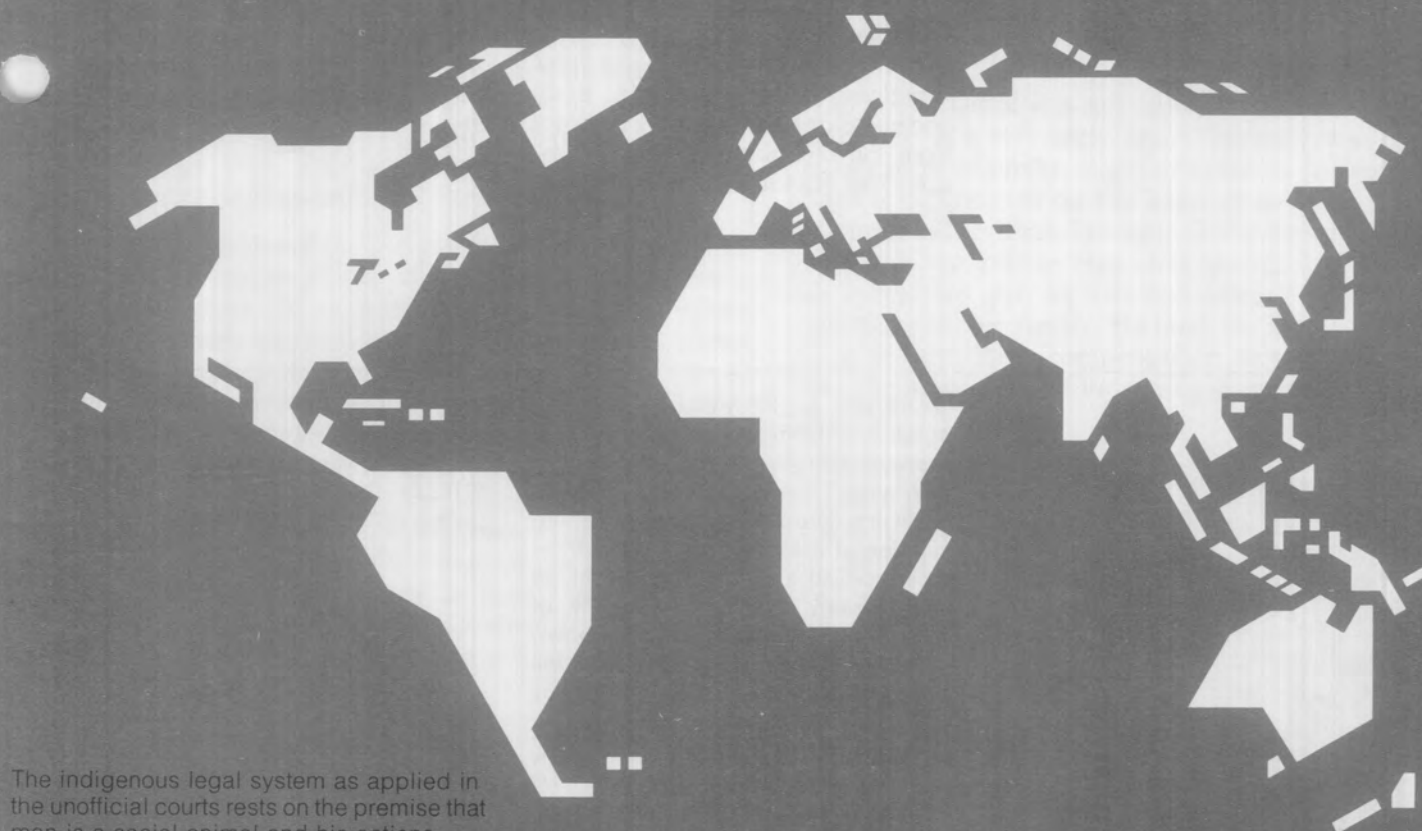


The Unofficial Urban Courts in Freetown
Part IV: The Types of Cases

by Barbara Harrell-Bond



The indigenous legal system as applied in the unofficial courts rests on the premise that man is a social animal and his actions always affect others. The concern for justice goes far beyond punitive considerations; rather, the goal is to restore social harmony.

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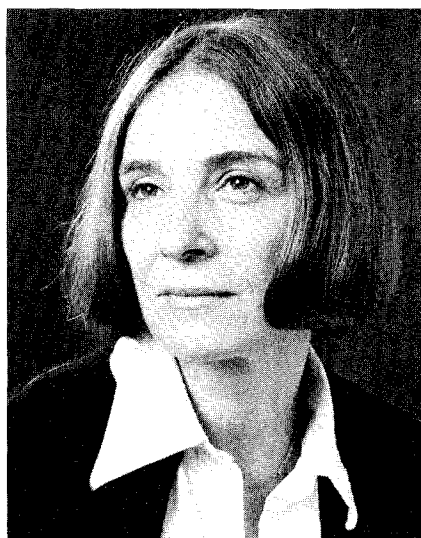
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"There is no bush where you can throw away a bad child."

This adage expresses a fundamental principle of family or communal relationships among West Africans. Regardless of what offense an individual has committed, he may always count on his family for support. The culture of indigenous society in Sierra Leone still recognizes a psychological truth which we, in Western society, with our great emphasis upon the individual and individual freedom, have forgotten. Man is a social being and his actions always affect others.

