

Accusations of witchcraft and ritual attacks:

towards eliminating
harmful practices and
other human rights violations



Report & Preliminary Guidelines for PARLIAMENTARIANS

*Guidelines adopted — October 2022
at the Permanent Committees of the Sixth Parliament
Midrand, South Africa*

full report edition



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FOREWORD

Harmful practices related to accusations of witchcraft and ritual attacks have contributed to one of the most challenging human rights issues of the 21st century. Every year, thousands of individuals around the world are accused of witchcraft or subject to ritual attacks, particularly in Africa. They are harassed, bullied, beaten, banished, mutilated, ill-treated, tortured and killed. These harmful practices impact women, children, the elderly, persons with disabilities, and persons with albinism in particular. Based on myths about the magical powers of their bodies, persons with albinism are frequently subject to cruel attacks.

Despite the severity of these practices, a robust response is lacking. The response of national judicial systems differs between states and oftentimes human rights violations related to accusations of witchcraft and ritual attacks are not prevented, investigated or prosecuted. Human rights mechanisms have until recently also been silent on the issue. This has emboldened perpetrators and perpetuated impunity.

These guidelines mark an important step towards mainstreaming the issue into national and regional human rights systems. It will provide momentum and guidance for regional mechanisms, national governments, international organizations and civil society. It will lead the way to ensuring broader respect for human rights — not only for persons with albinism, but for all those affected by these harmful practices.

Ms. Ikponwosa Ero (Nigeria)

United Nations Independent Expert
on the enjoyment of human rights by persons with albinism

The Independent Expert has collaborated with the PAP under the aegis of the Addis Ababa Roadmap, a memorandum of understanding to facilitate deep collaboration between the special procedures of the United Nations and those of the African Union and its other mechanisms.

PREFACE

from the Pan-African Parliament

Across Africa, the issue of harmful practices emanating from accusations of witchcraft and ritual attacks has not been met with an adequate response. The elimination of all harmful practices occurring as a result of accusations of witchcraft and ritual attacks (HPAWR) is to the benefit of all society. Every effort must be made to protect and promote the rights of all, regardless of age, gender, disability, ethnicity, genetic difference or other status.

The Pan-African Parliament (PAP) was established in 2004 to ensure the full participation of African people in the economic development and integration of the continent. It was created as a platform for the African people to be involved in the dialogue and decisions regarding the continent's most pressing challenges.

The PAP is mandated to make recommendations and to promote programmes and objectives of the African Union, for the harmonization and coordination of laws and policies across Africa. Human rights issues, including HPAWR, fall squarely within this mandate.

To that end, this preliminary report and guidelines provide a practical instrument for parliamentarians across the continent to bring attention to these harmful practices and accelerate their elimination. Political commitment is essential for progress. Parliamentarians, as the promoters of democracy and human rights and as representatives of the people, have a duty to hold their governments accountable, enact legislation, and motivate community-based initiatives to supplement legislation to eradicate HPAWR for good.

H.E. Chief Fortune Charumbira, President

Hon. Lúcia Maria Mendes Gonçalves dos Passos, Vice President

Pan-African Parliament

ACKNOWLEDGEMENTS

We would like to express sincere and deep appreciation to the Parliamentarians who participated in various discussions around this preliminary report and guidelines. Thanks, in particular to the President of the PAP, the Committee on Justice and Human Rights and the Secretariat led by Mr. Bonface Habana.

We thank all members of civil society who have been instrumental in this process including those representing children, older persons, persons with disabilities, including those representing persons with albinism, and human rights advocates who also participated. We thank all governmental and inter-governmental bodies and mechanisms for participating in the consultation process.

We wish to acknowledge the research and drafting support of the United Nations Independent Expert on the enjoyment of human rights by persons with albinism, Ms. Ikponwosa Ero, legal researcher, Michael Gyan Nyarko, from the Centre for Human Rights (CHR) at the University of Pretoria.

Also from CHR, we express profound gratitude to Frans Viljoen, Innocentia Mgijima and Jehoshaphat Njau. We also appreciate the additional support from the International Human Rights Program at the University of Toronto especially Samer Muscati, Anne-Rachelle Boulanger, and India Annamanthadoo, Madeline Torrie, Nicole Thompson, and Chelsey Legge, for their contributions in writing these guidelines. We highly appreciate their willingness to give their time and expertise so generously.

We also wish to acknowledge Jolene Tautakitaki from the Office of the High Commissioner for Human Rights, Andrew Miti, Muluka Miti-Drummond, as well as the Independent Advocacy and Research Group working with the mandate of the Independent Expert on the enjoyment of human rights by persons with albinism, including for providing valuable inputs as well as the data and maps used in these guidelines.

Above all, we wish to express our deep gratitude and appreciation to the Open Society Foundations, Ford Foundation, Under the Same Sun and Lancaster University, for their financial support which have enabled the development of this report and preliminary guidelines.

KEY MESSAGES

- ◆ Harmful practices principally take many forms and are often linked to Female Genital Mutilation/Cutting (FGM/C) and early child marriage in the Africa region. However, harmful practices also include accusations of witchcraft and ritual attacks (HPAWR).
- ◆ HPAWR often include severe violation of human rights.
- ◆ The belief in witchcraft broadly speaking and African traditional healing practices are both not at issue in this preliminary report and guidelines.
- ◆ HPAWR are widespread across the continent.
- ◆ HPAWR have the most severe impact on children, women, older persons, persons with disabilities, and particularly persons with albinism.
- ◆ HPAWR leads to violations of the right to equality and non-discrimination, life, dignity, security, bodily integrity, liberty, freedom from exploitation and trafficking, freedom from torture, freedom of movement, health, education and work.
- ◆ Women are disproportionately affected by HPAWR.
- ◆ HPAWR persists due to dangerous misbeliefs, ignorance, poverty, greed, poor health education or lack thereof, and weak public infrastructure.
- ◆ Religious leaders, including of African traditional religions, play a significant role in either perpetuating or eradicating HPAWR.
- ◆ Governments must (or have a duty to) act to protect individuals from HPAWR.
- ◆ Parliamentarians can play a significant role in the elimination of HPAWR across Africa through the adoption and implementation of relevant laws and policy.

EXECUTIVE SUMMARY

Throughout the world, and particularly in Africa, thousands of people face harmful practices related to accusations of witchcraft or ritual attacks. Harmful practices can be seen as acts or omissions stemming from values and beliefs held by members of a community, often for generations, which cause harm to a specific group of people. Women, children, the elderly and persons with disabilities, including persons with albinism are the most impacted by harmful practices, including those stemming from accusations of witchcraft or ritual attacks. Such practices are degrading and violate the human rights of the persons impacted.

This report and guidelines have been developed by the Pan African Parliament (PAP) and the UN Independent Expert on the enjoyment of rights by persons with albinism (UNIE) for the purposes of developing strategies to counter harmful practices related to accusations of witchcraft and ritual attacks (HPAWR). Although primarily focused on Africa, the information contained herein is also applicable to other regions of the world. The report and guidelines examine issues around HPAWR using the lens of human rights, taking into account and addressing concerns related to competing rights of groups and individuals. They acknowledge that the belief in witchcraft related practices may constitute an exercise of the right to freedom of expression, belief, and religion, as well as an exercise of cultural rights. However, at the same time, they set out the violations of the right to health, life, dignity, equality, and non-discrimination, as well as other rights that are often violated in relation to HPAWR. They also acknowledge the tensions between accusations of witchcraft and principles related to freedom of expression. Consequently, they do not call for criminalization of belief in witchcraft or accusation of witchcraft, but for the criminalization of harmful conduct resulting from such accusations of witchcraft and ritual attacks associated with witchcraft. They are therefore developed in such a way as to ensure individual rights are balanced against obligations and address human rights laws related to this.

Part I provides a background to the report and guidelines, as well as its purpose. It explains the reason for adopting a human-rights-based approach and defines the key concepts associated with HPAWR. However, the report takes the position that, given the complexity of the term, it is not essential to define “witchcraft” for the purposes of this report. Rather the focus should be on the harmful practices, which result from accusations of witchcraft and ritual attacks.

Part II goes on to provide a better understanding of HPAWR, through contextualizing the problem, including its magnitude. It sets out the groups of people and individuals often affected by ritual attacks and accusations of witchcraft, as well as the consequences of

HPAWR on the rights of these groups and individuals. These include potential violations of the rights to equality and non-discrimination, to be free from torture, cruel, inhuman and degrading treatment, as well as exploitation. It further shows how HPAWR can lead to forced displacement and barriers to accessing health, education, employment and, in general, an adequate standard of living. In addition, the section explains how factors such as discrimination, poverty, ignorance, religious, and cultural influences contribute to the continuation of HPAWR.

Part III sets out the human rights framework for the protection of persons against HPAWR. These include treaties and other documents, such as the African Charter on Human and People's Rights; as well as relevant human rights bodies and mechanisms, like the African Commission on Human and Peoples' Rights, and the Special Rapporteur on the Rights of Women in Africa.

Part IV sets out the gaps in tackling HPAWR in most countries. It expounds on how the lack of adequate laws, poor oversight of traditional and faith healers, insufficient public education, awareness raising, social protection and rehabilitation programs, as well as other barriers to accessing justice lead to the inadequate protection of individuals and groups from such attacks.

Part V then goes on to look at the type of holistic approach required to bridge the gaps and ensure adequate protections from HPAWR. Broadly speaking, these include the need to ensure a coordinated response to the issue, to create an appropriate enabling environment, and to implement non-legal and community-based intervention.

The final section is the conclusion and preliminary guidelines. It provides recommendations to governments, civil society organisations and international organisations for tackling HPAWR and putting in place measures to ensure appropriate protection measures. Given the influence traditional and religious healers have in a community and on people's beliefs, the guidelines end with recommendations to traditional and religious leaders on the role they can play in ending HPAWR.



REPORT

I. INTRODUCTION

1. Background of this report and preliminary guidelines

Harmful practices and other human rights violations emanating from accusations of witchcraft and ritual attacks (HPAWR) significantly impact tens of thousands of persons across Africa, who are already vulnerable due to their age, gender, ethnicity, and disability among other contributory factors.

The Pan African Parliament (PAP), in a tripartite collaboration with the United Nations Independent Expert (UNIE) on the enjoyment of human rights by persons with albinism, Ms. Ikponwosa Ero, through her mandate, and the Centre for Human Rights at the University of Pretoria (CHR), have in their various capacities, highlighted the devastating effect of HPAWR across the continent. In 2017, in collaboration with several partners, [1] the UNIE organized a first-of-its-kind international expert workshop on witchcraft and human rights. [2] The outcomes of this workshop, together with findings from a survey into the root causes of attacks against persons with albinism, [3] would inform the work of the UNIE, CHR and the PAP.

On May 17th, 2019, the PAP adopted a resolution in which it committed to develop guidelines on harmful practices related to the manifestation of belief in witchcraft. [4] In the resolution, the PAP also noted its Memorandum of Understanding with the Centre for Human Rights (CHR) at the University of Pretoria in South Africa, an entity working in close collaboration with the UNIE, as well as the PAP's established professional relationship with the UNIE. Work began on the report and guidelines in June 2019.

2. Purpose of this preliminary report and guidelines

The purpose of this preliminary report and guidelines is to enhance current and future discourse of legal and non-legal frameworks to end HPAWR [5] and to drive change at national levels across the African continent to contribute to safe communities where all persons, regardless of status, are free of all forms of harm stemming from accusations of witchcraft and ritual attacks. To this end the preliminary report and guidelines (i) define the conceptual scope of HPAWR (ii) identify the human rights implications of HPAWR, (iii) reconcile competing rights in view of the most fundamental rights: to life and security

and (iv) provide in a preliminary way, based on existing human rights norms and best practices, measures to tackle HPAWR at the national level.

Specifically, this report and guidelines aim to:

- ◆ Define witchcraft and contextualize HPAWR in Africa.
- ◆ Illustrate the magnitude of practices and the negative outcomes for populations most vulnerable to HPAWR including children, women, older persons, and persons with disability, in particular persons with albinism;
- ◆ Highlight the legal framework within the African human rights system for combating HPAWR;
- ◆ Provide a reconciliation for competing rights which arise in the context of eliminating HPAWR;
- ◆ Highlight existing legal and non-legal measures adopted at the national level to prevent HPAWR, protect victims, and hold perpetrators to account.
- ◆ Provide recommendations based on existing human rights norms, and best-practices, to tackle HPAWR at the national level and address its root causes; and
- ◆ Elucidate the role of parliamentarians in combating HPAWR.

Although HPAWR was raised at the PAP in the context of persons with albinism, this preliminary report and guidelines address HPAWR holistically including all key groups vulnerable to HPAWR, including children, women, elderly persons, persons with disabilities, and, in particular, persons with albinism. [6]

3. Methodology

In August 2019, a progress briefing session was held at which the PAP gave input on a draft outline of the guidelines to the UNIE and the CHR. Additionally the PAP shared its concerns, as well as country and region-specific considerations. [7]

In the two months following the briefing session the UNIE and CHR conducted consultations with experts [8] in Benin, Ghana, Malawi, Mozambique, South Africa, Tanzania and Zimbabwe. These countries were selected to reflect linguistic and geographic diversity. Respondents consulted were selected for their expertise in the law of their jurisdiction, in human rights, and in issues surrounding harmful practices, particularly those related to belief in witchcraft. Respondents included government officials, police officers, civil society activists, academics, national human rights institutions and United Nations agencies.

Consultations took the form of semi-structured interviews using a questionnaire, as well as other modalities of consultation during the visit of the UNIE. Interlocutors were consulted individually or through focus groups.

This report and preliminary guidelines are based on data available on HPAWR in Africa, information acquired through the above-mentioned consultations, focus group discussions, desk research, consultations with international actors from the United Nations and the African Union as well as overarching input from the PAP. A draft was issued in September 2020 and disseminated to all previously mentioned consultants and interlocutors. The draft remained open for input until November 2020. Overall, nearly 200 stakeholders were consulted for this report; over two-thirds of these were from the Africa region. The others were from countries outside of Africa that have been affected HPAWR (see figures 1 to 3 of documented cases of disappearances, killings and survivors related to manifestation of belief in witchcraft under section II.1 below).

3.1 A human rights-based approach

The human rights-based approach [9] is employed in this report and preliminary guidelines, with particular focus on African regional and international human rights norms. This approach sets out standards of protection for all persons particularly groups most impacted by HPAWR including women, children, and persons with disabilities. In addition, it has a jurisprudence and history of dealing with particular forms of harmful practices such as Female Genital Mutilation/Cutting (FGM/C) and early child marriage. Given the competing values, entitlements and privileges at stake in the dialogue to end particular forms of harmful practices, including HPAWR, the human rights approach offers a framework for balancing the varied interests of multiple stakeholders in a manner that maximizes the protection of each one of those stakeholders, whether at the individual, community or national levels, with the view that the right to life and security are fundamental and paramount. The human rights approach also enshrines the corresponding duties of the State and their obligation to respect, protect and fulfil the rights of all persons, particularly the marginalized, who are the most vulnerable to human rights violations. States also have an obligation to promote conditions that are facilitative of human rights. Non-State actors also have moral, social and ethical duties to respect the human rights of others. All of these elements serve the varied complexities of HPAWR as further detailed below. Finally, the human rights approach is important in achieving the vision of human development cast by both the AU's strategic development framework (Agenda 2063) and the UN Sustainable Development Goals (Agenda 2030). [10]

4. Scope of this report and preliminary guidelines

This report and preliminary guidelines were commissioned in the context of a response to the attacks against persons with albinism, and other violations of their rights. However, in the research process, a broader approach was taken to include other groups that are also frequent targets of HPAWR such as children, women, elderly persons, and persons with disability in general.

