THE WITCH-HUNT IN EARLY MODERN EUROPE

THIRD EDITION

BRIAN P. LEVACK



Harlow, England • London • New York • Boston • San Francisco • Toronto
Sydney • Singapore • Hong Kong • Tokyo • Seoul • Taipei • New Delhi
Cape Town • Madrid • Mexico City • Amsterdam • Munich • Paris • Milan

CHAPTER 3

THE LEGAL FOUNDATIONS

The great European witch-hunt was essentially a judicial operation. The entire process of discovering and eliminating witches, from denunciation to punishment, usually occurred under judicial auspices. Even when witches took their own lives, they usually did so in order to avoid the often gruesome and apparently inevitable processes of the law.[1] Occasionally, agitated villagers took justice into their own hands and executed witches in vigilante style. In 1453 a number of sorcerers from the French village of Marmande perished in this manner, and during the Basque witch-hunt of 1609–11, large crowds broke into the houses of those who had been named and subjected them to violent torture, killing at least one woman.[2] In 1662 an angry mob at Auxonne in France lynched a group of women who were considered responsible for the demonic possession of an entire convent of nuns.[3] There is no way of determining how many suspected witches died in this illegal manner. In the Polish countryside the numbers may have been fairly high.[4] Central governments, however, were very much opposed to this type of rough country justice, since it constituted a challenge to their authority, and they took steps to prevent its recurrence.[5] We can be fairly certain, therefore, that a large majority of those persons who were executed for witchcraft during the great hunt were formally and legally tried and sentenced.

Since witch-hunting usually took a judicial form, it is only reasonable to assume that the legal procedures used in criminal prosecutions and the ways in which European judicial systems operated had a good deal to do with the origins of the great witch-hunt. Indeed, the intensive prosecution of witches in early modern Europe was facilitated by a number of legal developments that occurred between the thirteenth and the sixteenth centuries. First, the secular and ecclesiastical courts of continental Europe adopted a new, inquisitorial system of criminal procedure that made it far easier for witchcraft cases to be initiated and prosecuted. Secondly, these courts acquired the right to torture individuals accused of witchcraft, thus making it relatively

easy to obtain confessions and the names of the witches' alleged accomplices. Thirdly, the secular courts of Europe acquired jurisdiction over witchcraft, thereby supplementing and in many cases replacing the ecclesiastical courts as the judicial engines of the witch-hunt.

None of these legal developments, or even all of them taken together, amounted to a sufficient cause of the great witch-hunt, but each of them served as a necessary precondition of that hunt. Just like the intellectual developments discussed in the previous chapter, they helped to make the witch-hunt possible. In fact, the legal and the intellectual foundations of the hunt were closely related, since the adoption of new criminal procedures facilitated the synthesis of the various ideas about the activities that witches allegedly engaged in. Legal developments also help to explain why the great witch-hunt took place when it did. Intensive witch-hunting did not begin until many European courts had adopted inquisitorial procedure and had begun to use torture. On the other hand, intensive witch-hunting did not come to an end until magistrates and judges realized that they were sending innocent people to the stake and consequently instituted a number of significant legal reforms.

Changes in criminal procedure

Before the thirteenth century European courts used a system of criminal procedure that made all crimes, and especially concealed crimes, difficult to prosecute. This procedural system, which is generally referred to as accusatorial, existed in its purest form in the secular courts of north-western Europe, but it was also followed, with some significant modifications, in the secular courts of Mediterranean lands and in the various tribunals of the Church.[6] According to the accusatorial system, a criminal action was both initiated and prosecuted by a private person, who was usually the injured party or his kin. The accusation was a formal, public, sworn statement that resulted in the trial of the accused before a judge. If the accused admitted his guilt, or if the private accuser could provide certain proof, then the judge would decide against the defendant. If there was any doubt, however, the court would appeal to God to provide some sign of the accused person's guilt or innocence. The most common way of doing this was the ordeal, a test that the accused party would have to take to gain acquittal. Either he would have to carry a hot iron a certain distance and then show, after his hand was bandaged for a few days, that God had miraculously healed the seared flesh; or he would have to put his arm into hot water and in similar fashion reveal a

healed limb after bandaging; or he would be thrown into a body of cold water and would be considered innocent only if he sank to the bottom; or he would be asked to swallow a morsel in one gulp without choking. As an alternative to the ordeal the accused or his champion might be asked to engage in a duel with the champion of the wronged party, his victory in this 'bilateral ordeal' or trial by combat being construed as a sign of his innocence. He also might be allowed, as an alternative to the ordeal, a trial by compurgation. In this case the accused would swear to his innocence and then obtain a certain number of 'oath-helpers' who would solemnly swear to the honesty (and indirectly, therefore, to the innocence) of the accused. During the trial, in whatever form it took, the judge would remain an impartial arbiter who regulated the procedure of the court but who did not in any way prosecute the accused. The prosecutor was the accuser himself, and if the defendant proved his innocence of the charge, then the accuser became liable to criminal prosecution according to the old Roman tradition of the *lex talionis*.[7]

Regarding this early medieval system of criminal prosecution two observations are in order. First, it was a fundamentally non-rational process. The determination of guilt or innocence was usually not made by a rational inquiry into the facts of the case but by an appeal to divine intervention into human affairs. The court in effect abdicated its own responsibility to investigate crimes and left the matter in the hands of God. Secondly, the system did not prove to be particularly successful in prosecuting crime. Not only did every prosecution require an accuser who was willing to risk the possibility of a counter-suit on the basis of the talion, but the trial itself could be manipulated in favour of the accused. Calloused hands and proper breathing techniques could, for example, help one to pass the ordeal, while men of high reputation (which admittedly many men accused of serious crimes were not) could usually secure acquittal by their mere oath or by compurgation. The system stands as a testament to men's faith in God's immanence but not to their efforts to use the law as an effective instrument of social control.

Beginning in the thirteenth century, however, the ecclesiastical and secular courts of western Europe abandoned this early medieval system of criminal procedure and adopted new techniques that assigned a much greater role to human judgement in the criminal process. The change from the old system to the new was stimulated to some extent by the revival of the formal study of Roman law in the eleventh and twelfth centuries,[8] but the main impetus came from the growing realization that crime – both ecclesiastical and secular – was increasing and had to be reduced. In bringing about this change the Church, which was faced with the spread of heresy, took the lead. The Church also encouraged the new procedures in the secular courts by formally

prohibiting clerics from participating in ordeals at the Fourth Lateran Council of 1215.[9] Since the ordeals, being appeals to divine guidance in judicial matters, required clerics to bless the entire operation, the action taken by the Council signalled their end.[10]

The new system of criminal procedure that gradually took form during the thirteenth, fourteenth and fifteenth centuries and was employed throughout continental Europe by the sixteenth century is generally referred to as inquisitorial. Its adoption changed both the procedures by which criminal cases could be initiated and the procedures of the trials themselves. Regarding initiation, it is important to note that the adoption of inquisitorial procedure did not preclude the commencement of a legal action by private accusation.[11] Many crimes tried according to inquisitorial procedure, including a large number of witchcraft cases, were initiated in this way.[12] The only difference between the new system and the old when suits were begun by accusation was that the accuser was no longer responsible for the actual prosecution of the case, as shall be discussed below. In addition to the initiation of cases by accusation, however, the new procedure allowed the inhabitants of a community to denounce a suspected criminal before the judicial authorities, a procedure that the church courts had used in certain circumstances during episcopal visitations as early as the ninth century.[13] Even more important, the new system allowed an officer of the court – either the public prosecutor, who was sometimes known as the fiscal, or the judge himself – to cite a criminal on the basis of information he had obtained himself, often by rumour.[14] Once again, the Church had employed this procedure in certain cases as early as the ninth century, claiming that the *infamia* or ill-repute of the criminal was the legal equivalent of the private accusation.[15] During the late Middle Ages this practice became widespread both in the ecclesiastical and secular courts. The initiation of cases in this way led to a significant increase in the number of criminal prosecutions, but it also made individuals vulnerable to frivolous, malicious, politically motivated or otherwise arbitrary prosecutions.

Even more important than the adoption of new modes of initiating criminal actions was the officialization of all stages of the judicial process once the charge had been made.[16] Instead of presiding over a contest between two private parties in which the outcome was at least theoretically left to God, the officers of the court – the judge and his subordinates – took it upon themselves to investigate the crime and to determine whether or not the defendant was guilty. This they did mainly by conducting secret interrogations of both the accused and all available witnesses, recording their testimony in written depositions. In this way they established the facts of the case, which

they then evaluated, on the basis of carefully formulated rules of evidence, to determine whether or not the accused was guilty and to sentence him accordingly. The procedure, therefore, was not only completely officialized but also rationalized. People were using their own judgement, which was informed by the rational rules of the law, to prosecute crime. It should not surprise us, therefore, to learn that the growth of the new system was closely related, as both cause and effect, to the emergence of a body of scientific legal literature. It also was related to the growth of a large legal profession.

Inquisitorial procedure can be contrasted not only to the accusatorial procedure that it replaced but also to the system of criminal procedure that developed at approximately the same time in England. English courts, like their continental counterparts, abandoned the ordeal and other 'supernatural probations' by the early thirteenth century, and they also entrusted the determination of guilt to human judgement, but they did not allow the criminal process to become as officialized as it did on the Continent. Whereas on the Continent officers of the court acquired the right both to initiate legal proceedings and to determine their outcome, in England lay jurymen – men not trained in the law – performed those functions. A presenting jury, acting in the name of the king, initiated or at least exercised prior review over all 'public' prosecutions, while the determination of guilt was left to a trial jury, whose duty it was to establish the facts of the case. Originally the jurymen were actual witnesses to the crime, but by the beginning of the sixteenth century they were no longer self-informed and sat in court as lay judges of evidence brought before them by local judicial officials. By the middle of the sixteenth century these officials regularly conducted a pre-trial examination of the prisoner and the witnesses, but the system nevertheless did not become inquisitorial because the lay jurors, and not the officials of the court, reached the verdict. In many respects, moreover, the English trial revealed the persistence of the older accusatory process. Technically, a private person, the individual who swore out the original complaint, not a legal official, prosecuted the crime. The trial remained public and oral and still resembled a contest between two adversaries, not a secret judicial investigation to establish the truth.[17] And the judge remained at least in theory (though hardly in practice) an impartial arbitrator who presided over the judicial process, rather than an official who was entrusted with the detection, investigation, prosecution and conviction of the crime.[18]

England was not the only country in Europe that resisted or otherwise avoided the introduction of inquisitorial procedure. Scotland maintained a jury system similar to that of England, while in Sweden many prosecutions continued to be initiated by private complaints. Hungary actually continued

to use ordeals as late as the seventeenth century. These other countries, however, eventually adopted some features of inquisitorial justice. In Scotland judicial officials compiled large dossiers of written depositions that were used as evidence in criminal trials.[19] In the early seventeenth century Swedish courts introduced the main features of inquisitorial procedure, a development that was linked to the growth of state control of the judicial process.[20] Similar criminal procedures were adopted in Hungary in the late seventeenth century, when a new judicial code prescribed the use of procedures advocated by the Saxon jurist Benedikt Carpzov in his treatise on criminal law. Even then, however, the new procedures encountered strong resistance and did not win full acceptance until well into the eighteenth century.[21]

The adoption of inquisitorial procedure facilitated the prosecution of all crime, but it proved to be most useful in the investigation and trial of heresy and witchcraft. Since most heretics were known only by general reputation, and since there were no victims of their crimes demanding retribution, the only effective way of bringing them to justice was through either denunciation or official promotion. It was, in fact, mainly to combat heresy that the Church adopted the new modes of initiation. Witches, who were also known by ill-repute, could likewise be proceeded against ex officio, but they could also be accused by those whom they had harmed. In those cases the main effect of the new system was the elimination of the liability of the accuser.[22] It stands to reason that under the old accusatory system a victim of sorcery would be reluctant to accuse his magical assailant with *maleficium* if there was a chance that he himself might be penalized for making the accusation.[23] Now, however, he could do so without taking that risk. Once heretics and witches were charged under the new procedures, the likelihood of conviction also increased, since the judge was able to use his powers of investigation to build up a dossier regarding the alleged crime. The direct interrogation of the accused was especially instrumental in this regard, since by this means the judge could elicit the information necessary for conviction.

The adoption of inquisitorial procedure led to the introduction of a very demanding standard of proof for establishing guilt in a capital crime. Since the adoption of inquisitorial procedure represented a shift from reliance upon divine intervention in human affairs to reliance upon personal rational judgement, jurists agreed that it was absolutely necessary for judges to have conclusive proof of guilt before passing sentence. The standard they adopted, which derived from the Roman law of treason and which we generally refer to as the Roman-canonical law of proof, was the testimony of two eyewitnesses or the confession of the accused. No other form of proof, no matter how convincing, would be considered sufficient. Unless two witnesses could

testify that they actually saw the crime being committed, or unless the prisoner himself confessed to the deed, the accused could not be convicted. The rigidity of this law of proof can best be appreciated if we compare it with the standards of proof that English juries often used to convict criminals. English juries could and did deliver guilty verdicts on the basis of hearsay, circumstantial evidence or the testimony of only one eye-witness. Now, it is true that these same juries did require unanimity in their verdicts after 1367, and they often revealed a great reluctance to find the accused guilty. But when they did decide upon conviction, they often did so on the basis of rather flimsy evidence, even in the eighteenth century, by which time the English law of evidence had begun to take form.

Adherence to the Roman-canonical law of proof presented serious problems for judges in situations where eye-witnesses could not be produced. This was especially true in trials for concealed crimes, among which heresy and witchcraft were prominent. Heresy was essentially a mental crime, although witnesses could testify regarding a heretic's promulgation of his ideas. Witchcraft, which involved heresy, presented similar problems. The number of people who could testify that a witch performed *maleficia* before their very eyes was small indeed, while the only persons who could give eye-witness accounts of diabolism and the sabbath were the alleged accomplices of the witches, who could not be detected until at least one witch confessed and yielded their names. In such circumstances judges had to rely exclusively on confessions in order to obtain convictions. Confessions, however, were not always forthcoming, and consequently judicial authorities began to allow the use of torture in order to obtain them. The use of torture in heresy, witchcraft and other cases was therefore the direct result of the adoption of inquisitorial procedure. The logic of one led to the application of the other.

Torture

When we speak of judicial torture we do not mean the use of torture as a punishment for crime. Very often courts would sentence criminals to be tortured before their execution, and the methods used would be the same as those that had been employed during their trial. Some scholars distinguish between this type of *retributive* or *punitive* torture and *interrogatory* torture, but judicial torture, properly defined, refers only to the latter process. Judicial torture was a means employed to obtain either a confession or some concealed information from an accused person or a recalcitrant witness.

The use of judicial torture in the late medieval and early modern periods had ancient and early medieval precedents. In ancient Greece and Rome, slaves who did not possess the same legal rights as free men were frequently tortured during their trials, while during the Roman Empire even free men were tortured in the prosecution of treason and other heinous crimes. In many barbarian kingdoms torture continued to be used on slaves, but not on free men under any circumstances. Because of these precedents, it is proper to consider the introduction of torture in thirteenth-century Europe as a revival rather than an innovation. Like the inquisitorial procedure with which it is associated, it owed its appearance to some extent to the revival of the study of Roman law. But the main reason for its reintroduction in the West was the need to prosecute crime more effectively and the fact that inquisitorial procedure had been adopted for those purposes.

The first documentary evidence we have of the use of torture in the late Middle Ages comes from the laws of the city of Verona in 1228. Within a few years many other city-states in Italy, the Holy Roman Empire and the kingdom of Castile followed suit.[24] In these secular jurisdictions the main purpose of torture was to obtain evidence from notorious criminals who were suspected of concealed crimes. In 1252 the Church, which had taken the lead in the adoption of inquisitorial procedure, followed the example of the secular courts in allowing the use of torture. At that time Pope Innocent IV authorized papal inquisitors to use torture in the prosecution of heresy, which was in many ways the ultimate concealed crime. It was especially appropriate that suspected heretics should be tortured, since their crime was the ecclesiastical equivalent of treason, and the first free Romans to be subjected to torture had been traitors. The use of torture in heresy trials provided the foundation for its employment against witches in the church courts, while both the example of the ecclesiastical courts and the general practice of using torture in the prosecution of capital crimes led to its employment in secular witchcraft trials.

The use of judicial torture is predicated upon the assumption that when a person is subjected to physical pain during interrogation he will confess the truth. The assumption is not always valid. In many cases, it is true, the application of torture has elicited honest confessions or factual truth from the guilty or otherwise knowledgeable parties. In wartime the torture of military prisoners has often had the same effect. At other times, however, torture has proved to be a highly unreliable means of discovering the truth, for it has produced fabricated or at least partially misleading confessions. The likelihood of such falsification is greatest when (a) the person tortured is innocent of the alleged crime or ignorant of the desired information; (b) the details of the confession are suggested to him by means of leading questions; and

(c) the amount of torture is excessive. There is an abundance of evidence from contemporary as well as historical sources to show that if torture is sufficiently painful, even the most tight-lipped, innocent person will perjure himself and confess to virtually anything his torturers wish him to say. The clearest historical evidence we have of this process is the great witch-hunt itself, in which thousands of individuals, when subjected to torture, confessed to crimes they did not commit and which in fact they could not have committed.

The architects of the system of judicial torture were not unaware of the unreliability of torture as a means of establishing the truth. They knew that although torture could elicit a great deal of otherwise unavailable, accurate, incriminating evidence, it could also seriously prejudice the rights of a defendant and lead to his or her unwarranted conviction. Before the middle of the thirteenth century the Church had prohibited torture for precisely this reason.[25] When torture was revived in the thirteenth century, therefore, legal writers and other authorities devised a set of rules governing its application. The main objectives of the rules were to minimize the chances that an innocent person would be tortured, to prevent the fabrication of confessions and to place some limits on the severity and duration of the torture. These rules did not serve as a justification of the use of torture: that lay in the necessity of obtaining confessions to crimes that threatened the state. But the rules did make the entire system more palatable to those who had a genuine interest in the protection of the rights of the accused and who wished to prevent the conviction of innocent persons.

The rules governing the use of torture varied from place to place and they also changed over time. In their original and strictest form they contained, first of all, a prohibition against the use of torture unless the judge could prove that a crime had in fact been committed. Once that was ascertained, the judge still could not sentence a suspect to be tortured unless there was a solid presumption of guilt, which was usually provided by the testimony of one eye-witness (half the proof needed for conviction) or circumstantial evidence, *indicia*, that was the legal equivalent of the testimony of one eye-witness.[26] Even when this requirement was satisfied, the judge was forbidden to use torture unless it was the only way to establish the facts of the case, and before he ordered it he first was required to threaten the suspect with its use.

For both humanitarian and legal reasons, rules were also established to restrict the severity and the duration of the torture. The most widely recognized of these was that the torture should not result in the death of the victim, and it was for this reason that most courts used methods of torture that either distended or compressed the extremities. The most common instrument of torture that achieved such an effect was the strappado, a pulley that raised the

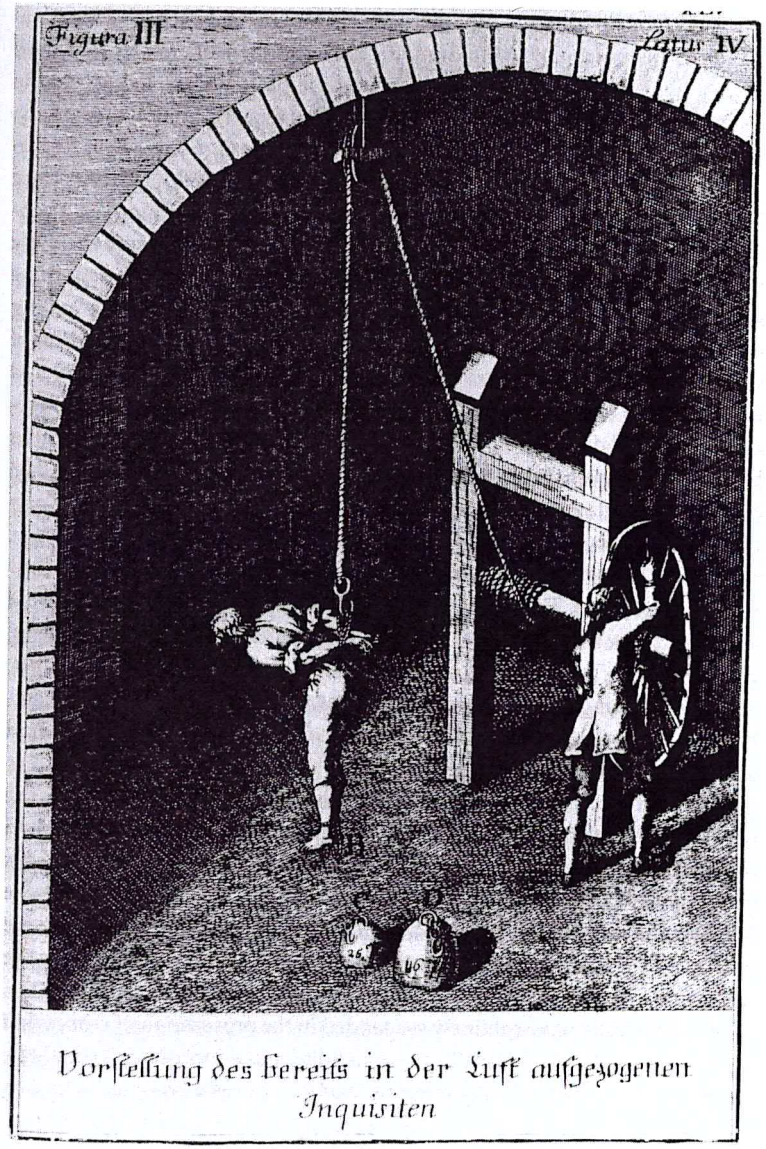


Plate 9 The torture of a prisoner by means of the strappado. This procedure was usually not employed until other instruments of torture, such as the thumbscrews, had not resulted in a confession. The pain could be increased by jerking the ropes or adding weights, depicted here in the foreground, to the ankles. From *Constitutio Criminalis Theresiana* (1769).

person off the floor by his arms, which were tied behind his back. (See Plate 9.) Other instruments of distension, the rack and the ladder, were also used frequently. Of the instruments of compression the most common were the thumb screws, leg screws, head clamps and tourniquets. All of these had the advantage that they could be relaxed as soon as the tortured person agreed to confess or to provide the desired information. They also allowed the torture to be increased gradually. Most jurisdictions had rules governing the intensity of the torture which depended on both the gravity of the crime and the strength of the presumption of guilt. When the strappado was used, these rules would determine how long the accused would hang from the ceiling and whether or not he would be jerked abruptly. In the most severe form of the strappado, squassation, weights of anywhere from 40 to 660 pounds would be attached to the person's feet and then the ropes would be jerked, a procedure that could dislodge a person's arms from their sockets. All of the grades of torture, however severe, were supposed to be performed on the same day; repetition of torture was forbidden. There were also rules that exempted certain classes of people, such as pregnant women and children, from torture.

Yet another set of rules was designed specifically to prevent the fabrication of confessions. The use of leading questions by the judge, which would of course allow the prisoner to detect what his interrogator wished to hear, was forbidden. Testimony taken in the torture chamber was not admissible, the prisoner being required to repeat his confession 'freely' outside the chamber within a period of twenty-four hours. The judge was, moreover, required to verify the details of confessions extracted under torture.

