch with their hands or feet, and the effect of these powders is to produce inflammation, pain and fever. Even feather pillows are impregnated with deleterious substances³⁰⁵

C. The Patriarchal System Re-emerges in New Orleans

New Orleans was rife with rumors of voodooism and women's practice thereof. The Euro-Americans' accounts of voodoo

299. *Id.* at 182-83 (quoting H.C. CASTELLANOS, *NEW ORLEANS AS IT WAS* 92-95 (New Orleans, 1895)).

300. *See supra* note 93 and accompanying text.

301. *See supra* notes 93, 299 and accompanying text.

302. HALL, *supra* note 6, at 302.

303. CASTELLANOS, *supra* note 212, at 100.

304. *Id.*

305. *Id.*

ceremonies described them as orgies, not as worship rituals.³⁰⁶ The academic perception of the voodoo religion practiced by women concentrates on the physical manifestations and dismisses it as irrelevant.³⁰⁷ The physicality of this religion is adverse to notions of the Western, patriarchal construct. In the same way that men in a patriarchal society label women who try to attain any amount of identity and power, "[o]utside observers depict Voodoo women as erotic objects and overlook their dynamic spirituality."³⁰⁸

There are grave similarities between suppressed persons in a patriarchal system, as women generally and witches in particular were, and enslaved persons in an unemancipated system.³⁰⁹ Free women and slaves shared similar circumstances in early modern Europe and its colonies.³¹⁰

Neither had control over what they produced . . . and their labor could be coerced. Both were seen by the law as children, as fictive minors who could be represented in court only by their masters/husbands. Both could be legally beaten, debased, and humiliated. When mistreated, both were impotent to gain help from others within their group, nor usually could their families help them. Both were caught in a hereditary system. Both were needed as well as rejected. Both could be sold. Under . . . their masters/husbands, both could be put to death for being what they were—female, or black.³¹¹

"Viewing women as property, husbands became more authoritarian, a role no less oppressive for being disguised as paternalism. Just as slavery produced the myth of the good master, so patriarchy created the myth of the benevolent ruler of the family."³¹² Men also blamed women for inexplicable events and, thus, "judges and priests devised a satanic conspiracy theory to punish women who might step out of line. . . . [A]ccusations of witchcraft were 'a highly effective means of social control.'³¹³

306. Estes, *supra* note 210, at 160.

307. See Barbara Rosendale Duggal, *Marie Laveau: The Voodoo Queen Repossessed*, in CREOLE: THE HISTORY AND LEGACY OF LOUISIANA'S FREE PEOPLE OF COLOR 157, 158 (Sybil Kein ed., 2000) ("[T]he Western aversion to the physical side of religion, as well as the male bias toward the exclusion of women within religious traditions in general, has no doubt contributed to the limited documentation and slanted analysis of traditional material in folklore studies . . .").

308. Estes, *supra* note 210, at 160.

309. BARSTOW, *supra* note 34, at 159.

310. *Id.*

311. *Id.* at 159-60 (footnote omitted).

312. *Id.* at 164-65.

313. *Id.* (quoting Richard Horsely, *Who Were the Witches? The Social Roles of the Accused*

The patriarchal system derived its power from subjugating women and slaves. Men, in their continuing quest for identification, cast as evil certain groups of society in an effort to determine and maintain their place within society. "Without slavery there would have been no freedmen,"³¹⁴ and "without the female witch as the symbol of evil, other Europeans could not have believed themselves to be good or just . . ."³¹⁵ Just as judges and priests devised a satanic conspiracy to condemn witches, masters and the state produced a system to perpetuate submission through slavery.³¹⁶ The underpinnings of these abuses—"racism, neocolonialism, and misogyny"—still exist today.³¹⁷

There are parallels between the cultural process that was operative during the French witch craze of the sixteenth and seventeenth centuries and the cultural process that led to shunning voodoo.³¹⁸ By creating a chasm between witches and respectable women, it was easy for society to persecute those who did not conform with society's view of acceptable behavior for women. The emphasis on the differences between witches and respectable women created a sense of us against them, which empowered people to take action against those who did not conform to societal norms. For example, widows who did not rely upon a man for their livelihood were often characterized as witches during this era.³¹⁹ Similarly, poor women who begged for food were characterized as dissimilar from the people who refused them aid.³²⁰ By labeling these unfortunates as "them," society could categorize them as evil and blame them for societal misfortunes.³²¹ In addition, because the patriarchal norm, as demonstrated by the attitude of the clergy, took the position that women were incapable of acting alone, women who did not conform to societal expectation were branded as witches who cavorted with the Devil to secure power for themselves.³²²