No set of guidelines can fully address all aspects of HPAWR or all aspects of the relevant legal framework regionally and internationally. However, the set of guidelines proposed herein sets a foundation upon which States may, within their unique context and cultural considerations, deliberate, develop or enhance policy and laws to meet their regional and international obligations to protect all persons within their borders from harm. While concerns related to HPAWR may be relevant globally, these guidelines were developed specifically with the African context in mind. They are, however, still relevant in other geographical regions.

5. Witchcraft and Traditional Healers

5.1 Witchcraft

This terminology, “witchcraft” was introduced to the continent of Africa by European explorers, colonialists and missionaries in reference to an array of African indigenous beliefs and practices. [11] Therefore, in the African context both historically and contemporarily speaking, the term “witchcraft” is one for which a precise definition is not easily rendered. [12]

In the 1986 book *Knowledge, Belief and Witchcraft: Analytical Experiments in African Philosophy* the authors state “There is no reason to assume that witchcraft in Africa is the same as was witchcraft in Europe, any more than there is reason to assume that the English language concept witchcraft may serve as an accurate translation of its supposed African equivalents. Whatever is translated as being witchcraft in Africa[n] (or even in one place of Africa) may be a very different thing from whatever is elsewhere in the world and history”. [13]

That said, across the continent, more so in Africa, witchcraft remains relevant in representing a wide variety of beliefs and practices — many of which have evolved over time as a consequence of modernization and influences from Christianity, Islam, other religions, as well as socio-political factors. [14] It is therefore imperative in discourse on witchcraft, be it in Africa or elsewhere, to set a contextual definition within which the discourse is framed.

In this preliminary report and guidelines, therefore, '*witchcraft*' is used as an umbrella term encompassing a complex configuration of beliefs and associated practices [15] varying between countries, ethnic and religious groups, and individuals, but generally agreed, contextually, across the continent of Africa as involving the belief that a person, through utilizing a spirit medium is able to cause harm to, or change the fortunes of, others. [16] Oftentimes, practitioners of witchcraft in this context are referred to in the gendered forms of male and female as witches and wizards. This report will use the terms: witch and wizard, as practitioners of witchcraft as defined.

Neo-pagan practices, described as witchcraft, or practitioners, described as witches/wizard/wiccans, are re-emerging across the world with the most visible presence in Sub-Saharan Africa, found in South Africa. Indeed, certain beliefs and practices historically or contemporarily labelled as "witchcraft" can be, and have been, associated with empowerment, healing and cleansing. [17] In this context, witchcraft is understood mainly as a form of religion and which does not fall under the scope of this report and guidelines. Moreover, mere belief in witchcraft is not an issue in this preliminary report. It is for this reason that the report has specifically chosen to focus on harmful practices and not a wholesale rejection of witchcraft per se. Therefore, rights of persons to freedom of religion, belief, cultural identity and practices are acknowledged. However, HPAWR, should neither be overlooked nor justified on the grounds of the aforementioned rights. [18]

5.2 Traditional Healers

According to the World Health Organization (WHO), traditional medicine can be defined as "the sum total of the knowledge, skill, and practices based on the theories, beliefs, and experiences indigenous to different cultures, whether explicable or not, used in the maintenance of health as well as in the prevention, diagnosis, improvement or treatment of physical and mental illness". [19] Another definition is that it "refers to health practices, approaches, knowledge and beliefs incorporating plant, animal and mineral based medicines, spiritual therapies, manual techniques and exercises, applied singularly or in combination to treat, diagnose and prevent illnesses or maintain well-being". [20]

The spiritual context to traditional medicine in Africa, alluded to by several respondents during the field study, coupled with the general difficulty within the general populace to provide clear demarcations between a witchdoctor and traditional healer in most contexts, often means that practical definitions of these practitioners were often challenging to elicit in practice. That said, there were sufficient elements reported and clarity in certain theoretical contexts such as in South Africa which support the following definitions that guide this report and preliminary guidelines.

Traditional Healer: Broadly defined as an individual who practices traditional medicine as defined by the WHO. [21]

Witchdoctor: A person who uses spirit mediums to heal, provide protection from harm including those caused through supernatural means, and to identify witches/ wizards and persons who have been bewitched. Essentially this is an individual who is a practitioner of both witchcraft and traditional medicine and is often perceived to exercise witchcraft only for good of their client. However, the “good” can be relative because it could mean harm for others. The witchdoctor may also facilitate the attainment of material and immaterial, natural as well as supernatural goods for their clients through particular rituals. Witchdoctors may facilitate accusation of witchcraft on identified sources of their client’s woes. They are also themselves vulnerable to accusations of practicing witchcraft in contexts where the phenomenon is linked to particular negative outcomes in the community.

In certain African contexts, these two groups are clearly demarcated in indigenous languages such as in South Africa (*inyanga* for traditional healer and *sangoma* for witchdoctor). [22] However, in most cases, there is significant fluidity among them. For instance, in Malawi, Mozambique, Ghana, and Zimbabwe, it was stated that traditional healers at times incorporate witchcraft into their practice. [23] In other instances, witchdoctors intentionally describe themselves as traditional healers, either because they do not believe they are practicing witchcraft, or because they do not want to be associated with any negative connotation or existing stigma linked to the prevailing understanding of witchcraft. Without questioning the necessity or usefulness of traditional medicines or healers, care must be taken that no traditional or cultural practice results in the facilitation of HPAWR. [24]

“It is sometimes difficult to distinguish between traditional healers and witchdoctors. There are usually people who combine traditional healing and witchcraft practices. ... These are the majority.”

— respondent, Malawi

6. Harmful practices, accusations of witchcraft, and ritual attacks

Harmful practices emanating from accusations of witchcraft, and ritual attacks (HPAWR) hold significant implication for Africa. They often consist of serious violations of human rights and disproportionately affect already marginalized individuals and populations. In order to understand HPAWR within a human rights framework, and therefore move toward

its elimination, it is important to consider the various components making up and influencing the continued occurrence of HPAWR.

6.1. Harmful practices

'Harmful practices' is the operating phrase in HPAWR. For the purpose of this preliminary report and guidelines, harmful practices in the context of HPAWR are understood as acts or omissions primarily stemming from and including accusations of witchcraft and/or ritual attacks which deny a person of their dignity or integrity, and violate that person's human rights. [25]

A useful criteria for identifying harmful practices have been set out by the Committee on the Rights of the Child (CRC) and the Committee on the Elimination of Discrimination against Women (CEDAW) as per the extract below. [26, 27]

CRC-CEDAW four-point criteria for practices to be defined as harmful

- a. They constitute a denial of the dignity and/or integrity of the individual and a violation of human rights and fundamental freedoms enshrined in the two Conventions;
- b. They constitute discrimination against women or children and are harmful insofar as they result in negative consequences for them as individuals or groups, including physical, psychological, economic and social harm and/or violence and limitations on their capacity to participate fully in society or develop and reach their full potential;
- c. They are traditional, re-emerging or emerging practices that are prescribed and/or kept in place by social norms that perpetuate male dominance and inequality of women and children, based on sex, gender, age and other intersecting factors;
- d. They are imposed on women and children by family, community members, or society at large, regardless of whether the victim provides, or is able to provide, full, free and informed consent.

6.2. Accusations of witchcraft

It is important to note that a strict definition of "witchcraft" is not necessary for the objectives of the proposed guidelines. There is precedent for taking measures against human rights violations without defining certain complex core concepts with a closed list of elements. See for example, the UN Convention against Corruption (UNCAC) which does not define "corruption" but establishes a range of corrupt offences. [28]

Accusations of witchcraft, on the other hand, could be described as the imputation on a person or persons of malevolent use of witchcraft or supernatural knowledge and powers. Such accusations may result from the belief that the accused has caused or may potentially cause, harm to persons or property using supernatural powers they allegedly possess. Accusers often do not define “witchcraft” but the context often implies the foregoing elements. Consequently, the accused often faces significant to extreme stigmatization, discrimination, violence, and/or banishment. In addition, the accused is often forced into confession usually as an outcome of being subjected to torture. [29] Accusations of witchcraft have not been systematically reported and as such there are no reliable estimates of its quantitative breath. [30]

6.3. Ritual attacks

Ritual attacks manifest from the belief that recourse to the supernatural can increase fortune or power [31] through the form of violent acts or exploitation against specific individuals. These include forced mutilation, dismemberment, and forcible sex acts. In the practice of certain indigenous magic, referred to in some contexts [32] as ‘muthi’ in southern Africa or ‘juju’ in west Africa, there is belief among some that the efficacy of the charms, potions, and amulets involved is greatly enhanced when they are constituted with human tissue or fluid, particularly those of children and individuals with relatively rare characteristics such as persons with albinism. [33]

II. UNDERSTANDING HARMFUL PRACTICES OCCURING IN THE CONTEXT OF ACCUSATIONS OF WITCHCRAFT AND RITUAL ATTACKS

1. Magnitude of the problem

The prevalence of HPAWR is not well documented and incidences are generally believed to be underreported. [34] A recent preliminary study [35] found thousands of cases of HPAWR in Africa, based on reported cases alone. The same study showed that over a 10-year period spanning 2009 to 2019, several countries experienced between 300 and 1000 accusations of witchcraft and ritual attacks, some of which ended in killings (see Figures 1, 2, and 3), with the researchers acknowledging their findings as only scratching the surface of actual occurrences. [36]

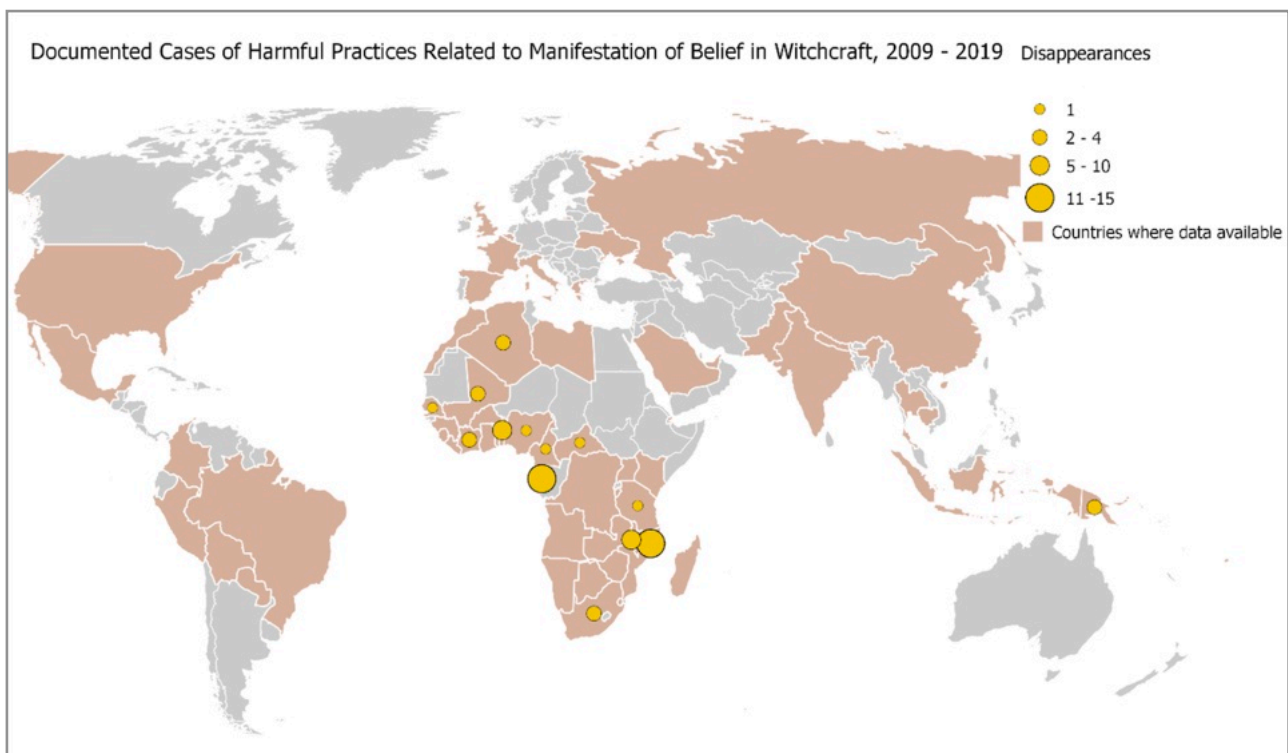


Figure 1: Documented cases of **disappearances** related to manifestation of belief in witchcraft, 2009–2019.

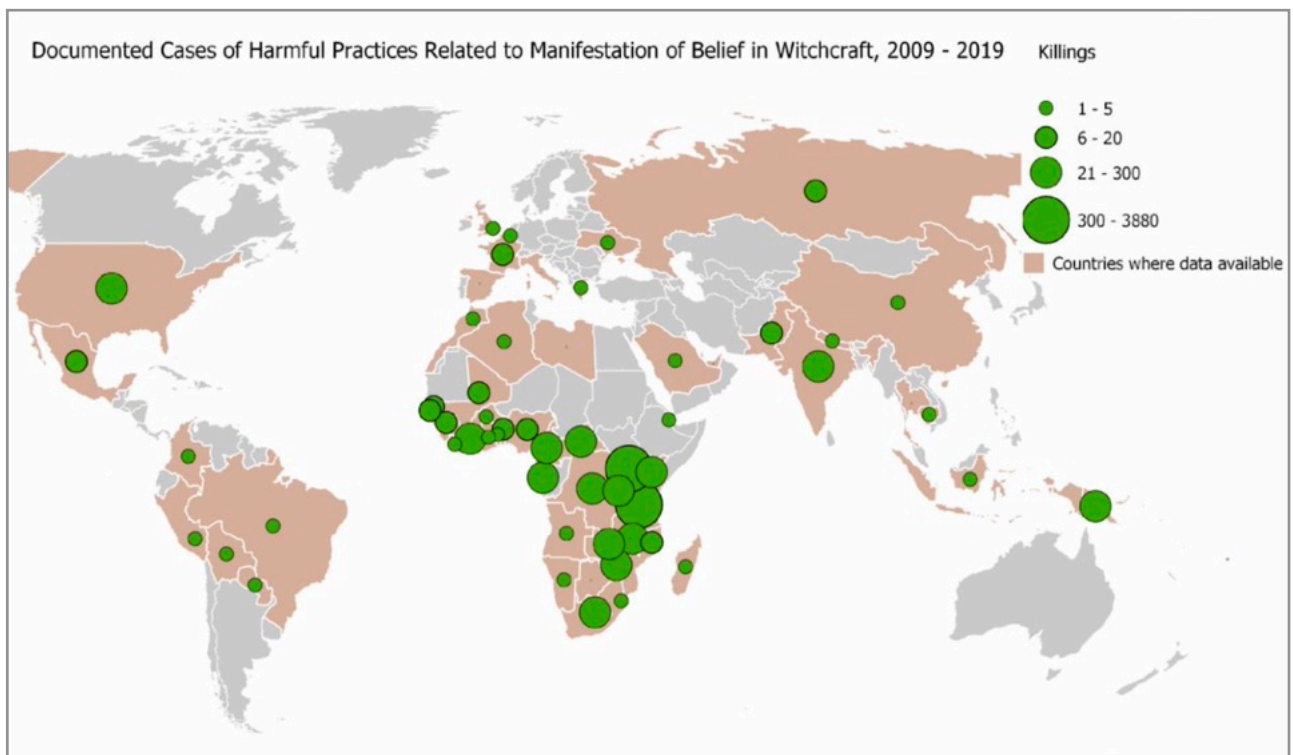


Figure 2: Documented cases of **killings** related to manifestation of belief in witchcraft, 2009–2019.