If the courts of Europe had adhered strictly to these rules regarding the use of torture, then the adoption of this method of criminal investigation would not have led to the innumerable miscarriages of justice with which it is almost always associated. In particular, the European witch-hunt would have been much smaller than it was. As it turned out, however, these rules were greatly relaxed and the system was grossly abused. In some jurisdictions the rules were officially changed in order to facilitate the prosecution of all crime. In others the rules were routinely suspended in the prosecution of crimes that were considered to be especially grave and difficult to prosecute. It should be noted that witchcraft was regarded by many jurists as a *crimen exceptum*, an exceptional crime, and in the prosecution of such an offence certain procedural rules, such as those regarding the qualification of witnesses, did not apply.[27] In still other jurisdictions judges flagrantly ignored or violated the rules, especially in witchcraft cases.

The most significant modification of the rules dealt with the requirement that the judge should first establish that a crime had in fact been committed.

As John Langbein has argued, if this rule had been strictly enforced, 'the European witch-craze would never have claimed its countless victims'.[28] Unfortunately, however, an exception was often made for those occult crimes for which the evidence had vanished at the time of commission. This meant that judges could torture suspects for crimes that were believed to have been committed but for which there was no tangible evidence.[29]

Another official relaxation of the rules regarding torture concerned its repetition. In drafting his manual for inquisitors in 1376, Nicholas Eymeric circumvented the prohibition of repetition by allowing its *continuation* at a later time. Eventually European courts dispensed with this casuistry and permitted judges to repeat the torture at least once and sometimes two or more times if the prisoner proved to be recalcitrant.[30] In some witchcraft cases torture was applied indefinitely. There is at least one recorded instance of its repetition fifty-six times,[31] and in 1631 the hangman in the town of Dreissigacker in Germany revealed in a chilling statement to an accused witch how completely the safeguard against repeating torture had been abandoned. 'I do not take you for one, two, three, not for eight days, nor for a few weeks,' said the hangman, 'but for half a year or a year, for your whole life, until you confess: and if you will not confess, I shall torture you to death, and you shall be burned after all.'[32] It should be noted that the prisoner was pregnant at the time and therefore should not have been tortured at all.

As the duration of the torture was indefinitely extended, so too was its severity. It appears that in many jurisdictions the most brutal tortures were reserved for witches. Certainly one gets that impression from reading the account of the prosecution of Anna Spülerin of Ringingen, who was tortured so gruesomely that her limbs were mutilated and her sight and hearing lost.[33] In Scotland Dr Fian, one of the many witches suspected of treason against the king, 'was put to the most severe and cruel pain in the world, called the boots', with the result that 'his legs were crushed and beaten together as small as might be, and the bones and flesh so bruised, that the blood and marrow spouted forth in great abundance'.[34] Some of these procedures were sanctioned by the criminal law of particular states, but others were employed illegally, at the mere command of an overzealous and perhaps sadistic judge. In Germany many courts used the witches' chair, which was heated by fire from below, while in Scotland there were reports of a witch's fingernails being pulled out by pincers. In Spanish, French and German lands it was not uncommon for courts to force-feed their prisoners with large amounts of water. Among the clearly illegal tortures were filling the nostrils with lime and water, tying the victim to a table covered with hawthorn twigs, rolling a pin with dagger-like points up and down the spine, gouging out the eyes,

chopping off the ears, squeezing the male's genital organs, and burning brandy or sulphur over the victim's body.

Many of these especially brutal tortures were used originally or exclusively in witchcraft cases. This was not simply because witchcraft was considered the most heinous of all crimes and the most necessary, therefore, to prosecute successfully, but also because many judges feared that witches might employ sorcery to help them withstand pain. In such circumstances the judges may have believed that an especially cruel form of torture would succeed where others had failed. The method that was specifically designed for use in such cases, however, was one that caused no direct physical harm. The torture of forced sleeplessness, or the *tormentum insomniae*, was considered to be the most effective antidote to the sorcery of the victim. Since this method, which kept the victim awake for forty hours or longer, did not actually hurt the body, it had great appeal to humane judges. It also was extremely effective, probably because it resulted in a form of brainwashing. One judge claimed that fewer than two per cent of all victims could endure it without confessing.

Just as the limits on the duration and severity of torture were raised or completely ignored, the rules guarding against false confessions were gradually modified or abandoned. Suggestive questioning became routine in witchcraft cases, a practice which the publication of sets of questions to be asked of witches only encouraged. Few attempts were made to verify the details of the confessions, and when an accused witch retracted a confession made under torture, judges allowed a second or even a third or fourth use of torture, thereby violating the rule against repetition.[35] It was not unusual for judges to give non-capital sentences to prisoners who retracted their confessions, but when the crime was that of witchcraft the judges showed great reluctance to follow that course of action. Some witches were not even given the opportunity for retraction, while others who retracted were executed anyway in the manner prescribed for unrepentant heretics.

The question remains, however, whether judges who applied torture with great severity and with apparent disregard of at least the original rules were worried that they might be forcing innocent parties to incriminate themselves. The answer is almost certainly 'No'. Either they believed that God would protect the innocent and allow them to endure the torture, just as He had allowed them to survive the ordeal, or they did not seriously consider the possibility that the accused might be innocent. Even when the evidence of a person's guilt was insufficient according to the law, judges proceeded with torture on the assumption that the accused was guilty and would therefore speak the truth when pain was threatened or applied. Whatever compunctions the judge might have about subjecting a human being to excruciating torture

would be offset by his recognition of the enormity of the crime and the necessity of its effective prosecution. And, of course, once the torture was begun, judges had an additional motive for completing their task successfully, since the confession itself served as a justification of their use of torture in the first place.

The reintroduction of torture into the legal systems of western Europe and the relaxation of or disregard for the rules regulating its use had a profound effect on the origin and development of the great European witch-hunt. First, torture facilitated the formulation and the dissemination of the cumulative concept of witchcraft. Although the various ideas regarding witchcraft were synthesized and spread mainly by the authors of learned treatises, their fusion first occurred in the courtroom, where inquisitors used torture to confirm their suspicions and to realize their fantasies. In most cases the treatises drew upon and developed ideas that had first emerged in the torture chamber. Once these ideas were put into writing, moreover, the production of confessions under torture confirmed their reality and facilitated their transmission. The importance of obtaining confessions to ratify beliefs that are otherwise available only in print can best be appreciated by studying the fate of certain witch beliefs in England. Ideas about witches attending the sabbath and worshipping the Devil were by no means absent from England, at least in literary form, during the sixteenth and seventeenth centuries, but these ideas never gained widespread acceptance among the elite. This was mainly because torture could not be used in witchcraft cases and confessions to diabolical activities could not, therefore, be easily obtained.

The second effect of the adoption of torture on witch-hunting was that it greatly increased the chances of witches being convicted. The introduction of inquisitorial procedure by itself should have had that effect, but the acceptance of the Roman-canonical law of proof threatened to negate its effectiveness in the case of concealed crimes. The use of torture, especially unrestricted torture, not only resolved the problem of insufficient proof but also made possible the conviction of almost anyone who incurred the suspicion of witchcraft. Although we do not have complete statistics, it appears that when torture was used on a regular basis in witchcraft prosecutions, the rate of convictions could be as high as 95 per cent.[36] When it was not used, as in England, the conviction rate was well below 50 per cent. Between the two extremes there were of course many intermediate positions, which could reflect the use of torture in only some cases, a greater or lesser adherence to the rules governing the use of torture, or different degrees of humaneness on the part of the judges.[37] In some jurisdictions torture was ineffective because some prisoners employed certain techniques to help them withstand the pain.[38]

There is no question, however, that without torture the conviction of witches would have been less common and the pattern of witchcraft prosecutions and convictions would have probably resembled that of England more closely than that of Germany.

The third and most important effect of the adoption of torture on European witch-hunting concerns its use in acquiring the names of witches' alleged accomplices. Roman law had declared emphatically that a person who confessed to a crime could not be tortured regarding that of another person, but most European jurisdictions – with the notable exception of the Spanish and papal territories – abandoned this rule during the late medieval or early modern period. Only when this critical change was made, and when authorities began to believe that witchcraft was a conspiracy, did the conduct of large, chain-reaction hunts become possible. The torture of individual witches for their confessions could produce a high percentage of convictions, but only the torture of those witches for the names of their confederates could produce witch-hunts in which scores, if not hundreds, of individuals were tried for a collective crime.

Witchcraft and the secular courts

The third main legal development that made the great European witch-hunt possible was the deployment of the full judicial power of the state in the prosecution of a crime that was primarily spiritual in nature. To the extent that witchcraft involved the worship of the Devil it was a spiritual crime, the crime of apostasy and heresy, and as such it merited punishment by ecclesiastical authorities. Many witches were in fact prosecuted in episcopal courts and in those of papal inquisitors, whose main assignment ever since the early thirteenth century had been to combat the spread of heresy. From the very beginning of the great witch-hunt, however, the secular courts of western European states also took part in witch-hunting, either by cooperating with ecclesiastical courts in their work or by trying witches on their own authority. As the hunt developed, the secular courts assumed an even greater role in the process, while that of the ecclesiastical courts declined. Governments defined witchcraft as a secular crime, and in some countries the temporal courts secured a monopoly over its prosecution. As this change took place the Church continued to have an active interest in the matter of witchcraft. It often inspired or directed secular authorities to pursue witches aggressively,[39] but the driving judicial force of the witch-hunt became secular

rather than ecclesiastical authority. Without the mobilization of this secular power, the great witch-hunt would have been a mere shadow of itself.

The extraordinarily durable notion that the European witch-hunt was essentially a clerical operation, inspired by clerical zeal and conducted under ecclesiastical auspices, derives both from the size of the contribution that churchmen made to the development of the cumulative concept of witchcraft and from the role that church courts played in the prosecution of the crimes of heresy, magic and witchcraft during the late Middle Ages. That churchmen took the lead in the early formulation of witch beliefs cannot be denied, although lay theologians like Arnald of Villanova and lay magistrates who adjudicated cases of sorcery played a significant part in the process.[40] The important consideration in this regard, however, is that these ideas, whatever their source, became the property of the lay magistracy as well as of the clerical elite by the time the great witch-hunt began.[41] Once that happened, it was just as likely that the ideas would surface in secular as in ecclesiastical courtrooms.

Regarding the clerical role in the late medieval prosecution of magic, heresy and witchcraft, we must make a number of qualifications. First, the prosecution of magic was undertaken by both secular and ecclesiastical authorities, since it was clearly a crime of 'mixed jurisdiction'.[42] The Church condemned the practice because it involved some sort of commerce with demons, and it prosecuted it as a form of heresy, but secular authorities had a legitimate interest in the crime when it resulted in physical injury, and especially when it was used for political purposes. It was in fact the traditional jurisdiction that secular authorities had over *maleficium*, which can be traced back to Roman times, that provided the major foundation for later statutory prohibitions of witchcraft. Secondly, secular authorities also played a role, although admittedly a more limited one, in the prosecution of heresy. Almost all heresy trials in the late Middle Ages took place in the courts of episcopal or papal inquisitors, but these officials required and obtained a great deal of assistance in their work from secular authorities. Lay officials helped to locate and arrest suspects, and once they were convicted, executed them on the basis of secular laws. The cooperation of the secular authorities in punishing heretics was essential, since church courts could not inflict bodily harm and were therefore obliged to surrender condemned heretics to the secular arm for punishment. Of course there was very little concern that lay officials would not cooperate, since heresy was widely regarded as a source of civil disorder.[43]

Since secular courts had jurisdiction over magic and *maleficium*, and since they willingly provided indispensable services to the ecclesiastical courts in the prosecution of heretics, they naturally assumed a significant role in the prosecution of witches. When witch-hunting began in the fifteenth century,

the trials took place not only in the courts of papal inquisitors and in the episcopal courts but also in various municipal courts. The notorious witch-hunting campaigns of Heririch Kramer in Germany during the 1480s, which Pope Innocent VIII directly sanctioned in his Bull of 1484, and the publication of the *Malleus Maleficarum* by Kramer two years later, have led to a general assumption that most fifteenth-century witch-hunting activities occurred under the auspices of papal inquisitors. This is clearly not the case. It is true that inquisitors were primarily responsible for the numerous witch-hunts that took place in southern France in the early fifteenth century. These trials were to some extent a by-product of the pursuit of Waldensian heretics in that region.[44] In other parts of France and Europe, however, episcopal and secular courts prosecuted witches, sometimes in cooperation with inquisitors or with each other and sometimes independently. In one of the very first witch-hunts, which took place in Bern in the late 1420s, the bishop took a leading role, but in prosecuting the witches he used the secular courts over which he presided as a territorial ruler, not the episcopal courts over which he presided as a prelate.

As the witch-hunt gathered strength in the sixteenth and early seventeenth centuries, a number of developments resulted in the reduction of clerical jurisdiction over witchcraft and a corresponding increase in the amount of secular judicial concern with it. The first was the definition of witchcraft as a secular crime. Both the *Malleus Maleficarum* and a treatise entitled *Layenspiegel*, which was written in 1510 by Ulrich Tengler, the governor of Höchstädt, had established the theoretical foundation of such a definition, but only later in the sixteenth century did secular rulers take official action. Frightened that witchcraft was spreading and that its practitioners were evading prosecution, the legislative bodies of many European states either passed specific laws against witchcraft, promulgated edicts to the same effect or included specific prohibitions of witchcraft in their criminal codes.[45] The *Reichstag* of the Holy Roman Empire included an article concerning witchcraft in the famous *Carolina* code of 1532, while many German states within the Empire enacted their own particular laws against the crime. The English Parliament passed witchcraft statutes in 1542, 1563 and 1604, the Scottish Parliament did the same in 1563, and the rulers of Franche-Comté, Sweden, Denmark, Norway and Russia all issued edicts against witchcraft in the late sixteenth and early seventeenth centuries.[46] Most of these witchcraft laws were based upon the traditional jurisdiction that the state claimed over *maleficium*, but in some cases the law allowed prosecution for the exclusively spiritual crime of making a pact with the Devil or, more vaguely, covenanting with an evil spirit.[47] These laws not only gave secular courts an indisputable right to hear witchcraft cases,

but also contributed directly to the growth of witch-hunting by publicizing the crime and facilitating its prosecution.

A second development that caused a significant shift of witchcraft cases from ecclesiastical to secular tribunals was the decline of both the papal 'inquisition' and other ecclesiastical courts. The general weakening of papal authority in the late fifteenth and early sixteenth centuries and the later Protestant rejection of that authority at the time of the Reformation left the Inquisition, which had never been an organized institution to begin with, in a permanently enfeebled state.[48] Only in Spain, where an Inquisition had been established as a national institution under the authority of the king in the late fifteenth century, in Portugal, which in similar fashion had three inquisitorial tribunals that remained independent of Rome, and in Italy, where a new Roman Inquisition was established on the Spanish model in 1542, did the Inquisition continue to show any signs of vitality.[49] The papal Inquisition was not, however, the only instrument of ecclesiastical justice that declined at this time. Throughout Europe, especially in Protestant countries but also in those that remained Catholic, church courts lost much of their authority and found themselves clearly subordinated to the secular power of the state.[50] Their coercive and jurisdictional powers were restricted in many countries, and by the middle of the sixteenth century they appear to have become much weaker instruments than the secular courts in the increasingly important task of extirpating witchcraft. In many countries their role in prosecuting 'witch-craft' was restricted to people for practising various forms of magic.[51]

A third reason for the reduction of clerical involvement in the witch-hunt was the growth of a considerable reluctance among church lawyers and judges to tolerate the procedural abuses upon which successful witch-hunting depended. There is no little irony in the fact that papal inquisitors, who earlier had taken the lead in violating many of the procedural rules governing the use of torture, were among the first to recognize that these violations had resulted in numerous miscarriages of justice and to recommend caution in further proceedings. Ecclesiastical officials, moreover, manifested a greater reluctance to mete out harsh sentences in the sixteenth and seventeenth centuries, indicating a return to the traditional penitential and admonitory functions that ecclesiastical justice had originally served. Secular courts, by contrast, being concerned for the maintenance of a public order that was being seriously challenged, generally manifested fewer compunctions.

The assumption of secular control over the crime of witchcraft had a profound impact on the process of witch-hunting in many European countries. In Scotland, for example, large-scale witch-hunts did not begin until after the Scottish Parliament defined witchcraft as a secular crime in 1563 and until

after the secular courts established a virtual monopoly over witchcraft prosecutions. In Transylvania, where few witches had been executed when the ecclesiastical courts had jurisdiction over the crime in the fifteenth and sixteenth centuries, the assumption of secular control in the seventeenth century was accompanied by a striking increase in executions.[52] In Poland the process of secularization was very slow to develop, and it was only after the fairly tolerant ecclesiastical courts reluctantly allowed municipal courts to prosecute witches that witch-hunting claimed many victims in that country.[53]

At the same time that the assumption of secular control over witchcraft led to an increase in prosecutions in some countries, the retention of ecclesiastical jurisdiction over the crime helped to keep prosecutions at a minimum in others. The two countries in Europe where ecclesiastical tribunals, and in particular the courts of the Inquisition, maintained primary jurisdiction over witchcraft in the late sixteenth and seventeenth centuries were Spain and Italy. In both areas the number of witchcraft prosecutions and executions during this period remained relatively low by European standards. In Italy this judicial mildness is especially interesting, for during the fifteenth and early sixteenth centuries, when papal inquisitors exercised less restraint in witch-hunting, northern Italy was one of the main centres of prosecution.[54] In Spain the authority of the ecclesiastical courts was so great that they were able, even in the seventeenth century, to mitigate the severity of sentences that secular courts imposed in witchcraft cases.[55]

It is important to note that the decline of ecclesiastical jurisdiction over witchcraft did not involve the clergy's abandonment of their interest in witch-hunting. The clergy remained just as concerned with the worship of the Devil and the practice of maleficent magic as they had been in the past. The clergy did, however, change their tactics, becoming auxiliaries to judicial authorities in roughly the same way that lay officials had earlier provided assistance to the ecclesiastical judges. In the sixteenth and seventeenth centuries the clergy often put pressure on secular authorities to take stronger action against witches, assisted in the apprehension of suspects and used the power of the pulpit to maintain witch-hunts. In Salem, Massachusetts, the clergy actively encouraged the prosecution of witches, even though the trials took place in the secular courts.[56] In Scotland the clergy not only interrogated witches after their apprehension but collectively urged the government on several occasions to step up its witch-hunting operations.[57] In the Cambrésis region parish priests were closely involved in the process of identifying and prosecuting witches.[58] The most direct clerical influence on secular witchcraft prosecutions occurred in those German and Burgundian territories where bishops or monks exercised temporal power.[59] In these quasi-ecclesiastical states the ruling clerics used secular officials and secular authority to prosecute witches, a tactic that gave them more procedural latitude than if they had used the church courts and also freed them from any misgivings they might have had about inflicting corporal punishment through an ecclesiastical tribunal.[60] The witch-hunts that took place in the Catholic ecclesiastical territories of Ellwangen, Mergentheim, Trier, Würzburg and Bamberg were as large as those occurring in any other parts of Germany.[61]

Although witchcraft became a secular crime, triable in the secular courts, and although most secular authorities claimed jurisdiction over it on the grounds that it involved *maleficium* rather than heresy, the form of punishment that the secular courts adopted for this crime reflected its heretical rather than its felonious nature. Except in England and New England, where witches who had been sentenced to death were hanged like other felons (see Plate 10), witches were usually burned at the stake. This was the punishment that was traditionally inflicted on relapsed heretics, and its use in witchcraft cases



Plate 10 The hanging of the Chelmsford witches, 1589. In England witches were hanged, not burned. The small animals in the foreground are familiar spirits or imps who were believed to receive nourishment from the witches and aided them in performing their magic. From *The Apprehension and Confession of Three Notorious Witches* (1589).

served the purpose of identifying the witch with the heretic, both of whom were believed to be servants of the Devil.[62] The practice of burning heretics had a scriptural foundation in the statement that 'if a man not abide in me, he is cast forth as a branch that is withered; and men gather them and cast them into the fire, and they are burned'.[63] Burning witches also was a ritual of purification, which in all mythologies is associated with fire, and it also may have served as an implicit substitute for the ordeal by fire, which the Church abolished just about the time that it started prosecuting and executing people for heresy. Much more practically, death by fire may have provided guarantees for nervous judges that witches would not return from the dead by means of sorcery. But the main reason why secular courts usually decided upon this sentence was that witches were guilty of a crime that was similar to, if not identical with, heresy.[64]

Most witches were not burned alive. Although this was the usual practice in Spanish and Italian territories (where relatively few witches were executed), witches in France, Germany, Switzerland and Scotland were usually strangled or garroted (a brutal procedure in which a metal spike penetrated the throat) at the stake before the flames consumed their bodies. Many French witches were hanged before their bodies were burned. In the German principality of Ellwangen the princely prebend usually changed the sentence of burning to one of death by the sword, but he still had the corpse burned afterwards.[65] In similar fashion an entire group of witches in Ortenau were sentenced to death 'by the sword and burning' in 1630.[66] In Sweden it was standard practice to have condemned witches first beheaded and then their bodies burned.[67] Occasionally other methods of execution, such as drowning, were employed, but in the overwhelming majority of capital sentences either the witch or her corpse was burned.[68]

In some cases secular as well as ecclesiastical courts gave non-capital sentences. These were most common in England, where the witchcraft statutes made provision for such penalties when the crime was the first offence and did not result in the death of the wronged party. In Scotland and in some continental European countries there was a much closer correlation between the number of convictions and the number of executions, but non-capital sentences, usually banishment or imprisonment, were by no means rare.[69] In France the practice of appealing sentences to the provincial *parlements* often resulted in the commutation of death sentences, while in Geneva judges who could not determine guilt with certainty very often banished the accused.[70] Henri Boguet recommended banishment in cases when the prisoner withstood the torture but the judge remained convinced of his guilt.[71] The sentence of

witchcraft as being any less spiritual in nature than heresy; in the few cases when German secular courts prosecuted heretics in the Middle Ages, the judges meted out the very same punishment.[72] But banishment does suggest, at least in cases of 'certain' guilt, that judicial authorities were more concerned with ridding their communities of socially marginal or dangerous individuals than with combating the forces of Satan. This was especially true in countries like Hungary, where there was more emphasis on the magical than on the diabolical aspects of witchcraft.[73]

No matter what its rationale, the use of banishment as a sentence in the secular courts should not be taken to indicate that these tribunals were more lenient than their ecclesiastical counterparts in the prosecution of witchcraft. Generally speaking, that was not the case. The secular courts at Geneva may have been especially reluctant to put witches to death, while the court of oyer and terminer at Salem did not execute anyone who made a confession.[74] But neither of these jurisdictions could match the standard of leniency that the Spanish Inquisition established in the early seventeenth century. In the largest witch-hunt in Spanish history, which involved more than 1,900 persons, only eleven individuals were condemned to the stake, and of these only one, a woman who had recruited other witches, transported toads to the sabbath and had regular intercourse with the Devil, had actually made a confession.[75] In contrast to most secular courts, where a confession usually resulted in conviction and execution, in Spain it usually led to reconciliation with the Church. The original purpose of ecclesiastical justice was precisely such a reconciliation, and in Spain the Inquisition made sure that even in witchcraft cases only the unrepentant would suffer.

The Spanish example reveals, in a larger context, how absolutely crucial secular participation and eventually secular dominance was to the conduct of the European witch-hunt. If secular courts had not originally supplemented the ecclesiastical courts, if they had not fully cooperated with ecclesiastical authorities in the apprehension and execution of witches, if they had not filled a void that was created when church courts either became more lenient or abandoned the pursuit of witches, and if they had not been available for use in witchcraft cases by the clerics who presided over territorial states, then the great European witch-hunt would not have assumed the dimensions that it did.