The rules of the indigenous legal system reflect these truths, as the cases in the headmen courts illustrate. If an individual has incurred some obligation or has committed some serious offense against another person, the entire family is endangered until the matter has been set right. There is always the possibility that the wronged person may employ some supernatural sanction that will affect even the unborn children of the family. Even if the offender is deceased, his actions must still be corrected by his kinsmen. Until then, everyone in the family is in jeopardy. A family's integrity is maintained by the capacity to coerce its members into conforming with the values of the society.

There is, therefore, no distinction in customary law between criminal and civil cases and many of the cases brought to the headmen for settlement involve actions which would, under the imposed British system, fall into the category of criminal law. In Freetown the police handle most cases that are criminal, but even today one finds the headman dealing with them. Customary legal

procedures were designed to restore social harmony and to compensate the victims for their losses. The imposed law provides only a punitive system, an approach which disrupts the structure of interpersonal relations and deprives the victims of redress that would be regarded as just. This idea can best be illustrated by an example concerning sexual relations with unmarried girls.

In Sierra Leone it is not unusual for girls to be betrothed at a very early age. Where there is no registration of births, a girl's readiness for marriage is determined on the basis of her physical maturity rather than her age. If the prospective husband—or anyone else—has intercourse with an unmarried girl, he will find himself in grave trouble with her family. He (and his family) will have to pay heavy compensation to her family and the marriage will be arranged as quickly as possible.

Under the imposed legal system, if the girl is deemed to be below the statutory age of consent, the case is regarded as criminal and will be heard in the High Court. The man will be liable for a heavy fine and a prison sentence that may be as long as ten years. The girl's family will receive no compensation and will be left with a daughter whose marriage potential has been greatly reduced. The family group will have suffered a considerable loss of esteem and will certainly fail to see justice in the actions of the court.

The headman courts apply customary legal principles and so the indigenous population of Freetown have confidence that justice in terms of their own values will be applied. A case of attempted rape that was heard in one of these

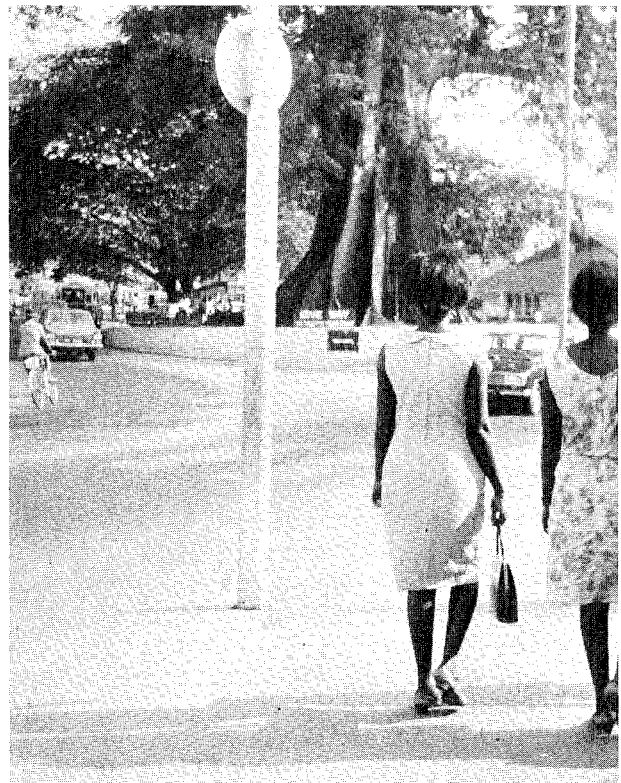
courts illustrates how the headmen deal with such "criminal activities." This case also demonstrates the adaptability of customary law to meet the challenge of the transformed culture of the urban poor.

Forney Sesay charged Lamina Mansaray with attempted rape. She was a married woman and worked as a trader. The defendant owed her money and her husband told her to go to his house to collect. After having been put off several times "until the following day," she arrived to find him in his room peeling groundnuts: his brothers were sitting in the parlor.

He asked me to help him which I did. When I completed it, he asked me to wait for him in the parlor. One of his two brothers went into his room and later both of them went out, leaving Lamina in the room, while I was waiting for him in the parlor. He called me into the room and wanted to become intimate with me. I rejected and after a long struggle, I was able to overcome him. Finally, he gave me the balance [of what he owed], but I refused it. I told him bluntly that I was going to summon him. When I went out of the house, I met a Mende woman who asked why I am perspiring like that. I did not explain anything to her as my mind was confused.

Although the accused denied that charge, the court was not prepared to listen to his excuses. While customary law does not prescribe a punishment for attempted rape, it does include the institution of "woman damage" where a man pays a woman's husband compensation for an adulterous relationship. In this case the court altered the rule and ordered the man to pay "woman damage" to the plaintiff—not to her husband.

Another case which certainly would have involved a severe sentence had the accused been found guilty by the Magistrate Court was also settled in a tribal court, with compensation awarded to the aggrieved party. Moreover, the headman's investigation exposed the various motives of the parties and resulted in severe reprimands to both of them. In this case, Saidu Bangura summoned Morlai. Morlai was only a friend of another man named Kabba, who had fallen in love with the plaintiff's wife. Saidu had gone to confront Kabba, and had "collared him"



The Cotton Tree in the center of Freetown—a landmark since the Portuguese first began trading on the West African coast in the sixteenth century.

and threatened not to let him go until the police arrived. Morlai appeared and asked his friend Kabba why Saidu was holding him. Saidu Bangura explained what occurred next:

After his friend had explained, he put up a fight with me. During the fight he beat me with a stick and I fell on the ground unconscious. I have no [other] case with the accused. He met me fighting with his friend and he interfered.