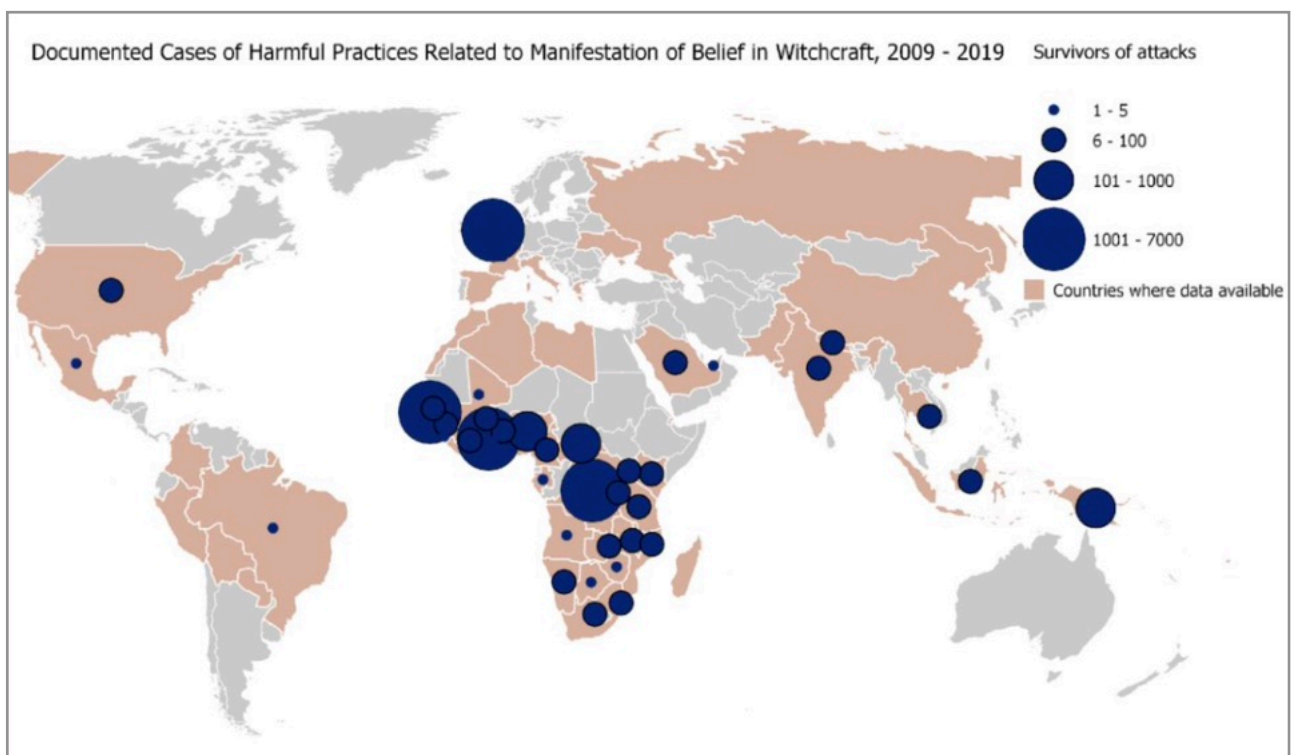


Figure 3: Documented cases of **survivors of attacks** related to manifestation of belief in witchcraft, 2009–2019.

2. Contextualizing accusation of witchcraft

From his work on witchcraft, in particular witch hunts in Africa, Wolfgang Behringer surmised:

"Unexpected hardship or bad luck, sudden and incurable diseases, all can be accounted to the actions of evil people, to magical forces... the diagnosis of witchcraft opens up the possibility of combating the causes of hardship" [37]

Accusations of witchcraft, and their associated harmful practices, have been prevalent throughout history [38] and according to Alston , are by no means a thing of the past. [39]

"In Shona, [Zimbabwe], ... if people know that you're not a witch, they see you as harmless. But if they know that you're a witch, they will run away from you."

— respondent, Zimbabwe

Today accusations of witchcraft are the most reported form of manifestation of belief in witchcraft. [40] Accusations of witchcraft continue to represent a key risk of harmful practices, more often than not, resulting in torture, banishment, abandonment and death of the accused. [41]

It is observed that accusations of witchcraft are often made during periods of misfortune, illness or death and are used as a means of interpreting that misfortune, apportioning blame and seeking redress. [42]

"There is suspicion that success must always be related to some witchcraft practices. This sometimes even leads to the victimization of successful people because their success is deemed not to be natural but as a result of witchcraft practices."

— Michael Simon Kaiyatsa, Centre for Human Rights and Rehabilitation

2.1. Accusations of witchcraft against the elderly

Across most of the African continent, the elderly, in particular elderly women, experience some of the highest rates of accusations of witchcraft. [43] More than 1,000 elderly women accused of being witches between 2004 and 2009, were reportedly banished to live in indecent conditions at 'witch camps' in northern Ghana. [44] In Tanzania, in that same five-year period, more than 2,585 elderly women were accused of witchcraft and killed. [45] In Burkina Faso, elderly women accused of taking part in or performing witchcraft are also

reportedly banished. [46] In Mozambique, these accusations are reportedly on the rise. [47]

2.2. Accusations of witchcraft against children

Accusations of witchcraft against children have also been increasing in recent years. [48] In the Democratic Republic of Congo, accusations of witchcraft against children have reportedly dramatically increased since 1990. [49]

Cimpric identifies three categories of children most vulnerable to accusation. [50] The first category of these encompasses thousands of children under the emerging phenomenon of urban “child witches”. Included in this group are single and/or double orphans; those with physical, sensory, or psychosocial impairments (Down Syndrome, autism, etc.) or other conditions deemed abnormal; children with particular health conditions such as epilepsy and tuberculosis; and even specially gifted children and those considered to be unusually stubborn, aggressive, withdrawn, thoughtful or lazy.

Children whose birth process is considered to be abnormal within community standards make up the second category and includes those born premature, those born in the face-up position, or with the posterior first or in any number of breech positions, and even twins. In some communities, twins are considered to be the result of the anger of the gods or a symbol of evil. [51]

The third group, though strictly speaking a subset within the first category on the basis of disability, is children with albinism or as they are referred to in some circles in Ghana “spirit children.” [52] They are drawn out as a category because of being targeted as a result of the belief that parts of their bodies host magic powers which, when used to make potions increases their potency. [53] It has been noted by the HRC that mothers to children with albinism are vulnerable to witchcraft accusation as giving birth to a child with albinism is considered a mark of involvement in witchcraft. [54]

2.3. Accusations of witchcraft against persons with disability

Africa has a long history of stigmatization of persons with disability. [55] Persons with disabilities, including persons with albinism, are not typically accused of witchcraft in a strict sense. [56] However, they are commonly believed to be a bad omen or a curse on their family or community. Moreover, being born with or acquiring a disability is often considered the result of the individual or

“A politician in [Malawi] was found in a graveyard looking for bones purportedly for witchcraft charms.”

— respondent, Malawi

member of their family's sin, violation of a taboo, or having aroused the jealousy of others. [57]

Although often thought of as victims of accusations of witchcraft, there are widespread beliefs that persons with disabilities are able to spread their "bad luck" on to others, both intentionally and unintentionally which in turn fuels their marginalization in a manner analogous to those accused of witchcraft. [58]

3. Contextualizing ritual attacks

Ritual attacks are fueled by the belief that the efficacy of charms and potions in bringing about wealth and good fortune is significantly enhanced when constituted with body parts (tissue and/or fluid) of person believed to have a highly-valued quality such as the innocence of children, or a relatively rare quality such as persons with albinism. [59]

Consultations carried out in Malawi and Ghana suggest that it is not uncommon in the region to find some politicians who apparently believe they can use so-called witchcraft charms to win elections or to obtain political power. [60] Consequently, attacks and grave desecrations, as another source of body parts, tend to be more commonly observed during political elections. The risk of attacks and grave desecrations is reportedly higher among certain professions such as farmers, fishermen and artisanal miners and ritual attacks and grave robberies are reportedly heightened during the harvesting season. [61] This is most likely due to widespread belief in some of these communities that witchcraft charms cause or prevent failed harvests or success in business. [62]

Ritual attacks against persons with albinism have been recorded in at least 28 African countries over the last decade. [63] In Tanzania, for instance, at least 30 individuals were reportedly murdered in the year 2008 alone. [64] Given that persons with albinism are a minority, quantitatively speaking, such figures are alarming. Similarly, Etieyibo & Omiegbe (2016) suggest that negative beliefs held in Nigeria regarding mental illness are a root cause of the killing of the mentally ill as part of ritual practices in certain segments of the country. [65] They further highlight that such ritual killings of persons with disabilities are often carried out to cleanse individuals or the community from evil allegedly carried out or drawn down by the presence of the person with disabilities.

"I cannot trace three persons with albinism personally known to me. This has become a worrisome development in the disability community."
— respondent, Zimbabwe

Trafficking of and black markets in body parts linked to ritual attacks and grave desecrations have reportedly developed at the regional, national, and international levels. [66] There are reports of individuals found in possession of limbs, skin, hair, sperm, or bones. [67] In some instances these body parts have not been successfully sold but found in the possession of perpetrators seeking a hard-to-find market at which to sell body parts. [68] This indicates that ritual attacks are both crimes of hate [69] and crimes of opportunity.

The rise of ritual attack against persons with albinism in particular is often attributed to its rapid spread from neighboring countries. This is the predominant narrative in Tanzania, Malawi, Mozambique and Zambia. [70] Southern and Eastern Africa appear to have experienced ritual attacks at a much higher rate than the rest of the

continent. [71] However, it is important to note that these sub-regions have experienced a relatively high number of interventions from international non-governmental organization with capacity to follow-up with cases of ritual attacks and other human rights violations against persons with albinism and report them in a systematic way. Therefore, sub-regional discrepancies could be a function of the presence/absence of monitoring bodies. In addition, the transferability of these harmful practices is not only an indication that it emerged exogenously but also an indication of the receiving country's mindset or attitudes which are permissive of such harmful practices. [72]

It is concerning to note that persons with disabilities, including those with albinism, and children are also the victim of ritual rape. [73] This is fueled by a widespread but erroneous belief that sexual intercourse with children in general and women with disabilities, particularly women and girls with albinism, can cure HIV or other sexually transmitted infections (STIs). [74] In fact, some self-described traditional healers prescribe sexual intercourse as a cure to these and other diseases. [75, 76]

4. Intersection with gender

Women disproportionately bear the suffering of HPAWR, often facing multiple and intersecting forms of discrimination. Accusation of witchcraft are particularly gendered. The accused are, "insubordinate wives, obstinate daughters-in-law, and elderly infertile women." [77] These women are considered no longer useful to society. They are

"There are ... reported instances of missing umbilical cords from hospitals and missing corpses from mortuaries. People buy body parts from mortuaries for witchcraft rituals."

— respondent, Malawi

abandoned, or banished, and fall into poverty. [78] Interestingly women do not only face the accusation of being witches but also of employing “witchcraft”. There is widespread belief that the birth of a child with albinism or other disability is the fault of the mother, and more specifically, a sign of her involvement in “witchcraft”. [79]

Intersecting discrimination takes place on the basis of two or more grounds which take place at the same time and are inseparable thus resulting in a greater disadvantage. [80] For example, elderly women face discrimination because of their age and because of their gender. Available data indicates that women are more often accused of being witches than their male counterparts. [81] For instance, in South Africa, while there are documented cases of witchcraft accusations against elderly women and men, the statistics suggest that elderly women are twice as likely to be accused as elderly men. [82] Consequently, women are also more likely to face the gender-based violence and exploitative relationships, unwanted pregnancies, and STIs. [83] Poverty and isolation exacerbate women’s vulnerability to attack. [84] It is for these reasons among others that the Special Rapporteur on Violence against Women has identified HPAWR as a form of violence against women. [85]

5. The consequences of HPAWR on the enjoyment of human rights

Persons accused of witchcraft, be it of being witches or employing the services of a witch, face a number of obstacles to the enjoyment of their rights and freedoms in society.