Witchcraft and the early modern state

The assumption of secular control over most witchcraft prosecutions by the

of witches and the process of strengthening the state are related. One of the most significant developments in early modern European history was the growth in the powers of states, which are formal, public political entities that possess the highest legal authority within a specific territory. During the sixteenth and seventeenth centuries European states grew in size, wealth and military power. Rulers committed to the strengthening of their states engaged in a number of different enterprises. They brought the various and sometimes scattered territories over which they claimed jurisdiction within the ambit of effective and unified central governmental control. They established their sovereignty by reducing the power of rival authorities, such as the clergy and the nobility, within their dominions. They collected more taxes from their subjects, and they used much of the wealth derived from taxation to build large armies and navies. Most importantly, the rulers of these states established more direct, effective political and legal control over their subjects, making them more obedient and subordinate to central governmental authority.

There were many apparent links between the process of state-building and witch-hunting. Besides the assumption of jurisdiction over the crime of witchcraft by the secular courts, i.e., by the tribunals of the state rather than those of the Church, there is evidence that some rulers deliberately encouraged witch-hunting in order to make their rule more secure. In 1590 King James VI of Scotland, fearing that witches were engaged in a conspiracy against him, assumed a leading role in one of the largest witch-hunts in Scottish history.[76] Christian IV of Denmark not only promulgated a witchcraft ordinance in 1617 but actively encouraged the prosecution of witches who were under suspicion in Copenhagen and Elsinore in 1626.[77] The prince-bishop of Würzburg used witch-hunting to establish religious conformity in his electorate, while Duke Maximilian of Bavaria, who was determined to attain absolute power, prosecuted an entire family of wandering beggars to enhance his reputation as the guardian of the state and the moral order.[78] In seventeenth-century Hungary two Transylvanian princes, Gábor Bathlen and Mihály Apafy, brought charges of witchcraft against their aristocratic enemies, leading to a set of high profile trials.[79] There are also some apparent connections between witchcraft theory and the theory of royal absolutism, especially in the writings of the demonologist and political theorist Jean Bodin.[80]

One problem with the alleged link between state-building and witch-hunting is that the central or higher courts of most European countries – those that most directly represented the authority of the state – did more to restrict witch-hunting than to encourage it. These same central authorities were also primarily responsible for bringing witch-hunting to an end. It is

true that rulers and royal councils did often pass legislation that facilitated the prosecution of witches, and it was not uncommon for the highest courts of European states to hold witchcraft trials. From time to time central authorities actually initiated witch-hunts, especially in the German principalities, and they sometimes gave local or regional officials the authority to hear witchcraft cases.[81] But most witch-hunts were actually conducted by the judicial officers of smaller administrative subdivisions of the state.[82] These judges of local or 'inferior' jurisdictions usually demonstrated much more zeal in prosecuting witches than did the central authorities, and when left to their own devices they generally executed more witches than when they were closely supervised by their judicial superiors.

There are two main reasons why local courts usually proved to be less lenient than central courts in the prosecution of witchcraft. The first is that the local authorities who presided over witch trials were far more likely than their central superiors to develop an intense and immediate fear of witchcraft. Central authorities might agree that witches were a threat to society and that they needed to be prosecuted, but they rarely knew the accused witches personally (as many local magistrates or the rulers of the smaller German states did) and they were not faced with the prospect of living in the same community with the witches should they be acquitted. They were, moreover, less likely to be affected by the hysterical mood that often engulfed towns and villages when witch-hunts occurred. Central authorities, therefore, would be more likely to proceed against witches on the basis of the evidence against them and to avoid the prejudice that an alarmed judge would naturally develop. The second reason is that central judges were generally more committed to the proper operation of the judicial system and more willing therefore to afford accused witches whatever procedural safeguards the law might allow them.

The complex relationship between state-building and witch-hunting can best be illustrated in four countries, where efforts at state-building took different forms and where the intensity of witch-hunting varied greatly: France, Scotland, England and Germany.

France

The kingdom of France is often viewed as the most successful example of state-building in Europe during the early modern period. Historians often exaggerate the strength of the French state, even during the reign of its absolutist king, Louis XIV, in the late seventeenth century, but its administrative bureaucracy was large by contemporary European standards, and central

control over the localities increased considerably during the seventeenth century. The history of witchcraft prosecutions in France can be written largely in terms of efforts by higher judicial authorities to review and in many cases modify or overturn the sentences promulgated by lower courts. This regulation of local justice was undertaken by the eight provincial *parlements*, staffed by men trained in the law. The most important of these *parlements*, and the one that handled the largest number of witchcraft cases, was the *Parlement* of Paris, which exercised an appellate jurisdiction over most of northern France and was to all intents and purposes a central court. Between 1588 and 1624 the *Parlement* of Paris gradually established its authority over these local tribunals, requiring that all capital sentences of witches be appealed to them.[83] An astonishingly high 36 per cent of cases reviewed by this *parlement* resulted in complete dismissal, while only 24 per cent of all cases were confirmed.[84]

The main reason for the greater leniency of the Parisian tribunal was that it adhered to a more demanding rule of proof than did the lower courts, refusing to sentence witches to death on the basis of a confession extracted under torture. Other considerations, however, including the remoteness of the judges from the actual environment of the witch-hunts and perhaps the scepticism of the *parlementaires* regarding the reality of witchcraft also played a part. Interestingly enough, the eight other provincial *parlements* in France, which could not, like the *Parlement* of Paris, be considered central institutions, had a much less lenient record in prosecuting witches and at the end of the seventeenth century had to be subjected to direct royal control in order to bring the witch-hunt to an end.

Scotland

The kingdom of Scotland, which is generally not known for its strong central government, provides a striking example of how a central government determined to control local justice failed to do so and, in an ironic way, actually contributed to intense witch-hunting in the localities. In Scotland almost all witchcraft trials took place in the secular courts under the provisions of the witchcraft statute passed by the Scottish Parliament of 1563. There were three main types of secular courts where Scottish witches could be tried. First, there was the Court of Justiciary, which sat in Edinburgh. Cases from all over Scotland could be heard there, but a disproportionate number came from the counties in the immediate vicinity of the capital. Next, there were the circuit courts, held in the various shires of the kingdom, over which judges from the central courts presided. These circuit courts did not

function with much regularity until the late seventeenth century. Finally, there were local ad hoc courts that were commissioned either by the Privy Council or by Parliament to try witches in the areas where they were arrested. These courts, unlike the Court of Justiciary and the circuit courts, were not staffed by professionally trained judges from the central courts but by local landowners and magistrates.

In the wake of two particularly strong witch-hunts in the 1590s, in which the process of witch-hunting had spun out of control, the central government demanded that all witchcraft trials in the localities receive preliminary approval of the Privy Council or Parliament. In this way witchcraft became a 'centrally managed crime'.[85] It appeared, therefore, that this effort to establish central conciliar control over witchcraft would result in a reduction in the intensity of witch-hunting, just as the mandatory appeal of sentences to the *Parlement* of Paris resulted in the dismissal of charges against many witches. The difference between Scotland and France, however, is that the Scottish Privy Council did not give proper consideration to the petitions for local trials, especially during witch panics, when the number of requests to try witches was exceptionally high. To make matters worse, Scotland did not have a sufficiently large central judicial establishment to ensure that the cases would be heard in either the Court of Justiciary or the circuit courts. Therefore, the Privy Council often granted commissions of justiciary to the local magistrates routinely, and since there was no procedure for appeals or the review of the sentences of the local courts, the fate of many Scottish witches was entrusted to local magistrates who had no judicial training and who in most cases were determined to convict and execute them. Although we do not have complete statistics, it is apparent that the execution-rate in Scotland was significantly higher when unsupervised local authorities heard witchcraft cases than when judges from the central courts did so, either in Edinburgh or on circuit.[86] The presence of central judicial authorities, in other words, had a significant, negative impact on the number of executions. Scotland, therefore, stands as an example of how a relatively weak state with a small judicial establishment had difficulty guaranteeing due process in the great majority of cases. The contrast with the powerful French state could not be any clearer.

England

A very different situation from that in Scotland prevailed in its southern neighbour, England, where the country had a long tradition of judicial centralization. The English state, like the Scottish state, was not particularly strong by European standards, and the efforts of its Stuart kings to establish

royal absolutism in the seventeenth century failed miserably. Nevertheless, England did have a long tradition of judicial centralization, the one respect in which the English state was stronger than any other in Europe. English judicial centralization had its origins in the establishment of the common law (a law for all English subjects) in the later Middle Ages. Royal judges of the three central common law courts at Westminster, appointed by the Crown, heard both civil and criminal cases at the county assizes – circuit courts over which they presided twice every year. The English tradition of legal centralization had a significant bearing on the intensity of English witch-hunting. Although English courts tried a substantial number of witches, the conviction and execution-rates were exceptionally low by continental European standards.

The strict prohibition of torture in England certainly had an impact on the low level of prosecutions, but even that feature of English witch-hunting can be related to the presence of central justices at almost all witchcraft trials. In an exceptional situation in 1645 during the English Civil War, when those justices failed to supervise the conduct of witchcraft prosecutions, the self-proclaimed witch-finders Matthew Hopkins and John Stearne succeeded in using forms of torture, mainly the *tormentum insomniae*, to extract confessions from suspected witches. Further evidence of the importance of central judges in preventing the use of torture comes from a comparison of the English situation with that of Scotland, which like England prohibited the use of torture unless the Privy Council had specifically authorized it in cases of treason. There is abundant evidence, however, that when Scottish witches were arrested many of them were illegally tortured to obtain confessions, thus giving Scotland the reputation for being more barbaric than England in its conduct of criminal procedure.[87]

Germany

The relationship between state-building and witch-hunting, especially with reference to judicial centralization, is most complex but at the same time most revealing in Germany, where the majority of witchcraft prosecutions and executions took place. The complexity derives from the fact that during the period of witch-hunting there was no unified German state, such as was eventually established in the late nineteenth century. During the early modern period Germany consisted of more than three hundred relatively autonomous territories of widely varying size, all of which were loosely included within the large Holy Roman Empire. Many of these small units were themselves states, and the larger units, such as the electorate of

Brandenburg Prussia and the duchy of Bavaria, were striving to become larger, wealthier and more powerful during the age of absolutism.

Compared to the large royal states in Europe, such as France, England and Scotland, the Holy Roman Empire was a highly decentralized political structure. The imperial *Reichstag* passed laws for all of the Emperor's subjects, but the extent to which any one of the German territories followed the law of the Empire and submitted to central control depended on a number of factors. The imperial cities were generally the most obedient, but even they manifested a strong streak of independence and in many ways were self-regulating. The autonomy of the German territories is most clearly evident in judicial affairs. Each territory had its own courts, and although these institutions enforced the imperial law codes to a greater or lesser extent, each had virtual autonomy over its own judicial life. There was no central judicial establishment to send judges on circuit or to supervise the conduct of local justice. There was a supreme imperial court, the *Reichskammergericht*, which sat in Speyer and heard cases on appeal, but there was no regular procedure for doing so.[88]

The decentralization of judicial life had profound effects on the prosecution of witches in Germany. Without effective control by imperial authorities, the judges and inquisitors of the smaller territories had enormous freedom to hunt witches as they wished. It should not surprise us that the largest witch-hunts took place within Germany; that the reports of the most barbarous tortures come from Germany; and that the total number of executions for witchcraft within the Empire was greater than in all other areas combined. There are many different reasons for the relatively high intensity of German witch-hunting, but the judicial situation must be considered the most important of these. The significance of these judicial factors becomes even more apparent when we realize that those jurisdictions that adhered strictly to the imperial code of criminal law, the *Carolina*, executed far fewer witches than those that blatantly ignored it.[89]

Once we focus our attention on the individual states within the Empire, however, the relationship between state-building and witch-hunting becomes more problematic. As mentioned above, some of the smaller German states were among the most zealous in prosecuting witches. In at least some of these jurisdictions witch-hunting served the clear political purpose of strengthening or legitimizing the ruler's authority and securing the obedience of the subjects.[90] In these smaller political units it was almost always the central courts of the duchies or the principalities, not the smaller local courts that took the lead in prosecuting witches. There is not, however, a great inconsistency between this pattern and that which prevailed in the larger centralized states, since the central courts in these territories were for all practical purposes

comparable in the scope of their jurisdiction to the local courts in the large royal states of Europe. And the ruler was much less able to distance himself from the fear of witches.

The relationship between the size of the political units and the intensity of witch-hunting in Germany can be appreciated by comparing the intensity of the small ecclesiastical territories like Würzburg, Trier and Bamberg with the larger principalities like Bavaria in the south and Brandenburg Prussia in the north. In those larger areas the prosecution of witches, while not minimal, was far more restrained than in the smaller prince-bishoprics. In Bavaria, for example, with a population of 1,400,000 in 1600, the number of witches executed was less than 1,000 during the entire early modern period.[91] One factor that kept this figure relatively low was the emergence of a faction in the central council that was reluctant to engage in witch-hunting. Such a faction was likely to emerge among people who were sufficiently removed from village tensions to view the charges against witches objectively.

Conclusion

On balance, therefore, the central judicial authorities of early modern European states did more to restrain the process of witch-hunting than to abet it. The real initiative in witch-hunting came from the localities, not the central government.[92] Almost all witches were initially apprehended by local officials, and in many cases they were tried by local tribunals. In the diocese of Trier, where witch-hunting took a terrible toll between 1589 to 1595, village committees actually seized the legal initiative from the council and started the hunt of their own volition.[93] The central authorities of the state usually became involved in witch-hunting at a subsequent stage of the judicial process, and sometimes not until sentence had been passed and was submitted to them on appeal. Whenever central or higher courts became involved in the process, accused witches had a better chance of acquittal or a modification of their sentence than if their fate remained in the hands of local magistrates.

The fact that the highest courts of the state tended to treat witches with greater restraint than local judges and magistrates should not obscure the fact that the rise of the early modern European state still served as a necessary precondition of the great European witch-hunt.[94] Unless the state had acquired its immense judicial power, which was reflected in the adoption of inquisitorial procedure and which was turned against both traitors and witches with equally devastating effects, the hunt would never have taken place. It is no coincidence, therefore, that the great witch-hunt occurred during a period of extensive state-building throughout Europe.

At the same time, however, the European witch-hunt depended in a curious way on the failure of the late medieval and early modern state to realize its full potential. Most early modern European states – even those in which the rulers achieved absolute power – relied on local and regional authorities to prosecute crime and provide justice to the people. This delegation of state power meant that local courts conducted a large number of witchcraft prosecutions, and those courts were more likely than the superior courts to convict and execute witches. The growth of secular state power may have made the great European witch-hunt possible, but the ability of local courts to try and execute witches, sometimes with only the tacit approval of higher state authorities, explains why the number of executions for witchcraft was so high.

Notes

1. Dupont-Bouchat, 'Répression', p. 106; Larner, *Enemies of God*, pp. 114, 116, 119; Naess, 'Norway', p. 376. Rémy interprets suicides as attempts to escape the Devil's powers. *Demonolatry*, p. 161.
2. Hansen, *Quellen*, pp. 559–61; Henningsen, *Witches' Advocate*, p. 209.
3. Robbins, *Encyclopedia*, p. 394; S. Garnier, *Barbe Buvée et le pretendue possession des Ursulines d'Auxonne* (Paris, 1895).
4. Baranowski, *Procesy Czarownic*, p. 178. A. F. Soman suggests that lynchings were prevalent in France because the community could thereby avoid the cost of official justice. 'The Parlement of Paris and the Great Witch Hunt (1565–1640)', *Sixteenth Century Journal* **9** (1978), 42–3.
5. For the prosecution of those responsible for a witch lynching in France in 1587 see A. F. Soman, 'Witch lynching at Juniville', *Natural History* **95** (1986), 8–15.
6. For a brief discussion of the differences between Germanic and Roman forms see G. Bader, *Die Hexenprozesse in der Schweiz* (Affoltern, 1945), pp. 11–12.
7. C. H. Lea, *The Ordeal* (Philadelphia, 1973); J. Gaudemet, 'Les ordiales au moyen age: doctrine, législation, et practique canoniques', in *La Preuve* (Brussels, 1965), pp. 99–136.
8. On this influence see B. Lenman and G. Parker, 'The state, the community and the criminal law in early modern europe', in *Crime and the Law*, ed. V. Gatrell et al. (London, 1980), pp. 29–30.
9. On the growth of clerical opposition to the ordeal and the crucial role played by the papacy in suppressing it see R. Bartlett, *Trial by Fire and Water* (Oxford, 1986), pp. 70–102.

10. Some municipal jurisdictions, nevertheless, continued to use the ordeals into the seventeenth century. For the use of the hot water ordeal at Braunsberg in 1637 see Lea, *Materials*, **III**, p. 1234.
11. See J. Langbein, *Prosecuting Crime in the Renaissance* (Cambridge, MA, 1974), pp. 130–1.
12. Some of the witchcraft cases tried in Schleswig-Holstein were initiated by private accusation, but the early modern accusatory process was not the same as that which was used in the Middle Ages, and it often followed the same course as an inquisitorial process. See D. Unverhau, 'Akkusationsprozess-Inquisitionsprozess: Indikatoren für die Intensität der Hexenverfolgung in Schleswig-Holstein?', in *Hexenprozesse: Deutsche und Skandinavische Beitrage*, ed. C. Degn, H. Lehmann and D. Unverhau (Neumünster, 1983), pp. 59–143, esp. p. 116.
13. On denunciation see Kramer and Sprenger, *Malleus Maleficarum*, pp. 205–7; Bader, *Die Hexenprozesse in der Schweiz*, p. 15.
14. On the function of the fiscal see F. Merzbacher, *Die Hexenprozesse in Franken* (Munich, 1957), pp. 78–80.
15. H. C. Lea, *Torture*, ed. E. Peters (Philadelphia, 1973), p. xiv.
16. Langbein, *Prosecuting Crime*, pp. 130–1.
17. The English trial was, however, less adversarial than in the modern period. See J. Langbein, 'The criminal trial before the lawyers', *University of Chicago Law Review* **45** (1978), 307–16.
18. See generally L. W. Levy, 'Accusatorial and inquisitorial systems of criminal procedure: The beginnings', in *Freedom and Reform*, ed. H. Hyman and L. Levy (New York, 1967), pp. 16–54.
19. For the weakening of the Scottish criminal jury in the late seventeenth century see I. D. Willock, *The Origins and Development of the Jury in Scotland* (Edinburgh, 1966), pp. 218–21.
20. P. Sörlin, *'Wicked Arts': Witchcraft and Magic Trials in Southern Sweden, 1635–1754* (Leiden, 1999), pp. 46–8.
21. The resistance to the new procedures can be seen in the work of the eighteenth-century jurist M. Bodó, *Jurisprudentia Criminalis Secundum Praxim et Constitutiones Hungaricas* (Pozsony, 1751).
22. See Kieckhefer, *European Witch Trials*, p. 19.
23. See Cohn, *Europe's Inner Demons*, pp. 160–3.
24. Lea, *Torture*, p. xiii.
25. M. Ruthven, *Torture: the Grand Conspiracy* (London, 1980), p. 43.
26. See J. Langbein, *Torture and the Law of Proof* (Chicago, 1977), p. 14; M. Kunze, *Der Prozess Pappenheimer* (Ebelsbach, 1981), pp. 216–22.

27. See J. Bodin, *De la Démonomanie des sorciers* (Anvers, 1586), Book **IV**, ch. V; C. Larner, '*Crimen Exceptum*: The crime of witchcraft in Europe', in *Crime and the Law*, ed. V. Gatrell et al. (London, 1980), pp. 49–74.
28. Langbein, *Torture*, p. 14.
29. For the discussion by Caesar Carena of this problem see Lea, *Materials*, **II**, p. 996.
30. Langbein, *Torture*, pp. 15, 150.
31. Robbins, *Encyclopedia*, p. 256.
32. P. Carus, *The History of the Devil and the Idea of Evil* (New York, 1969), p. 331.
33. H. A. Oberman, *Masters of the Reformation* (Cambridge, 1981), pp. 160–1.
34. *Newes From Scotland* (London, 1591), pp. 18, 28.
35. Boguet, *An Examen of Witches*, p. 225, allows for three administrations of torture in such circumstances.
36. See Midelfort, *Witch Hunting*, p. 149.
37. For the failure of torture to produce convictions when it was applied by the *Parlement* of Paris see A. Soman, 'Trente procès de sorcellerie dans le Perche (1566–1624)', *L'Orne littéraire* **8** (1986), 44–5.
38. J. Tedeschi, 'Inquisitorial law and the witch', in *Early Modern European Witchcraft*, pp. 102–3.
39. See, for example, S. Clark, 'Protestant demonology: Sin, superstition and society (c. 1520–c. 1630), in *Early Modern European Witchcraft*, pp. 49–50; Holmes, 'Popular culture?', pp. 92–3.
40. See Peters, *Magician, Witch and the Law*, p. 106.
41. Trevor-Roper, 'European witch-craze', p. 171, argues that the ideas of the clergy were extended to lay magistrates (but not to the 'independent laity') by the rather late date of 1600.
42. Kramer and Sprenger, *Malleus Maleficarum*, pp. 194–205; A. Gari La Cruz, 'Variedad de competencias en el delito de brujería 1600–1650 en Aragón' in *La Inquisición Española*, ed. J. Perez Villanueva (Madrid, 1980), pp. 319–21; Ginzburg, *The Night Battles*, pp. 113–14.
43. See R. Kieckhefer, *The Repression of Heresy in Medieval Germany* (Philadelphia, 1980), pp. 75–82.
44. See Cohn, *Europe's Inner Demons*, p. 226; Monter, *Witchcraft in France and Switzerland*; G. Waite, *Heresy, Magic and Witchcraft* (Basingstoke, 2003).
45. The earliest of these secular laws was passed by the government of the town of Todi, which was in the hands of clerics, in 1426 against the casting of 'spells or any acts of witchcraft'. This ordinance was the basis of the prosecution of Matteuccia di Francesco two years later. Mormando, *Preacher's Demons*, p. 73.

46. France was unusual in having no specific statute against witchcraft. Soman, 'Witch lynching at Juniville', p. 9.
47. J. C. V. Johansen, 'Denmark: The sociology of accusations', in *Early Modern European Witchcraft*', p. 341; Midelfort, *Witch Hunting*, p. 23; S. J. Fox, *Science and Justice: The Massachusetts Witchcraft Trials* (Baltimore, 1968), pp. 37–43; H. C. Lea, *A History of the Inquisition of the Middle Ages*, **III**, p. 544. The English statute of 1604 declared it illegal to covenant with, entertain, feed or reward any evil spirit. 1 Jac. I, c. 12.
48. On the problem of referring to the papal 'inquisition' as an institution see Kieckhefer, *Repression of Heresy*, pp. 3–8.
49. On the final loss of inquisitorial jurisdiction in Franche-Comté around 1600 see Monter, *Witchcraft in France and Switzerland*, p. 73.
50. See, for example, R. Houlbrooke, 'The decline of ecclesiastical jurisdiction under the Tudors', in *Continuity and Change*, ed. R. O' Day and F. Heal (Leicester, 1976), pp. 239–57.
51. For a classic case in England see the prosecution of the English cunning man John Walsh for magic in 1566. M. Gibson (ed.), *Witchcraft and Society in Early Modern England and America, 1550–1750* (Ithaca, NY, 2001), pp. 19–24.
52. Lea, *Materials*, **III**, p. 1263.
53. Baranowski, *Procesz Czarownic*, p. 180.
54. Kieckhefer, *European Witch Trials*, pp. 21–2.
55. Henningsen, *Witches' Advocate*, pp. 387–8.
56. As the hunt developed, however, the clergy became less enthusiastic. Increase Mather and other members of the Massachusetts clergy wrote a letter urging the exercise of great caution in proceeding against witches. See Increase Mather, *Cases of Conscience;* Boyer and Nissenbaum, *Salem Possessed*, pp. 9–10.
57. Larner, *Enemies of God*, p. 72.
58. Muchembled, 'Witches of the Cambrésis', pp. 259–60, 266–7. In Lorraine, however, the local priests generally did not become involved in the trials. See Briggs, *Communities of Belief*, pp. 71–2.
59. L. Rothkrug, 'Religious practices', pp. 104–5.
60. The prince-bishop of Bamberg used a secular council staffed by doctors of civil law to prosecute witches in his diocese. Sebald, *Witchcraft*, pp. 38–9.
61. Midelfort, *Witch Hunting*, pp. 98, 143; Robbins, *Encyclopedia*, p. 35.
62. Witches were treated more severely than heretics, since they were usually executed after the first offence. See Lea, *Inquisition*, **III**, p. 515.
63. John 15: 16.