The headman heard the testimony of the witnesses and also insisted that the wife give her interpretation of the events. He then recalled the defendant to the stool, and accused him of having interfered in the fight in order to give his friend an advantage. He asked him who would have been responsible if Saidu had been killed. The headman then summed up the case.

Please listen to me. You knew that Kabba offended Saidu. He fell in love with his wife.... The husband went to revenge himself for his wife. Who then should you have favored? If this case was taken to the Magistrate Court you would

have been sentenced to five years imprisonment. Nothing would have caused you to escape such punishment. You are fined Le.10.

The headman turned afterward to the wife and fined her Le.10 as well, for having involved herself in "this extramarital practice."

Cases Involving the Supernatural

Another type of case which the headmen courts hear falls completely outside the competency of the official courts—those which, for want of a better term, involve the supernatural. In Sierra Leone, as in many parts of the world, sickness, death, and other kinds of misfortune are often believed to be the result of interpersonal malevolence. The possibility of falling victim to the evil intents of other people is a ubiquitous threat. Although never free from such dangers within the close family circle, one is even more vulnerable among strangers and nonkin. The complicated system of beliefs and practices which have developed are deeply embedded in the culture and shared, to some extent, by persons at all levels of the society.

Some of the comments made by one headman explain how the fear of the supernatural helps to motivate behavior that conforms to norms of the family. The headman has been asked how one detects a "witch gun."

...our parents usually teach us...If your father has been protecting himself with some medicine, you his son will have that protection also. So if anybody possess a fangay¹ so long as your father had taught you how to detect it, you will surely detect it.... The scent of fangay...is that of a young lime. There are certain herbs which are used to make that medicine for detecting fangay. I don't know the herbs, but my father gave me the medicine when I was young. He dropped it in my nostrils.

...I did not see the gun in his hands but I knew that he had it. It is very dangerous for a person to own such a thing. A married man should not own it for if he becomes angry with his wife, he will use it on her and then kill her. Moreover, a man who has children should not own a fangay. Though I don't have any immunity against the shots of a witch gun, I know that God will guide me and my family from such things. This is why I dislike cheeking anybody who is older than me. I

do not also like to cheek women. If an elder offends me, I will report him to other elders in order that the matter be settled...do you know why I am living up to this time? It is because I have been obedient and that I fear my elders. If you see a person with gray hairs...you should not think that he has been blowing ashes on his head. Gray hairs depict obedience and reverence coupled with experience. So the long life of a man depends on how he comports himself on earth.

Be that as it may, the belief in the power of individuals to harm others leads to an enormous number of disputes and court cases. The indigenous culture provided a series of remedies which the colonial government sought to discourage. For example, very early in the history of Sierra Leone, the government legislated against witchcraft accusations, and today, if a person accuses another of practicing witchcraft, he may be sued in the High Court for defamation of character by the accused. The result of this legislation, however, has been to drive such cases underground. The need for some institutionalized remedy for witchcraft cases, which so frequently arise, has been recognized by headmen in Freetown who hear them without legal authority.

Some excerpts from cases involving witchcraft accusations and related phenomena reveal the serious social dislocations that exist in urban society which the headman court in Freetown attempt to resolve.

In one case, Hawa tells her story, confessing to being a witch, with an explanation of why she has confessed and accused three other women of practicing witchcraft.

Hawa: Yan Posseh [Hawa's aunt] brought me to Freetown when I was a young girl. I never knew my mother and my father. From the time I was young up to this time, I have been engaged in this witchcraft, but I thank God no swear has ever attacked me. I have been helping my Aunt with her business all the time I have been with her. One day my Aunt told me that she cannot shoulder these responsibilities for me [and my children], feeding me, lodging me and at the same time buying clothes for me. She spoke a lot and after that I went outside in the backyard and started crying. In the evening these women, Madam Amy, Sampa and Adama, came and

sympathized with me for all that had transpired between my aunt and myself. They asked me what I wanted to do about this, now that my aunt had disgraced me.... They told me they had a suggestion.... The next evening they came again and gave me a small bundle which they asked me to send on my aunt so that she will always have exposed disgraces [i.e., have troubles which everyone will see]. This [bundle] they told me was to avenge for the disgrace my aunt put on me. So I took the bundle full of witchcraft medicines and sent it on [directed it toward] my aunt. From that time my aunt has been in continued disgraces [troubles] and has been involving herself in debts such as she could hardly afford to pay...at the same time me and my colleagues were sitting and always busy eating my aunt's money by fetish means. So when my child fell ill, my aunt started swearing and praying to God to disgrace anybody who had hands in my child's sickness. I knew I had hands in that, but I was afraid to reveal this to my aunt that me and my colleagues had hands in the child's sickness.

Headman: You knew that you were a witch?