Similarly, although revered by her followers, the voodoo queen is feared and shunned by outsiders. "The characterization of New Orleans Voodoo as a matriarchy did not stand as a positive example of the creative potential of womanhood. It framed yet another

in the *European Witchcraft Trials*, 9 J. INTERDISC. HIST. 689, 719 (1979)).

314. *Id.* at 160 (quoting ORLANDO PATTERSON, *SLAVERY AND SOCIAL DEATH* (1982)).

315. *Id.*

316. *Id.* at 165.

317. *Id.*

318. See *supra* Part I (discussing the French witch craze).

319. See *supra* notes 69-71 and accompanying text.

320. See *supra* notes 62-67 and accompanying text.

321. See *supra* notes 25-34 and accompanying text.

322. See *supra* note 46 and accompanying text.

abomination to the eyes of God, further extending the gulf between Us [Euro-American observers] and Them [black participants].³²³ Early New Orleans society disapproved of the Voodoo queen because she went against the well-established patriarchy.³²⁴ In fact, the term voodoo queen is "the slang term most frequently used to sum up disapproval of Spiritual women."³²⁵ White observers of early New Orleans voodoo fostered the term and used it as a derogatory description of women.³²⁶

In addition, similar to French witches, Voodoo queens used power that was customarily reserved to men. Rival queens attracted followers by displaying their powers.³²⁷ Although a queen might have a male counterpart, no man could be queen.³²⁸ Thus, although the "king and queen were the oracles of the serpent deity, . . . the queen was by far the more important."³²⁹ Above all, in a society in which attachment to a male was a necessity, she was "the solitary monarch who [found] completeness within herself and need[ed] no king,"³³⁰ something that to a large extent remains incomprehensible and unacceptable today.

The last voodoo queen in New Orleans was Marie Laveau.³³¹ The dichotomy between doing good and evil is reflected throughout her life. Like all independent women of the era, however, she is remembered more for the horror she caused than for the respect she warranted.³³² "Upon her death, one local paper eulogized her for tending cholera and yellow fever victims and for visiting inmates on death row in the parish prison."³³³ There was skepticism of even her beneficial power though. One news story claimed she was "the prime mover and soul of the indecent orgies of the ignoble Voudous; and to her influence may be attributed the fall of many a virtuous woman."³³⁴ Perhaps the reason people were so awe-struck with

323. Estes, *supra* note 210, at 160 (quoting Duggal, *supra* note 307, at 171-720) (alterations in original).

324. *Id.* at 165.

325. *Id.*

326. *Id.* One woman of the time lamented, "All my relatives look like they went haywire and left me alone and thought I was a Voodoo queen or something like that. . . . They thought I had gone crazy." *Id.* (omission in original).

327. *Id.*

328. *Id.*

329. PUCKETT, *supra* note 213, at 179.

330. Estes, *supra* note 210, at 165.

331. *Id.* at 159. Laveau (1783-1881) was the legendary matriarch of "all spiritually powerful women of African heritage." *Id.*

332. Duggal, *supra* note 307, at 160.

333. Estes, *supra* note 210, at 159.

334. *Id.* at 159-60 (quoting *A Sainted Woman*, NEW ORLEANS DEMOCRAT, June 18, 1881).

Laveau was because she reflected "the full range of possibilities inherent in the feminine principle the major Western religious traditions have reduced to simple oppositions."³³⁵ "Marie's reputation reflects these perceived contradictions, holding her not only to be an evil temptress and sorcerer, but a saintly nurse during yellow fever epidemics and a ministering angel bringing last solace to condemned prisoners."³³⁶

On a more practical level, however, the community hated her and her voodoo cult for gathering a following among many classes of society.³³⁷ Voodoo was "a woman's religion whose membership and leaders were women, mainly free women of color, but enslaved African and Afro-Creole and some white women also joined their circles."³³⁸ Perhaps her image is also disturbing because she launched the prototype for modern ministers in New Orleans Spiritual Churches, a tradition that continues today.³³⁹