5.1. Stigma and exclusion

Stigma can be seen as a strong feeling of disgust which dehumanises, degrades, devalues and discredits people or a person. It is based on a particular circumstance, quality or characteristics of a person or group that distinguishes them from others, and that is perceived as inferior or abnormal. [86]

People accused of witchcraft, either alone or with their family members, often face significant stigma from their community. Sometimes the stigma is triggered or perpetrated by members of the family of the accused. Since alleged witches and wizards are believed to cause harm, the accused often faces societal exclusion, abandonment by loved ones, and/or banishment such as the case of elderly women banished into witch camps in Ghana. [87] Children of alleged witches and wizards are also reportedly abandoned by their parents who are unable to care for them for various reasons linked to the accusation of witchcraft they face. Other children are orphaned as a result of the death of their parents or caregivers due to accusations of witchcraft. [88] Mothers of children with albinism or other disabilities are divorced, [89] children with various disabilities are prohibited from customary or

hereditary rights to chieftaincy and other forms of inheritance, [90] and may even be refused burial in their communities. [91] For fear of ritual attack, many persons with albinism, particularly children, significantly limit their movement and avoid participating in community activities. [92] Children with albinism have also dropped out of school, [93] or are withdrawn by their parents for their protection. [94]

5.2. Torture, cruel, inhuman or degrading treatment

Persons accused of witchcraft may face various forms of cruel, inhuman and degrading treatment, which may amount to torture at times, including trials by ordeal, stoning, beating and burning. [95] The harm done to the accused sometimes extend to their family members. [96] For instance, in Malawi and Zimbabwe, suspected witches are forced to consume potentially poisonous fluids, with their survival considered determinative of whether they are witches. [97] In Ghana, the accused are subjected to severe physical pain, usually until they confess to being involved in witchcraft as a means to stop the pain and not to provide evidence for the allegation. [98] In Zimbabwe, suspected witches have nails hammered into their skulls, a practice believed to reverse any harm brought about by a witch or harm that a witch intended to cause. [99]

Ritual attacks may also constitute torture. [100] In many countries, there are reports of children born with disabilities, particularly albinism, who have been murdered and mutilated including by their parents and caregivers. [101] Oftentimes these attacks are carried out while the person with albinism is alive due to myth that body parts from a live person increases the potency of the charm to be produced. [102] While this practice has decreased due to various public education efforts, they are still reported in some countries and parents and caregivers continue to hide children with albinism. Children with other types of disabilities are also hidden away from the community for fear of general stigma, but also to protect them from violent exorcisms in search of healing linked to the purported actions of witches or wizards in the community. [103]

5.3. Forced displacement [104]

According to the UNHCR, “Accusations cause displacement through forced exile or the personal decision to flee from the threat of harm.” [105]

In some cases, displacement is the very objective of the accusers, [106] as many believe that physical proximity of an alleged witch to the community facilitates the alleged witch’s ability to cause them harm. [107] In other instances, displacement is motivated by the intent to disinherit the accused. Accused are thus chased away, or banished, from their homes and communities, [108] consequently leaving others to enjoy the benefits of any

inheritance due to the accused. As reported in Ghana, children also face displacement when they follow their mothers or grandmothers to witch camps to assist them with basic living. [109]

In other cases, individuals run away from their communities out of fear of being attacked, that is, being subjected to ritual attacks [110] For instance, in Ghana, there are reports of parents, after giving birth to a child with albinism, moving away for their own safety as well as that of the child. [111]

Persons with albinism, in particular, live in fear because of the discrimination and attacks they face, or have witnessed. [112] They often do not report attacks because of fear of reprisals. [113] As one respondent explained, “everyone who has an opportunity of relocating will do so when they hear of a report of an attack.” [114] Accordingly, there are reports of persons with albinism moving from rural to urban centers, since urban centers are sometimes believed to be more secure. [115] There are also reports of persons with albinism seeking asylum in other countries within and outside of Africa. [116]

“The perpetuation of harmful myths and attacks against persons with albinism, puts them in a condition of perpetual fear and total lack of self-confidence.”

— focus group participant in Ghana

5.4. Exploitation

As earlier mentioned, accusations of witchcraft are sometimes a form of exploitation whereby allegations are made to plunder the property of the accused or to disinherit them. Victims of ritual attacks are also exploited, especially when their body parts are forcibly taken and sold. This could range from the routine cutting, sale or use of the hair of a person with albinism to the amputation of their limbs. [117] Similarly, children in general — with or without disability — have also been exploited in this manner for their body parts. Exploitation related to HPAWR has also been reported in the cases of women trafficked for sex and labour within and outside of Africa. Exploitation in this context may take the form of ritual oaths and other ritual acts believed to unleash curses on the woman and her family members, should she fail to comply to the demands of her trafficker. [118]

5.5. Barriers to access to health, education, employment and an adequate standard of living

These barriers follow from stigmatization, exclusion, violence, and displacement. [119] For instance, some of those accused of practicing witchcraft may be prevented from accessing schools and other public services due to stigma. They are also often forced to leave their homes, farms and livestock. [120] Similarly those whose children are at risk of ritual attacks such as mothers of children with albinism often have to restrict their economic activity such as working only in broad day light or taking their children everywhere, all of which negatively impacts their income generating opportunities. [121] Those impacted by HPAWR in general often live in poverty and in a state of dependency on family members. [122] Poverty and dependency in turn increases vulnerability to future HPAWR and other human rights violations. Fear of attacks as well as banishment far away from school means that actual and potential victims of HPAWR, particularly children, face barriers to access education and adequate healthcare.

6. Why HPAWR persists

6.1. Discrimination

Discrimination has been defined as, “any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.” [123]

“Difference is usually seen as something strange and unnatural.”

— focus group,
Mozambique

As previously stated, HPAWR facilitates the exclusion of unwanted individuals out of their communities and is therefore fueled, at least in part, by long-standing stigma and discrimination. For instance, the stigma and therefore discrimination associated with albinism often leads to families rejecting their members with albinism. In this context, the perceived liability of the person with albinism to the family heightens the risk of the person with albinism being sold or murdered. [124]

In many countries, there is little understanding and sensitization in relation to human diversity. Diversity — including gender, age, health conditions, and disability, including relatively rare forms like albinism, are often looked at with suspicion. [125]

Women, particularly the elderly, the poor, those with dementia, those with distinguishing physical features such as red eyes, or those with property, are most vulnerable to accusations of witchcraft. As earlier mentioned, when a child considered to be “abnormal” is born, it is sometimes considered a result of witchcraft, and both mother and child are abandoned. [126] Similarly, living beyond the average life expectancy of a community could also be attributed to witchcraft, and persons within this category are vulnerable to banishment. [127]

“People believe that persons with albinism belong to the river god and, therefore, have powers to make things magically happen. Others also believe that because persons with albinism belong to the river god, and that their body parts have the potency to be used in witchcraft charms.”

— focus group, Ghana

Discriminatory myths and beliefs enable attacks, for instance against persons with albinism. [128] Myths facilitate attacks by dehumanizing persons with albinism. They are subject to derogatory remarks and name-calling, including “deal” or “money walking.” [129] These names in themselves place a target on persons with albinism, because they are a direct reference to the myth that their body parts can yield riches in the context of muthi/juju, and also in the trafficking of their person and their body parts.

Some believe that if they touch something previously touched by a person with albinism they will also somehow become a person with albinism. [130] This explains the observance in Mozambique (though not exclusively) of children at school refusing to eat food offered to them, once they are aware it was prepared by a persons with albinism. [131]

Across the continent, children born with albinism are considered ghosts. [132] In Mozambique, Zimbabwe and Ghana, it is believed that persons with albinism do not die but rather simply vanish. [133] Consequently, in some places, it is believed that persons with albinism can be attacked because no one will look for them when they disappear. [134]

These discriminatory beliefs have become so widespread that they are rarely questioned. They are further perpetuated by sensational reporting in both mainstream and fake news. Consequently, individuals are prepared to harass and abuse suspected witches once an accusation is made, without investigating the accusation first. [135]

6.2. Ignorance

Lack of information and awareness fuels the harmful myths that perpetuate HPAWR. [136] It is argued that in some countries education systems are inadequate and efforts to dispel myths explaining various natural phenomena is generally lacking. [137] It is also noted that a lack of education on these matters often means that individuals and whole communities may resort to supernatural explanations for natural phenomena for which there are often established scientific explanations.” [138] However, universal basic education may not entirely prevent an individual or communities from choosing to perpetrate HPAWR. Widespread belief in the efficacy of HPAWR means that the potential to commit these harmful practices can be latent in an educated society, and can be triggered into action by

“A minister with a PhD was once found in a graveyard naked suspected to be performing witchcraft rituals.”

— respondent, Malawi

any societal crisis. In a study by the fact tank, PEW Research Center, a majority of respondents in Tanzania, Mali, Senegal and South Africa claimed that they believed that sacrifices to spirits or ancestors can protect them from bad things happening; [139] yet, a majority of Tanzanians including in the year of the study, reportedly complete primary school and are literate. [140] Therefore the issue may lie in the content and quality of education being imparted and its relationship to the prevention of HPAWR.

Across several African countries, there is limited knowledge and understanding — among victims and perpetrators alike — about the human rights perspective of HPAWR. There is often inadequate conception of the human rights at stake, and the corresponding responsibility of States and their citizens respectively. [141] “Witchcraft” in the way it is popularly understood, is not understood to be human rights issue, and people are not aware of the laws that exist to prohibit HPAWR. [142] This was reported as an issue not only within the society in general but also within civil society organizations. [143] Consequently, there is limited reporting on the issue, and few seek redress, leading to a climate of impunity. [144] This situation is also exacerbated in most cases by laws dating back to the colonial era which are often anachronistic, culturally insensitive, and out of touch with contemporary human rights standards.

“The average Ghanaian does not know that accusations of witchcraft and related attacks are violations of their constitutionally guaranteed rights, so they just ‘give it to God’.”

— respondent, Ghana

Finally, government officials, law enforcement officers, judges and prosecutors are often ignorant, or feign ignorance, about HPAWR and the rights of victims. [145] In Malawi, for instance, many law enforcement officials believe in witchcraft themselves. There are reports of police officers arresting persons accused of witchcraft, coercing or convincing them to plead guilty to crimes. [146]

6.3. Greed, poverty and desperation

HPAWR are often driven by promises of good fortune and wealth. [147] Endemic poverty, low standards of living, and urbanization have contributed to a desire to “get rich quick.” [148] In this context, accusations of witchcraft and ritual attacks are economic tools. [149]

In many cases, individuals living in poverty choose to, or are compelled by others or popular rumors, to commit HPAWR. [150] For instance, there are reports of poor families being convinced to sell their children with albinism for economic gain. There are also reports of witchdoctors exploiting socio-economic deprivation, through HPWAR. [151]

Accusations of witchcraft are often made to disinherit certain individuals and take their property. [152] A study found that elderly widows are particularly at risk of these accusations. [153] In some cases, these accusations are also made to lessen the economic burden of a dependent. In Ghana, for instance, accusations of witchcraft are used against older persons who are dependent on other family members, to lessen the burden of care including but not limited to food, clothing, shelter and health care. [154]

“Poverty makes it easy for people to believe in all sorts of myths that provides them with hopes that they can obtain some financial benefits from the supernatural.”

— respondent, Malawi

6.4. Public health

Limited public health services and public health education increase the prevalence of accusations of witchcraft and ritual attacks. [155] When there is an increase in the incidence of disease, for instance, the increase could be blamed on witchcraft. [156]

Conditions such as autism, HIV, Down syndrome, albinism and mental health issues such as dementia are routinely considered signs of witchcraft. [157] There are reports that even medical practitioners believe that mental health issues are caused by witchcraft. [158]

When individuals believe a disease or health issue is caused by witchcraft, they often prefer to resort to witch doctors, traditional healers or practitioners of traditional medicine for

treatment. [159] Given the fluidity amongst these practitioners, and the consequent difficulty in discerning legitimate practitioners from those who are not, resort to these practitioners often increases belief in HPAWR.

6.5. The rise of “Faith Healers”

The emergence of “Faith Healers”, who commercialize healing practices in their religion has propelled HPAWR. [160] Oftentimes, these are recognized as spiritual leaders in mainline religions such as Christianity (referred to as “Pastorpreneurs” in one study) [161] and in Islam. [162] Sometimes, healing practice of faith healers are strongly akin to that of witchdoctors and traditional healers and they often present themselves capable of cleansing people of witchcraft. [163] Often on television and through other media, they — the Christian variants in particular — promote and reinforce narratives around HPAWR, [164] using a blend of the colonial interpretation of witchcraft which is widely accepted across the continent, aspects of Pentecostalism, beliefs in magic and the occult.

Pastorpreneurs often enrich and empower themselves by promoting these beliefs, and charging a fee for exorcisms — many of them violent. Children are the most vulnerable to these practices. In Nigeria, for instance, a notorious church performs a yearly “deliverance from difficult witchcraft attacks” for a fee. The founder of the church is believed to have contributed to the torture and abandonment of thousands of Nigerian children accused of being witches. [165]

Pastorpreneurs are rarely accountable to any institution or person. For instance, they are reported to give concoctions without having to disclose the ingredients. These practices are usually done in secret, without any record, and therefore prone to various human rights violations and to impunity. [166]

Similarly, the advent of ‘prayer camps’ has led to an increase in HPAWR. In Ghana, for instance, individuals accused of practicing witchcraft, or believed to be cursed by witchcraft are sent to prayer camps for deliverance. There are reports that these individuals — many of whom have mental health issues — are shackled, tortured and subjected to inhumane treatment. [167]

“Beliefs in witchcraft are part of culture and cultures die hard.”

— respondent, Zimbabwe

6.6. The role of culture, religion, and traditional healers

Witchcraft beliefs are deeply ingrained in the cultural beliefs and institutions of many African societies — cutting across age, religion, economic, and social standing.

In a 2007 study, researchers found that both natural and supernatural explanations were used to explain the same phenomena. The study illustrated that even when individuals knew the scientific explanation for an event or occurrence, this explanation “co-existed” with the “witchcraft explanation.” [168] The study illustrated the important role played by culture in the perpetuation of witchcraft beliefs, some of which fuel HPAWR. Culture therefore equally offers an opportunity to address HPAWR through engagements between state and civil society organs and all custodians of traditional culture.

Religion and tradition play particularly valuable roles in shaping culture, and beliefs around witchcraft. Many religions and traditions have played a role in both the promotion and eradication of HPAWR. [169]

“No matter how widespread harmful practices may be, they can never amount to what can be looked at as a value system.”

— respondent, Zimbabwe

There continue to be reports, for instance, of purported traditional healers going into communities to conduct witch hunting exercises, to “cleanse” the community of misfortune. [170] In the Christian faith, scriptures relating to the evil deeds of witches and witchcraft are used to justify forced exorcisms. [171] The general practice of witch-labelling — which in effect are accusations of witchcraft by certain Christian preachers is seen to be on the rise by some. [172] These practices continue despite harmful practices or acts related to accusations of witchcraft at times being legally prohibited in national criminal legislation and child protection policies. [173]

States have an obligation to balance the conflict between the rights to religion with regards to HPAWR with the rights of the victims including the right to life, right to freedom from torture and other cruel, inhuman, or degrading treatment and punishment, and right to a fair trial. As one legal scholar explained:

“[Witchcraft] is used in traditional medicine. ... It’s an important source of cultural power. So, nobody wants to say, ‘Stop all of that.’ Instead, the objective is to end ‘horrible human rights abuses’ that stem from beliefs in witchcraft.” [174]

III. HUMAN RIGHTS FRAMEWORK TO PROTECT AND PROMOTE THE RIGHTS OF THOSE IMPACTED BY HPAWR

HPAWR is characterized by victims who often face multiple and intersecting discrimination. A human rights approach is therefore critical to understanding and mitigating HPAWR as its language of claims and responsibility empowers those impacted. The human rights framework bears relevant principles for the protection of victims, such as the interdependence and indivisibility of human rights, as well as the foundational principle of equality and non-discrimination.

Collectively, these principles, and in particular the universality of rights outweigh the rationale of “culture” often used to justify harmful practices and victimization. The human rights framework has a rich precedent and jurisprudence in the African regional and international legal systems. The regional human rights framework in Africa provides those impacted by HPAWR with normative and legal protection. The framework covers civil and political, as well as economic, social and cultural rights. These include: the right to equality and non-discrimination, including freedom from multiple and intersecting discrimination. [175] The framework also encompasses the rights to life, dignity, security of the person, liberty, the right to freedom from exploitation and trafficking, the right to freedom from torture or cruel, inhuman or degrading treatment, the right to freedom of movement, the right to participation, the right to an adequate standard of living, the right to health, the right to education, and the right to employment.