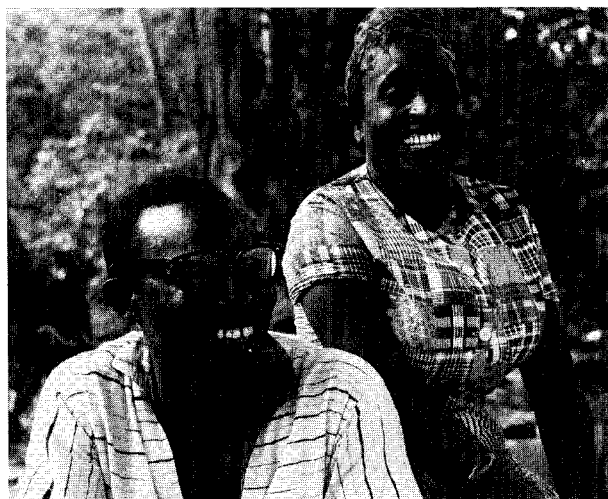
Hawa: Yes, then the child that my aunt is holding now fell ill very seriously and when my aunt went to a sorcerer [for consultation] he told my aunt that I have something to say. Since I had to save my child's life I had to reveal the whole secret. These women came in [they threatened] to kill me and my children.

Headman: So when you revealed the secret, Madam Amy, Sampa, and Adama went to your house and told you that you don't have no secret [i.e., you can't keep a secret] so we are going to kill you and your children.

Hawa: Yes, but I cannot fight three of them. The other time they only brought a small bundle to me to send on my aunt. Now the three of them say they will kill me and my children, this is why I have come so that the chiefs can rescue me from the hands of these people.

Headman: So what can you say about what happened this past night?

Hawa: This past night they transformed to cows. I was holding my child, the elder one, when they came to me in the form of cows....



"A firm opinion in some quarters avers that Freetown is a westernized municipality and that its inhabitants should leave their tribal ways behind."

All the defendants in the case denied any knowledge of the activities Hawa reported. Their husbands and other relations were present, and one assured the chief that, while he could not guarantee his wife was not a witch, he did have some reason to believe she was innocent.

I want to inform you that my wife has her own children and although some of them have been dying and I have been consulting sorcerers about these misfortunes, none of them has ever called her name.

The husband also reminded the chief of customary family responsibility by pointing out that, if the woman was being accused of witchcraft, it would be wrong for the case to continue without her own relatives being present. The headman responded:

...We have all heard what the husband has answered. Anybody can swear that this is what I am, but your very wife can slip from your bedroom while you are asleep and go to her boyfriend and return before you are awake. You cannot swear that Mr. X and Mrs. Y are, or are not in love. None of you can say that these women are not witches, but we have a way to prove this in our native way.... We have to do everything in our customary way. We did not accuse them of the crime, but if anybody accuses somebody of being a witch we have to apply the principle of customary law.

The procedure of "swearing" the women on medicine was applied to all the accused in this case.

Another very complex case involving witchcraft accusations gave the headman who heard it the opportunity of reminding everyone of family responsibility. Mamy Fatu was the only person present when Gbessay's mother died. It was alleged that Mamy Fatu had reported to Gbessey that her mother had confessed just before dying, to having been a witch but had warned Gbessey to keep quiet. Later, when a quarrel developed between the two women, the "truth" emerged and the case came up in the headman's court. The details of this case need not concern us, but the headman's remarks about the effects of such matters on the entire family underline the importance of retaining some institutionalized means of dealing with related cases.

Even if your own mother has eaten your child, you should not keep quiet over it. If you do so, the consequences would be too grave for you when the truth will be known. Mama Fatu... why should you suggest that it be kept secret? Now the thing which you said should be kept secret has been revealed. It is God's work. It was not revealed anywhere but in front of you and your daughter. What you should have done was to have informed the elders about that. But you suggested that it be kept secret. You have offended the court by doing so. So there is a separate fine for you. It is for a violation of moral and legal principles.... A person who nurtures a leopard under a basket will fall victim as its prey when it will escape from under the basket.... It is witchcraft that destroys friendship and even disintegrates families.

One of the jurors joined the chief in his harangue:

...Parden me, Mama Fatu,...you are our mother [i.e., our elder]. I don't like to see anybody bullying you. I will be always ready to fight on your behalf. But...you have erred greatly. There are chiefs and police stations. You should have reported that matter to them.... You should have waived immediately you heard of it.

Another case involved eight people accused of having "eaten a child." In the court hearing, two of them made detailed confessions of their role in

the murder although the child apparently died after a long illness, the symptoms of which included "frequent stools and vomiting." The headman decided to adjourn this case until he could arrange for an appropriate medicine to be brought to court upon which the eight accused (including the two who confessed) could take an oath.

Although the most usual reason for witchcraft accusations is the death of a child, headmen are also faced with a myriad of other disputes that involve the use of supernatural forces to inflict harm. Women are often accused of malevolence, especially of having administered medicines to make their husbands impotent. The complaints of one husband are illustrative.

A husband sued his wife for having ruined his life. He explained that their case did not really involve a marriage because they were already divorced. However, during their marriage she had been unable to have a child. She had gone to an *alfa*² for advice. He had given her something for both her and her husband to drink. After drinking it, the couple quarreled and the husband accused her of giving him something harmful. He "drove her from the house" [idiom for divorce] and told her to marry anyone that might want her. Unfortunately for him, this was not the end of the matter.

This medicine then started affecting me by changing my attitudes toward work. I was not like that. When I took my leave I went to my father with the sum of Le.40 and I fell ill. My father spent Le.24 on my illness. While I was ill I spent Le.50 making a total of Le.74. I was led to believe that I got this illness from this medicine. [later] when my services were terminated at Marine, I was not paid my gratuity [i.e., more evidence of his bad luck]. I was not a foolish person at all, the cause is from this woman. This has made me to summon her. If she denies that the case is not so, I have a witness to prove here.