64. The Danish witchcraft ordinance of 1617 specified that only those witches convicted of making a pact with the Devil should be burned. Johansen, 'Denmark', p. 341.
65. Midelfort, *Witch Hunting*, p. 99.
66. F. Volk, *Hexen in der Landvogtei Ortenau und der Reichsstadt Offenburg* (Lahr, 1882), p. 27. In 1628 four witches had been burned alive.
67. Ankarloo, 'Sweden', p. 295.
68. G. Schormann, *Hexenprozesse in Nordwestdeutschland* (Hildesheim, 1977), pp. 19, 24, 30–1, 34.
69. See the table in Monter, *Witchcraft in France and Switzerland*, p. 49.
70. Ibid., 51, 66.
71. Boguet, *An Examen of Witches*, p. 226.
72. Kieckhefer, *Repression of Heresy*, pp. 76–8.
73. R. J. W. Evans, *The Making of the Habsburg Monarchy* (Oxford, 1979), pp. 411–12.
74. It is possible that the judges at Salem intended to execute all the confessing witches after they had provided evidence regarding the crimes of others. See P. Boyer and S. Nissenbaum, *Salem Village Witchcraft* (Belmont, CA, 1972), **I**, Introduction.
75. Henningsen, *Witches' Advocate*, pp. 143–80, 397.
76. C. Larner, *Witchcraft and Religion* (Oxford, 1984), pp. 3–33.
77. J. C. v. Johansen, 'Denmark: The sociology of accusations', in *Early Modern European Witchcraft*, pp. 341, 345–7; Henningsen, *Witches' Advocate*, p. 18. A period of intense witch-hunting followed the promulgation of the ordinance.
78. R. S. Walinski-Kiehl, 'Godly states: Confessional conflict and witch-hunting in early modern Germany', *Mentalité-Mentalities* **5** (1988), 13–24; Kunze, *High-road to the Stake: A Tale of Witchcraft*, tr. William E. Yuill (Chicago, 1987).
79. Gábor Klaniczay, 'Witch-hunting in Hungary: Social or cultural tensions?', *Acta Ethnographica* **37** (1991–2), 75.
80. Clark, *Thinking with Demons*, pp. 552–5, 670–4.
81. This was particularly true for Finland. See Heikkinen, *Paholaisen Liittolaiset*, p. 381.
82. See, for example, Evans, *Habsburg Monarchy*, p. 410.
83. Mandrou, *Magistrats et sorcieres*; Soman, 'Parlement of Paris'. For a discussion of the unregulated situation before 1588, see Soman, 'Witch lynching at Juniville'.
84. Soman, 'Parlement of Paris', p. 36. For an early case see Cohn, *Europe's Inner Demons*, p. 232.

85. Larner, *Enemies of God*, p. 71.
86. C. Larner et al., *Source-Book of Scottish Witchcraft* (Glasgow, 1977), p. 237, Table 2 gives the execution-rates as 57 per cent for the Justicary Court, 16 per cent for the circuit courts and 91 per cent for the local commissions. Goodare et al., *Survey of Scottish Witchcraft*, gives 59 per cent for the Justiciary Court and 75 per cent for local commissions, but does not offer a figure for the circuit courts, choosing to group those executions with those sentenced by justice deputes assigned to a particular area. Only the figures for the Justiciary Court can be considered reliable, since the outcomes of more than half of trials in that court are known (102 out of 178 trials). By contrast, the outcomes of only 133 of the 1,936 trials by local commissioners are known. The figures for the circuit courts are exceptionally low (even when compared to the comparable figures for England) because most of those trials took place in the late seventeenth century as the witch-hunt was coming to an end.
87. B. P. Levack, 'Judicial torture in Scotland during the age of Mackenzie', *The Stair Society Miscellany IV* (Edinburgh, 2002), pp. 185–98.
88. On the *Reichskammergericht* see Merzbacher, *Hexenprozesse*, pp. 63–4; Midelfort, *Witch Hunting*, p. 114.
89. Monter, *Witchcraft in France and Switzerland*, p. 106.
90. On the political exploitation of witch-hunting in such territories see R. Voltmer, 'Hexenprozesse und Hochgerichte: zur herrschaftlich-politischen Nutzung und Instrumentalisierung von Hexenverfolgungen', in *Hexenprozesse und Gerichtspraxis*, pp. 475–525.
91. Behringer, *Witchcraft Persecutions in Bavaria*. This number was about half as many executions per capita as in Scotland.
92. Henningsen, *Witches' Advocate*, p. 18; Trevor-Roper, 'Witch-craze', p. 114; Briggs, *Communities of Belief*, p. 14; H. E. Naess, 'Norway: The criminological context', in *Early Modern European Witchcraft*, pp. 379–80.
93. W. Rummel, *Bauern, Herren und Hexen: Studien zur Sozialgeschichte sponheimischer und kurtrierischer Hexenprozesse, 1574–1664* (Göttingen, 1991).
94. C. Larner, *Witchcraft and Religion* (Oxford, 1984), p. 89, considers the rise of nation-states to be one of the 'crucial factors' in accounting for the rise of witch-hunting.

CHAPTER 4

THE IMPACT OF THE REFORMATION

The formation of the cumulative concept of witchcraft and the various legal developments described in the last chapter made the European witch-hunt of the fifteenth, sixteenth and seventeenth centuries possible. If these intellectual and legal developments had not occurred, then the hunt would not have taken place, at least in the form and in the magnitude that it did. These preconditions do not, however, provide a complete causal explanation of the hunt. They were, in other words, necessary but not sufficient causes of the process that claimed the lives of thousands of Europeans. In order to achieve a fuller understanding of the hunt we must explore the religious, social and economic conditions that prevailed in early modern Europe. These conditions created an environment in which the hunting of witches was not merely possible but was likely to occur. They encouraged people to believe in witchcraft, created tensions that often found expression in witchcraft accusations, and strengthened the determination of both the ruling elite and the common people to prosecute individuals for this crime. These conditions, therefore, occupy a second level of causation of the European witch-hunt. They were neither necessary preconditions nor sufficient causes, but they did serve to intensify the process of witch-hunting. They also help to explain why the hunt occurred when it did.

The purpose of this chapter is to explore the ways in which the profound religious developments that took place in early modern Europe encouraged the growth of witch-hunting. The most important of these changes was the Reformation, the movement that shattered the ostensible unity of medieval Christendom. The main objective of the early Protestant reformers, such as Martin Luther, Jean Calvin, Huldreich Zwingli and Martin Bucer, was to restore the Church to its early Christian purity. In so doing, they denied the efficacy of indulgences, redefined the function of the sacraments, eliminated or drastically altered the Roman Catholic mass, and changed the role of the clergy. They proclaimed the autonomy of the individual conscience and

CHAPTER 7

THE CHRONOLOGY AND GEOGRAPHY OF WITCH-HUNTING

One of the most difficult tasks facing historians of European witchcraft is to account for the variations in the intensity of witch-hunting at different times and places. Why, for example, did more European prosecutions take place between 1560 and 1630 than between 1520 and 1560? And why was witch-hunting so much more intense in Germany than in Spain or in Scotland than in England? To answer such questions we must pursue two separate lines of enquiry. On the one hand, we must establish the general chronological patterns of witch-hunting throughout Europe, suggesting various reasons for the waxing and waning of prosecutions over the entire period. Then we must survey the history of witchcraft prosecutions in the various states and regions of Europe, an enterprise that will also take into account chronological patterns within those particular areas. Both investigations will provide further illustration of the complexity and the diversity of the general phenomenon with which we are concerned.

Chronological patterns

Prior to the 1420s, the concept of witchcraft as a crime involving both harmful magic and devil-worship was in the process of formation: therefore, it is problematic to speak of the prosecutions that took place during those years as witchcraft trials. Most such trials before 1420 were prosecutions either for simple *maleficium* or for ritual magic. These early trials can be grouped into three fairly distinct periods, each involving different types of charges against the accused. From 1300 to 1330, most of the 'witches' were ritual magicians who attempted to harm political rivals or to advance their careers. In the second period, from 1330 to 1375, the trial of politically related cases almost ceased, but there were numerous trials for sorcery. Whether these sorcerers

were being prosecuted for simple *maleficium* or ritual magic is difficult to determine, but in either case the most noteworthy feature of the trials is the absence of diabolism. During the third period, from 1375 to 1420, the number of prosecutions increased and charges of diabolism became more common, mainly in Italy. This development, which was facilitated by the adoption of inquisitorial procedure in local courts, reflected the gradual assimilation of charges of diabolism to those of *maleficium*.[1]

The first period of witch-hunting, 1420–1520

Beginning around 1420 the history of European witchcraft prosecutions entered a new and distinct phase. Not only did trials for sorcery increase in number but charges of diabolism were more frequently grafted on to them, and witch-hunting began to assume the characteristics it maintained throughout the period of prosecution. During the 1420s and 1430s the full stereotype of the witch, complete with descriptions of the witches' sabbath, emerged, most notably in trials in the western Alps.[2] To all intents and purposes, these fifteenth-century trials denote the beginning of the European witch-hunt. It was during this period, moreover, that the first witchcraft treatises – most notably Johannes Nider's *Formicarius* (written 1436/1437; published 1475), Heinrich Kramer's *Malleus Maleficarum* (1486) and Ulrich Molitor's *De Lamiis et Phitonicis Mulieribus* (Concerning Witches and Fortune-tellers, 1489) – appeared. The publication of these works, which emphasized the diabolical as well as the magical dimensions of the witch's crime, corresponded to the increase in the number of prosecutions.

The period of limited prosecutions and small hunts, 1520–1560

At this point the history of European witch-hunting began to follow a somewhat surprising course. Instead of slowly gathering strength and leading into the large panics of the late sixteenth and early seventeenth centuries, the number of trials levelled off during the early sixteenth century and in certain areas actually declined.[3] The decline did not escape the notice of contemporaries. Martin Luther, writing in 1516, claimed that although there had been many witches and sorcerers in his youth, they were 'not so commonly heard of anymore'.[4] As might be expected, there were some areas where Luther might have heard much more about witches during these years. There were a number of trials in the Basque country between 1507 and 1539; in Catalonia in 1549; in the diocese of Como and in other parts of northern Italy in the

1510s and 1520s; in the northern parts of Languedoc between 1519 and 1530; and in Luxembourg, Namur, Douai and other parts of the Low Countries throughout the first half of the sixteenth century.[5] There also were occasional prosecutions in places like Nuremberg,[6] but it is difficult to avoid the conclusion that the early sixteenth century was a period of relative tranquillity as far as witch-hunting was concerned.[7]

The levelling off or reduction in the intensity of witch-hunting during the first half of the sixteenth century was reflected in, and to some extent even caused by, an interruption in the publication of witchcraft treatises and manuals. The *Malleus Maleficarum*, for example, while enormously popular between 1486 and 1520 and again between 1580 and 1650, was not reprinted at all between 1521 and 1576. In similar fashion, none of the other fifteenth-century witchcraft treatises found a market during these years. And after the publication of Grillandus's *Tractatus de Hereticis et Sortilegiis* in 1524 there was very little written in support of witch-hunting until the 1570s. In other words, if the production of witchcraft literature serves as a gauge of the intensity of witch-hunting, there was definitely an early sixteenth-century gap, lagging a little behind the actual reduction in the number of trials. Instead of one continuous European witch-hunt, there were really two separate campaigns: an early, geographically limited hunt in the late fifteenth century and a much more intense and widespread series of prosecutions in the late sixteenth and early seventeenth centuries.

The lull in witch-hunting during the early sixteenth century can be attributed both to the development of scepticism among the learned elite and to the preoccupation of both ecclesiastical and secular authorities with the confessional disputes and prosecutions of the Reformation. This period witnessed the spread of Renaissance humanism throughout Europe, and although the humanists failed to undermine the cumulative concept of witchcraft, they did attack parts of it as well as the scholastic mentality that proved receptive to it. For a brief period of time the critiques of witch beliefs and prosecutions that one finds in the writings of men like Erasmus, Alciati, Pomponazzi and Agrippa may have shaken the resolve of various authorities to pursue witches in great numbers.[8] Their insistence that magic could be performed naturally, without the aid of demons, and that witches were harmless creatures victimized by delusion had at least the effect of raising doubts about the practice of the crime. At the same time there developed in Germany, especially in the work of the preacher Martin Plantsch of Tübingen, a belief that God was directly responsible for many of the natural disasters like hailstorms that were often attributed to witchcraft.[9] This early sixteenth-century scepticism found its most articulate and forceful expression in the work of the tolerant humanist and physician, Johann Weyer, during the 1560s.

The role that the Protestant Reformation played in the early sixteenth-century reduction of witchcraft prosecutions is more complex and problematic. There is little doubt that the combined efforts of the Protestant and Catholic reformations did much to encourage witchcraft prosecutions in the late sixteenth and seventeenth centuries. During the early years of the Reformation, however, the confessional disputes between Protestants and Catholics (who considered each other heretics but not the same type of heretics as witches) served to distract European elites from the task of witch-hunting. More specifically, the Protestant rejection of Roman Catholicism naturally led to a desire on the part of reformers to formulate their own theories of witchcraft rather than to rely on the work of fifteenth-century Catholic demonologists and inquisitors. This rejection of Catholic witchcraft theory thus contributed to a decline in the demand for the older, fifteenth-century treatises. Finally and most importantly, the Protestant rejection of the Inquisition, its drastic overhaul of all ecclesiastical jurisdiction and its transfer of much ecclesiastical jurisdiction from the ecclesiastical to the secular courts involved extensive alterations in the judicial machinery that was used to prosecute witches. Even within Catholic areas the assumption of secular jurisdiction over witchcraft required both the passage of specific legislation to facilitate it and the acceptance by secular magistrates of the necessity to use it.

The period of intense prosecutions and large hunts, 1560–1630

During the 1560s and 1570s there were many signs that Europe was poised on the threshold of a new outbreak of witch-hunting, one that was much more intense and widespread than the initial assault of the late fifteenth century. In the south-western German town of Wiesensteig some sixty-three witches were executed in 1562, and during the winter of 1562–63 the *Parlement* of Toulouse heard on appeal about three dozen cases of witchcraft from the diocese of Couserans.[10] A series of trials in the Low Countries offered further evidence that witchcraft was once again on the rise, as did the passage of witchcraft statutes in both England and Scotland in 1563. A number of small panics occurred during the 1570s in the wake of a serious agrarian crisis. The resumption of the printing of the *Malleus Maleficarum*, the appearance of Lambert Daneau's *Dialogue of Witches* in 1574 and the refutations of Weyer's sceptical arguments by Thomas Erastus (1572) and Jean Bodin (1580) also signalled a renewal and an intensification of witch-hunting zeal.[11]

Most European territories experienced the full force of the European witch-hunt between 1580 and 1630. Large-scale prosecutions involving hundreds

of victims occurred throughout western and central Europe, most notably in the diocese of Trier in the late 1580s and early 1590s, Scotland in 1590 and 1597, Lorraine in the late 1580s and early 1590s, Ellwangen in the 1610s, and Würzburg and Bamberg during the 1620s. Without complete statistics it is difficult to determine which decade between 1580 and 1630 was the time of the most intense witch-hunting. The 1580s were especially bad in Switzerland and the Low Countries; the 1590s in France, the Low Countries and Scotland and in many German territories; the 1600s in the Jura region and in many German states; the 1610s in Spain; and the 1620s and 1630s in Germany.

This period of intense witch-hunting between 1580 and 1630 was related, as both cause and effect, to the proliferation of witchcraft treatises. The well-known works by Peter Binsfeld (1591), Nicolas Rémy (1595), King James VI of Scotland (1597), Martín Del Rio (1599), Henri Boguet (1602), Francesco Maria Guazzo (1608) and Pierre de Lancre (1612) were all written during these years, and the power of the rapidly developing printing industry made their works available to an increasingly large literate European population.[12] These witchcraft treatises all used the evidence of late sixteenth-century trials to confirm the reality of witchcraft, deepen elite fears of the crime and provide guidance for its effective prosecution.

The unprecedented intensification of witch-hunting in the late sixteenth century reflected not only the resolution of learned doubt, but also the impact of both the Protestant and Catholic reformations. By this time the Bible, with its literal death sentences for witches, was being widely circulated in the vernacular; preachers had heightened people's awareness of the immediacy of Satan; reformers had declared war on magic in all its forms; and the process of Christianization had helped to cultivate the feelings of both moral superiority and guilt that played such an important part in witch-hunting.[13] To make matters worse, the conflict between Protestantism and Catholicism on the one hand and between various forms of Protestantism on the other began to reach its peak, a development that reinforced a fear of the Devil and hostility towards witchcraft.[14]

A final and perhaps decisive factor in the intensification of witch-hunting in the late sixteenth century was the onset of one of the most economically volatile and politically unstable periods in European history. During the years from 1580 to 1630 Europe experienced unprecedented inflation, a series of harsh climatic changes, periodic famines (the worst being in the 1590s), depressions in trade (especially in the 1620s) and a more general crisis of production.[15] Real wages declined sharply, while the condition of the poor and unemployed reached critical proportions. These developments aggravated the personal conflicts that often found expression in witchcraft accusations, and they also heightened the fears of many members of the ruling and literate elite that witches were complicit in a diabolical campaign to bring dearth and famine to European communities.

The period of decline, 1630–1770

The prosecution and execution of witches did not end in 1630, but it entered a new phase marked by a general decline in the number of trials. There were notable exceptions to this pattern: in the Dutch Republic the prosecutions came to almost a complete end shortly after 1600, while in Spain the Inquisition stopped executing witches in the wake of the great Basque witch-hunt of 1609–11. In France the procedural measures introduced by the *Parlement* of Paris resulted in a dramatic reduction in the number of executions by the 1620s. In England prosecutions tapered off significantly after 1612, although the largest single witch-hunt in its history occurred in 1645–47, thus interrupting this period of decline. Scotland also experienced its last and largest witch-hunt in 1661–62, shortly after it had experienced a significant reduction in the number of prosecutions in the 1650s. These late witch panics in England and Scotland, as well as similar episodes in Sweden and Finland in the 1660s and early 1670s, make it even more difficult to establish universal patterns of decline. What is more, a few countries on the periphery of Europe – Hungary, Transylvania, Poland and New England – did not bear the full brunt of witchcraft prosecutions until the late seventeenth and early eighteenth centuries.[16]

Nevertheless, for most of Europe, especially the core witchcraft area that included the Germanic territories, the Swiss cantons and the predominantly French-speaking lands on the eastern borders of the French kingdom, the period from 1675 to 1750 was a time of contraction in the prosecution of witches. Those trials that did take place, moreover, usually involved only one or two defendants. It took some time, however, before *all* witchcraft prosecutions came to an end. Many courts discouraged prosecutions in the late seventeenth and early eighteenth centuries, but only seven European countries (France in 1682, Prussia in 1714, Great Britain in 1736, the Habsburg Empire in 1766, Russia in 1770, Poland in 1776 and Sweden in 1779) took legislative action either declaring that witchcraft was no longer a crime or seriously restricting the scope of earlier witchcraft laws. The limited number and late dates of those legislative acts, coupled with the determination of individuals to accuse their neighbours of witchcraft, explains why witchcraft trials, and even some executions, continued to take place well into the

eighteenth century. In England, for example, the ability of grand juries to indict criminals and petty juries to convict them explains why the last execution took place in 1685 and the last conviction in 1712. In Scotland, where juries had less influence on the outcome of the trials but where authorities were more inclined to allow charges to be brought against witches, the trials continued until 1727. In France the royal edict of Louis XIV ended almost all witchcraft prosecutions, but failure of the edict to end prosecutions for acts of blasphemy allowed isolated trials until 1745. Within the German territories a number of late executions took place, most notably in Würzburg in 1749 and in Württemberg the same year. The last execution in Europe occurred in the Swiss canton of Glarus (which was also the last territory to ban torture) in 1782. An execution in Poland in 1793, which occurred during a period of great jurisdictional uncertainty, was probably illegal.

Geographical patterns

Any attempt to establish the broad chronological patterns of European witch-hunting is complicated by regional variations. Some clear patterns are evident, but witch-hunting began, peaked and declined at different times and in different places. To make matters even more complex, the sum total of prosecutions, convictions and executions varied greatly in the different states and regions of Europe. A full study of these regional patterns, broken down by individual provinces, counties and towns would be impossible to undertake in a study of this nature. We can, however, establish some of the broader geographical patterns. Choosing the most appropriate geographical units for such comparison presents some difficulty. If we were to use the political boundaries of sovereign states we would have to deal separately with each of the individual states of Germany and Italy and with the various kingdoms of Spain, and we would also have to take into account the changes in sovereignty that occurred in many European areas during the early modern period.

If we use the criterion of language, we would be unable to discuss Switzerland or, for that matter, Scotland as distinct units. Medium-sized geographical regions are perhaps the most sensible units of analysis, and in this category we have some very fine studies by Midelfort on south-western Germany, Schormann on north-western Germany, Behringer on Bavaria, Muchembled and Dupont-Bouchat on the Low Countries, Monter on the Jura region, and Demos on New England. It is often difficult, however, to find other regions with which these regions can be conveniently and legitimately compared, and even when such areas can be defined, there is often not sufficient data available to make meaningful comparisons.[17] For the purposes of this study we shall discuss five very large areas of Europe: (1) western and west-central Europe: Germany, France, Switzerland and the Low Countries; (2) the British Isles and Britain's overseas possessions: England, Scotland, Ireland and colonial America; (3) Scandinavia: Denmark, Norway, Sweden and Finland; (4) east-central and eastern Europe: Poland, Hungary, Transylvania, and Russia; and (5) southern Europe: Italy, the Iberian peninsula and the Spanish and Portuguese overseas empires. We shall exclude the area effectively controlled by the Ottoman Empire, with the exception of the relatively autonomous provinces of Moldavia and Wallachia, since no witchcraft prosecutions occurred in that area. Within each of these large areas there were some pronounced regional and national differences with regard to witch-hunting. There were, for example, significant differences between France and Germany, England and Scotland, Norway and Sweden, Poland and Russia, and Spain and Italy. But these large geographical zones, in addition to being fairly cohesive geographically, exhibit enough similarities regarding witch-hunting to make the broader comparisons worthwhile. These similarities are rooted in various religious, legal and political characteristics that the countries in these large zones shared.