Discrimination lies at the center of HPAWR. Broadly, the human rights framework protects against discrimination, be it based on gender, age, health, disability or genetic difference, appearance, or ability; any or all of which contribute to HPAWR. HPWAR contributes to exclusion and displacement, which in turn limit access to health, education and employment. All of these elements are linked to the fundamental right to life, security of person, dignity and an adequate standard of living.

This section provides a selection of African human rights instruments, which when applied, individually and collectively, protect and promote the rights of those harmed by or at risk of HPAWR. In consideration of this human rights framework, States must focus on the immediate realization of fundamental rights such as the right to life and the need to take appropriate steps in the present, to the maximum of available resources, towards the progressive realization of socio-economic rights such as the right to health and housing. [176] A lack of resources cannot justify inaction or indefinite postponement of measures to implement these rights. States must demonstrate that they are making every effort within

their means to improve the enjoyment of economic, social and cultural rights, even when resources are scarce. [177]

1. The human rights framework in Africa

1.1. The African Charter on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights (African Charter), in force since 1986, lays a broad foundation for the protection and promotion of human rights in Africa. [178] It is monitored through the African Commission on Human and Peoples' Rights (African Commission), and enforced through the African Court on Human and Peoples' Rights. [179]

The African Charter recognizes the indivisibility of all rights: it recognizes all "generations" of rights, including civil and political rights, as well as economic, social and cultural rights. The African Commission has explained, "...there is no right in the African Charter that cannot be made effective." [180]

Specifically, the African Charter protects:

- ◆ *the right to non-discrimination* (Article 2);
- ◆ *the right to equality before the law and equal protection of the law* (Article 3);
- ◆ *the right to life and integrity of person* (Article 4);
- ◆ *the right to dignity and prohibition of all forms of exploitation, cruel, inhumane or degrading treatment or punishment* (Article 5);
- ◆ *the right to liberty and security of person* (Article 6);
- ◆ *the right to access to justice* (Article 7);
- ◆ *freedom of movement and residence* (Article 12);
- ◆ *the right to work* (Article 15);
- ◆ *the right to the best attainable physical and mental health* (Article 16);
- ◆ *the right to education* (Article 17); and
- ◆ *the right to protection of the family and of vulnerable groups* (Article 18).

The African Charter also imposes duties on both state parties and individuals. Specifically, it states, "*The enjoyment of rights and freedom also implies the performance of duties on the part of everyone*" (Preamble).

Article 1 describes the overarching duty of states: *"parties to the present Charter shall recognize the rights, duties and freedoms enshrined in the Charter and shall undertake to adopt legislative or other measures to give effect to them."* Chapter II of the Charter describes the duties of individuals, including duty towards family and society, the State and the international community (Article 27), and duty to respect others without discrimination, and to promote mutual respect and tolerance (Article 28).

Notably, the African Charter does not contain a derogation clause. That is, limitations on the rights and freedoms in the Charter cannot be justified under any emergency or special circumstance. [181] The *only* legitimate justification for a limitation is explained in Article 27: *"The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest."* In other words, limitations are only justified where the expression of a right interferes with the rights of others.

1.2. The women's rights framework


The African Charter allows State Parties to make special protocols to supplement its provisions (Article 66). Several protocols have been adopted to date, including the Protocol to the African Charter on the Rights of Women in Africa (Maputo Protocol), which came into effect in 2005, and expands the protections of the African Charter with respect to women. [182]

Like the African Charter, the Maputo Protocol protects civil and political rights, as well as economic, social, and cultural rights. Several provisions are also particularly noteworthy in the context of reducing HPAWR. For instance, the Maputo Protocol obliges state parties to *"prohibit and condemn all forms of harmful practices which negatively affect the human rights of women,"* to create awareness about harmful practices and to provide support to victims (Article 5).

Article 5 of the Maputo Protocol states:

States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognized international standards. States Parties shall take all necessary legislative and other measures to eliminate such practices, including:

- a. creation of public awareness in all sectors of society regarding harmful practices through information, formal and informal education and outreach programmes;

- 
- b. prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalization and para-medicalization of female genital mutilation and all other practices in order to eradicate them;
 - c. provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self-supporting;
 - d. protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.

In recognition of multiple and intersecting discrimination, Article 23 of the Maputo Protocol obliges state parties to ensure the protection of women with disabilities and to take measures to ensure their *"freedom from violence, including sexual abuse, discrimination based on disability, and the right to be treated with dignity."* Article 24 obliges state parties to protect poor women and women from marginalized groups and provide *"an environment suitable to their condition and their special physical, economic and social needs."*

The Protocol is in fact the first human rights treaty to explicitly refer to HIV/AIDS in the context of sexual and reproductive health rights. [183] Article 14 explains that the right to health for women, including sexual and reproductive rights, includes the right to be protected against STIs, including HIV/AIDS. [184]

1.3. The children's rights framework

The African Charter on the Rights and Welfare of the Child (Children's Charter) similarly supplements the protections in the African Charter with respect to children. In effect since 1999, the Children's Charter is monitored by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC). [185]

The Children's Charter sets out rights and defines universal principles and norms for the status of children — defined as individuals under the age of 18 years. Again, the Children's Charter protects civil and political, as well as economic, social, and cultural rights.

In addressing issues of particular concern to children, the Children's Charter promotes the best interest of the child as the primary consideration in all actions concerning children (Article 4.1). It outlines the right to parental care and protection (Article 19) and maintains that state parties give material assistance to parents for children's nutrition, health, education, clothing and housing, when necessary (Article 20).



Article 21 of the African Children's Charter states:

1. State Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular:
 - (a) those customs and practices prejudicial to the health or life of the child; and
 - (b) those customs and practices discriminatory to the child on the grounds of sex and other status.

The African Children's Protocol also requires state parties to eliminate harmful social and cultural practices affecting the welfare, dignity and normal growth and development of the child (Article 21). In the same vein, it requires state parties to take all measures to prevent the trafficking of children for any purpose and in any form, by any person, including parents of the child (Article 29).

1.4. The older person's rights framework

Adopted relatively recently in 2016, the Protocol to the African Charter on the Rights of Older Persons (Older Persons Protocol) protects the rights of persons over the age of 60 years. [186] The Protocol has not yet come into force, requiring ratification of at least 15 member states to do so. As of June 2020, of the 55 member states that had signed the Protocol, only Benin and the Kingdom of Lesotho had ratified. Nonetheless, the Protocol has the potential to expand protections for older persons, particularly regarding HPAWR. [187]

Article 2(2) of the Older Persons Protocol requires state parties to implement in their laws the 1991 United Nations Principles of Independence, Dignity, Self-fulfilment, Participation and Care of Older Persons (1991 Principles). [188] The 1991 Principles include, for instance, that older persons should live in dignity and security; they should be free from discrimination; they should have access to education and health; they should have access to an adequate standard of living and employment.

The Older Persons Protocol reiterates many of these principles as rights. It also obliges state parties to prohibit and criminalize harmful traditional practices which target older persons, and older women in particular (Article 8).



Article 9 of the Older Persons Protocol states:

State Parties shall:

1. Ensure the protection of the rights of Older Women from violence, sexual abuse and discrimination based on gender;

2. Put in place legislation and other measures that guarantee protection of Older Women against abuses related to property and land rights; and
3. Adopt appropriate legislation to protect the right of inheritance of Older Women.

In recognition of the particular vulnerability of Older Women, Article 9 places an obligation on states to protect women from violence and discrimination based on gender, as well as to protect older women's property and inheritance rights.

1.5. Persons with disabilities framework

The Protocol to the African Charter on the Rights of Persons with Disabilities (African Disability Protocol) was adopted in 2018. [189] Much like the Older Persons Protocol, it has not yet come into force, but has the potential to strengthen the protection and promotion of human rights of persons with disabilities in Africa. [190] The Africa Disability Protocol has sections on harmful practices and makes specific reference to persons with albinism in this regard in its preamble.

Once in force, the African Disability Protocol will also protect many of the rights contained in the United Nations Convention on the Rights of Persons with Disability (UNCRPD). [191] The rights protected under the UNCRPD include, for instance, the right to non-discrimination (Article 5), access to justice (Article 13), education (Article 24), health (Article 25), employment, (Article 27), and participation (Article 29). [192]

Article 11 of the African Disability Protocol states:

1. State Parties shall take all appropriate measures and offer appropriate support and assistance to victims of harmful practices, including legal sanctions, educational and advocacy campaigns, to eliminate harmful practices perpetrated on persons with disabilities, including witchcraft, abandonment, concealment, ritual killings or the association of disability with omens.

Additionally, the Protocol includes an obligation for state parties to take action against harmful practices, including those related to witchcraft, ritual killings, and association with omens (Article 11(1)). The Protocol obliges states to ensure the survival and protection of children with disabilities (Article 28(4)(c)), and to ensure children are not trafficked for any purpose (Article 28(4)(e)). It further requires state parties to ensure that older persons with disabilities are protected from violence, including violence on the basis of accusations or perceptions of witchcraft (Article 30(2)(e)).

1.6. Regional Action Plan on Albinism in Africa

Although not a treaty, the Regional Action Plan on Albinism in Africa, needs to be mentioned as framework for responding to HPAWR. It was developed in 2017, under the leadership of the United Nations Independent Expert on the enjoyment of human rights by persons with albinism with inputs from various stakeholders including frontline organizations serving persons with albinism across the African continent. [193]

The Regional Action Plan (2017 to 2021) was developed in line with the 2030 Sustainable Development Goals (SDGs) as well as the International and African human rights frameworks. The Action Plan provides guidance and concrete measures on how states can prevent discrimination and violence against persons with albinism, protect them where there are risks of attacks, ensure accountability for violations of their rights and ensure equality and non-discrimination. In July 2019, the AU Commission officially adopted the Regional Action Plan on albinism as AU policy in its regional disability policy architecture. The timeframe of the Action Plan was also extended to 2030 in view of the timeframe of the SDGs.

2. Towards the implementation of the human rights framework

2.1. African Commission on Human and Peoples' Rights

The prevailing human rights framework is upheld by several human rights bodies. These bodies interpret the provisions of the instruments, monitor implementation, receive complaints, and advocate for the protection of rights. They are invaluable in ensuring protection against HPAWR.

The African Commission, for instance, monitors the implementation of the African Charter and its Protocols through the examination of periodic reports and communications submitted by state parties, individuals and non-governmental organizations alleging violations of the rights contained in the instruments.

The Commission is thus instrumental in holding states accountable to the human rights framework. States are required to report on the measures they have taken to combat harmful practices, including HPAWR, in accordance with the provisions of the various instruments. Additionally, the complaint mechanism provides an important avenue for recourse when redress is unavailable at the national level.

The Commission also interprets the provisions of the above instruments through general comments, resolutions and guidelines. [194] The decisions of the communications (or

cases) brought before the Commission are also important in clarifying the scope of the various rights instruments and providing a benchmark for development of national law.

2.1.1. Special Rapporteur on the Rights of Women in Africa

The African Commission has a number of mechanisms, which focus on particular thematic areas. In 1998, the Commission adopted a resolution to appoint a Special Rapporteur on the Rights of Women in Africa. Today, the Special Rapporteur serves as a focal point for the promotion and protection of the rights of women in Africa, assisting governments in development and implementation of measures to advance the rights of women in line with the Maputo Protocol and the African Charter. [195]

2.1.2. Older Persons and Disability

In 2007, the African Commission established the Working Group on the Rights of Older Persons and Persons with Disabilities (Working Group). The Working Group serves as a center for brainstorming and advocacy related to the right of older persons and persons with disabilities. The Working Group was, in fact, instrumental in spearheading efforts towards the drafting and adoption of the Older Persons Protocol and the Disability Protocol.

2.2. African Committee of Experts on the Rights and Welfare of the Child

In 2001, the Children's Charter established the African Committee of Experts on the Rights and Welfare of the Child (ACERWC). The Committee is mandated to promote and protect the rights stipulated in the Children's Charter. [196]

Similar to the African Commission, the ACERWC is mandated to monitor implementation and to interpret provisions of the Children's Charter. State parties are required to submit state reports to the Committee. Like the African Commission, the Committee includes a complaint mechanism. [197]

In 2016, the Committee issued a report following an investigative mission to Tanzania concerning the situation of children with albinism being held in holding centers, highlighted the harm to which the children were exposed, and provided guidance on measures to address these harms (ACERWC, 2016).

Additionally, in 2017 the Committee established the mandate of a Special Rapporteur on child marriage and other harmful practices. Going forward, the Special Rapporteur will serve as a focal point in initiating dialogue, research, strategies and advocacy related to harmful practices affecting children in Africa.

IV. GAPS RELATING TO HPAWR IN THE NATIONAL PROTECTION FRAMEWORKS

1. Criminalizing trafficking in persons and body parts

Across the continent, countries have adopted various measures which address different harms associated with accusations of witchcraft and ritual attacks. For instance, many countries have adopted anti-trafficking legislation, which criminalizes the trafficking of persons and body parts.

In some countries, this legislation is a response to trafficking in the context of medicine and pathology, and not a response to HPAWR, with the implication being that relevant sanctions are often insufficient in relation to the level of harm caused by HPAWR. The South African Human Tissue Act, for instance, only provides a maximum prison sentence of one-year for the unlawful possession of human tissue. [198]

New legislation or amendments have been introduced in some countries to address this gap. For instance, in Malawi, recent amendments to the Criminal Code and Anatomy Act criminalize unauthorized possession of human tissue, body parts or bones, ensuring appropriate penalties and that ritual attacks are seen as an aggravating factor in relation to such attacks. [199] The amendment also allows for greater penalties of up to 10 years imprisonment for those involved in HPAWR. [200]

2. Addressing the tarnishing of reputation and defamation of character

Accusations of witchcraft, even in the rare circumstances where they do not result in physical harm to an individual, may still tarnish the reputation of the person accused. In this regard it is important to mention the right to freedom of expression. According to human rights law everyone has the right to freedom of expression. [201] However, this right can be limited by law where it is necessary and proportionate for the achievement of a legitimate purpose. [202] Traditionally the protection of a person's reputation has been seen as a legitimate reason for limiting the right to freedom of expression. [203]

While this remains the case, the use of criminal sanctions, such as imprisonment for defamation (that is, untrue statements which tarnish another person's reputation) are not considered proportionate and international bodies have stated that they should not be used. Instead, civil sanctions should be used. [204] Consequently, even though falsely accusing a person of being a witch or employing witchcraft tarnishes their reputation, a law which results in the imprisonment of those who accuse others of being a witch would constitute a violation of international human rights laws.

This does not preclude offended parties from using civil courts in response to accusations of witchcraft. Such civil suits, if conducted appropriately, could potentially serve as a deterrent mechanism to individuals considering accusing another of being a witch.