The headman concluded that the only way the woman could prove she was not guilty of having ruined her ex-husband's life was to bring the *alfa* who had originally prescribed the medicine for their childlessness. A juror summed up:

Madam, I would like you to bring this alfa man with you because he prepared the ontrue [a

medicine] for this ill luck.... After that we are going to give you another work to do. You should produce a doctor who will satisfy this man that he was not affected by the ontrue you gave him. Now the chief has fined you Le.10 for that. After paying the fine you will come here with the alfa man. He will come and eat bread [i.e., take an oath on medicine]. This is all. Sergeant, take this woman outside.

Petty Disputes

Although the aforementioned cases confront the headman with the seamier aspects of human behavior, there are others which provide the court with what might be regarded as light relief. And however trivial or even amusing they may be, the headmen recognize the psychological dependence of the litigants (in the absence of their family) on their authority to settle petty arguments. The dispute between Ya Boam Deen and Amie Dumbuya is an apt example.

Ya Boam summoned Amie to court. She explained that one morning she had been bathing her children, when she felt some water splashing on her and the children, evidently having been poured out from one of the upper flats. She had called out asking, "Who threw the water?" No one replied. Not being one to take such an action lightly, she called her brother and reported the matter. She also described the incident to a woman who lived on the floor from which the water came, and questioned a number of other people living in the compound. The woman from the same floor asked Amie if she had been responsible, and she had admitted it. When Ya Boam's husband returned that evening, she recounted the incident to him. He told her to wait until he instructed her what to do. When no apology was forthcoming, he told Ya Boam to summon Amie to the headman's court. The defendant, Amie, was asked to tell her story.

I was in my apartment one morning when I sent my child to give me some water to drink. After drinking, I threw the remaining water over the window sill, not knowing that there was anybody under the window. When the water splashed on her, she did not ask who threw it. Instead she immediately used obscene language. She said, "Who is that bastard who has thrown the water?"



"A man's rejection of his wife's pregnancy is a consequence of his economic plight where in the urban setting another child would be an additional burden."

With that I was completely perplexed and I found it very difficult to answer that I was the one.

The headman asked Amie if she would have answered had Ya Boam not used the obscene language and Amie replied in the affirmative. After further interrogation of the litigants, the headman found Amie guilty and she had to pay Le.17.80. He told her she should have ignored the plaintiff's language, and he scolded her for not having apologized. He reminded her that "patience is very essential in many things we do on earth."

Family Cases

The most important type of case heard by the headmen is that concerned with family law. (In one sense, of course, almost all cases are family cases, in that the principles applied derive from a social system based upon kinship.) Even though some feel that Freetown is a westernized municipality and that its inhabitants should leave their tribal ways behind, the recurrence of various types of family dispute reveals how deeply entrenched the indigenous norms of family organization and behavior are, and how minimal the effect of an imposed English-based legal system has been on the culture of the majority of Western Area people.

The resilience of familial relations in the city results partly from the degree of personal involvement required for survival in an urban context



"A woman is guaranteed the security and protection of the wider family even when her husband dies or when she is old."

where jobs are scarce and where economic security is a minority privilege. Many writers have commented on the alleged breakdown of the family system in African cities. In Freetown, however, headmen courts can be seen as an attempt to sustain or reimpose a sense of family responsibility—whether or not the cases actually involve kinsmen.

The following typical case involves a man's effort to avoid financial obligations to his relatives. In a "family" where indigenous norms had been transgressed, and when a death occurred, the plaintiff made a desperate effort to put things in order.

Immah (the plaintiff) opened his case by saying that he had summoned Pa Kabba because "he has made me to feel broken hearted." When asked to explain, he accused the defendant of not showing respect for his (the plaintiff's) mother during the burial service of her husband. (As brother and only male relative of the deceased, Pa Kabba became the "head" of the burial ceremony—that is, he was responsible for collecting money and organizing various aspects of the ceremony.)

The complaint was developed as follows. Because Pa Kabba was not discharging his duties correctly, some people gave their contributions instead to Immah, who assumed responsibility for the burial and the three-day ceremony.³ The most serious problem for the family, however,

concerned ceremonies pertaining to the deceased's widow (Immah's mother and Pa Kabba's sister-in-law).

She had been living with the deceased as his wife for a long time, although the customary marriage formalities had never been completed. After her husband's death, she mourned according to custom, which decreed a stay in seclusion (or, in local vernacular, "on the mat") until after the seven-day ceremony. Then, after ritual washing, a further spell in seclusion followed, until the 40-day ceremony. Kabba had refused to attend to these matters, and it was inappropriate for the son to do so. Most important, no matter if a relationship had continued for many years, at death it should be regularized as a marriage, and Pa Kabba had declined to "put Kola" (that is, legalize the marriage) for the widow.

After hearing the case at considerable length, the headman addressed Pa Kabba. His remarks outlined the pattern which Kabba should have followed, thus reinforcing for all present what is considered proper conduct of such affairs.

Let me put it to you. You were vexed and did not take part in the seven-day celebrations. You were annoyed because Immah disobeyed your suggestion to wait until the end of the month before celebrating the seven day. You know that when somebody dies, we must celebrate the 3-day, the 7-day, and the 40-day and all these ceremonies should be conducted at the right time.

Now you offered your leadership for the conduct of the ceremonies. It was then your duty to carry them right through. I tell you that recently my brother died leaving behind two wives. I collected the tel ado [greeting] money and after performing all the burial rituals, I further arranged that these wives, those he married as well as those not married, be washed clean.... I further offered to keep them and support them in my house until the 40-day ceremony. For the sake of respect, I gave each group some amount from the tel ado money.