Western and west-central Europe

The overwhelming majority of witchcraft prosecutions – perhaps as many as 75 per cent – occurred in Germany, France, Switzerland and the Low Countries, an area that comprised roughly one-half of the entire population of Europe. Not surprisingly, this was also the area where most large hunts and panics took place, and it is mainly because of these panics that the total number of prosecutions and executions was disproportionately high. During the early years of the hunt most prosecutions took place in France, especially in those areas in the eastern part of the country that bordered on Swiss and Burgundian lands. By the late sixteenth century, however, when the hunt had entered its most intense stage, Germany had become the centre of prosecutions. Trials continued in France, especially in the southern borderlands, and there were a number of urban cases of demonic possession that led to witchcraft prosecutions. But the largest panics of the late sixteenth and seventeenth centuries took place in German-speaking lands.

More than half of the territory in the western and west-central zone lay within the Holy Roman Empire. In 1559 the Empire extended so far in the

west and the south that it included all of the Netherlands and Franche-Comté (which were under Spanish control), the Swiss Confederation, and even parts of northern Italy, while to the east it embraced Bohemia, Austria and Silesia. By 1648 its boundaries had shrunk considerably, as both the northern provinces of the Netherlands and the Swiss Confederation had established their identity as sovereign states, while the duchies of Savoy, Milan, Genoa and Tuscany no longer were included within the Empire. The shifting boundaries of the Empire make it difficult even to attempt any sort of estimate of the total number of witch trials held there, but it is not unreasonable to assert that the number was significantly greater than for all other parts of Europe combined.[18] If we restrict ourselves to German-speaking lands within the Empire, the number of executions was probably somewhere between 20,000 and 25,000.[19]

The political weakness of the Empire may have been the single most important reason for the high concentration of witchcraft trials in this part of Europe. The Empire was a very loose confederation of numerous small kingdoms, principalities, duchies and territories which acted either as sovereign or near-sovereign states. Some of these territories, such as the Spanish Netherlands, were possessions of foreign rulers. Others were dependencies of larger units within the Empire, such as Montbéliard, which was technically under the sovereignty of the duke of Württemberg. Still others were ecclesiastical territories under the control of a prince-bishop or abbot. There were, moreover, a number of imperial cities which, while having a direct relationship to the imperial structure, operated with relative autonomy. The judicial effects of all this political diversity and decentralization was to give virtual judicial autonomy to relatively small political units. The Empire itself provided very little legal unity and exercised very little judicial control over the activities of the various tribunals that heard witchcraft cases. It supplied a legal code, the *Carolina* of 1532, for the entire Empire, but it did not provide effective mechanisms for enforcing it. There were no itinerant imperial judges to ensure that the code was upheld and no procedure for regular appeals to the imperial supreme court at Speyer. Even the larger political units within the Empire, being either weak patrimonial estates or themselves confederations of smaller entities, often failed to exercise effective judicial control over the various courts within their territories. In most cases, therefore, the trial of witches in Germany was entrusted to courts which exercised jurisdiction over a relatively small geographical area.

The prevailing pattern of jurisdictional particularism in Germany meant that witch-hunting could easily go unchecked. It would be an exaggeration to claim that this situation gave every lord, parson or magistrate the freedom

to 'burn to his heart's content', but German judges did have a latitude in handling witchcraft cases that zealous witch-hunters in other parts of Europe would certainly have envied.[20] One of the most striking examples of this type of jurisdictional independence was the principality of Ellwangen, a fairly small Catholic territory in south-western Germany which was almost completely independent of all outside political and ecclesiastical control and which never permitted appeals to higher courts. Not surprisingly, Ellwangen was the location of one of the most severe witch-hunts in German history, an operation that took the lives of almost 400 individuals between 1611 and 1618.[21]

The distribution of witchcraft prosecutions within the Empire provides additional support for the thesis that the size of German jurisdictional units had a great deal to do with the intensity of witch-hunting. Without oversimplifying an immensely complex situation, we can divide Germany into two regions, one of which experienced much more intense witch-hunting than the other. The lands that exercised relative restraint for the most part lay to the north and to the east, the one notable exception to this rule being the north-eastern duchy of Mecklenburg, which was a particularly black spot in the history of German witchcraft. The main centres for witch-hunting, however, lay to the south and to the west, a large area that included Würzburg, Bamberg, Eichstätt, Württemberg and Ellwangen, to name only a few sites of famous witch-hunts. As Gerhard Schormann has shown, there are a number of differences between these two regions, but one of the most significant is that the northern and eastern areas consisted of much larger, less fragmented political units than in the south and the west.[22] In keeping with this thesis, Schormann classifies the large, south-eastern principality of Bavaria with the northern and eastern lands, for it executed a relatively small number of witches for a political unit of its size.[23] If we include the even larger countries of Austria and Bohemia (both of which were in the Empire) in this scheme, the relationship between the size of autonomous political units and the intensity of witch-hunting becomes even clearer. The total number of executions in Austria was probably about 900 and in Bohemia about 1,000. The great majority of these prosecutions took place in the late seventeenth and eighteenth centuries, somewhat later than the bulk of German prosecutions.[24]

Although local German courts usually did not have to deal with appeals to imperial tribunals or with supervision by imperial judicial authorities, they were required to consult with the universities in witchcraft cases. This requirement, which was included in Article 109 of the *Carolina*, was intended to help local judges deal with the complexities of criminal procedure in an area of the law with which they were often unfamiliar. Before proceeding

with torture and before sentencing they would send reports to the law faculty of the neighbouring university (there were twenty-three within the Empire by the early seventeenth century) to request advice. Instead of leading to greater restraint and caution in witchcraft prosecutions, such as often resulted from the intervention of central authorities, this practice usually had the opposite effect. Indeed, since the universities were the centres for the development and dissemination of demonological theory, consultation with learned jurists helped to introduce diabolical ideas to local magistrates whose beliefs were sometimes no different from those of simple peasants.[25] In this case, therefore, local determination to eliminate witchcraft was strengthened rather than weakened by the intervention of 'higher' judicial authorities.

Once we leave the Holy Roman Empire we can still witness the importance of jurisdictional factors in determining the intensity of witch-hunting within the 'heartland' of witchcraft. In Switzerland, where it has been estimated that as many as 10,000 witches were executed,[26] the picture is extremely complex, since the Confederation was religiously, culturally and linguistically pluralistic. The cantons were also jurisdictionally autonomous, a situation which not only encouraged a diversity in witch-hunting patterns but also made uncontrolled witch-hunting possible. The severity of Swiss witch-hunting is best illustrated in the Pays de Vaud, where more than 90 per cent of those tried for witchcraft were executed and where the total number of victims exceeded 3,000. On the other hand, Geneva, while experiencing a few severe plague-spreading panics from time to time, had a very mild record of witch persecutions.[27]

As we move north from Switzerland we encounter a whole string of territories which, while technically within the Empire, are virtually autonomous from it, such as Franche-Comté, Lorraine and the Low Countries. In all of these areas witch-hunting was encouraged by de facto jurisdictional independence, although in the case of the Spanish possessions it was aggravated by the attempts of royal agents to define witchcraft as a crime and encourage its prosecution. In these areas there was in fact a lethal combination of central and local involvement in witch-hunting, with the King of Spain, the Holy Roman Emperor or the archduke of Burgundy providing the legislation and sometimes the initial inspiration to witch-hunting and the small duchies or states possessing the freedom to proceed as they wished.[28] As might be expected, prosecutions for witchcraft took a heavy toll in these small territories. In Lorraine, where Nicolas Rémy sent more than 800 witches to their deaths between 1586 and 1595 and more than 2,000 during his entire career, travellers could see 'thousands and thousands of the stakes to which witches are bound'.[29] During the entire period of the witch-hunt, approximately 3,000

witches were executed in that duchy.[30] In Luxembourg there were 358 executions between 1509 and 1687 and in the other parts of the Spanish Netherlands there were many more.[31]

The only political units in this part of Europe that did not conform to this general pattern of intense prosecution were the northern Netherlands. In this region, later known as the Dutch Republic, which had more than one million inhabitants, fewer than 150 witches were executed. Executions for witchcraft also ended earlier in this region than in any other part of Europe. The Netherlands did experience a few large hunts in the provinces of Groningen, Utrecht and North Brabant, but none of these areas executed as many witches as the region of Limburg, which at that time had not yet been incorporated into the country.[32]

It is unlikely that jurisdictional factors, which account for the intense persecutions in so many parts of Germany, can be used to explain the pattern in the Netherlands. The entire judicial system was highly decentralized – a situation which elsewhere often facilitated prosecutions – and the degree of central control within each province varied widely.[33] It is noteworthy, however, that in the province of Friesland, where justice was centralized, there were virtually no prosecutions, while in the province of Groningen, where local courts were given considerable freedom of action, two fairly large witch-hunts took place in the sixteenth century.[34]

The Dutch system of criminal procedure may have played a role in keeping the total number of prosecutions down. Although Dutch courts followed inquisitorial procedure and allowed the use of torture, torture was never employed excessively, and in 1594 the central court in the province of Holland forbade the use of torture as well as the swimming test in witchcraft cases. This decision made prosecutions very difficult and certainly contributed to the early decline and end of prosecutions throughout the Republic. A further procedural explanation of the relatively low number of witchcraft convictions and executions was the opportunity that accused witches had to bring countersuits of slander against their accusers. These too played a role in bringing Dutch witch-hunting to an early end.[35]

The main explanation for the tameness of Dutch witch-hunting appears to be more ideological than judicial. Although Dutch judges had all the procedural tools for conducting massive witch-hunts, including the right to use torture, they never believed that witches were engaged in the activities described in the demonological literature. The cumulative concept of witchcraft developed slowly in the Netherlands, and even when it finally appeared, it never found fertile ground.[36] Magistrates accepted the reality of the pact with the Devil, but they never subscribed to the notion of a vast diabolical

conspiracy. Without that frightening belief, they were more likely to respect the rules for judicial caution that were readily available to them.

In accounting for the weakness of Dutch witch-hunting, two other possible explanations deserve consideration. The first was the intense preoccupation of the country with the struggle for independence from Spain, a conflict which was all-consuming between 1568 and 1609 and not formally resolved until 1648. As mentioned above, witchcraft prosecutions did not generally occur during periods of war or domestic political crises, and in this case the conflict with Spain covered the entire period of witch-hunting. The second explanation was the reluctance of either Catholic or Protestant ecclesiastical authorities to engage in campaigns against magic and superstition. Those same authorities were also reluctant to assist secular authorities in the detection and prosecution of witches.

Turning finally to France, the question arises as to whether political and jurisdictional factors played as much of a role in determining the intensity of witch-hunting as in the Empire. The overall pattern of witchcraft prosecutions, especially after secular courts assumed the main burden of prosecution in the sixteenth century, suggests that they did. The areas within France that were most heavily affected by witchcraft were situated on the frontiers of the kingdom: the north, the east, Languedoc, the south-west and (belatedly) Normandy. All of these areas were resistant to the efforts of the French monarchy to establish a centralized, absolutist state.[37] It is possible that this situation led royal judges to prosecute witches as part of a general programme of disciplining and Christianizing the population and of curbing rebellion in these outlying regions. As we have seen, contemporaries made associations between witchcraft and rebellion in Languedoc, and they may have been at least partially correct. But the main reason for intense witch-hunting in the peripheral regions of France is that courts in these regions operated with greater independence from central governmental control than did those in the centre of the country. And, as we know from the late seventeenth-century trials in Rouen, the right of particular localities to prosecute witches without interference from the central government was one of many issues that pitted Louis XIV against the various provinces in his kingdom.[38]

The struggle between the centre and the periphery in France did, therefore, have a great deal to do with witchcraft prosecution in that kingdom, and the greater success that France had in establishing a powerful central monarchy in the sixteenth and seventeenth centuries goes a long way towards explaining why far fewer witches were executed within its boundaries than in Germany. Another factor, not unrelated to this process of centralization, was the regular system of appeals from local courts to the eight provincial *parlements*. In some

cases, as in Normandy in the 1590s, when the provincial *parlement* at Rouen fully supported the trials and confirmed sentences that were appealed to it, this system of provincial control did little to discourage prosecutions by local authorities. But the reversal of many sentences by the *Parlement* of Paris, which exercised an appellate jurisdiction over most of northern France, and which set the standards for the other provincial *parlements*, did have a negative effect on the entire process of witch-hunting in France. More than any one factor it explains why France, with a population only marginally smaller than that of the Empire, prosecuted far fewer witches. Until more work is done on the records of the provincial *parlements* most estimates will remain a matter of guesswork, but it would not be unreasonable to suggest a figure of 3,000 prosecutions and perhaps only 1,000 executions for the areas that actually came within the king's jurisdiction.[39] The numbers of illegal executions, such as the 300 that occurred at Ardennes in the early seventeenth century, might swell this figure some more.[40] Even so, this larger figure would not denote a persecution much more intense than took place in England, provided we take into account the relative size of the population of the two countries.[41]

The concentration of the great majority of witchcraft prosecutions in the west-central core of Europe had religious as well as political and judicial causes. There is no question that this was the most ecclesiastically volatile region in all of Europe. It was a hotbed of heresy in the late Middle Ages and the very centre of the Protestant Reformation. After the Reformation the region became ecclesiastically unstable, with certain areas changing their religious affiliation more than once and others becoming religiously pluralistic. In Germany each prince determined the religion of his lands after 1556, while in France a period of qualified religious toleration occurred from 1598 to 1685. Throughout France, therefore, there were many religiously divided areas, and in both France and Germany there was extensive religious conflict. All of this religious dissent, instability and diversity encouraged the prosecution of witches. The mere tradition of dissent, of course, made authorities conscious of the possibility of witchcraft, since witchcraft was, after all, a new and particularly virulent strain of heresy. The close proximity of adherents to a rival faith may also have strengthened the consciousness of the Devil in these areas, while the frequency and intensity of outright religious conflict contributed to the mood of anxiety that lay at the foundation of witchcraft prosecutions.

The British Isles

Once we leave the west-central area of Europe and survey witchcraft prosecutions on its periphery, we confront a general pattern of witch-hunting

that is relatively mild and restrained. All of these peripheral areas had their witch panics, but they were far more limited in size and in number than in the European heartland. Looking first at England, Scotland and England's overseas possessions, we find a pattern that varies considerably but which as a whole stands in stark contrast to that which prevailed in west-central Europe. England, to be sure, experienced a major witch-hunt in the 1640s, while Scotland had a number of national panics in the late sixteenth and seventeenth centuries, and Salem, Massachusetts, was the site of the famous hunt of 1692, but few of these hunts can compare in size or intensity to the holocausts that occurred at Ellwangen, Würzburg or Bamberg. The total number of British trials, moreover, probably did not exceed 5,000, and the number of executions was less than 2,500 and may have been as low as 1,500.

The main reason for the relative tameness of witch-hunting in Britain was the belated and incomplete reception of the cumulative concept of witchcraft. The failure of the great medieval heresies to cross the Channel and the absence of papal inquisitors to extirpate them made both Englishmen and Scots less paranoid about the introduction of a new heresy like witchcraft in the fifteenth century. And when the cumulative concept of witchcraft began to spread throughout all of Europe in the sixteenth century, it did not find very fertile ground in Britain. It received only reluctant and half-hearted support from the administrative and ruling elite in England, and even in Scotland, where the new ideas were more eagerly embraced, the concept was never fully developed. The witch belief that was most responsible for the development of large witch-hunts – the belief in the sabbath – worked its way into a number of English trials in the seventeenth century and also into the major Scottish hunts, but it was never embellished as it was on the Continent. English and even Scottish sabbaths were relatively tame affairs, where witches dined with the Devil but did not usually engage in cannibalistic infanticide, participate in orgies or fly to and from their gatherings. The belief in the sabbath, when it found acceptance, was sufficient to provoke a search for accomplices, but the number of participants was invariably small and the general picture did not inspire the type of terror that the standard continental nightmare did.

The slow and incomplete acceptance of the cumulative concept of witchcraft in Britain had a great deal to do with the second main reason for the mildness of witch-hunting in this region: the spare use of torture in witchcraft cases. In both England and Scotland torture could be used only at the specific command of the Privy Council and only when matters of state were involved.[42] In England this prohibition was strictly enforced, with the result

that only once, during the disruptive period of the Civil War, was torture used illegally in witch-hunting. In Scotland, where central control of local justice was less effective than in England, torture was used without warrant more frequently, very often during pre-trial investigations.[43] It was also used by official order in one very important witch-hunt, when King James VI was considered to be the intended victim of witchcraft.[44]

The relatively spare use of torture in Britain had a two-fold effect on witch-hunting. On the one hand, it weakened the reception of continental witch beliefs, for it was mainly through confessions to such activities as attending the sabbath and flying through the air that such beliefs were accepted by the administrative classes, let alone by the common people. It is certainly worthy of notice that the British hunts in which the idea of the sabbath was most fully developed were those in which torture was in fact employed, legally or illegally. On the other hand, the infrequent use of torture prevented the development of chain-reaction hunts. There were only two of these in Britain, the Scottish hunts of 1590–91 and 1661–62, and in both cases torture was used extensively. Even in these hunts, however, the majority of prosecutions originated independently of the others and could not be considered part of any sort of judicial chain.

A further legal reason for the relative mildness of British witch-hunting was the practice both in England and in Scotland of trying witches by jury. Although juries were not bound by the strict laws of evidence that prevailed on the Continent, and although they could convict a witch on the basis of either reputation or circumstantial evidence, in practice they proved to be relatively lenient, returning a number of acquittals in both countries. The presence of juries, moreover, reflected another characteristic of British justice: the absence of inquisitorial procedure, which of course is the system that led to the use of torture. Scottish justice, being influenced by Roman law, did incorporate some features of inquisitorial procedure, but until the late seventeenth century it remained essentially English in its character. Not only did juries retain their independence, but another feature of inquisitorial procedure, the initiation of prosecutions by the courts themselves, occurred only rarely in Scotland, and never in England.

Although witch-hunting throughout Britain was much tamer than in Germany, France, and Switzerland, prosecutions in Scotland were much more intense than in England. When we consider the fact that as many as three Scottish witches were executed for every one in England and that England had a population four times that of Scotland, we can appreciate how great the differences between the two countries were in this regard. The main reasons for these differences were the more complete reception of the cumulative

concept of witchcraft in the northern kingdom and the more frequent illegal use of torture. Another Scottish practice, of possibly even greater consequence, was the custom of granting commissions to local magistrates to try witches without the supervision of itinerant judges. In those cases the conviction-rate and the execution-rate were higher than when cases were heard before the central judges in Edinburgh or on circuit. In England virtually all witchcraft cases were heard before circuit judges at the county assizes.

A number of other legal and religious factors contributed to the greater intensity of Scottish witch-hunting. Scottish juries required only a majority to convict a criminal, whereas English juries required unanimity. It is hard to determine the precise effect of this difference on the total number of convictions, but we do know that many Scottish convictions were majority decisions. The differences in the sentencing provisions of the witchcraft statutes of the two countries may also have led to a higher number of Scottish executions (although not convictions). Whereas the English statutes of 1542, 1563 and 1604 provided for non-capital sentences in certain types of cases for the first offence, the Scottish statute of 1563 called for death in all cases, a grim example of the notorious severity of Scottish justice. In fact, many Scottish witches were given non-capital sentences, but the number was far lower than in England.

Religious factors may also have played a part in the different results of English and Scottish witch-hunting. Both countries were Protestant after 1560 and both countries had their fair share of religious conflict, but there were significant religious differences between them. The greater strength of Calvinist thought in Scotland does not appear to have encouraged witch-hunting, but the Scottish clergy did play a more active part in the religious life of their country than their English counterparts. Not only did Scottish ministers assist in the initial interrogation of witches by virtue of their status as members of the kirk sessions of their parishes, but as members of the General Assembly they applied constant pressure on the government to establish a godly state by prosecuting witches. This type of pressure stands as one of the clearest examples of the way in which religious reformers influenced secular governments to redouble their efforts at hunting witches.[45]

Witchcraft in England's overseas possessions deserves special comment. In Ireland, where the fourteenth-century case of Dame Alice Kyteler had marked an important stage in the formulation of the cumulative concept of witchcraft, witch trials were surprisingly rare. Although the land was believed to abound in sorcerers and warlocks, and although the Irish Parliament passed a witchcraft statute in 1586, the total number of trials does not appear to have been very large. It is possible that the low number reflects the

incompleteness of the judicial record, but the absence of other evidence regarding witch-hunts suggests that Irish authorities did not take legal action against witchcraft very often. The unsettled state of Irish justice and the conflict between English law and native Gaelic or Brehon law may have had something to do with this situation. It is quite possible that native Irish refused to bring charges against witches in courts operating under English law, thereby preventing the initiation of prosecutions.[46]

In any event, the evidence that we have regarding witchcraft accusations and prosecutions makes it clear that continental ideas of diabolism did not penetrate Ireland to any appreciable extent. The statute of 1586, which was passed at least to some extent to remedy the legal difficulty encountered in 1578 when judges had to resort to the natural law to convict two witches, resembled the English statutes of 1563 rather closely, and the charges brought against Irish witches resembled those raised against their typical English counterparts rather than German or French witches. One of the few cases that we know about, that of the Protestant clergyman John Aston in 1606, involved charges of digging for treasure, an activity with which English witchcraft cases were frequently concerned. The most famous case of the seventeenth century, that of Florence Newton, 'the witch of Youghal', in 1661, also conforms closely to an English model. Newton's problems began when she demanded a piece of beef from the household of John Pyne and upon being refused went away cursing. Shortly thereafter she kissed one of Pyne's servants, Mary Longdon, and when Longdon subsequently experienced fits, trances and vomiting, she named Newton as the cause of her ordeal. Newton's predicament worsened while in prison, for she allegedly kissed one David Jones through the gate and thereby caused his death. The ultimate outcome of this case is not known, but as far as we can tell the charges did not reflect continental ideas of collective diabolical activity. Nor should we expect such charges to have been made, since torture was not used in this or in any other Irish cases. Witchcraft in Ireland, as in England, was essentially the crime of *maleficium*, not devil-worship.[47]

Turning to the English colonies in America, we find a somewhat different situation from that which existed in Ireland. In the middle and southern colonies witch-hunting was either restrained or non-existent. There were about forty known cases of witchcraft in these mainland colonies, and only one of these, a prosecution in Maryland in 1685, ended with an execution.[48] In Bermuda witch-hunting was more intense, with twenty-one cases and five executions between 1651 and 1696.[49] These figures, however, pale in comparison with those for New England, where 234 New Englanders were indicted or presented for this crime in the seventeenth century, and of these

thirty-six were executed. When we realize that the population of New England was on average only about 100,000 at this time, we can appreciate the intensity that witch-hunting reached in that locale. It was significantly more intense than in the county of Essex, England, and perhaps even more intense than in Scotland. New England, moreover, exhibited many of the signs of a witch panic. Continental European witch beliefs were current there, and a large witch-hunt, claiming more than half of the total number of victims for all of New England, occurred at Salem in 1692.[50]

The presence of 'continental' witch beliefs in New England should not strike us as highly unusual, for such notions did exist, at least in literary form, in England by the early seventeenth century and were readily available in New England by the time of the Salem hunt. (See Plate 15.) Nor should the conduct of a large witch-hunt in an 'English' world prove incapable of explanation. Not only did an extraordinary combination of political and social tensions provide a foundation for the panic that developed at Salem, but the court's decision to allow spectral evidence in what was originally a



Plate 15 The Devil and witches flying on broomsticks. This woodcut appeared in Cotton Mather, *Wonders of the Invisible World* (1689), written during the Salem witch-hunt. The belief that witches flew never gained acceptance in England but was given greater credence in colonial Massachusetts.

case of demonic possession allowed the afflicted girls to implicate a larger number of suspects than might normally be expected in an English hunt. In one case, moreover, a mild form of torture was used in order to obtain the names of accomplices.[51]

The real problem connected with New England witchcraft is why the entire population was more fearful of witchcraft and more eager to prosecute it than in the southern colonies, Ireland or even England itself. The explanation is almost certainly religious rather than social or economic. The New England colonies were, at least in their inception, theocratic institutions whose purpose was to create a New Jerusalem. The same urge to create a godly state that was evident in Scotland also existed in New England, and in both cases the mission entailed the prosecution of witches as God's enemies. Witchcraft in Massachusetts, just as in England, was a secular crime tried in a civil court, and most of the charges brought by villagers against their neighbours were mainly for *maleficia*. The clergy, however, and the magistrates whom they advised, viewed witchcraft exclusively in terms of a demonic compact and interpreted the Massachusetts witchcraft law of 1641 in those terms.[52] For these influential men, who directed the witch-hunt at Salem, the prosecution of witches was part of a general assault upon diabolical power, not an attempt to punish the perpetrators of *maleficia*.[53] The identification of demonic power with the Indians, with whom the colonists had been engaged in a series of wars on the Maine frontier, only aggravated the fear of the Devil that gripped the area and made it more imperative to identify the Devil's confederates.[54]

Scandinavia

Witch-hunting in Scandinavia was somewhat more intense than in the British Isles. The total number of prosecutions in Denmark–Norway and Sweden–Finland was roughly 5,000, of which somewhere between 1,700 and 2,000 resulted in executions. These figures are roughly equivalent to those for the British Isles, but they denote a more intense prosecution since the population of Scandinavia was only about 40 per cent of Britain's.[55] In other respects Scandinavian witch-hunting bore a close resemblance to its British counterpart. In both areas the cumulative concept of witchcraft met with an incomplete and belated acceptance, entering Sweden and Finland only in the middle of the seventeenth century. Throughout Scandinavia, moreover, there was a general reluctance to use torture in order to obtain the confessions of accused witches or the names of their accomplices. The combined effect of ideological weakness and judicial restraint explain the relative

mildness of Scandinavian witch-hunting, but as in Britain, these characteristics were not universal and large witch-hunts took place in certain areas at specific times.