3. Access to justice

In many countries, the harms associated with HPAWR are addressed in criminal codes and constitutions. However, these laws are often not implemented effectively such that they fall short in terms of protection and accountability in the face of HPAWR. [205]

Investigations and prosecutions of HPAWR rarely occur. At times, this is due to a lack of political will. Due to the widespread belief in witchcraft in many African societies, there is little empathy for victims of HPAWR. As explained above, it is not far-fetched that law enforcement officers and prosecutors hold beliefs that fuel HPAWR and would tend to hold a presumption of guilt against those accused of witchcraft or deal with certain reports of ritual attacks in a lax manner. [206]

Even when HPAWR crimes receive adequate attention from law enforcement agencies, constrained financial and human capacity limit proper procedures, investigation and ultimately redress for victims and their family members. Oftentimes, the poor quality of police investigations makes it impossible to sustain charges against perpetrators. [207] Additionally, long investigations and judicial processes deter individuals from following through with a prosecution. [208] In some instances, witnesses refuse to provide evidence for fear of reprisals from members of their family, the community or from the perpetrators of HPAWR.

Legal aid schemes do exist in most countries. However, these too are usually under-resourced, and officials are overworked. Victims thus often do not have access to legal aid to advise them on how to seek redress and navigate (the often lengthy) judicial processes. The issue is aggravated by the relative socio-economic vulnerability and dependence of those impacted by HPAWR on family members. The relation of dependency reduces reporting when perpetrators are known to the victim. Furthermore, legal aid schemes are rarely available for civil suits, such as would be needed in response to accusations of witchcraft resulting in the tarnishing of one's reputation without physical harm to the accused.

4. Public Education and sensitization

There is little evidence of sustained education and awareness raising by national governments on HPAWR. National awareness raising is often limited to occasional speeches during events such as those marking International Day of Persons with Disability (3 December) or International Albinism Awareness Day (13 June). Some civil society organizations engage in education and awareness-raising about HPAWR, however, a lack of capacity and resources, significantly limits their reach.

Most countries on the continent have established national human rights institutions which are mandated to promote and protect human rights. However, because these institutions are often not visible in their awareness raising for various reasons, those impacted by HPAWR do not usually approach them for redress.

5. Oversight of traditional and faith healers

Many countries in Africa regulate traditional medicine to some extent. However, as previously discussed, other forms of healing, including those known as “traditional healers” or “faith healers” particularly those that operate outside hierarchies with internal regulatory protocols remain largely unregulated by the State. [209]

For instance, the Traditional Medicine Practice Act of Ghana defines a ‘practitioner’ of traditional medicine as someone who “uses herbs and other natural products.” Those who fall under that definition must register with the Council and have their premises registered. Neither this Act, nor others contain definitions or requirements for faith healing. [210] The legislation in Zimbabwe is broadly similar with analogous limitations.

Tanzania, on the other hand, has a broader definition of traditional health practitioner, which can be seen as encompassing faith healers as well. In terms of the country’s Traditional and Alternative Medicines Act, a traditional health practitioner, means a person who is recognized by the community in which he lives as competent to provide health care by using plants, animal, mineral substances and other methods based on a social, cultural or religious background as well as on the knowledge, attitudes and beliefs that are prevalent in the community regarding physical, mental and social well-being and the cause of disease.” [211]

6. Social protection and rehabilitation of affected persons

There are limited or non-existent social safety nets throughout the continent. For instance, in Ghana, the Livelihoods Empowerment Against Poverty (LEAP) programme is a flagship social cash transfer that targets the vulnerable and extremely poor. [212] Eligibility in the program is based on poverty and having a household member in at least one of three categories: (i) a single parent caring for an orphaned or vulnerable child, (ii) elderly individual, or (iii) person unable to work due to extreme disability. [213]

The eligibility criteria in the system does include some of those who are vulnerable to HPAWR. However, even the most expansive programs are not specifically geared towards victims of HPAWR and their dependent, and as a result many affected do not have access to them.

Similarly, some governments allocate part of their budget to programming for persons with disability in an effort to address HPAWR. However, inefficient administration and lack of clear rules limit access to these programs. There are nonetheless encouraging examples,

such as in Kenya where, since 2013, the State has allocated a substantial annual budget towards specific measures for persons with albinism. [214] In Malawi, after a resurgence in harmful practices related to witchcraft and ritual attacks against persons with albinism, the government announced the allocation of funds to construct housing for persons with albinism, and to implement an action plan for the protection of persons with albinism from HPAWR. [215]

V. TOWARDS A HOLISTIC APPROACH TO COMBATTING HARMFUL PRACTICES RELATED TO ACCUSATIONS OF WITCHCRAFT AND RITUAL ATTACKS

The multifaceted nature of the HPAWR necessitates a holistic approach to combatting it. Cultural and regional sensitivity, involvement of stakeholders at all levels, legal and non-legal reforms are central to this approach.

The following sections set out specific interventions that can be taken to eradicate HPAWR. Section V.1 sets out guidelines on ensuring a coordinated overall response to HPAWR, while Sections V.2 and V.3 set out legal and non-legal interventions as well as community-based strategies, respectively.

The primary responsibility for development and implementation of a holistic response to HPAWR falls on governments and, more specifically, national parliamentarians. These actors are capable of curating an enabling environment for the eradication of HPAWR through legislation, policy frameworks, and community-based strategies. Parliamentarians can use their influence and status to ensure these injustices remain a political priority for their government.

However, a successful response cannot be achieved exclusively by national governments. A holistic HPAWR eradication strategy must engage civil society, traditional and faith leaders, including practitioners of traditional medicine, traditional healing, witchdoctors, academia, local governments, as well as intergovernmental organisations among others. These stakeholders must integrate relevant guidelines into their work in order to complement national governments' response. A HPAWR eradication strategy is more likely to succeed where there is buy-in from all of those proximately impacted by HPAWR as well as input from surviving victims.

1. Ensuring a coordinated response to HPAWR

An effective response to eradication of HPAWR requires coordination across many sectors given the multifaceted nature of the problem. Several methods of implementing a response are possible. National action plans, outlined in this section, provide the most immediate, flexible and comprehensive strategy of implementation.

Regardless of the methods or processes used, every implementation strategy must include considerations of resource allocation, oversight and monitoring, collaboration with civil society and regional/international partners, as well as data collection. [216]

1.1. Development of a national action plan

National action plans (NAPs) serve as important instruments in the implementation of a comprehensive response to HPAWR. NAPs provide a framework through which

governments can outline concrete objectives, establish timelines, assign responsibility to particular entities, and allocate budgetary resources. [217]

With the dual role of legislators and oversight institutions, national parliamentarians should encourage their governments to adopt NAPs on the eradication of HPAWR. The process of NAP development itself is an important tool in the response against HPAWR: it directs national attention to the issue, identifies stakeholders and allies to enlist, and helps delineate the issue into its contributing factors. Collaboration with relevant stakeholders, especially civil society, at this stage is critical in designing sustainable solutions. The final product must take into consideration the capabilities and capacities of the key players involved.

Best Practices: Papua New Guinea's National Action Plan

To date, very few national governments have developed a NAP on the eradication of HPAWR. One notable exception is Papua New Guinea's National Action Plan against Sorcery- and Witchcraft-related Violence, which was approved in 2015. The Action Plan sets out recommendations and concrete actions pertaining to five core areas: legal reforms and protection, health, advocacy and communications, care and counselling, and research. It also outlines the key players, time frames and human and financial resources necessary to implement these actions. The overarching focus of the Action Plan is strengthening partnerships between relevant stakeholders.

Note: The NAP of Papua New Guinea focusses solely on accusations of witchcraft (referred to as accusations of sorcery). It does not incorporate ritual attack because the latter is not reported in the country. Any NAPs that use this example as a benchmark should take this into account and incorporate ritual attacks as these have been widely reported in most African countries.

1.2. Allocation of financial and human resources

Effective implementation of any programme, policy, or action plan geared towards the eradication of HPAWR requires the allocation of sufficient financial and human resources.

Given that the allocation and approval of budgets for government programmes typically falls within the purview of the national parliament. Parliamentarians are responsible for ensuring that adequate resources are dedicated towards HPAWR eradication responses. Budgets must take into consideration disparities, for example, between gender and region, in order to avoid exacerbating inequalities.

In addition, parliamentarians should ensure that resource allocation towards HPAWR eradication efforts are integrated into the budgets of relevant ministries and departments, in areas such as health, justice, education, social services, education, women, youth, people with disabilities and older persons.

1.3. Oversight of state policies and institutions

Oversight of state organs and agencies tasked with implementation of legislation, policy, and programmes towards eradication of HPAWR is a key component of a coordinated response. This ensures ongoing assessment of the challenges, strengths, and resource efficiencies of the response. There are several ways oversight can be accomplished using existing mechanisms:

- A. National human rights institution's (NHRI's) reporting requirements: annual reports to national parliaments could include updates on the implementation progress of the HPAWR eradication response.
- B. Parliamentary question periods could be used to interrogate state officials and other relevant actors on the progress of activities related to HPAWR eradication.
- C. African Union state reporting process particularly at the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC), could be used as platforms to assess member states' progress in implementing relevant treaty and Protocol provisions which support the elimination of HPAWR.

1.4. Collaboration with civil society

Coordination between government and civil society efforts can enhance the effectiveness of an HPAWR eradication response. The ability of governments to steer high-level, long-term objectives is complementary to civil society's on-the-ground experience. Both macro- and micro-level strategies are required as part of a holistic response against HPAWR.

Many civil society organisations (CSOs) have developed mechanisms to raise awareness and change harmful narratives on the issue of HPAWR. Others have established means of providing direct services to victims, including legal aid, rehabilitation and psychosocial support, healthcare, and socio-economic assistance. CSOs should continue to work towards galvanising action against HPAWR through both national and transnational networks.

Governments should work synergistically with civil society to develop and implement HPAWR eradication responses that are responsive to the realities at the community level. Governments can promote collaboration with civil society by maintaining regular lines of communication with representatives of relevant CSOs; inviting CSO representatives to speak in parliamentary hearings or other events; allocating sufficient resources to CSOs; and by supporting CSO's awareness-raising activities through public endorsement or other means.

1.5. International, regional, and bilateral collaboration

As HPAWR is an issue that affects many countries across Africa, any effort to end HPAWR must involve international, regional, and bilateral collaboration.

Collaboration between states permits knowledge sharing regarding lessons learned and best practices related to eradicating HPAWR. Collaboration at this level also ensures that cross-border issues, such as trafficking in body parts, be it for witchcraft or other purposes, receives a joint response through intelligence sharing and law enforcement agencies cooperation. Specifically, transnational cooperation provides an opportunity for ‘the promotion of mutual administrative and judicial assistance to provide immediate protection and safeguard the rights of [persons] at risk, to fight impunity, and to establish extra-territorial jurisdiction over these practices’. [218]

1.6. Data collection and research of HPAWR

While HPAWR is prevalent across the continent, there is limited comprehensive and systematic data collection with regard to the root causes, impacts, and the number of persons affected by HPAWR. Data, especially disaggregated data, is central to evidence-based decision making. Without accurate data, it is challenging to design policies and programs that address the nuances of the issue at regional, national and sub-national levels. It is therefore important for governments to document, analyse, and disseminate up-to-date data on HPAWR. Collaboration with civil society could be helpful at this stage in encouraging their communities and networks to participate in data submission.

Relatedly, governments should, in collaboration with civil society and academia, conduct in-depth research on the root causes of HPAWR, and what strategies and interventions are successful in combatting it, in order to refine prevention and protection measures. This research must be undertaken with sensitivity towards the specific sociocultural context that gives rise to beliefs fuelling accusations of witchcraft and ritual attacks.

2. Creating an enabling legal environment to combat HPAWR

The creation of an enabling legal environment is central to a sustainable response to combatting HPAWR. This can be done through the adoption of international and regional instruments, and criminal justice reform. The legitimizing and deterrent function of law can, in turn, influence societal attitudes and behaviours regarding HPAWR.

2.1. Ratification and implementation of international and regional instruments

2.1.1. Ratification

The ratification of international and regional human rights instruments that provide protection, indirectly or directly, against HPAWR is central to any eradication strategy.

Ratification of such instruments sends a strong message of a government's commitment to the cause and acts a focal point for national awareness of HPAWR.

Parliamentarians are generally responsible for the ratification and subsequent implementation of these instruments. In particular, parliamentarians should ensure that their state ratifies regional instruments such as the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa, the African Disability Rights Protocol, and the Older Persons Protocol. Additionally, the African Union and its organs should encourage member states to ratify these instruments.

2.1.2 Implementation

Subsequent to ratification, parliamentarians must ensure that treaties are adopted in national legislation and implemented into domestic law. This may entail the development of new legislation and/or harmonization of existing national laws, policies and programmes with international and regional human rights obligations.

There are several methods of domestic transformation of international and regional instruments, including:

- ◆ Incorporation of the literal text of the treaty into domestic legislation
- ◆ Incorporation of the substance of the treaty into domestic legislation
- ◆ Legislation designed to give effect to a class of ratified treaties without direct transformation into domestic legislation.

Governments should ensure that information about domestic implementation of treaties is widely disseminated, including to the judiciary. Dissemination to the judiciary is especially important in common law jurisdictions, so as to ensure that forthcoming jurisprudence is in conformity with these newly implemented obligations.

2.2. Criminal Justice Responses

2.2.1 Criminalization of HPAWR

The criminalisation of ritual attacks is an important mechanism in preventing and addressing the issue. Criminalisation acts as a deterrent and shapes societal norms on morality on the issue.

However, the lack of consensus on a clear definition of "witchcraft" poses a large hurdle to criminalisation efforts. There is a risk of inconsistent and arbitrary judicial decisions without objective factors by which to define a criminal act. In addition, the criminalisation of witchcraft has the potential to reinforce the social stigmatisation of those accused and may lead to the 'legitimation' of the killing of those accused by vigilantes. [219] To eliminate

such a risk, legislators should ensure that the law criminalises criminal aspects of HPAWR putting aside the need to prove “witchcraft”. This approach would protect victims, providing them with remedy, and would present less of a limit on the fundamental right to freedom of belief, religion and expression.

In addition, mere belief in witchcraft or related rituals should not be criminalised. However, any exploitation, killing of, or attacks to, persons for the use of body parts in rituals, including the preparation of muti/juju, should be prosecuted. To do so, states should ensure that legal provisions criminalise a broad range of attacks and assaults, including committing or causing attacks to persons or property, forced displacement (banishment), forced confessions, and forced exorcisms of persons alleged to be witches. This is especially important given that the targets of these types of attacks are often the most vulnerable members of society, including older persons (particularly older women), children, and persons with disabilities.

Furthermore, states should comprehensively criminalise the possession of, and trafficking in, body parts covering all forms of human body parts and tissue, organs and non-organs, including hair, nails and bones. Other practices such as uttering threats of witchcraft-related harm should be criminalised. In some instances, these measures may not require any new legislation, but rather education of police, prosecutors and judges about the importance of using, and adequately interpreting, existing laws in such contexts.

Best Practices: Malawi

In Malawi, recent amendments to the Criminal Code and Anatomy Act criminalizes possession of human tissue, body parts or bones without authorization and provide enhanced sentences for unlawful possession of human tissue and body parts.