Marie Leveau represents "what the established power structure feared most and understood least."³⁴⁰ She maintained and prospered during a time when both Church and State vilified and marginalized women of any color.³⁴¹ She turned the western paradigm of appropriate religions and feminine behavior upside down.³⁴² She managed to be inclusive of her intellectual and religious power and thrived despite the social impediments of the day. She is one of the most enduring religious females in recent history.³⁴³

III. SPIRITUALISM AND POWER: THE CONCLUSION

The confluence of race, religion and gender in the mid-nineteenth century is evidenced by the following account: "The

335. *Id.* at 160.

336. *Id.*

337. *See id.* at 159-60.

338. *Id.* at 159 (footnote omitted); *see also* NAPIER BARTLETT, *STORIES OF THE CRESCENT CITY* 100 (New Orleans, Steel & Co. 1869) (observing that most Voudou worshippers "were women and quadroons, though mixed somewhat with foreign-born guests"). *See generally* BRYAN R. WILSON, *MAGIC AND THE MILLENNIUM: A SOCIOLOGICAL STUDY OF RELIGIOUS MOVEMENTS OF PROTEST AMONG TRIBAL AND THIRD-WORLD PEOPLES* (1973) (surveying spiritual practices of non-European peoples and analyzing such practices within the context of social change).

339. Estes, *supra* note 210, at 160; *see also* HANGER, *supra* note 189, at 138-39 (discussing how discomfort with the unknown forced "religious practices into the back rooms or outskirts of the city").

340. Duggal, *supra* note 307, at 177.

341. *See id.* at 163.

342. *See id.* at 168-72.

343. Estes, *supra* note 210, at 159.

antivoodoo campaign of 1850 drove many practitioners across the river to the town of Algiers. The old folks say that these fleeing members became the foremothers of the Court of the Seven Sisters, a secret grouping about which little is known.³⁴⁴ The *Code Noir* of the late seventeenth and eighteenth centuries produced far-reaching effects on later generations of mixed race people in Louisiana. The advent of this third race through the practice of *plaçage*, coupled with manumission and inheritance rights from French fathers, established a sizable population of *gens de couleur libre*, or free people of color.³⁴⁵ This was particularly important because it produced a class of women who achieved power through property acquisition.³⁴⁶ The English system of slavery separated the races, making the thought of romantic liaisons socially unacceptable.³⁴⁷ In fact the denial of the concept of sexual relations between the races continues even today.³⁴⁸ The French system accepted and formalized romantic liaisons, providing legal protection for the progeny of these relationships.³⁴⁹ This system permitted power to come into the hands of those previously disenfranchised by the system of slavery.³⁵⁰ These emotional relationships provided the legal foundation for women of color to have an avenue to not only maintain power relationships with other members of the community but also to establish religious connections with other women of color, whites and slaves.³⁵¹ When women of color raised

344. TEISH, *supra* note 293, at 177-78. Hoodooism was and remains a matriarchal religion: evidence indicates that the present day Spiritual church in New Orleans was founded by Leafy Anderson (1887-1927) and is headed by women. See Estes, *supra* note 210, at 159-61.

345. See Martin, *supra* note 193, at 57-58.

346. See *id.* at 65.

347. See CLINTON, *supra* note 225, at 209. But see *id.* at 204-05 (discussing social acceptance of white male slave owners' sexual exploitation of black female slaves).

348. See generally ANNETTE GORDON-REED, THOMAS JEFFERSON AND SALLY HEMINGS: AN AMERICAN CONTROVERSY (1997) (discussing the historical denial of the liaison between Thomas Jefferson and Sally Hemings that produced several children).

349. See Martin, *supra* note 193, at 57-58.

350. See *id.* at 70. "Like other women of history whose race was held in bondage, the Negro mother through miscegenation was able to obtain educational advantages and economic security for her colored sons and daughters in an oppressed, hostile environment where most of the members of her race were held in bondage." *Id.* (quoting SISTER AUDREY MARIE DETIEGE, HENRIETTE DELILLE, FREE WOMAN OF COLOR: FOUNDRESS OF THE SISTERS OF THE HOLY FAMILY 9-10 (New Orleans: Sisters of the Holy Family, n.d.)).