Denmark was the first of the Scandinavian countries to engage in witch-hunting. As early as the 1540s Peter Palladius, the Lutheran bishop of Sealand, urged the prosecution of witches, arguing that those who exhibited Catholic tendencies were culpable of the crime. Palladius reported in 1544 that a fairly large chain-reaction hunt had claimed the lives of fifty-two persons. In 1547, however, the government declared that the testimony of those who had been convicted of infamous crimes, including sorcery, could not be used to convict another person. It also forbade the application of torture until after a death sentence had been pronounced.[56] These two laws, taken together, prevented the development of large witch-hunts, kept the total number of convictions at a fairly low level and also prevented notions of the sabbath from being fully received. This is not to suggest that beliefs in diabolism were absent in Denmark. A number of Danish witches were in fact accused of making pacts with the Devil and of worshipping him collectively.[57] In 1617 a royal ordinance defined witchcraft for the first time in terms of diabolical compact and specified that those convicted of such charges would be burned.[58] But the legal reforms of 1547, together with the mandatory appeal of all death sentences to the county courts after 1576, kept Denmark from going the way of many German states. According to the most reliable estimates, there were approximately 2,000 witchcraft trials in Denmark and about 1,000 executions.[59] These totals are roughly proportional to those from Scotland, which had a population almost twice as large as that of Denmark.[60]

Witchcraft prosecutions in Norway, which during this period was governed by Denmark, were slightly less intense than those in the southern kingdom. With a population about three-quarters the size of Denmark's in 1650, a total of approximately 1,400 prosecutions was fairly proportional to the Danish total, but only about 25 per cent of those tried were executed.[61] As in other countries where witch-hunting was relatively mild, a combination of legal and ideological factors provides an explanation. The main form of criminal procedure in Norway was accusatorial, according to which the testimony of two eye-witnesses to any crime was required for conviction. Public prosecutions based on rumour could, however, be used in witchcraft cases, since witchcraft was a *crimen exceptum*. Torture was allowed in Norwegian trials, but it was used only occasionally, and this probably explains why charges of diabolism figured in less than one-fifth of all cases.[62] Notions of diabolical conspiracy did penetrate Norway, mainly from Danish sources, and were apparent as early as the 1590s, but they did not predominate in the trials

whose records are extant. There was, to be sure, a widespread belief in Norway, both among the common people and the elite, that witches frequently assembled with the Devil in the northern parts of the country. Because of the remoteness of such assemblies a belief in the ability of witches to fly also gained currency, and this belief was closely connected to a belief in metamorphosis. In the actual trials, however, charges of attending the sabbath appeared only occasionally, and they usually did not become central to the case against the accused.[63] The belief remained much more a part of popular legend than of demonological theory. The related beliefs in metamorphosis and flight, however, often did become central to the trials and were grafted on to traditional charges of *maleficium*. Those persons who, for example, were accused of causing storms at sea – a frequent charge in all seafaring countries – were often accused of working their craft while airborne, and others were accused of having performed *maleficia* after having taken the form of a wolf, raven, dog or cat.

The most famous case of Norwegian witchcraft was that of Anna Pedersdotter Absalon, who was executed at Bergen in 1590. The case owes its fame to a Norwegian play by Hans Wiers-Jenssen, an English translation by John Masefield, and a brilliant film by Carl Theodore Dreyer, *Day of Wrath*.[64] Although the play and film possess little historical accuracy, the actual trial throws a great deal of light on the nature of Norwegian witchcraft. Anna Pedersdotter Absalon was the wife of Norway's most famous humanist scholar, the Lutheran minister Absalon Pedersen Beyer. The charges against Anna arose out of the opposition that had developed in Bergen to the efforts of Absalon and the clergy to destroy the holy images that had been so characteristic of the pre-Reformation Church. The impetus for witch-hunting was therefore different from that in Denmark fifty years earlier, where the Lutheran clergy apparently took the initiative in spreading the fear of witchcraft and perhaps even in formulating accusations. In this Norwegian case the reforming clergy were the victims, although since they themselves were too highly placed to be attacked successfully, their wives served as their surrogates. This was a pattern of witchcraft accusations that occurred frequently in German towns, where members of political factions used charges of witchcraft against their rivals' wives in order to advance their own political careers. It is also important to note that the court in which Anna was tried was a civil tribunal and not, as both the play and the film suggest, a Lutheran church court.

Although Anna was exonerated when the charges were first brought against her in 1575, the year of Absalon's death, the case was reopened in 1590. The most interesting aspects of this second trial were the charges brought against

Anna. Most of them were traditional charges of *maleficia*: putting into a coma a man who had refused her prior payment for a weaving frame; inflicting sickness on a man who had refused to give her wine, beer and vinegar; and causing the death of a four-year-old boy by giving him a bewitched biscuit. As so often happened in cases that began with accusations of *maleficia*, charges of diabolism were introduced. Anna's servant testified that Anna had turned her into a horse and had ridden her to the sabbath at a mountain called Lyderhorn, where a number of witches plotted a storm to wreck all ships arriving at Bergen and then, on subsequent occasions, to burn the town and cause it be flooded. The sabbath, however, was dispersed by a man in white who said that God would not allow it. On the basis of the testimony by Anna's servant and others, Anna was burned as a witch.[65]

The trial of Anna reveals how charges of collective devil-worship influenced but did not dominate Norwegian witchcraft trials. The sabbath that allegedly took place at Lyderhorn derived mainly from Norwegian belief, not demonological theory, and it lacked most of the distinctive features of German, French and Swiss assemblies. There was, for example, no infanticide or cannibalism, and although Anna and her servant allegedly took the sacrament on their journey home, there was no alleged demonic administration of that sacrament. The sabbath was in fact a more restrained affair than those that allegedly occurred in Scotland or even in England. In fact, Anna was convicted mainly on the basis of her individual and collective *maleficia*, the occurrence of a storm in Bergen at the time of the sabbath proving to be the conclusive evidence. The burning of Anna as a witch reflects a belief that witchcraft was a crime of heresy rather than sorcery, but the charges upon which she was convicted reflected her putative status as a magician, not a person who made a pact with the Devil and worshipped him.

Two other features of Anna's trial provide us with insights into the nature of Norwegian witchcraft. First, although the testimony of two women previously executed for witchcraft was introduced at her trial – a procedure that would not have occurred in Denmark – this testimony did not have a decisive impact on the outcome of the trial. Secondly, Anna was apparently not tortured during her trial, and her confession was not required for conviction. Nor was she tortured to secure the names of accomplices. While torture was not unknown to Norwegian law, it was apparently used as sparingly as in Denmark, and this restraint prevented both the full imposition of demonological theory upon a body of native folklore and the development of large chain-reaction hunts. It also probably explains the relatively low number of Norwegian executions, which on a proportionate basis was as low as in England.

Sweden originally followed a pattern of witch-hunting which resembled that of Norway, but in the late seventeenth century it experienced a large panic that was, by Scandinavian standards, quite exceptional. Prosecutions for witchcraft had begun in the 1580s, but most of those early trials were for simple *maleficium*, and very few of them resulted in executions. A law of 1593 requiring either the testimony of six witnesses or a confession for a capital conviction, together with a requirement that all death sentences be appealed to a royal court in Stockholm after 1614, were in large part responsible for holding witch-hunting in check. Charges of diabolism were not absent from these trials, however, and since torture was often allowed in witchcraft cases, the potential for large-scale witch-hunting clearly existed. Soldiers returning from Germany from the Thirty Years' War may have introduced more extreme diabolical ideas during the 1640s.[66]

Queen Christina, who put an end to the witch trials that were being conducted in Sweden's German territory of Verden during the Thirty Years' War, claimed many years after her abdication that in 1649 she had forbidden the death penalty in all Swedish witchcraft cases except those involving murder. She also said that she had attributed the confessions of witches to female disorders or diabolical illusions. There is reason to doubt the queen's honesty in this claim to early enlightenment, but whatever action she did take was insufficient to prevent a major hunt from occurring during the reign of Charles XI. The hunt began in 1668 in the northern Swedish province of Dalecarlia (now Dalarna) and eventually spread throughout the entire northern part of the country and even spilled over into the Swedish-speaking sections of Finland. The hunt was unusual in that a large number of both the accusers and the accused were children. Drawing on a body of Swedish legend about witches visiting a mythical place called Blakulla, where they allegedly feasted, danced and married devils, a number of children accused parents, neighbours and older children of having taken them to this Swedish version of the sabbath.

Charles appointed a number of royal commissions to investigate the matter in the localities and to try the accused witches. To make matters worse, the first wave of trials, which took place in the vicinity of Mora, encouraged parents and magistrates in many small villages to demand the prosecution of witches in their communities, a task that was entrusted to newly appointed commissions. The commissioners were forbidden to use torture, but it appears that in the hysterical mood that prevailed they did not always follow that policy. These royal commissions pronounced a number of death sentences, including more than a hundred in 1675, the year marking the height of the panic. The hunt did not end until after it had spread to the south and affected Stockholm. Two new commissions, appointed in 1676, acted more cautiously

than their predecessors and exercised a moderating influence on a panic-stricken population. At the same time the Court of Appeal, which had confirmed many of the sentences during the past eight years, began interrogating witnesses directly. When many of the children began to confess that their charges were groundless, the court reviewed all the evidence and set the most recently condemned witches free.[67]

More than 200 persons were executed during the north Swedish hunt of 1668–76. Like Matthew Hopkins's hunt in England in the 1640s, the entire episode reveals that even countries not known for their severe treatment of witches could occasionally experience large panics. All that was required was a belief in the sabbath, a relaxation of judicial restraint and the creation of a popular mood that pressured authorities to take action.

Finland at this time was a part of Sweden, and the two provinces in which the largest number of Finnish witch trials took place were Swedish-speaking. For these reasons witch-hunting in Finland must be considered in connection with the Swedish experience. Indeed, a large number of Finnish prosecutions occurred as a part of the panic that began in Dalecarlia. On the other hand, the history of witchcraft in Finland followed a course that differed in large measure from that of Sweden. Among all the Scandinavian countries, Finland was the last to begin its prosecutions for witchcraft. Witch beliefs, including reports of devil-worship, were not unknown in Finland in the late sixteenth and seventeenth centuries. They entered the country both from the northern, Swedish-speaking provinces and from the lower Baltic countries of Estonia and Livonia, which were part of the Swedish state and had extensive cultural contacts with both Finland and Germany.[68] Despite these influences, however, Finland did not concern itself with witchcraft until 1640, when the Swedish bishop, Isaac Rothovius, became the vice-chancellor of the first Finnish university, Turku Academy. Rothovius, who was a champion of the Lutheran cause against both Catholics and Calvinists, did not express concern over witches attending the sabbath, but he did encourage the extirpation of sorcery (which he regarded in an old-fashioned way as a form of residual pagan superstition) and he also inaugurated a campaign, which was joined by other officials and his successor, against the practice of demonic magic in Turku Academy. In this respect Finland was beginning an operation in 1640 that other European countries had started more than two centuries earlier.

It was not until the 1660s that the full concept of witchcraft appeared in Finnish trials, and the person most responsible for the introduction of these ideas was Nils Psilander, a judge of the civil court in the Swedish-speaking province of Ahvenanmaa. Psilander had been educated in the Baltic area at

Tartu Academy, where he had become familiar with current German juridical thought regarding witchcraft. Between 1666 and 1674 he conducted a protracted chain-reaction hunt in which original accusations of soothsaying and sorcery were overlaid with demonological theory and were also fused with Swedish legend concerning trips to Blakulla. In many of these trials the Devil's mark was located and torture was used, but sceptical juries and a somewhat less sceptical court of appeal at Turku kept the hunt from getting out of control. Although the first suspect, Karin Henriksdoteer, denounced thirteen accomplices, only four of them, together with Karin and one later suspect, were executed.

In Finland's other predominantly Swedish-speaking province of Ostrobothnia, a large number of witch trials took place between 1665 and 1684. This hunt, in which at least 152 persons were accused of witchcraft, resulted in twenty death sentences (most of which were probably confirmed on appeal) and the execution of another eight persons for whom trial records are missing. These trials were inspired by the great northern Swedish witch-hunt of 1668–76. Somewhat surprisingly, however, these trials did not centre on charges of devil-worship. With the charges of witchcraft coming mainly from below, and in the absence of a counterpart to Psilander to introduce learned theories of witchcraft, the charges against the accused remained essentially those of *maleficia*. Only when children and one servant denounced their elders for taking them to Blakulla, a charge that occurred only in a small percentage of cases, did charges of devil-worship surface, and even then they did not form the basis of the case against the accused.

All in all, the Ostrobothnian witch-hunt of 1665–84 was a relatively tame affair. Since only about one-third of the witches were denounced by others, it was not primarily a chain-reaction hunt. The denunciations, moreover, were not extracted under torture. Those denunciations that did not spring from juvenile imagination either arose out of malice or were elicited by zealous clergymen. Nor were the sentences especially harsh. More than half (57 per cent) of those accused were acquitted or released, while a smaller number were given ecclesiastical punishments, fined or sentenced to prison or hard labour. The death-sentence rate was only 13 per cent, and some of these sentences may have been reduced on appeal.[69]

Looking at Finland as a whole, one is led to the conclusion that witchcraft prosecutions never got out of control. The total number of trials probably did not exceed 1,000;[70] notions of devil-worship were never fully received and only occasionally became the focal point of witch trials; torture was used sparingly; juries tempered the zeal of witch-hunters; and the execution-rate was lower than in other Scandinavian countries. Among Finnish-speaking people

the process of witch-hunting was even more restrained. At least one-half of the Finnish trials took place in the province of Ostrobothnia and only one execution is known to have taken place outside of the two Swedish-speaking provinces of Ostrobothnia and Ahvenanmaa.

East-central and eastern Europe

It is difficult to make many broad generalizations about witchcraft prosecutions in eastern European lands – those that lay to the east of the Holy Roman Empire and north of the uncontested boundaries of the Ottoman Empire. In all of these areas witch-hunting began much later than in western Europe and it also lasted much longer, until the middle of the eighteenth century. The intensity of this witch-hunting, however, varied greatly from region to region. In certain parts of Poland, where the cumulative concept of witchcraft found fertile ground, prosecutions were most intense, although not on the scale of the prosecutions in many German states. In Hungary, where learned notions of witchcraft were only partially and reluctantly received, there was a substantial but by no means extraordinarily large number of trials and only a few large hunts. In Transylvania, Wallachia and Moldavia, where demonological ideas were weak or non-existent, prosecutions were much less common. In the most general terms, we can say that those areas that were closest to Germany, had cultural contacts with Germany or were populated by German-speaking people prosecuted far more witches than those which were more exclusively Slavic. It is also readily apparent that those regions which followed the rites of Orthodox Christianity did not engage in intensive witch-hunting. We can no longer claim that witchcraft prosecutions were entirely absent from these areas, since there were a number of Russian trials and also some in the Orthodox and Uniate sections of Lithuania.[71] But there is little question that the lands in the easternmost parts of Europe did not participate in the European witch-hunt with the same degree of enthusiasm as their western and Latinized neighbours.

The only eastern or east-central European country that acquired a reputation for intense witch-hunting was the kingdom of Poland, and that reputation is not fully deserved. Because of the incompleteness of the judicial record (most of the trial records were destroyed during World War II), the total number of trials and executions in that country cannot be determined with any degree of accuracy. It appears, however, that Bohdan Baranowski's original estimate of 10,000 legal executions was too high; even he later scaled back his original estimate to a few thousand executions.[72] This figure would make Poland's record of witch-hunting roughly comparable to that of Scandinavia. Witchcraft in Poland actually resembled that of Scandinavia in the content of its witch beliefs, as well as the number of trials. The main distinction between them is that prosecutions in Poland reached a peak much later than in Scandinavia and lasted much longer. More than half of the Polish executions took place between 1676 and 1725, the worst years being those of the early eighteenth century.

The severity of Polish witch-hunting in relation to other eastern European countries can be attributed to three related factors: the presence of theories of diabolism, the absence of effective central control over prosecutions, and the unrestricted use of torture. The theories of diabolism were essentially a foreign import, just as they were to a large extent in Britain and Scandinavia. Poles had long believed in *maleficium*, but the belief in formal pacts with the Devil and the sabbath came from Germany in the late sixteenth and early seventeenth centuries. Learned witch beliefs were received first in those parts of Poland that were close to Germany, which had a large German-speaking population and which had close commercial or cultural links with German lands. From there these ideas spread to the other provinces of the country, a process that was greatly facilitated by the translation of the *Malleus Maleficarum* into Polish in 1614. The only areas where these beliefs did not take root were the far eastern section of Lithuania (which became fully integrated into the Polish state in the sixteenth century) and Galicia to the south. It should come as no surprise that these sections of Poland did not experience the full force of the European witch-hunt.

The great majority of Polish witchcraft cases took place in the municipal courts, despite the fact that a law in 1543 had entrusted jurisdiction over witchcraft to the ecclesiastical courts. Although Bishop Czartoriski of Leslau made an effort to enforce the Church's jurisdictional monopoly in 1669 and demanded that all prosecutions be authorized by him, the municipal courts continued the trials. Royal edicts of 1672 and 1713, themselves evidence of the failure of the bishop's efforts, also failed to control the jurisdictional appetite of the local courts. Since the Polish state was exceptionally weak at this time, it is in no way surprising that these efforts did not succeed. In any event, the success of the municipal courts in ignoring central edicts had a profound effect upon the progress of the witch-hunts, since the municipal courts, which used inquisitorial procedure, repeatedly violated all of the procedural rules that were designed to protect the accused. We know from the instructions of Bishop Czartoriski himself that these courts were withholding the proofs from the accused, denying them counsel and, most importantly, torturing them without restraint to obtain both their own confessions and the names of accomplices. In Poland, therefore, all of the

conditions that encouraged large-scale witch-hunting – diabolical theories, local autonomy and the unrestricted use of torture – were present, and consequently the number of victims was relatively high.[73] In its basic essentials the Polish hunt resembled the German one, and since Polish witch beliefs were originally German and the heaviest prosecutions took place in the western half of the kingdom (Greater Poland), we can consider the entire Polish hunt as an extension of the German phenomenon.

The problem still remains why witch-hunting in Poland began so much later than in Germany. Theories of a slow transmission of ideas, which might be used to explain Sweden's belated adoption of demonological theory, are less applicable in a country where German influence was more direct and immediate. It seems as if Poland, despite the availability of advanced witchcraft theories, was simply not disposed to engage in witch-hunting in the early seventeenth century, but then rather suddenly began a significant legal campaign in the later period. One reason for this delayed inauguration of a national witch-hunt was the sudden and unprecedented devastation caused by the wars of the mid-century. During the sixteenth and early seventeenth centuries, Poland experienced neither civil war nor invasion. In the middle of the seventeenth century, however, a Cossack rebellion (1648) and the first northern war against Sweden and Russia (1655–60) signalled the beginning of 'the deluge', during which hostile forces ravaged the country and paralyzed the government. As in other parts of Europe, the wars did not lead to an immediate intensification of witch-hunting, but the long-term effects of the deluge created the necessary social, economic and psychological preconditions for witch-hunting, which had not been present before.[74]

A second, less tangible cause of the belated seventeenth-century inauguration of witch-hunting in Poland was a change in the religious atmosphere. The Reformation ran an unusual course in Poland. The growth of Protestantism and the successful efforts of the Counter-Reformation to reclaim its converts led neither to religious warfare nor suppression but to the establishment of a policy of toleration that had no parallel in Europe.[75] For a variety of practical reasons (including the weakness of the central government and the attitude of an unzealous and religiously divided nobility), Poland became a 'state without stakes', in which a Protestant minority coexisted with a Catholic majority. In the seventeenth century, however, especially after 1648, Catholic intolerance increased and led to a number of restrictions of Protestant freedom. It is possible that this new spirit of intolerance towards religious dissent encouraged witchcraft prosecutions. Religious dissent and witchcraft were of course different phenomena, but since they were both forms of religious rebellion they also shared many similarities, and intolerance

towards one *could* lead to harsher treatment of the other. It is probably no coincidence that the burning of Polish witches coincided with the rise of a more militant, uncompromising Catholicism and the ostensible decline of toleration, even if this did not involve the actual burning of heretics. One might even speculate that the burning of witches was one of the means by which an intolerant Catholic majority expressed its will to impose religious uniformity on a country which, even in the late seventeenth and early eighteenth centuries, remained religiously pluralistic.

A final reason for the slow development of the witch-hunt in Poland was the prolonged maintenance of ecclesiastical jurisdiction over the crime of witchcraft. As we have seen, the intensification of witch-hunting in Europe was encouraged by the decline of ecclesiastical jurisdiction and the transfer of jurisdiction over witchcraft to much more ruthless secular courts. In the late sixteenth century Polish ecclesiastical courts were, like so many of their European counterparts, restricted in their jurisdiction, but they were not deprived of their traditional jurisdiction over *maleficium*.[76] Throughout the late sixteenth and early seventeenth centuries, therefore, the church courts, which adopted a rather tolerant attitude towards witchcraft, prevented the secular courts from turning their potentially lethal attention to this crime. Only in the second half of the seventeenth century did the local courts become strong enough to ignore the official ecclesiastical monopoly and assume jurisdiction over witchcraft as a civil crime. And, of course, at this time the royal government was so weak that it could not uphold the clerical monopoly. In this way the rise of Polish witchcraft prosecutions did in fact reflect a decline in ecclesiastical jurisdiction, even if the decline occurred much later than in other parts of Europe.