States should further avoid the criminalisation of the mere accusation of witchcraft as this may amount to criminal defamation. As discussed above, international and African human rights bodies have stated that criminal defamation violates the right to freedom of expression and should be dealt with by civil, rather than criminal courts. [220]

Where evidence substantially supports the proposition that an attack or other harmful or criminal act was motivated by an accusation of witchcraft or ritualistic motives, such as, but not limited to, the use of body parts in amulets and potions, this could be considered an aggravating factor leading to a more severe sentence, in order to deter such crimes.

States should ensure that their justice system criminalises committing or causing others to commit physical attacks to persons or property, forced displacement (banishment), forced-ritual oaths, forced confessions, and forced exorcisms of persons alleged to be witches. This is especially important given that the targets of these types of attacks are often the most vulnerable members of society, including older persons (particularly older women), women in general, children, and persons with disabilities including persons with albinism.

In addition, given that most countries in the continent have a dual legal system, with formal courts running alongside customary courts, it is essential that actions to improve criminal justice responses also target customary, traditional and other similar courts and tribunals. Chiefs, headmen and others who act as judges in such courts must be made aware of international human rights obligations and their duty to respect these in the determination of disputes brought before them.

2.2.2. Ensuring colonial era witchcraft laws are in line with human rights

Several states in Africa currently have in place, legislation inherited from the colonial era to tackle issues of witchcraft. [221]

There are four main legislative approaches to dealing with witchcraft:

Those that recognize the existence of witchcraft and focus on protecting society from the harm caused by witchcraft:

1. Legislation criminalizing the practice of witchcraft.
2. Use of traditional fora, such as traditional or customary courts, with their own processes and evidence requirements which may operate alongside or in place of the formal court system.

Those that do not recognize the existence of witchcraft and focus on protecting those accused of witchcraft:

3. Legislation aimed at eliminating the belief in witchcraft and criminalizing practices that target those accused of witchcraft.
4. Prosecution of acts of persecution and violence against those accused of witchcraft under existing criminal or civil legislation, for example laws on assault, murder, theft of property or defamation.

— extract from Sleaf (2011).

Article 251 of the Penal Code of Cameroon, Article 205 of the Criminal Code of 1981 of Ivory Coast, Article 234 of the Criminal Code of 1965 of Senegal, for example, all criminalise the practice of witchcraft which leads to, or is likely to lead to, disturbance of public peace, or

result in harm to property or persons. These Codes as with those found in other former French colonies do not criminalise accusations of witchcraft. It should also be noted that the practice of witchcraft is not criminalised per se, only those acts within witchcraft seen to potentially lead to individual and societal harm.

According to Sleaf (2011), a conviction under Article 205 of the Criminal Code of Senegal (and by extension similar Codes in the region), can be reached even when no actual harm has been caused, merely that the practice of witchcraft is likely to cause harm. Since a supernatural act cannot be proven by legal standards, the absence of a definition of witchcraft further removes the requirement to prove that the practice in question is witchcraft or that it has resulted in actual harm but merely that the action could have caused harm. Consequently, those accused of practicing witchcraft can be convicted without having caused harm to anyone. Such laws are contrary to the principle of legal certainty which requires laws to be formulated in a precise manner which enable individuals to regulate their behaviour accordingly. [222]

In contrast, the South African Witchcraft Suppression Act 3 of 1957 is premised on the non existence of witchcraft and as such criminalises broadly a number of practices in relation to the pretence of witchcraft including witchcraft accusations, claiming or pretending to practice witchcraft, employing of a witchdoctor, witch-finder or any other person to accuse someone of being a wizard (or witch), advising people on how to, or claiming to have knowledge on how to, bewitch, injure or damage any person or thing; supplying people with any pretended means of witchcraft; and the use, or causing the use, of any means or process which, in accordance with advice given or their own belief is likely to injure or damage persons or property. [223] These characteristics are commonplace in British colonial era law and resemblances are noted in the Acts of Malawi, Tanzania, Kenya, and Zambia among other states.

Attempts to legislate witchcraft are clearly complex. On the one hand human rights principles call for the acknowledgement, in the case of those who profess belief (not manifestation) in witchcraft, of their right to enjoyment of cultural life; freedom of belief, thought, conscience and religion; freedom of opinion, expression, and information; and their freedom of association and peaceful assembly. On this premise, to outlaw witchcraft in its entirety is a violation of their human rights equivalent to outlawing christianity, islam, hinduism and an array of traditional spiritual beliefs. Law makers are not granted the luxury of merely outlawing beliefs and practices purely on the grounds that they personally do not hold those beliefs or merely on the possibility that such beliefs could lead to harmful practices.

On the other hand, for those suspected or accused of practicing witchcraft and face, or are at risk of facing HPAWR, due acknowledgement must be given to their right to life; right to a fair trial; right to freedom from torture and other cruel, inhuman, or degrading treatment or punishment; and right to freedom from arbitrary arrest and detention.

Within this context African governments must move towards updating colonial-era laws that punish those who believe in or practice witchcraft. Persons who profess belief in or practice witchcraft should not be punished with criminal sanctions for freely exercising these rights where there is no manifestation of harm or harmful practices.

2.2.3. Ensuring access to justice

In order for criminal justice reform to be effective, these measures must be implemented with an intent to promoting access to justice.

Best Practices: Repeal of the Sorcery Act in Papua New Guinea

In 2013, the Parliament of Papua New Guinea repealed the Sorcery Act (1971) which criminalised “evil practices of sorcery”. The repeal of the Sorcery Act resulted from a nationwide consultation and review by the Constitutional Law Reform Commission. The Commission identified many challenges with the Act, including difficulty of enforcement. The Commission also identified that the Act did not adequately address violence perpetrated against persons accused of sorcery. Subsequently, in 2014, new legislation was enacted which criminalises killings related to sorcery accusations.

Various steps are involved in prosecuting criminal acts related to HPAWR. A case begins with reporting of an alleged criminal act, followed by investigation by local law enforcement, and then court action. Each of these stages is subject to procedural requirements set by domestic law. Governments must work towards making each stage of the process as accessible as possible, in order for potential complainants and victims to fully benefit from criminalisation efforts.

Reform in law enforcement and judicial processes should target the following areas:

- a. Build the capacity of law enforcement and judicial officers to understand the issues at stake and their role in ensuring access to justice for victims of HPAWR.
- b. Remove systemic obstacles (for example, complex judicial processes and financial burdens) which can prevent victims from seeking redress. Judicial processes should be simplified to ensure that victims are not deterred from reporting because of complexity of the legal system.
- c. Law enforcement and judicial processes should cater to the security and wellbeing of victims through the provision of legal and psychosocial support, as well as victim and witness protection.

- d. Rehabilitation and reparations for victims and their families should be prioritised. The criminal justice system should not only focus on the prosecution of offenders but equally on the wellbeing and rehabilitation of victims and their families. To that end, judicial remedies should be awarded with the goal of reparation commensurate to the harm committed.
- e. Community policing systems which are conducive to trust-building between the police and the community should be promoted. Trust is critical in providing a safe environment for victims to report attacks. A well-functioning community policing network also serves as an important base for intelligence collection and proactive protection for those at risk.

3. Non-Legal and Community-Based Interventions

The entrenchment of HPAWR in cultures and societies across the continent means that HPAWR cannot be tackled through legal interventions alone. States should develop non-legal interventions which target positive change at the community level. This includes education and sensitisation, engagement with religious and traditional leaders, as well as social protection and rehabilitation of affected persons.

3.1. Education and sensitization

3.1.1. General population

Beyond legislating against HPAWR and ensuring remedies for victims, a holistic response must also include sustained and comprehensive education and awareness-raising among the general population. Education should target societal views about harmful practices as well as the rights of victims.

Education and awareness-raising must target stereotypes, myths, and erroneous beliefs about aging, gender, albinism, disability and other genetic and health differences that perpetuate HPAWR against persons with these characteristics. Ideally, education about these issues should be integrated into the school curriculum starting from primary schools, as well as into community outreach programmes, including radio programming to promote a widespread understanding and acceptance of differences.

In addition, governments should disseminate information about healthcare and disease control, as well as natural disasters (droughts, famines, flooding, etc.). Many accusations of witchcraft are based on incorrect perceptions of medical issues and natural disasters. For example, accusations of witchcraft against older persons are often predicated on an erroneous understanding of symptoms of age-related health conditions, including dementia. Awareness-raising within communities about the causes of these phenomena would contribute to bridge the information gap that leads people to resort to supernatural explanations for these natural occurrences.

Efforts must also be taken to educate the general population on the rights of those impacted by HPAWR including the right to equality and non-discrimination, the rights to life, dignity, access to justice and other relevant rights. Rights must be framed in accessible terms, with reference to concrete ways of realizing them within the state's legal environment. School curriculum should include information on human rights-based approaches to these issues.

Content should include the use of vernacular language and relatable terms, in order to increase accessibility. Other methods of communication in this regard include popular cinema such as Nollywood, social media, mobile phone technology, community radio broadcast, theatre, celebrity ambassadors, rural cinema and television programmes.

3.1.2. Primary healthcare providers

Primary healthcare providers should receive training on how best to support new mothers (and their partners) of children with disabilities, including albinism and other traits that render them susceptible to HPAWR. This is crucial to preventing new mothers and families from resorting to HPAWR against their children and protecting their children from external threats of HPAWR.

Healthcare providers should also provide education to individuals and their families about common age-related conditions, such as dementia, to dispel myths that these symptoms are indicative of witchery.

3.1.3. Media engagement

Governments should engage with the media as part of their holistic response to HPAWR eradication. Media — traditional, social and entertainment — often has a significant impact on societal perceptions surrounding HPAWR.

The media could be a conduit for spreading dangerous myths and stereotypes. For instance, the media's portrayal of older persons and persons with disabilities as individuals who embody, or are prone to possession by evil spirits reinforces erroneous beliefs and leads to increased stigmatization. Sensational reporting of HPAWR-related stories has similar impacts.

On the other hand, the media can be a valuable collaborator to educate the public and raise awareness about the negative impacts of HPAWR. The media can be used as a platform of positive stories about aging, disability, albinism and other differences to increase tolerance and sensitisation. Media outlets could also publish stories showcasing the impact of HPAWR on the lives of victims and their families. The role of the government should be to harness the positive potential of media through, for example, providing journalism grants for research in this area.

3.1.4. Eradicating stigma through visibility

Governments should adopt affirmative action policies to ensure that persons with disabilities are appointed to positions of authority and influence in both the public and private sectors. The invisibility of persons with disabilities in public spaces and positions of authority contributes to stigmatisation and poor self-esteem, which leads to a cycle of abuse, obscurity and poverty. This, in turn, increases their susceptibility to HPAWR. Increasing the visibility of persons with disability in the work force would serve to empower persons with disabilities while contributing to unravel the misconceptions upon which HPAWR toward this group is predicated.

Best Practices: Affirmative Action Programs

In Kenya, Tanzania, South African and Zimbabwe, affirmative action has been utilized to increase the employment of person with disabilities. Kenya, Malawi, South Africa and Tanzania have appointed persons with albinism into high level positions in government and public institutions to increase visibility, and as a measure to eradicate ritual attacks against them.

3.2. Engagement with religious and traditional healers

3.2.1. Regulating traditional medicine

The difficulty of distinguishing within traditional medicine, traditional healers, witchdoctors, and an array of individuals presenting by any other name and claiming to be in the practice plays a central role in the perpetuation of HPAWR. Regulation of traditional medicine practice is therefore an important component of a holistic strategy to end HPAWR.

The right of persons to practice or use traditional medicine must be respected in view of their cultural rights and right to health among other rights. As such regulation should not be intended to limit the exercise of these rights beyond what is necessary to guard against those who use the belief in, and practice of these crafts in harmful practices.

At the very least, states should set minimum requirements for all practitioners of healing including traditional medicine, which impose sanctions for non-compliance and establish remedies for persons negatively affected by non-compliance. These standards must conform to established human rights norms, while still upholding the fundamental principles of availability, accessibility, acceptability and quality of health goods and services. Such standards must also explicitly prohibit HPAWR, including rituals which one could reasonably foresee as having potential of leading to HPAWR.

A government-monitored registration and licensing procedure for traditional healers is another possible oversight strategy that states can adopt. This would allow governments to enforce their minimum standards, as practitioners would be required to abide by these requirements in order to receive and maintain a licence. Effective implementation of such a strategy requires a monitoring mechanism with broad reach, including in rural, remote and border areas where both accusations of witchcraft and trafficking of body parts is known to occur.

Any efforts to regulate the practice of traditional medicine must be clearly communicated to practitioners and should be developed with their input. Practitioners are positioned to provide governments with clarity on the impact or potential impact of regulation on their practice and assess the feasibility of achieving full compliance.

3.2.2. Collaboration between governments, traditional and religious healers and traditional leaders

Collaboration between governments, traditional and religious healers as well as traditional leaders has the potential to induce a significant positive impact on eradicating HPAWR. Governments have much to benefit from working with these stakeholders given their unique influence in the community.

Traditional medicine practitioners must begin by ensuring that their own practice does not promote or perpetrate HPAWR in any way. Relatedly, traditional leaders, acknowledged as the custodians of cultural identity and practices, can play an important role in the development of minimum professional standards, helping to distinguish, in partnership with traditional medicine practices wrongly associated with, and perpetrated in the name of, culture. This aspect would go a long way in aiding governments in the development of a regulatory framework for traditional medicine as outlined earlier.

Further, religious leaders across the various faiths practiced on the African continent, traditional leaders across the ethnic groupings of the continent, and traditional medicine practitioners stand out as pillars of their community, and have weighed in on various issues in the past. Their influence has been proven to contribute to the transformation of norms and the moral compass of society. By becoming champions for positive cultural practices they can guide community members away from HPAWR. Religious and traditional leaders can use their influence to advocate for community education on the negative impact of these practices and dispel beliefs or myths suggesting these practices are justified by religion, spirituality, or culture. Traditional leaders can also play a role in mediating accusations of witchcraft that do not involve violence and ensuring community cohesion and peaceful co-existence.

Best Practices: The Heart of the Matter Training

The International NGO, Stop Child Witch Accusations (SCWA) has outlined a particular model of training (The Heart of the Matter), which uses religious teachings to educate communities about the harm of child witch accusations, emphasizing the importance of children's rights. When this message is disseminated by religious leaders (or reputable religious organizations), it bolsters the argument that the prohibition of harmful practices is complementary to religious or cultural beliefs.

Governments should provide these stakeholders with the necessary resource support to succeed in these efforts, such as the provision of educational material and ongoing training.

3.3. Enhancing social protection and rehabilitation of affected persons

3.3.1. Economic empowerment

Given that poverty and economic dependence are risk factors of HPAWR, economic empowerment must be a central component of governments' strategy to eradicate HPAWR.