351. Estes, *supra* note 210, at 159 (citing Ina Johanna Fandrich, The Mysterious Voodoo Queen Marie Laveaux: A Study of Power and Female Leadership in Nineteenth-Century New Orleans 167 (1994) (unpublished Ph.D. dissertation, Temple Univ.)). "Fandrich contends that free women of color 'found social protection in Roman Catholicism, and many of them sought spiritual guidance and sisterhood in the Voodoo houses.'" *Id.* at 179 (quoting Fandrich, *supra*, at 180).

infringement of their religious freedoms in the courts, it was done though their alliances with women of other races:

On this occasion the police had arrested a large group of women—white, black and of mixed color—while they were gathered for a Voodoo dance and proceedings which those making the arrests described as indecent and orgiastic in character. These women, for one of the first times in Voodoo history, refused to admit the charges made against them. On the contrary the summoned eminent counsel, who argued in excellent form that such Voodoo practices were purely religious and that the law had no justification for its attitude toward them. In order to justify the arrests, the courts, apparently bewildered at this unexpected and unheard of situation, seem to have been compelled to fall back upon an ordinance forbidding the assembling of white women and slaves.³⁵²

The interconnectedness of white, black and women of color in religious ceremonies in New Orleans is significant because it shows the nexus between witchcraft, voodoo and the theme of strong-willed women attempting to exercise their collective power against the patriarchal structure. Had this system allowed all women to come together as women in a religious movement, perhaps this would have provided a model of cooperation among women that could have potentially flourished. However, it is when the “divide and conquer” power of law squashes the efforts of women to organize and exercise their fundamental freedom of worship that the full underlying power of misogyny can best be understood. Women and their religion were again secreted underground.

The modern connotation of voodoo is “black magic” or “paganism.”³⁵³ A common belief is that Spiritualist churches in the twentieth century employ practices similar to voodoo, provoking criticism that Spiritualism is just another name for voodoo.³⁵⁴ Spiritualist ministers have attempted to distinguish their faith from voodoo, due to its negative image.³⁵⁵ Although the Spiritualist

352. TEISH, *supra* note 293, at 177-78.

353. Estes, *supra* note 210, at 159.

354. *Id.*

355. *Id.* at 157-59.

Spiritual power (sometimes derided as witchcraft) and female strength have been inextricably coupled throughout American history, at times enabling women, but in other instances rendering them suspect. In early twentieth-century African American Spiritual churches, prospective church members feared the label of “witch” and sought to distance themselves from any suggestions of occult practice. . . . Spiritually powerful women of African descent

Church intersects with other religions including Catholic, Baptist and Pentecostal, it is a distinctive faith.³⁵⁶ Recognizing the similarities with mainstream religions confirms the longevity of the public performance of spirituality by women in New Orleans.³⁵⁷

When the women of New Orleans attempted to come forward in the twentieth century, they were again seen as suspect. The Spiritualist Church, formed and founded by Mother Leafy Anderson, Catharine Seal and others in the early 1920s and 1930s, reflected the same kind of women-based religion.³⁵⁸ The syncretic blend of many religions marginalized this religion, as it had every time women attempted to come together to create a force outside the traditional norms of the patriarchy.³⁵⁹ In an effort to circumvent continued criticism, Spiritualist women have attempted acceptance by renouncing Voodoo and cloaking their religion in Christianity,³⁶⁰ however, the suspect characteristics are ever present. Thus, the subjugation of women continues into the twenty-first century and beyond each time they attempt to establish themselves as separate entities outside traditional religions.

As the witchcraze in France aided the religious right to carry on a full-scale war against women in the name of eliminating the Devil, is it any wonder today that women who would dare to be different should be fearful? This difference continues to inculcate fear because women who speak out are different—a difference that cannot be tolerated by the mainstream of current political and religious thought whether it is 1484 or 2001.

have been prominent in the city's religious life. As a result of prevailing ideologies of race and gender, these religious figures have been received in contradictory ways—revered by some while dismissed as irreligious, if not manifestly evil, by others, who might nonetheless still fear them. This pattern, apparent already in the Voodoo[,] . . . arose during the French and Spanish colonial period.

Id.

356. *Id.* at 162.

357. *Id.*

358. *Id.*

359. *See id.* at 162-63.

360. *Id.* at 165.