Witch-hunting in Hungary was less intense and took a lower toll than in Poland, although the total number of trials and executions was by no means insignificant. Between 1520 and the 1777, just under 1,500 individuals were tried for witchcraft, of whom some 450 are known to have been executed (most by burning), while at least 225 suffered non-capital punishments.[77] Most of the trials took place in the kingdom of Hungary, the only part of the country to remain independent of the Ottoman Empire after King Louis II was defeated at the battle of Mohács in 1526. There were also a number of prosecutions in the south-eastern province of Transylvania, which remained an autonomous province within the Ottoman Empire between 1526 and 1699 and which did not become fully reintegrated into the kingdom of Hungary (which was ruled by the Habsburgs) until 1711.

Although witchcraft has a long history in Hungary, it took a long time for intense witch-hunting to develop. As early as the fifteenth century sorcery

was defined as a form of heresy, and in 1421 the Stadtrecht of Buda decided that sorcerers were obliged to wear the Jew's hat. Western demonological ideas, however, took a long time to penetrate the country, except in areas inhabited by Germans, and they were never fully developed. A few copies of the *Malleus Maleficarum* circulated in the sixteenth century, but there was no significant volume of witchcraft literature, and the few Hungarian intellectuals who addressed such questions tended to take a sceptical position.[78] It was not until Benedict Carpzov's *Practica Rerum Criminalium* was codified for Austria in 1656 and incorporated into the body of Hungarian law in 1696 that western demonological ideas were made readily available to Hungarian judges. Those judges succeeded in extracting confessions to most of the charges of diabolism that were commonplace in the west. The way in which this process worked can be seen in a series of trials in 1728–29 in Szeged, where thirteen witches were executed and another twenty-eight were spared by the intervention of Emperor Charles VI. This hunt began with accusations of destroying vineyards with hailstorms, but these charges easily led to the further charges of making explicit pacts with the Devil, receiving his mark (usually in the shape of a chicken's foot) and attending the sabbath.[79]

In addition to these standard demonological ideas, a variety of native Hungarian folk beliefs found expression at the trials. One of the most interesting of these beliefs, which dates back at least to 1656 and which was present in the Szeged trials, was that the witches were organized in military fashion, with the Devil being the commander-in-chief. There may be some connection between this belief and that of the *benandanti* in the Friuli, who were likewise organized militarily to fight against the witches.[80] Many native Hungarian beliefs dealt with the *táltosok*, shaman-like magicians and healers whose souls left their bodies in a trance and went out to fight with other *táltosok*.

The slow reception of learned witch beliefs in Hungary was matched by a belated adoption of inquisitorial procedure, which was not introduced into the kingdom of Hungary until the 1650s. Predictably, the first significant trials and convictions did not take place until that decade. In the province of Transylvania, which had a separate legal system, inquisitorial procedure arrived even later. Until 1725 all accusations in Transylvania were made publicly and under the threat of the talion; witnesses were presented on behalf of both parties; and the main means of probation was the water ordeal, the purpose of which was to produce a confession. Torture was used only if there was strong suspicion of witchcraft and if the water ordeal failed. It was also used on one occasion to secure the names of accomplices.[81] This system was in large part responsible for keeping the number of convictions in Transylvania at a minimum. Most of the Transylvanian trials about which

we have information occurred in Siebenburgen, an area originally settled by Germans in the twelfth century. The witch trials that took place in this region were all conducted by secular authorities, although local pastors often played an important part in the process.[82]

The chronological pattern of witch-hunting in Hungary resembles that of Poland. Beginning in the 1580s there was an irregular succession of isolated trials and an occasional small panic, such as in 1615, when a number of witches allegedly attempted to destroy all of Hungary and Transylvania with hailstorms, a danger that somewhat ironically emerged when the country was suffering from a drought.[83] The great majority of witchcraft prosecutions, however, did not occur until the eighteenth century. The reasons for this belated intensification of witch-hunting in Hungary cannot be explained simply in terms of heightened German and Austrian political and legal influence after 1699. It is much more likely attributable to a more general historical pattern by which the social, economic and cultural conditions that facilitated witch-hunting in the west did not develop until much later in eastern regions.[84]

In Russia the most distinctive feature of witch-hunting, apart from the high proportion of men among the accused,[85] was the weakness of western demonological theory. Prosecutions for *maleficium* have a long history in Russia. During the eleventh, twelfth and thirteenth centuries, when prosecutions in the west for simple *maleficium* were rare and executions even rarer, Russian men and women who allegedly used magic to cause droughts were executed in sufficient numbers to attract the notice of chroniclers and foreign travellers. The clerical interpretation of these acts of sorcery was not much different from that which prevailed in the West at that time: they were vestiges of pagan superstition and in that sense were demonic.[86] But whereas in the West this interpretation of demonic magic gradually gave way to a belief that sorcerers were allies of Satan and adherents of a new form of heresy who worshipped him at nocturnal assemblies, in Russia the old interpretation prevailed. Prosecution for the crime increased somewhat in the fifteenth and sixteenth centuries, including a mass burning of twelve female witches at Pskov in 1411, but the theory upon which the prosecutions were based did not change.

In 1551 Ivan IV, being concerned about the practice of magic at the royal court, summoned a church council to condemn a variety of magical practices. This council also resulted in bringing the crime under the jurisdiction of secular as well as ecclesiastical courts.[87] As so often happened in the West, this assumption of secular control over witchcraft facilitated the prosecution of the crime and led to an increase in the number of prosecutions. We know for certain that between 1622 and 1700 the reports of forty-seven trials,

involving ninety-nine defendants, were referred to Moscow for confirmation and sentencing. Of the ninety-nine defendants at least ten were sentenced to death, three died during interrogation and twenty-one were acquitted. Other scattered pieces of evidence suggest that there were other local trials which for one reason or another did not reach Moscow on referral. In 1667, for example, six women from Gadiach were executed for having allegedly bewitched a nobleman and his wife.[88] Another series of trials in the small town of Lukh between 1656 and 1660 resulted in the accusation of twenty-five persons, five of whom were executed. Most of the charges brought against the witches of Lukh were for having caused the possession of some thirty-five townspeople.[89] All of this indicates that there was something resembling a 'witch-scare' in seventeenth-century Russia, but no 'witch-panic.'[90] Witch-hunting was probably more common in Russia than in the province of Translyvania, but it did not approach the dimensions that it reached in Poland, which for reasons of proximity and comparable size is the most appropriate standard of comparison.[91]

It is unlikely that the Russian system of criminal procedure had very much to do with the relatively low number of convictions and executions in that country. It is true that all criminal prosecutions in Russia were supposed to come from the local community rather than the officers of Church or state. This requirement, however, did not prevent local officials from bringing charges against suspected witches when private parties failed to do so. Once the original accusation was lodged, the state took over all prosecutions, thus making the Russian system essentially inquisitorial. Torture, sometimes in the most severe form, was freely used, both to secure confessions and to obtain the names of accomplices.[92] Judgment could be reached without the participation of lay jurors. Indeed, the only procedural rule that served as a restraint on unlimited witch-hunting in Russia was the requirement of referring cases to Moscow, and it may very well be that this rule could be ignored.

The main reason Russian witch-hunting never developed into a major witch craze was the absence of western demonological theory. If the witch beliefs that flourished in German intellectual circles had penetrated Russia and had been embraced by local and central authorities, Russia would probably have had a witch-hunt similar to that in western Poland. But the ideas simply were not available. The only evidence from the Moscow trials that reflects such beliefs was an alleged renunciation of Christ and an oath of allegiance to Satan by a male witch tried in 1663.[93] Whether this charge reflects a late seventeenth-century Polish influence or the survival of an older, Augustinian idea that sorcerers were servants of Satan, it is clear that there was no Russian belief in the sabbath, cannibalistic infanticide or flight. Russian witchcraft,

even more than English witchcraft, remained a crime of harmful magic, not devil-worship. *Maleficium*, moreover, even when tried in secular tribunals, remained a sign of paganism, not demonic heresy, and as such it was incapable of inspiring a massive witch-hunt among either the ruling class or the peasantry (which was tolerant of paganism to begin with). The reason for the relative mildness of Russian witch-hunting, therefore, lies ultimately in the failure of Orthodox Christianity to develop the same demonological world-view as the Latin Church did in the late Middle Ages.

Southern Europe

It may seem inappropriate to consider the Mediterranean region last in this survey of European witchcraft, for it was in Spain, Portugal and Italy that the most durable symbol of witchcraft prosecutions – the Inquisition – maintained its strength longer than in any other parts of Europe. It was in Italian lands, moreover, that some of the earliest witchcraft prosecutions took place.[94] Yet if we use the total number of executions as a standard for evaluating the relative intensity of witchcraft prosecutions, then these southern countries deserve to be treated last. Indeed, if we exclude the Italian-speaking Alpine regions, it would be difficult to find evidence for more than 500 executions in the entire Mediterranean region. Most of these were ordered by secular courts rather than the various tribunals of the Inquisition.[95] In the Spanish American colonies there were very few executions.[96] We must not conclude from this, however, that witchcraft was of little concern to Italian, Spanish and Portuguese authorities. The total number of prosecutions in these countries was in fact fairly substantial. In Spain, for example, the Inquisition tried more than 3,500 persons for various types of magic and witchcraft between 1580 and 1650.[97] In Italy, where the records of the Inquisition are still being researched, the numbers were even higher: the tribunal in Venice alone tried more than 700 persons.[98] In Portugal, where work on the records is also incomplete, a total of 291 witches were tried in the southern part of the kingdom alone.[99] The mildness of Iberian and Italian witchcraft, therefore, derives mainly from the reluctance of Spanish, Portuguese and Italian courts to put witches to death. This reluctance can in turn be explained by the way in which inquisitors viewed the crime they were prosecuting, the procedures that they followed and the careful supervision of their work by central authorities.

One of the most striking features of Italian and Iberian witchcraft prosecutions was the rarity of charges of collective devil-worship. The belief in such assemblies was not unknown in either peninsula, and in a few large hunts

it appeared in a rather dramatic form. The confessions of the Basque witches of 1610 provide us with some of the richest descriptions of the witches' sabbath in all of Europe.[100] But in the large majority of cases heard by Spanish, Portuguese and Roman inquisitors, especially in the southern parts of both peninsulas, these charges are completely absent. In Portugal the demonic pact figured in most witchcraft prosecutions, but not the sabbath.[101] In colonial Brazil, where beliefs regarding the pact with the Devil, familiars and metamorphosis were prevalent, the legal record makes no mention of sabbaths.[102] Peasants and town-dwellers in Mediterranean lands were accused of performing various types of magic, including love magic and healing, and their magic was considered to be heretical, but this was not taken to mean that they had worshipped the Devil collectively. Some of the magical practices of these people were considered to be maleficent, but charges of *maleficium* were usually not amplified by charges of collective devil-worship. The practitioners of magic were to be prosecuted, of course, but the purpose was to correct error and purify the faith, not to protect society from a conspiratorial menace.[103] The end result, therefore, was the frequent administration of non-capital sentences by the Inquisition in the traditional manner of ecclesiastical justice.[104]

There is no single explanation for the prevalence of this view of witchcraft in Spain, Portugal and Italy. One important factor was the widespread belief in classical forms of witchcraft. Both the Spanish and the Italian witch were very often viewed in the manner of Horace's Canidia or the even more widely known sorceress Celestina, a woman depicted in Fernando de Rojas's play, *Tragicomedy of Calisto and Melibea* (1499), who engages in love magic, fortune-telling and divination. Such women were believed to use the flesh of children to make their spells and to acquire the power to summon up the Devil, but they had little in common with the German and Swiss witches who flew to the sabbath. As Julio Caro Baroja has shown, this type of witch tended to flourish in urban rather than rural environments, not only because such women actually plied their trade there but also because the Renaissance culture that supported the belief in such figures was predominantly urban to begin with.[105] It is no coincidence that the areas of both Italy and Spain in which the cumulative concept of witchcraft was widely known and in which a majority of the prosecutions took place were both rural and northern, subject to northern (i.e., either German or French) influences.

A survey of Italian, Spanish and Portuguese witchcraft literature reinforces the conclusion that the stereotypical view of the witch never gained widespread acceptance in the Mediterranean world. It is true that in the late Middle Ages Italian and to a lesser extent Spanish intellectuals had made important contributions to the cumulative concept of witchcraft,[106] while the papacy itself was largely responsible for equating magic and heresy. Once the concept of witchcraft had been formulated, however, very few Spanish, Portuguese or Italian writers provided explicit support for the definition of witchcraft that had emerged or contributed to its further development. The overly credulous Italian judge Paulus Grillandus did subscribe to most of the learned notions of witchcraft in his *Tractatus de Hereticis et Sortilegiis*, drawing upon cases that he had adjudicated in Rome and southern Italy, but after that time the only Italian author who fully subscribed to the cumulative concept of witchcraft was Francesco Maria Guazzo, a Milanese friar who based his popular *Compendium Maleficarum* not only on numerous French and German sources but also on his own experience as a witchcraft prosecutor in the Rhineland.[107] It can be argued, therefore, that at the height of the great hunt the most extreme and credulous Italian witch beliefs had northern rather than native sources.

The same can be said for Spain, where the demonological ideas that prevailed during the great Basque trials can be traced to southern France and the work of the demonologist Pierre de Lancre.[108] Overall, the cumulative concept of witchcraft did not become firmly established in Spain, especially in the south.[109] Nor was it widely held in Portugal. Reports of night flight and sabbaths were not unknown in that kingdom, but Portuguese inquisitors tended to treat such stories with extreme scepticism. There were hardly any demonological treatises written in Portugal during the period of the trials, and the only European works cited by Portuguese authorities in discussing witchcraft were the *Malleus Maleficarum* and Martín Del Rio's *Disquisitionum Magicarum*. Neither of these works was primarily concerned with the sabbath, and both were intended as manuals for inquisitors.[110]

The failure of many learned witch beliefs to take hold among Italian, Spanish and Portuguese inquisitors may have had something to do with the popularity of Nicholas Eymeric's *Directorium Inquisitorum* (1376), the inquisitorial manual most widely used in Italy throughout the period of the great witch-hunt. The form of witchcraft described in Eymeric's manual was ritual magic, which Eymeric considered in true scholastic fashion to be a form of heresy, since it involved a pact with the Devil. Eymeric had nothing to say about the sabbath or, for that matter, *maleficium*. By relying on Eymeric's definition of witchcraft, therefore, Italian inquisitors perpetuated an earlier view of the crime that excluded many of the elements that had been added to the cumulative concept of witchcraft after he wrote the manual.[111]

Another reason for the relative tameness of witchcraft prosecutions in Italy, Spain and Portugal was the adherence of the Inquisition in each country to fairly strict procedural rules. In the Middle Ages papal inquisitors had

become notorious for their unrestrained use of torture and the many other ways in which they had prejudiced the case against the accused. By the time the European witch-hunt began, however, inquisitors had produced a large body of cautionary literature, and two of the early modern institutions that succeeded the medieval inquisition – the Spanish and the Roman inquisitions – demonstrated exceptional concern for procedural propriety. Indeed, the Roman Holy Office has been referred to as 'a pioneer in judicial reform'.[112] Unlike many secular courts, it made provision for legal counsel; it furnished the defendant with a copy of the charges and evidence against him; and it assigned very little weight to the testimony of a suspected witch against her alleged confederates.[113] One of the most noteworthy features of both Spanish and Roman inquisitorial procedure is that torture was rarely employed. In Spain it was used only when there was strong circumstantial evidence but no proof, and it was applied towards the end of the trial, just before judgment was pronounced.[114] Even in the great Basque witch-hunt of 1609–11, which involved thousands of suspects, the Inquisition tortured only two of the accused, and since the torture actually allowed their sentences to be commuted from death to banishment, it can be legitimately considered an act of mercy.[115] The only pressure to use torture as a deliberate means to extract confessions came from local secular authorities and local mobs, groups whose extra-legal tactics the Inquisition sought to restrain. In Italy there was no less of a reluctance to use torture.[116] Even the *benandanti*, the members of an ancient fertility cult in Friuli who were gradually convinced that they were witches, were never put to torture.[117]

The restraint shown by both the Spanish and the Roman inquisitions in the use of torture had a predictable effect upon witch-hunting in the Mediterranean world. It did not completely prevent large witch-hunts from taking place, since local panics and dream epidemics were by themselves capable of supplying large numbers of suspects. But without the unrestricted use of torture the hunts that developed did not produce as many convictions or result in as many executions as the large hunts that occurred in Germany and Switzerland. Even more importantly, the reluctance to use torture prevented the development of extreme, diabolical witch beliefs. Without torture the potential for transforming simple acts of superstition into crimes of diabolical conspiracy was greatly limited, since only through confessions adduced under torture could diabolical beliefs gain the widespread legitimacy that was necessary to sustain further witch-hunting. Without torture it was certain that the learned as well as the popular view of witchcraft would remain essentially an individual moral transgression, not a large-scale attack upon Christian civilization.

In explaining the relative tameness of Spanish and Italian witch-hunting one additional factor – the strength of central control – must also be mentioned. Although medieval inquisitors had always received their commissions from Rome, they had never been subject to central regulation or coordination. In the sixteenth and seventeenth centuries, however, inquisitors lost this autonomy. The loss was most apparent in Spain, where a new national institution under the king was established in 1478, superseding the medieval inquisition that had operated only in Aragon. The main organ of this new institution was the supreme council at Madrid, which exercised strict control over a large number of regional tribunals (eventually twenty-one) throughout Spain and its overseas possessions. In the early sixteenth century some of these regional courts had managed to exercise a large measure of local autonomy, but by 1550 the supreme council had established its superiority over all local tribunals.[118] The effect of this assertion of central control on the process of witch-hunting became evident in Barcelona in the 1530s, when the supreme council put an end to a witch-hunt by establishing its right to confirm all sentences.[119] Even more dramatically, the supreme council put an end to the great Basque witch-hunt of 1609–11 when, upon the recommendation of Salazar, it issued a very strict set of procedural rules for the prosecution of witches throughout the country. The authority and influence of the supreme council was even evident in secular witchcraft prosecutions. In a number of seventeenth-century cases, most notably in northern Vizcaya in 1621, the council managed to bring about modifications of very severe sentences.[120]

The various inquisitorial tribunals that operated in Italy outside the Papal States were not subject to the same degree of central control as those in Spain. Some of the regional bodies, such as the Inquisition in Venice, which included lay members representing the secular government, operated with a certain measure of independence from the Congregation of the Holy Office in Rome.[121] Nevertheless, the Roman Inquisition achieved some success in its efforts to standardize procedure and sentencing practices throughout Italy. It gave prior approval to all sentences and, what was even more important, occasionally demanded that provincial inquisitors should conduct further investigation of cases that it believed required such action.[122] Even the Venetian Inquisition, which jealously defended its independence, often consulted with Rome on matters of procedure and sometimes extradited suspects to Rome for trial.[123]

Before leaving the subject of Mediterranean witchcraft we must consider Trevor-Roper's thesis that witchcraft prosecutions in Spain were relatively mild because the Spanish directed all their hostility towards Jews instead of witches. This thesis is based upon the assumption that the prosecution of

witches was just one manifestation of a more general need of society to find scapegoats for its problems and to release social tension by prosecuting them. Witches and Jews (and for that matter heretics and any other minority groups) were in a certain sense interchangeable. Either of them could serve as an object of social fear and discrimination; it simply was a question of which group appeared more threatening. One of the corollaries of this argument is that the elimination of the fear of one group can lead to the prosecution of the other, as society finds new scapegoats after the old ones are dispensed with. Another corollary is that judicial officials have only so much time to devote to the prosecution of deviant groups and that it is likely therefore that only one such group would be prosecuted at one time.[124]

This thesis has only limited value in explaining the mildness of Spanish witch-hunting. It can help us to understand why relatively few Spanish witches were prosecuted in the late fifteenth and early sixteenth centuries. Although Spanish inquisitors had been concerned with ritual magic in the fourteenth and fifteenth centuries, they did not maintain their vigilance as such magicians in France and the Rhineland were transformed into witches. Instead they turned their attention almost exclusively to Jews, who were the main reason for the establishment of the Inquisition in 1478 and who bore the full brunt of its force until about 1540. It is difficult, however, to attribute the mildness of Spanish witch-hunting *after* 1540 to the presence of Jewish scapegoats, since by that time the problem had been largely resolved and the Inquisition had turned its attention to other matters. Now, one might argue that the increase in the number of Spanish witches after 1540 was in fact a result of the decline of the Jewish threat; that would be consistent with the general tenor of Trevor-Roper's argument. But it is impossible to explain the *mildness* of Spanish witch-hunting – which as we have seen is not to be measured by the number of trials but by the number of executions – in this way. There is simply no way we can attribute the 'moderate wisdom' of Spain in handling witches after 1540 to the presence of Jewish scapegoats in Spanish society. The fact of the matter is that Jews were *not* being prosecuted during this period and witches were. The reasons for the lenient treatment of witches had a great deal to do with the nature of the Inquisition and the way in which the crime of witchcraft was perceived at the time, and precious little to do with the Jews.

Conclusion

In describing the general patterns of European witch-hunting, historians frequently compare the European continent with England, showing how the prohibition of torture and the incomplete reception of demonological theory in England prevented witchcraft prosecutions from becoming as intemperate and extensive as they were in places like Germany and Switzerland. The comparison is both valid and instructive, but its frequent use can lead to an oversimplified view of the geography of European witchcraft. On the one hand, it can lead to the unwarranted conclusion that England was the only European country in which authorities prosecuted witches in moderate numbers. On the other hand, it can lead to the equally false assumption that there was a common 'continental' European pattern of witchcraft prosecutions. The foregoing regional survey of witchcraft should make the invalidity of those assumptions readily apparent. England, with its distinctive body of national law and its failure to adopt either Roman law or inquisitorial procedure, may have been very different from France and the various states of Germany in the way it dealt with witches (just as it was different from them in many other ways), but it was by no means the only exception to the prevailing European norm. One can just as easily claim that witchcraft prosecutions in Denmark, Norway, Russia and Spain were 'exceptional' by German or Swiss standards.

There were in fact so many regions in Europe where demonological ideas were only partially received, where the application of torture was effectively restricted, where the conviction- and execution-rates in witchcraft cases were kept fairly low, and where mass witch-hunts occurred only on rare occasions, that one must seriously question whether there really was a general European witch panic. There was certainly a general European witch-*hunt* in which various countries participated to a larger or somewhat smaller extent. But a witch panic, characterized by an unrestrained and paranoid pursuit of large numbers of witches, really only took place in west-central Europe. Although we shall never have complete statistics, those that are available suggest that as many as 75 per cent of all witchcraft prosecutions occurred in that large and populous area. Within that zone we can define the boundaries of intense witch-hunting even more narrowly, since the number of trials in the kingdom of France was relatively small. The real centre of the witch-hunt was the area that encompassed the Holy Roman Empire, Switzerland and the various French-speaking duchies and principalities that bordered on German and Swiss lands. By comparison to this area, all other regions – except perhaps Poland – were temperate in their pursuit of witches and mild in their treatment of them.

There are of course no simple explanations for the rather uneven geographical pattern of prosecutions we have traced in its broader outline. Generally speaking, however, four separate but related variables had the greatest effect.

The first was the nature of witch beliefs in a particular region and the strength with which they were held. Wherever witchcraft was defined primarily as *maleficium* and not as devil-worship, witch-hunts tended to remain limited in scope, mainly because the suspicion that one person practised sorcery did not usually lead to a search for accomplices. The contrast between Germany, where the belief in diabolism was widespread, and a country like Russia, where it was virtually absent, could not be more pronounced. In many areas, however, the crime of witchcraft could be defined in either way, with theories of diabolism receiving only occasional expression and commanding only limited subscription. This was certainly the situation in England, the Scandinavian countries and Spain, and in each of these countries the pattern of witchcraft prosecutions included both a number of individual trials for *maleficium* and a few larger hunts for devil-worship.