Poverty increases the risk of HPAWR in several ways. First, people in poverty generally lack adequate means to protect themselves against HPAWR; for example, a lack of access to secure housing leaves individuals particularly vulnerable to HPAWR. Families in poverty may also have to choose constant surveillance and protection for their children with disabilities (and others vulnerable to HPAWR) over going out to earn an income, or vice versa. Providing effective social security and welfare systems, such as subsidized housing and childcare, would relieve the economic burden on families and individuals with increased susceptibility to HPAWR.

Best Practices: Housing Support in Malawi

The government of Malawi provides housing subsidies for persons with albinism to ensure protection against ritual attacks and has recently announced allocation of budget to construct housing for persons with albinism.

Economic dependency of individuals, especially person with disabilities and older persons, on their family or caregivers can also increase the risk of HPAWR. Family members or

caregivers will sometimes manufacture opportunistic accusations of witchcraft in order to relieve themselves of the burden of their dependent or to misappropriate their dependent's property. Victims are less likely to seek redress where the act is perpetrated by a close relation. Governments should therefore develop effective social security schemes and alternative care systems for older persons and other victims of HPAWR, to enable them to remain economically independent. This strategy should also ensure that affected persons are able to seek redress against abuses committed, without fear of becoming impoverished or homeless.

In addition to prevention, economic empowerment is important for the rehabilitation of victims of HPAWR. Those accused of witchcraft are often banished from their communities, without access to any support structures. Similarly, victims of ritual attack, targeted for their immutable condition, may be deterred from accessing school, work or other community resources out of fear of a recurring attack. Without intervention, affected persons remain in a cycle of poverty, which, in turn, increases susceptibility to subsequent attacks. Thus, governments should ensure that economic support and opportunities are presented to affected individuals in the aftermath of an attack.

3.3.2. Mandatory birth registration

Governments should implement a mandatory birth registration system while still accommodating the right of women to opt for a home birth. This would allow relevant state authorities to monitor the safety and well-being of children with disabilities, including albinism, and provide social assistance where needed. Monitoring is particularly important given the risk of infanticide and the many myths that promote harmful practices against persons with disabilities; for instance, the myth that persons with albinism do not die but simply disappear, enables perpetrators to conceal the ritual murder of a persons with albinism.

A birth registration system would also provide the infrastructure for tracking disaggregated data about persons with disabilities including albinism or other conditions that render them susceptible to HPAWR. This is critical to developing effective policy and law concerning HPAWR eradication.

VI. CONCLUSIONS AND PRELIMINARY GUIDELINES

HPAWR is a multifaceted issue which requires a multifaceted response. An effective response to HPAWR must be coordinated across sectors and must involve legal as well as non-legal interventions. Governments must engage with all relevant stakeholders, including civil society, traditional medicine practitioners, traditional and religious leaders, academia, neighbouring states, and intergovernmental organisations, in the development and implementation of responses to HPAWR eradication.

In implementing HPAWR eradication measures, governments must balance eradication efforts with the need to respect and preserve the beliefs, expression and cultural heritage of their people. However, the expression of cultural, religious and spiritual beliefs is not a limitless right — it can only be exercised within reasonable bounds, respecting the individual rights and liberties of others, especially the right to life. Governments must perform an ongoing assessment of this balance throughout the development and implementation of a response towards ending HPAWR.

The Pan-African Parliament puts forward the following Guidelines...



GUIDELINES

Accordingly, the Pan-African Parliament recommends that National Governments:

a. Ensure a coordinated response to HPAWR and to that end:

- i. Use human rights approaches, principles and related forums such as the Sustainable Development Goals' voluntary review processes to continually collect, analyse and disseminate data and research findings on the root causes, impacts, and the number of persons affected by HPAWR, in order to improve evidence-based decision making and carry out continuous monitoring and evaluation of strategies adopted. (Guideline V.1.6);
- ii. Develop and implement national action plans or another multi-sectoral strategy to outline concrete time-bound measures, assign responsibility to particular entities, and allocate budgetary resources towards ending HPAWR (Guideline V.1.1);
- iii. Ensure that adequate financial and human resources are allocated towards any programme, policy, or action plan focused on HPAWR eradication, in a manner that is regionally- and gender-sensitive (Guideline V.1.2);
- iv. Oversee the progress of state organs and agencies tasked with the implementation of relevant legislation, policy or programmes using existing oversight mechanisms (Guideline V.1.3);
- v. Work synergistically with civil society to develop and implement HPAWR eradication responses that are responsive to the realities at the community level (Guideline V.1.4);
- vi. Collaborate with other states at an international, regional, and bilateral level to exchange best practices and lessons learned, as well as to address cross-border issues, including trafficking in body parts for witchcraft purposes (Guideline V.1.5).

b. Create an enabling legal environment to end HPAWR and to that end:

- i. Ratify and implement relevant sub-regional, regional and international instruments, including the African Charter on the Rights and Welfare of the Child, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, African Disability Rights Protocol, and the Older Persons Protocol (Guideline V.2.1);
- ii. Criminalise a broad range of attacks and assaults that are characteristic of ritual attacks, as well as criminalize the possession and trafficking of body parts, human tissue, hair, bones or nails (Guideline V.2.2.1);

- iii. Criminalise harmful practices related to accusations of witchcraft, including committing or causing to be committed physical attacks to person and property, forced displacement (banishment), forced confessions, and forced exorcisms of persons alleged to be witches (Guideline V.2.2.1);
- iv. Update colonial-era laws that punish those who merely believe in or practice witchcraft to bring them in line with international human rights laws, including the right to freedom of thought, conscience and religion, freedom of expression and cultural rights (Guideline V.2.2.2);
- v. Ensure that all stages of the legal and judicial processes are as accessible and transparent as possible, in order for potential complainants and victims to fully benefit from criminalisation efforts, including through ensuring appropriate and accessible legal aid schemes for those affected by HPAWR (Guideline V.2.2.3);
- vi. Put in place appropriate awareness and capacity-building programmes to ensure that judges, lawyers, prosecutors and law enforcement officers have necessary skills to respond to cases of HPWAR (Guideline V. 2.2.3).

c. With respect to non-legal and community-based interventions:

- i. Develop a comprehensive education and awareness raising strategy, in collaboration with the media and civil society, targeted towards the general population that addresses erroneous beliefs that perpetuate HPAWR, and that highlights the human rights implications of HPAWR. Primary healthcare providers should also be provided training to support patients and their families vulnerable to HPAWR (Guidelines V.3.1);
- ii. Adopt affirmative action employment programs for persons with disabilities and ensure reasonable accommodation, in order to increase visibility of persons with disabilities and combat negative stereotypes (Guideline V.3.1.4);
- iii. Regulate traditional medicine by establishing minimum requirements for all practitioners of traditional medicine, which impose sanctions for non-compliance and establish remedies for persons negatively affected by non-compliance. These requirements should be created in collaboration with traditional health practitioners. In addition, governments should consider adopting a registration and licensing process (Guideline V.3.2.1);
- iv. Support traditional and religious leaders in using their position within the community to discourage HPAWR and become champions for positive cultural practices (Guideline V.3.2.2);
- v. Provide opportunities for economic empowerment — in the form of social security schemes, job opportunities, and alternative care systems — for those at

risk of or affected by HPAWR, in order to mitigate economic dependency and poverty (Guideline V.3.3.1);

- vi. Develop and implement legal, medical, psychological and socio-economic support programmes for victims of HPWAR, including those who have been forcibly displaced within and across borders (Guideline V.3.3);
- vii. Develop and implement a mandatory birth registration system, that is also cognisant of non-facility births and the right of persons to opt for such, which would allow monitoring of the well-being and safety of children with disabilities, in particular, due to their heightened risk to HPAWR, children with albinism (Guideline V.3.3.2).

The Pan-African Parliament recommends that Civil Society, including NHRIs:

- a. Collaborate with governments to develop and implement a National Action Plan or any other multi-sectoral strategy, providing community-level insights, actions, and feasibility assessments regarding the strategy in question (Guideline V.1.4);
- b. Continue to galvanise action against HPAWR through national and transnational networks (Guideline V.1.4);
- c. Support governments in the collection of data related to HPAWR through encouraging participation of community members. Relatedly, support governments in their in-depth research of the root causes of HPAWR in order to refine prevention and protection measures (Guideline V.1.6);
- d. Design and implement sustained and accessible awareness-raising campaigns to dispel myths related to HPAWR affecting the human rights of those affected (Guideline V.3.1.1);
- e. In addition, NHRIs should include in their reports, updates on the implementation progress of the National Action Plan or relevant multi-sectoral strategy (Guideline V.1.3).

The Pan-African Parliament recommends that the African Union and its organs:

- a. Continue to encourage member states to ratify and domesticate regional human rights treaties that support the continued HPAWR eradication effort, including the African Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the African Disability Rights Protocol, and the Older Persons Protocol (Guideline V.2.1.1);
- b. Utilise the state reporting process of the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare

of the Child, to assess member states' progress in implementing protocol or treaty provisions which support the elimination of HPAWR (Guideline V.1.3).

The Pan-African Parliament recommends that traditional and religious healers:

- a. Immediately cease all practices that perpetrate and/or condone HPAWR (Guideline V.3.2.2);
- b. Collaborate with government to develop minimum professional requirements for all traditional medicine practitioners by providing governments with insight on the impact of these standards on their practice and the community, and the feasibility of achieving full compliance (Guideline V.3.2.1 & V.3.2.2);
- c. Use their unique position of influence to deter HPAWR by educating their community on the negative impact of HPAWR and dispelling beliefs or myths that these practices are justified by religion, spirituality, or culture (Guideline V.3.2.2).

The Pan-African Parliament recommends that the International Community:

- a. Advocate for the victims of HPAWR, including persons with albinism, by taking all available opportunities (for example, through discussions or reports) to address HPAWR.
- b. Continue to clarify the international human rights framework relevant to HPAWR, particularly trafficking in body parts.
- c. Advance the discourse on witchcraft, generally and in relation to harmful practices, to increase understanding of the matter and to ultimately ensure the full realization of human rights by all victims, including persons with albinism.
- d. Provide technical and financial assistance to governments seeking to strengthen their efforts to eradicate HPAWR.



ABBREVIATIONS

ACERWC = African Committee of Experts on the Rights and Welfare of the Child

ACHPR = African Charter on Human and Peoples' Rights

African Commission = African Commission on Human and Peoples' Rights

African Disability Protocol = Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa

AIDS = Acquired ImmunoDeficiency Syndrome

AU = African Union

CEDAW = Committee on the Elimination of Discrimination against Women

CHR = Centre for Human Rights at the University of Pretoria

CRC = Committee on the Rights of the Child

CSO = Civil Society Organization

CWD = children with disability

HIV = Human Immunodeficiency Virus

HPAWR = Harmful Practices occurring in Accusations of Witchcraft and Ritual attacks

Maputo Protocol = Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa

NAP = National Action Plan

NGO = Non-Governmental Organization

NHRI = National Human Rights Institution

PAP = Pan-African Parliament

SDGs = Sustainable Development Goals

SRSg = Special Representative of the Secretary-General on Violence against Children

STI = Sexually transmitted infection

UDHR = Universal Declaration of Human Rights

UN = United Nations

UNCAC = United Nations Convention Against Corruption

UNCRPD = United Nations Convention on the Rights of Persons with Disabilities

UNHCR = United Nations High Commissioners on Refugees

UNICEF = United Nations International Children's Emergency Fund

UNIE = United Nations Independent Expert

WHO = World Health Organization

WHRIN = Witchcraft and Human Rights Information Network

END NOTES

- 1 Gary Foxcroft, Director of the Witchcraft and Human Rights Network; (WHRIN); Dr. Charlotte Baker, Lancaster University; as well as Special Representative of the Secretary General on Violence Against Children; the Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on the rights of persons with disabilities For further information see HRC. (2018). Report of the Independent Expert on the enjoyment of human rights by persons with albinism on the expert workshop on witchcraft and human rights, 37th Sess, A/HRC/37/57/Add.2. Human Rights Council.
- 2 See: HRC. (2018). Report of the Independent Expert on the enjoyment of human rights by persons with albinism on the expert workshop on witchcraft and human rights, 37th Sess, A/HRC/37/57/Add.2. Human Rights Council.
- 3 Preliminary survey on the root causes of attacks and discrimination against persons with albinism, Enjoyment of human rights by persons with albinism, A/71/255, 29 July 2016. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/241/46/PDF/N1624146.pdf?OpenElement> (accessed 23 February 2021).
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- 8 Thank you to all our liaisons during our field work. In particular thanks to Franck H. Hounsa, Newton Katseku, Bonface Massah, Aquinaldo Celio, Under the Same Sun, and Gwen Marange.
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- 11 Cimpric, Aleksandra (2010), *Children Accused of Witchcraft: An anthropological study of contemporary practices in Africa*, Dakar, UNICEF WCARO, pg. 7.
- 12 See the discussion on anthropological studies of witchcraft in Cimpric, Aleksandra (2010), *Children Accused of Witchcraft: An anthropological study of contemporary practices in Africa*, Dakar, UNICEF WCARO, pg. 8–11.
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- 14 Cimpric, Aleksandra (2010), *Children Accused of Witchcraft: An anthropological study of contemporary practices in Africa*, Dakar, UNICEF WCARO, pg. 6.
- 15 Concept Note & Preliminary Data in Support of Draft Resolution of the Human Rights Council on the Elimination of Harmful Practices Related to Manifestation of Belief in Witchcraft (September 2019). Data compiled with the support of the United Nations Independent Expert on the enjoyment of human rights by persons with albinism, Ikponwosa Ero, in partnership with the Witchcraft and Human Rights Information Network (Gary Foxcroft & Louise Meincke) & with the support of its member-organizations, Under the Same Sun, The National FGM Centre, UK (Leethen Bartholomew), Doughty Street Chambers, UK (Kirsty Brimelow, QC), Australia National University, (Miranda Forsyth) Divine Word University, Papua New Guinea, (Philip Gibbs), Lancaster University (Dr. Charlotte Baker), the Centre for Human Rights of the University of Pretoria and the International Human Rights Program of the University of Toronto, as well as Sam Spence of Bolton University. (accessed 23 February 2021). See also consultation with respondent from Ghana.
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- 18 HRC (2013). Special Rapporteur on freedom of religion or belief report on mission to Sierra Leone, A/HRC/25/Add.1, 23 December 2013, para. 42 and 58(d) and (e).
- 19 See Traditional, Complementary and Integrative Medicine on WHO website, https://www.who.int/health-topics/traditional-complementary-and-integrative-medicine#tab=tab_1 (accessed on 10 March 2021).
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- 21 WHO defines traditional medicine as, “the sum total of the knowledge, skill, and practices based on the theories, beliefs, and experiences indigenous to different cultures, whether explicable or not, used in the maintenance of health as well as in the prevention, diagnosis, improvement or

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- 222 Fair Trial Manual, 2nd Edition, POL 30/002/2014, Amnesty International, 2014, pg. 139; and Human Rights Committee, General comment No. 34 Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, 12 September 2011, para. 25.
- 223 South African Witchcraft Suppression Act 3 of 1957.

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