So until the 40 day passes all ceremonies should have been in your hands.... But here you honored the 3 days and ignored the 40 days on the grounds that you were awaiting the arrival of your brothers. The better thing you could have done would be to go ahead and honor all cere-

monies. On the arrival of your brothers you could tell them what you have done. I don't think they would have been annoyed...instead they would commend you because you have performed their own duties.

As far as the legal status of the marriage in question, the headman had this to say:

Now this woman had been living with your brother for over ten years without getting formally married.... They stayed together until his death so that then she becomes his wife. I tell you something. The English principle recognizes the wife more than anybody else. If this man had left any money at the bank...nobody will get that money without the signature of the wife.... It is not good that you should be responsible for a quarrel arising during your brother's burial ceremonies.

Adultery cases, locally referred to as "woman damage" or "woman palaver," are frequently settled in the headmen courts. According to customary law (as practiced during this century), a man has a right to sue his wife's lover for compensation. A husband who fails to sue is considered a coward, and most husbands would resort to violence if they had no other means of seeking redress. The postpartum sex taboo is observed in Sierra Leone, and it is believed that a child being breast-fed will die if its mother has sexual intercourse. A young baby's illness often leads the husband to force his wife to take an oath on medicine to discover whether she has had a lover. The person whom she names will have to pay the husband compensation, and he may also be charged for the medical costs incurred by the child's illness.

Many of the disputes which arise over marital relations reflect the enormous problems of maintaining in the urban situation the rules and standards of morality inherent in customary law that has evolved in an agrarian setting. The maintenance of this family system is, to a very large extent, dependent upon the proximity of the kin group. Today the family is widely dispersed, and it is very difficult to uphold the rules in the absence of its presence and authority. The following case illustrates these problems.

The plaintiff is suing his wife's parents for giving her to another husband. Although the



"The British believed that conversion of the Africans to Christianity and the instillation of accepted tenets in the 'civilized' world could raise Sierra Leone as a beacon in its unenlightened surroundings."

headman treats the case as a divorce petition under customary law, testimony reveals that, according to the rules of customary law, there never was a marriage. The plaintiff reported that he and his wife had cohabited since she had been betrothed to him by her parents. One day her parents had asked that she be allowed to accompany them to a relative's funeral. She remained away for more than a month. When she returned, she informed the plaintiff that she no longer loved him and did not wish to marry him. The parents endorsed this decision.

The headman asked the plaintiff how much he had spent on the girl. He responded:

First of all, to introduce myself to the girl's parents I gave them Le.4 [The girl's mother interrupted to correct him, saying that he had given only Le.3.] The plaintiff agreed that Le.3 had been for the introduction fee and Le.1 was a shakehand [i.e., the customary fee handed over to announce that one has come on a special errand].

Not long after my introduction, they sent for the girl's grandmother...so that they could inform her what had happened. When she came, I gave her a shakehand of Le.2 and also gave her Le.2 as her transport fare, making a total of Le.4.

The headman commented, "So you were planning to marry this girl." To this the plaintiff responded that he had already married her. The headman asked what else he had done.

I bought cooking pots for the grandmother, costing Le.6.... The total amount of the dowry [marriage payments] was Le.45.25. I also carried with me a calabash costing 50 cents, one hundred kola nuts costing 80 cents, a piece of white satin costing Le.2.60, a packet of needles which cost 5 cents, the handkerchief in which the money was tied costing 10 cents, and a mat costing 50 cents [all part of the ceremonial practices surrounding marriage].

The plaintiff included in his costs the Le.10.20 he had given her before she left for the funeral. Altogether it was concluded that the young man has spent more than Le.76.

The headman had little recourse but to treat the case as though it were a divorce, but he lamented the lowering of standards in today's society.

It is just because the world at present is no good place. One can do something for another person out of goodwill, but any woman with whom a man has had sexual intercourse, even if once, won't be paid the exact amount [of the dowry] even if he has spent Le.1,000 on her. No one could pay the real cost of even one sexual intercourse with a woman. If a woman stays with a man for three months, any kindness done to her or her parents is kindness which should not be counted when it comes to the matter of reckoning. Anything spent on the funeral should not be recalled. God dislikes that, this court detests that, everybody here detests that and even the devils dislike that...so the parents of this girl have to refund you the sum of Le.52.85. I hope you won't feel that I am bullying you. What I have done is apply the laws of God, the court, and the people.

The case was concluded over the protests of the husband. The parents paid him Le.20 and promised to pay the rest at a later date.

Such cases arise because a girl's family has found a suitor for her who shows more promise than the one with whom they have already begun marriage negotiations. Although there are a number of specific grounds upon which married couples may seek a divorce, in practice most divorce cases rest on the simple statement by a wife, "I don't want him anymore," regardless of her reasons. The court inevitably responds to

such a petition with, "You can't force a woman," and a divorce hearing proceeds.

Paternity disputes and the problems of assigning maintenance responsibility are also brought to the headmen. Although these cases should be settled by family intervention, it sometimes requires a court summons to get enough members of the family together to resolve the problem.

Yeabu's case is illustrative. She had to sue her husband, Saidu, who had deserted her and refused to acknowledge the paternity of her child.⁴ She reported that he had sent her to live with her uncle while he had gone to live with another woman. He did continue to support her, however, paying Le.4 per month. Later, he rented a room for her, but when she attended a funeral without obtaining permission from him, he became angry and returned her to her parents, saying that he was leaving her with a "match" [matchstick].⁵ From then on the husband had not supported Yeabu, who had two children and was pregnant. When the baby was born, the husband refused to admit that it was his.