The second major factor in determining the relative intensity of witchcraft prosecutions was the system of criminal procedure that was used in the courts. Although we tend to assume that all European courts, with the exception of those in England, followed 'inquisitorial' procedure and used torture freely, we have seen that witchcraft trials were conducted in a wide variety of ways. Methods of initiating cases, rules regarding the use of torture, customs regarding the appointment of advocates and procedures for appealing sentences all differed from place to place. Differences in procedures had profound effects on the process of witch-hunting, since they greatly influenced the chances of conviction and execution. Legal procedures also had an effect upon the reception of witch beliefs among the judicial class, for it was often only under torture that certain witch beliefs could be legitimized through confessions.

The third major determinant of the intensity of witchcraft prosecutions was the degree of central judicial control over the trials. Central control did not necessarily serve as a restraining force in witchcraft cases, since some rulers were often very eager to see witchcraft eliminated and occasionally even initiated witch-hunts. But in most cases local authorities (the magistrates of a particular town or village or the judicial officers of a small region) were more determined to detect, prosecute and execute witches than those who occupied higher positions of authority in Church or state, and more likely to violate the procedural rules formulated by central governments while doing so. The relative mildness of English, Swedish, Russian and Spanish witch-hunting, as well as that which took place in the central areas of France, can be attributed at least in part to the success of central secular or ecclesiastical authorities in restraining the enthusiasm of local authorities for waging a full-scale war against Satan's allies.

The final factor that must be taken into account in explaining regional patterns is the degree of religious zeal manifested by the people of a particular region. It is of course difficult to measure religious zeal, and it is even more difficult to demonstrate its effects upon witchcraft prosecutions. But it clearly was a motor force in many large hunts, and it does appear that those jurisdictions that convicted and executed witches in great numbers were known for their Christian militancy, their religious intolerance and their vigorous participation in either the Reformation or the Counter-Reformation. Differences between witch-hunting in New England and the other North American colonies, between England and Scotland, between Poland and Russia, and between Italy and Germany can all be attributed in some measure to these elusive differences in general religious 'enthusiasm'. These differences can in turn be linked to the religious stability of the countries in question, for it was areas that had experienced religious change or felt threatened by it that tended to pursue witches with the greatest determination. These areas were, moreover, much more likely than others to become preoccupied with diabolical witch beliefs and to allow their magistrates to use torture in order to protect the Christian faith. In this way religious zeal tended to reinforce other reasons for intense witch-hunting, just as its absence allowed public officials to develop a more 'enlightened' and moderate attitude towards the whole process.

Notes

1. This early chronology, with some minor alterations, is taken from Kieckhefer, *European Witch Trials*, pp. 10–26.
2. For a detailed treatment of these fifteenth-century trials in Switzerland and a discussion of some of the treatises see Blauert, *Frühe Hexenverfolgungen.*
3. Compare the numbers of trials and executions for 1450–1500 and 1500–1550 in Hansen, *Quellen*, pp. 68–262; in Foucault, *Les Procès de sorcellerie dans l'ancienne France devant les jurisdictiones séculières* (Paris, 1907), pp. 297–306; and in Midelfort, *Witch Hunting*, pp. 201–2.
4. Luther, *St. Paul's Epistle to the Galatians*, p. 397.
5. H. Kamen, *Inquisition and Society in Spain in the Sixteenth and Seventeenth Centuries* (Bloomington, 1985), pp. 210–12; Monter, *Frontiers of Heresy*, pp. 255–67; G. Bonomo, *Caccia alle Streghe* (Palermo, 1959), p. 143; Lea, *Materials*, **III**, pp. 1112–13; Le Roy Ladurie, *Paysans*, p. 408; Delumeau, *Catholicism*, pp. 170–1.
6. H. H. Kunstmann, *Zauberwahn und Hexenprozesz in der Reichsstadt Nürnberg* (Nuremberg, 1970), pp. 39–73.

7. Trevor-Roper, 'Witch-craze', p. 136.
8. Evans, *Habsburg Monarchy*, p. 402, attributes the absence of Austrian witch prosecutions at this time to 'an atmosphere of Humanism, tolerance and comparative urbanity'.
9. Oberman, *Masters of the Reformation*, pp. 158–83.
10. W. Monter 'Witch trials in continental Europe 1560–1660,' in *Witchcraft and Magic in Europe: The Period of the Witch Trials*, ed. B. Ankarloo and S. Clark (London, 2002), pp. 1–52.
11. For the disappearance of scepticism in Luxembourg see Dupont-Bouchat, 'Répression', p. 87.
12. On the impact of printing on all aspects of European culture see E. L. Eisenstein, *The Printing Revolution in Early Modern Europe* (Cambridge, 1983).
13. See Chapter 4 above.
14. Trevor-Roper, 'Witch-craze', pp. 137–40.
15. See E. Hobsbawm, 'The crisis of the seventeenth century', in *Crisis in Europe, 1560–1660*, ed. T. Aston (New York, 1967), pp. 5–62.
16. Byloff, *Hexenglaube*, p. 160; Evans, *Hapsburg Monarchy*, pp. 404–5. Baranowski, *Procesyz Czarownic*, p.179.
17. For a valuable comparison of two German-speaking regions – electoral Trier and Swabian Austria – see J. Dillinger, *Böse Leute: Hexenverfolgungen in Schwäbisch-Österreich und Kurttrier im Vergleich* (Trier, 1999).
18. E. W. Monter, 'The pedestal and the stake: courtly love and withchcraft', in *Becoming Visible: Women in European History*, ed. R. Bridenthal and C. Koonz (Boston, 1977), p. 130, claims that more than one-half of the executions took place there.
19. See Schormann, *Deutschland*, p. 71; Behringer, *Hexen und Hexenprozesse*, p. 193.
20. Lea, *Materials*, **III**, p. 1231.
21. Midelfort, *Witch Hunting*, pp. 98–100.
22. Schormann, *Deutschland*, pp. 65–6. The topography of the two regions is also different. The north and east are mainly lowlands, whereas the south and west are characterized by medium altitude mountains.
23. Behringer, *Witchcraft Persecutions in Bavaria*, p. 64, estimates there were 1,000–1,500 executions in the entire region of south-east Germany. Most of these came within the old duchy of Bavaria (after 1623 a principality and then an electorate), which had a centralized system of justice. For comparisons between the entire south-eastern region and other parts of Germany see Behringer, 'Erhob sich das ganze Land', pp. 163–5.
24. Behringer, *Witchcraft Persecutions in Bavaria*, p. 401; Evans, *Habsburg Monarchy*, pp. 402–17. Byloff, *Hexenglaube und Hexenverfolgungen*, pp. 159–60, estimates that 1,700 individuals were accused in Austria but admits that the number may have been as high as 5,000.
25. See Midelfort, 'Heartland', p. 30; Lea, *Materials*, **III**, pp. 1229, 1246, 1251; Schormann, *Nordwestdeutschland*, pp. 158–9; S. Lorenz, *Aktenversendung und Hexenprozess: Dargestellt am Beispiel der Juristenfakultäten Rostock und Greifswald (1570/82–1630)*, (Frankfurt, 1982).
26. The figures of 8,888 accusations and 5,417 executions in Bader, *Hexenprozesse in der Schweiz*, pp. 211ff, are definitely too low. See Behringer, 'Erhob sich das ganze Land', pp. 162–3.
27. Monter, *Ritual*, p. 47.
28. For the efforts of Philip II and the Council of Luxembourg to introduce new legal procedures and to encourage general inquisitions for witchcraft see Dupont-Bouchat, 'Répression', pp. 86–99.
29. Boguet, *Examen*, p. xxxiii. Rémy, *Demonolatry*, p. 56, refers to no fewer than 800 executions and 'nearly as many more' who have fled or endured torture. For the estimate of 2,000–3,000 total executions, see C. Pfister, 'Nicolas Rémy et la sorcellerie en Lorraine la fin du XVI siècle', *Revue historique* **93** (1907), 239.
30. Briggs, 'Witchcraft and popular mentality in Lorraine', p. 338.
31. Dupont-Bouchat, 'Répression', p. 127.
32. M. Gijswijt-Hofstra, 'Six centuries of witchcraft in the Netherlands', in *Witchcraft in the Netherlands*, ed. M. Gijswijt-Hofstra and W. Frijhoff (Rotterdam, 1991), pp. 25–30.
33. A. F. Soman, 'Decriminalizing witchcraft: Does the French experience furnish a European model?', *Criminal Justice History* **10** (1989), 17, sees the Netherlands, where a decentralized judiciary achieved a very early decline of witch-hunting, as an exception to the rule that prevailed in most European jurisdictions.
34. Gijswijt-Hofstra, 'Six centuries', pp. 31–2.
35. H. de Waardt, 'Prosecution or defense: Procedural possibilities following a witchcraft accusation in the Province of Holland before 1800', in Gijswijt-Hofstra and Frijhoff, *Witchcraft and the Netherlands*, pp. 71–90.
36. M. Gielis, 'The Netherlandic theologians' views of witchcraft and the Devil's pact', in Gijswijt-Hofstra and Frijhoff, *Witchcraft in the Netherlands*, pp. 37–52.
37. Muchembled, 'Satan ou les hommes?', p. 18.
38. Mandrou, *Magistrats et sorciers*, pp. 449–62.
39. For the area within the jurisdiction of the *Parlement* of Paris there are records of 1,288 appeals and 554 cases that never reached that stage. A. Soman, 'Trente procès de sorcellerie dans le Perche (1566–1624)', *L'Orne littéraire* **8**

(1986), 42–7. The *Parlement* of Rouen, which had jurisdiction over Normandy, confirmed 97, or 44 per cent, of the 219 death sentences appealed to it between 1560 and 1660. Monter, 'Toads and eucharists', p. 572.

40. Soman, 'The Parlement of Paris', p. 40. Muchembled, 'The witches of the Cambrésis', notes that with the exception of Lorraine, which was not in France at this time, the numbers of French witches were counted in the hundreds rather than the thousands. The *Parlement* of Paris confirmed only 115 death sentences between 1565 and 1640. See Soman, 'Parlement of Paris', p. 26. There were, however, some fairly severe hunts in the outlying regions of the country. For de Lancre's report of 400 executions at Toulouse in 1577 see Mandrou, *Magistrats et sorciers*, p. 92.
41. Briggs, *Communities of Belief*, p. 12.
42. For the English warrants, which number 81 for the period 1540–1640, see Langbein, *Torture*, pp. 94–123. There were 34 Scottish warrants issued between 1590 and 1689. See B. P. Levack, 'Judicial torture in Scotland during the age of Mackenzie', in *The Stair Society Miscellany IV*, ed. H. L. MacQueen (Edinburgh, 2002), 185–98.
43. See, for example, B. Whitelocke, *Memorials of the English Affairs* (London, 1682), p. 252. One of the reasons for the use of torture was that the Privy Council required a confession in order to approve a local witchcraft trial. Mackenzie, *Laws and Customs*, p. 88.
44. *Register of the Privy Council of Scotland*, IV, p. 680.
45. Larner, *Enemies of God*, pp. 67–8, 71–5.
46. See E. C. Lapoint, 'Irish immunity to witch-hunting: 1534–1711', *Eire-Ireland* **27** (1992), 76–92.
47. St John Seymour, *Irish Witchcraft and Demonology* (Dublin, 1913), pp. 105–13.
48. F. N. Parke, 'Witchcraft in Maryland', *Maryland Historical Magazine* **31** (1936), 284, 290. There was also an unauthorized execution at sea when the captain of a ship hanged Katherine Grady for causing violent storms by means of witchcraft.
49. M. Jarvis, 'Bermuda', in *Encyclopedia of Witchcraft: The Western Tradition*, forthcoming.
50. Demos, *Entertaining Satan*, pp. 11–13.
51. Hansen, *Witchcraft at Salem*, p. 284.
52. *The Colonial Laws of Massachusetts*, ed. W. H. Whitmore (Boston, 1889), p. 55. The wording of the law was based on Mosaic language.
53. One of the reasons for the extraordinarily low conviction-rate in Massachusetts before the Salem trials was that charges brought by the witches' neighbours usually referred only to *maleficia*, whereas the judges required evidence of diabolical compact. See Richard Godbeer, *The Devil's Dominium* (Cambridge, 1992); Weisman, *Witchcraft, Magic and Religion*, Chapter 7.
54. On the importance of the Indian wars on the Salem witch-hunt see M. B. Norton, *In the Devil's Snare: The Salem Witchcraft Crisis of 1692* (New York, 2002).
55. In 1600 the population of Britain was approximately 5.4 million persons, that of Scandinavia approximately 2 million. De Vries, *European Urbanization*, p. 36.
56. Johansen, 'Denmark', p. 340.
57. G. Henningsen, 'Witchcraft in Denmark', *Folklore* **93** (1982), 134, argues that neither the sabbath nor the pact was ever figured prominently in the charges against Danish witches. See also Johansen, 'Denmark', p. 343.
58. Johansen, 'Denmark', p. 341–7. Most of the executions after this time, however, were still based upon charges of *maleficium*.
59. Henningsen, 'Witchcraft in Denmark', p. 135. See also Johansen, 'Denmark', pp. 344–5.
60. The population of Denmark in 1650 was 580,000, whereas that of Scotland was approximately one million. A. Lassen, 'The population of Denmark in 1660', *Scandinavian Economic History Review* **13** (1965), 29.
61. Naess, 'Norway', p. 371, calculates an execution-rate of 38 per cent on the basis of those cases in which the fates of the accused are known. His estimate for all trials, p. 372, is only 25 per cent. B. Alver, *Heksetro og Trolddom* (Oslo, 1971), p. 63, also estimates an execution-rate of 25 per cent.
62. Although torture was applied in forty trials, it was used before sentencing in only ten of these. Naess, 'Norway', pp. 375, 373.
63. See Robbins, *Encyclopedia*, pp. 361–2. The case of 1680 appears to have been an exception to this rule.
64. H. Wiers-Jenssen, *Anne Pedersdotter: A Drama in Four Acts*, trans. John Masefield (Boston, 1917).
65. R. Bainton, *Women of the Reformation: From Spain to Scandinavia* (Minneapolis, 1977), pp. 128–33.
66. Ankarloo, *Trolldomsprocesserna i Sverige* (1971), pp. 326–8; K. Baschwitz, *Hexen und Hexenprozesse* (Munich, 1963), p. 321.
67. Ankarloo, 'Sweden: The mass burnings', in *Early Modern European Witchcraft*, pp. 285–317; Lea, *Materials*, **III**, pp. 1282–5; Heikkinen, *Paholaisen Liittolaiset* (Helsinki, 1969), pp. 375–7.
68. On Estonian witchcraft see Madar, 'Estonia I: Werewolves and poisoners'; J. Kahk, 'Estonia II: The crusade against idolatry', in *Early Modern European Witchcraft*, pp. 257–84.

69. Heikkinen, *Paholaisen*, pp. 386–9.
70. Heikkinen and Kervinen, 'Finland', p. 320.
71. See Schormann, *Hexenproesse in Deutschland*, p. 6, and Cohn, *Europe's Inner Demons*, p. 253, for the traditional view.
72. Baranowski, *Procesy Czarownic*, p. 178; epilogue to K. Baschwitz, *Czarownice. Dzieje procesów o czary* (Warsaw, 1963). See W. Wyporska, 'Poland' in *Encyclopedia of Witchcraft*, forthcoming.
73. Torture was used in virtually every trial in Wielkopolska, including those involving children. Wyporska, 'Poland'.
74. Ibid., p. 178
75. J. Tazbir, *A State Without Stakes* (Wydawniczy, 1973), p. 92.
76. Ibid., pp.169, 208.
77. Klaniczay, 'Hungary', p. 222. The fates of only 932 are known.
78. Ibid., pp. 233–4, 249–50.
79. Ibid., p. 230, n.30.
80. Ginzburg, *The Night Battles*, pp. 7, 13. For beliefs similar to those of the *benandanti* in Hungary see G. Klaniczay, 'Benandante-kresnik-zduhac-táltos', *Ethnographia* **94** (1983).
81. Lea, *Materials*, **III**, pp. 1264–5.
82. Ibid., **III**, pp. 1271–3.
83. Ibid., **III**, p. 1254.
84. Klaniczay, 'Hungary', pp. 221–35.
85. See above, Chapter 5.
86. Ryan's argument in 'Witchcraft hysteria', pp. 55–73, that demonic magic and the demonic pact were known in Russia does not undermine the argument that the weakness of western demonological theory helps to explain the relatively low number of Russian trials. The crucial difference between Russian and western demonology was the absence of ideas of collective devil-worship in Russia.
87. Ryan, 'Witch hysteria', pp. 63–4.
88. R. Zguta, 'Was there a witch craze in Muscovite Russia?', *Southern Folklore Quarterly* **40** (1977), 125.
89. Kivelson, 'Through the prism of witchcraft', pp. 74–94.
90. Ryan, 'Witchcraft hysteria', p. 84, argues that by European standards the Russian witch-hunt was less exceptional than has been claimed. This is especially the case if we do not use German-speaking lands as the norm.
91. R. Zguta, 'Witchcraft trials in seventeenth-century Russia', *American Historical Review* **82** (1977), 1187–207.
92. Baissac, *Les Grands jours*, pp. 154–5; Kivelson, 'Through the prism of witchcraft', p. 81.
93. Ibid., p. 1204.
94. Kieckhefer, *European Witch Trials*, p. 21; Mormando, *The Preacher's Demons*, pp. 54–76; Baissac, *Les Grands jours*, pp. 34–43; Trevor-Roper, 'Witch-craze', p. 135.
95. Henningsen, 'Papers of Salazar', p. 104, estimates a few hundred executions for all of Spain. For a report of some of the local prosecutions see Kamen, *Inquisition and Society*, pp. 210–15. In Portugal secular courts were responsible for all but one execution for witchcraft. F. Bethencourt, 'Portugal: A scrupulous inquisition', in Ankarloo and Henningsen, *Early Modern European Witchcraft*, p. 405.
96. Monter, *Ritual*, pp. 98–107; R. E. Greenleaf, *Zumarraga and the Mexican Inquisition, 1536–1543* (Washington, 1962), pp. 111–21; idem, *The Mexican Inquisition of the Sixteenth Century* (Albuquerque, 1969), p. 173. For Brazil see L. de Mello e Souza, *The Devil and the Land of the Holy Cross* (Austin, 2003), pp. 277–378.
97. Parker, 'Some recent work on the Inquisition', p. 529.
98. Martin, *Witchcraft and the Inquisition in Venice*, p. 226.
99. Bethencourt, 'Portugal', p. 405.
100. Henningsen, *The Witches' Advocate*, pp. 69–94.
101. J. P. Paiva, *Bruxaria e Superstição num País sem 'Caça às Bruxas', 1600–1774* (Lisbon, 1997), pp. 36–42. In Siena 22 per cent of prosecutions for magic were for *maleficium*, but only 1 per cent of the total involved charges of diabolical witchcraft. O. di Simplicio, *Inquisizione Stregoneria Medicina: Siena e il Suo Stato* (Siena, 2000), pp. 22, 25.
102. Souza, *The Devil and the Land of the Holy Cross*, pp. 163–6. The only references to collective devil-worship in Brazil came from three African slaves who had spent time in Brazil but were tried in Lisbon. All three confessed under torture.
103. M. O'Neil, 'Magical healing, love magic and the Inquisition in late sixteenth-century Modena', in S. Haliczer (ed.), *Inquisition and Society in Early Modern Europe* (Totowa, NJ, 1987), pp. 88–114. Martin, *Witchcraft and the Inquisition in Venice*, pp. 192, 254.
104. Tedeschi, 'Inquisitorial law and the witch', in *Early Modern European Witchcraft*, p. 94.
105. Caro Baroja, *World of the Witches*, pp. 99–102.
106. F. Mormando, 'Bernardino of Siena, popular preacher and witch-hunter: A 1426 witch trial in Rome', *Fifteenth-Century Studies* **24** (1998), 84–118.

107. Robbins, *Encyclopedia*, pp. 236–7; Monter, 'French and Italian witchcraft', *History Today* **30** (1980), 33.
108. Henningsen, 'Papers of Salazar', pp. 88–96.
109. Henningsen, *Witches' Advocate*, pp. 22–3.
110. J. P. Paiva, *Bruxaria e Superstição num País sem 'Caça às Bruxas', 1600–1774* (Lisbon, 1997).
111. Martin, *Witchcraft and the Inquisition in Venice*, pp. 50–66, 253–5.
112. J. Tedeschi, 'Preliminary observations on writing a history of the Roman Inquisition', in *Continuity and Discontinuity in Church History*, ed. F. F. Church and T. George (Leiden, 1979), p. 42.
113. Ibid., pp. 242–3.
114. Henningsen, *Witches' Advocate*, pp. 44, 170.
115. Ibid., pp. 170–1. Salazar proposed that the same procedure be used with the other accused witches, pp. 179–80.
116. Tedeschi, 'Inquisitorial law and the witch', pp. 97–104; Martin, *Witchcraft and the Inquisition in Venice*, pp. 26–8.
117. For the threat of torture against one of the *benandanti* see Ginzburg, *The Night Battles*, p. 105.
118. E. Peters, *Inquisition* (Berkeley, 1989), pp. 90, 101. For conflict with local tribunals in Saragossa in 1535 and Barcelona in 1548–49 see Monter, *Frontiers of Heresy*, pp. 264–6.
119. H. Kamen, *The Spanish Inquisition* (New York, 1965), p. 145.
120. Henningsen, *Witches' Advocate*, pp. 387–9.
121. Peters, *Inquisition*, pp. 109–19.
122. Ginzburg, *The Night Battles*, pp. 125–6.
123. Peters, *Inquisition*, p. 117.
124. Trevor-Roper, 'Witch-craze', pp. 110–12.

CHAPTER 8

THE DECLINE AND END OF WITCH-HUNTING

During the seventeenth and eighteenth centuries, prosecutions and executions for the crime of witchcraft declined in number and eventually came to an end. The decline occurred in all European countries where witch-hunts had taken place, as well as in the colonial possessions of Spain, Portugal, England and France. The decline was marked by an increasing reluctance to prosecute witches, the acquittal of many who were tried, the reversal of convictions on appeal, and eventually the repeal of the laws that had authorized the prosecutions. By 1782 the last officially sanctioned witchcraft execution had taken place, and in many jurisdictions witchcraft, at least as it had been defined in the sixteenth and seventeenth centuries, had ceased to be a crime. Individuals continued to name their neighbours as witches, and in some cases they took violent action against them, but they did so illegally and at the risk of being prosecuted themselves.

The reduction and eventual end of witch-hunting occurred at different times in the various kingdoms and regions of Europe. In some countries, such as the Dutch Republic, the decline in prosecutions became evident before the end of the sixteenth century, while in others, like Poland, it did not begin until the middle of the eighteenth century. The length of time that the entire process took also varied greatly from place to place. In Scotland, for example, the initial reduction in the number of prosecutions was followed by more than fifty years of trials, whereas in Franche-Comté and colonial Massachusetts witch-hunts came to a complete end only a few years after the courts started to discourage prosecutions.

This long, gradual reduction in the number of trials, just like their rise in the fifteenth century, had multiple causes. These causes include the introduction of new rules governing the procedures used in the trial of witches, a shift in the way that educated people viewed the supernatural realm, a pronounced change in the religious climate in most European countries, and the abatement of some of the social and economic conditions that had encouraged witchcraft prosecutions.