The husband explained his version of the dispute. He said that while he was living with his wife, she had engaged in fetish practices. He had found a charm containing pepper, human hairs, fingernails, and ginger under his pillow, and she had admitted being responsible for its being there. Moreover, because she could not get along with her co-wife, he had rented a separate room for her. Later she refused to return to the marital home, complaining that it was "unsafe." When it was time to wean the first child, she declined to have sexual intercourse with him, but at the same time was slipping out of the house at night to meet her lover. To avoid more trouble, he had returned her to her parents. The case was temporarily adjourned to allow the husband to consult with his relatives, who had also gathered at the court. When he returned, he announced his decision to accept that the child was his and to support the woman.

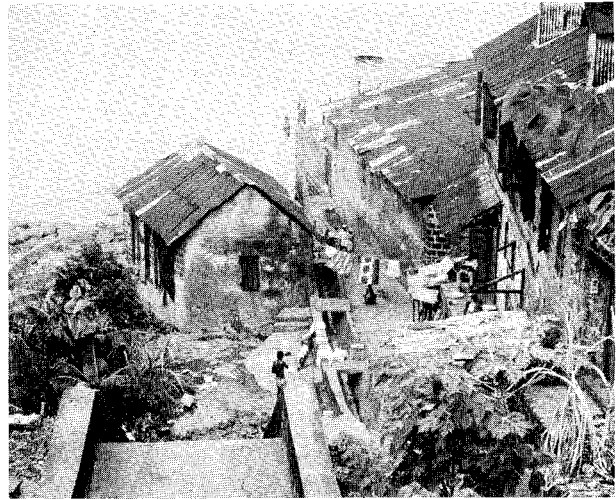
According to customary law, widows are married (locally referred to as "inherited") by another male member of the deceased husband's family. Thus a woman is guaranteed the security and protection of the wider family even when her husband dies. Today such practices are falling

into disuse, and widows are often left without family support. One such woman living in Freetown far from relatives brought her case to court. She had taken up residence with a man much younger than she was, who promised that if her behavior was good, he would marry her. The man, Bangurah, explains how the relationship developed.

We then started our love.... She had started preparing food for me. That, I said, involved a lot of expenses [i.e., the woman was buying food for him out of her own pocket]. I advised her not to continue with her generosity.... She said she was only doing it out of goodwill. At the end of the month I gave her Le.6 and I bought an umbrella for her also. I said that since we were only loving I would try not to disgrace her. I would get some money and confess my love and intentions to marry her in the presence of our parents.

However, as Bangurah reported, all this love very quickly turned sour. The older woman became jealous of his newly acquired girlfriend, smashed his property, and threatened to cut off his genitals. He regarded this jealousy as unreasonable, since he had introduced her to the second girl and asked for permission to love another woman.⁶

The headman was deeply moved by the plight of the older woman. Now this man has proved ungrateful to you.... According to the evidence we have here, this man has stated that you are older than him. I have however, never seen any woman who is too big for a man. If this man knew that you were older than him, he should not have proposed love to you and had sexual intercourse with you. Now that he has become sexually nauseated with you, he has decided to divorce you out of ingratitude. Now he is saying that he wants you no more. This, of course is why we have some young men walking stark naked in the streets with their penises in their hands, not knowing where to put them. It is the result of ingratitude to women. This is one of the most pathetic situations [one can see] in life. But we cannot force this man to love you any longer. Even if we preach to him from now up to the morning, he cannot love you any more because a. you are older than him: b. he has had numerous sexual intercourses with you, and c. every hair and everything in you are gray. Now he has seen another woman....



"We have had a window glimpse of life among the poor in Freetown."

We cannot take action against him at this moment. This man now loathes you. If you believe in God, as you are a Muslim, leave this man as he is. He is a policeman, but what makes him a policeman is his uniform. When that uniform is taken from him, we are all the same. He has this day bullied you. We all sympathize with your plight. When you were explaining to the court, I nearly shed tears because I have never seen a situation where woman is too big for a man. However big a woman is, she is small when compared to a man.

Turning to Bangurah, the headman continued:

...Mr. Man, I am warning you. The jurors have told me to warn you. Do you know what is a human being?... What you should have done is this. Even though you don't like a woman any longer, you should not have made this known so soon. You could have got rid of her in many different and respectful ways rather than disgracing her as such.... You will have to keep it in mind that if this woman asks God to defend her, God will surely do so....

According to customary law, the polygamous husband has certain obligations toward his wives, regardless of the vagaries of his personal feelings of affection or preference. Islam is even more explicit about the obligations of a husband to treat each of his wives equally. Moreover, a man may not take a second wife without the first's consent. The younger wives are expected to obey the first wife, and it is the husband's duty to support her



"For too long African leaders have looked to European models for a solution, today it's a question of the Third World starting a new history of man."

authority. An excerpt from a speech by a headman delivered to one husband, a defendant in a case initiated by his first wife, defines his responsibilities and the rules he should have followed.

Men of the jury, we have other cases to decide and as such we must go ahead quickly with this case. This man went off the track. As I am here, I have four wives at home and the first one engaged the other three. This is a customary law. If the new wife disobeys the older wife, I will send her to her parents where she will remain for a whole year as a penalty for her disobedience. This man is responsible for the conflict between himself and his wife. He should have tried very hard to convince the old wife to give her consent before he engaged the new wife, rather than asking his relatives to do so. As a rule the old wife must go for the new one.... For failing to get the old wife's consent before marrying the new wife, I impose a fine of Le.4 and the fine must be paid immediately. We are sure that you once loved the first wife, but later on your love for her faded.... If we don't put a check on that attitude you will

continue to put the unfortunate woman in dismay. Therefore, we have fined you in order that you won't keep on creating conflicts as you have already begun with these two women.

* * * * *

Nearly two hundred years have elapsed since the British founded the Colony of Sierra Leone. At the core of its establishment—and, indeed, its *raison d'être*—lay the problem of resettling freed slaves from the New World. Philanthropists in this exercise were inspired by the vision of a new African potential. They believed that conversion of the Africans to Christianity and the instillation (by education) of accepted tenets in the "civilized" world could raise Sierra Leone as a beacon in its unenlightened surroundings: the Colony would serve as an agency for spiritual and social regeneration of the entire continent. As a necessary prerequisite for this, every vestige of African culture had perforce to be eradicated. In Fanon's words, "The effect consciously sought by colonialism was to drive into the natives' heads the idea that if the settlers were to leave, they would at once fall back into barbarism, degradation, and bestiality."

The pursuits of those who chose to emulate the example set by "their masters" have been criticized by one Creole writer:

In their personal lives they aspired to European bourgeois standards, with their dinners, balls, fairs, and horse races. In their cultural lives, with amateur theatricals and literary, religious, scientific, and philosophic societies, they demonstrated the extent to which they had successfully imbibed western European value standards. The majority were self-centered, property-owning individuals, fully aware of their civil and property rights. With the assimilation... came also some of the worst excesses and by-products of that civilization, as exemplified by the Europeans who lived among them.⁷

Even when the boundaries of Sierra Leone had been extended to encompass the hinterland and after a modified imperial government policy allowed more tolerance of local culture, Freetown remained an island preserve of British institutions. In the face of massive migration by indigenes to the city, those inhabitants indoctrinated with the alien culture assumed postures of

superiority and patronage towards the "aborigines." As a result, the indigenous population was excluded from the privileged portals open to conformists with the imposed alien norm, and suffered instead the unrelieved vicissitudes of urban life among the poor in Freetown.

In the course of this four-part series, which has been focused on the unofficial courts in Freetown, we have had a window glimpse of life among the poor there. Examination of court cases reveals the remarkable persistence of indigenous culture and a tenacious adherence to values that are gradually crumbling in the struggle for urban survival.

Aspects of traditional Sierra Leonean culture have been hailed as virtues which the West might do well to note, or even find salutary. Let us make no mistake. Even were the (now) independent government of Sierra Leone to regularize the procedure of unofficial courts, the basic plight of these people in Freetown would not be effectively eased. Their social life—or existence—holds no joys of a precolonial Elysium; nor does its pattern have substance for the road to a future Utopia.

NOTES

1. *Fangay* refers to a variety of occult practices which aim to injure or kill others. The use, or pretended use, of *fangay* was prohibited by legislation as early as 1905. The very wording of the law regarding *fangay* suggests the British at that time were as convinced of its effects as were the Africans who practiced it. (Cap. 36, *Laws of Sierra Leone*, 1960).

2. Before the twentieth century the terms *alfa* and *mori* were used to identify men who were learned in the Koran and other Muslim texts. Many of them also adapted local magic techniques and incorporated them into their Islamic practices. Koranic passages, for example, were written on white pieces of paper and placed in bottles which were then hung in fields to prevent the unauthorized picking of crops. Gradually, *alfa* and *mori* have developed as terms used to identify anyone who specializes in the use of herbs, medicines, or divination, although the majority of these men would be, at least, nominal Muslims. This development is a good illustration of the religious syncretism found in Sierra Leone.

3. These burial customs (including the 7-day and 40-day ceremonies) derived from Islamic practice, and are practiced by all groups in Sierra Leone today, including Creoles.

Inequalities, injustice, poverty, and the psychological dislocations in contemporary African society can only be understood in the light (or darkness) of Europe's imperial history. Oppressive and unrelated economic links between colonizers and the colonies nurtured these conditions in Africa which, despite independence, are still prevalent. For too long, African leaders have looked to European models for a solution. What is needed is innovation and inventions.

One woman, speaking to me, summarized the unhappy situation. "There is really no society. The old forms are gone but there is nothing to take their place, no morality, no principles upon which the individual can base anything." She, and we, might do well to recall Fannon: "It's a question of the Third World starting a new history of man."⁸

(October 1979)

4. Paternity disputes are unheard of in indigenous society because all children are welcomed. This man's rejection of his responsibility for his wife's pregnancy is a consequence of his economic plight, in which another child would be an additional burden.

5. When a man returns his wife to her family with a complaint that could lead to divorce, he leaves her with some money and hands a token sum to the parents. To have left her with a "match" was highly insulting to both her and her parents.

6. According to customary law governing polygamous marriages, a man may not take a second wife without the first wife's consent. Bangurah argued that he was applying the same standard even though the first union had not been formalized.

7. Collier, G. *Sierra Leone: Experiment in Democracy in an African Nation*, New York, 1970, p.47.

8. Fanon, F. *The Wretched of the Earth*, Penguin, p.254.

This Report concludes the series on *The Unofficial Courts in Freetown*.