



Submission to OHCHR on human rights violations related to accusations of witchcraft and ritual attacks, as well as stigmatisation

Penal Reform International (PRI) welcomes the opportunity to input into the study by the Office of the High Commissioner for Human Rights on human rights violations and abuses rooted in harmful practices related to accusations of witchcraft and ritual attacks, as well as stigmatisation, as requested by Human Rights Council resolution 47/8. The information in this submission is based on PRI's work in criminal justice systems in Africa and collected through our Global Prison Trends programme.

Background

There has been an upward trend in the number of women in prison worldwide over the past decade, despite the adoption of the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) and increased acknowledgement of the need to reduce women's imprisonment in light of their specific needs and experiences in criminal justice systems. Many other groups in vulnerable or marginalised situations also continue to be overrepresented among populations in conflict with the law. As noted in PRI's *Global Prison Trends 2021* report¹, this rise is due in no small part to the continued criminalisation and increasing use of imprisonment in response to certain actions, beliefs, or behaviours particularly when conducted by women.

Socio-economic factors also play a significant role. Persons with weak social protection systems who are poor, excluded, or challenging the status quo, are most commonly the targets of discriminatory laws and practices, including those related to witchcraft and sorcery. Older women, women and girls with disabilities, orphaned children, and people with albinism are disproportionately targeted by related accusations. Although specific numbers are difficult to obtain, evidence suggests the numbers of accusations of witchcraft and related violence increase in times of greater economic hardship.² Allegations of witchcraft and ritual attacks against women, children and other groups in vulnerable or marginalised positions ought to be understood as a convergence of a multitude of cultural and societal factors.

¹ PRI, *Global Prison Trends 2021*, <https://www.penalreform.org/global-prison-trends-2021/>.

² ActionAid, *Condemned without trial: women and witchcraft in Ghana*, https://www.actionaid.org.uk/sites/default/files/doc_lib/ghana_report_single_pages.pdf.

Measures to ensure the elimination of harmful practices amounting to human rights violations related to accusations of witchcraft and ritual attacks

1. *Eliminating harmful practices amounting to human rights violations related to accusations of witchcraft and ritual attacks, as well as stigmatization*

When it comes to this topic, PRI's focus has been on West Africa, where witchcraft accusations and related harmful practices and stigmatisation are prevalent. Legislative approaches in the region fall in two broad categories: ones that criminalise witchcraft or sorcery and ones that criminalise harmful practices resulting from accusations of witchcraft or sorcery (i.e. working to protect those accused).

Due to ambiguity around the legal definition of witchcraft, states often rely on customary courts for prosecuting related cases, operating alongside or in place of the formal court system. The procedure in these traditional for a does not have sufficient procedural safeguards in place and is often unfair and arbitrary, with judges who are biased and a threshold for credible evidence that is low or non-existent. For example, trial by ordeal is a common means of determining the guilt of an accused witch in customary courts. Trials by ordeal can take many arbitrary forms, such as a suspected witch being forced to consume a harmful substance, with their reaction to the ordeal being used as a means to prove their guilt or innocence.³

In Malawi, under the Witchcraft Act of 1911 enacted under British colonial rule it is a criminal offense to:

1. accuse someone of witchcraft (unless through the relevant authority),
2. pretend that you practise witchcraft
3. claim to be a witch finder, direct, assist or be present at a trial by ordeal
4. use any charm with a view to committing an unlawful act

Violence related to witchcraft accusations can be prosecuted under other offences in the Criminal Code, such as murder, assault, etc. There is no provision under the Penal Code prohibiting accusing someone of being a witch

There are many problematic aspects of the legislative and practical treatment of witchcraft accusations. For example, the Act is based on the assumption that witchcraft does not exist, and therefore there is no definition for witchcraft and simultaneously no consistent means of proving or disproving a person is a witch once accused. Additionally, the law is at odds with Malawi's beliefs in witchcraft, making it unlikely that adherence will follow. Despite the Witchcraft Act prohibiting accusations of witchcraft, accusations and violence against alleged witches have increased, while convictions against accusers are extremely rare. There should be no convictions or imprisonment of witchcraft according to the Act, yet in 2009, at least 44 women were known to be detained on charges of practising witchcraft in Malawi.⁴ Similarly, researchers have determined trials by ordeal still occur, and deaths as a result of these trials also continue.⁵

³ Help Age International, *Using the law to tackle accusations of witchcraft: HelpAge International's position*, 2011.

⁴ Ibid.

⁵ Ibid.

2. *Ensuring that no one is deprived of the right to life, liberty or security of person because of religion or belief, and that no one is subjected to torture, arbitrary arrest or detention on the account of accusations of witchcraft and ritual attacks*

The consequences of the current country specific laws in place in west Africa is pervasive persecution of the most vulnerable people under the guise of accusations of witchcraft. Women and children thought to be witches often face psychological trauma, physical harm, social exclusion, impoverishment and banishment from their homes and communities. Often driven out of their communities due to violence and persecution, many women and children reside in “witch camps” that serve as de facto prisons, despite the accused never being given a trial, or the chance to appeal, but ultimately forced to live out a life sentence. The number of accusations of witchcraft has increased in recent years sometimes resulting in outbursts of violence and widespread disruption. Country specific laws that criminalise witchcraft or fail to protect those accused of witchcraft work to entrench larger existing societal inequalities related to socioeconomic standing, age, gender, and health.

Data collection

The lack of data is one of the core challenges in understanding and addressing human rights violations and abuses rooted in harmful practices related to accusations of witchcraft and ritual attacks, as well as stigmatisation across the globe. In 2021, most of the approximately 24 women in prison in Central African Republic have been accused of witchcraft (which attracts a prison sentence of five to ten years and a fine).⁶ According to the Independent Expert on the enjoyment of human rights by persons with albinism, cases of women and children being abused, mistreated, or executed due to accusations of witchcraft have been recorded, with thousands of alleged witches having been beaten or killed in several African countries over the past thirty years.⁷

Such accounts that witchcraft allegation practices are increasing and becoming more violent highlight the lack of data available as a fundamental issue. This gap in data makes reliable estimates of the number of incidents related to witchcraft accusations against women and children difficult to discern, as we are forced to rely on conservative assessments that likely understate the extent of the problem.

Challenges and opportunities

3. *Action that could be undertaken by existing mechanisms at the United Nations for the elimination of human rights violations related to accusations of witchcraft and ritual attacks, as well as stigmatization*

Although the global community is increasingly understanding harmful practices in response to witchcraft accusations and ritual attacks as human rights violations, there has been little examination and interrogation of the issue from the international community, including the United Nations, with local NGOs left with the burden of demanding attention and justice for the

⁶ PRI, *Global Prison Trends 2021*, p.11, <https://www.penalreform.org/global-prison-trends-2021/>.

⁷ *Report of the Independent Expert on the enjoyment of human rights by persons with albinism on the expert workshop on witchcraft and human rights*, 23 January 2018, A/HRC/37/57/Add.2, <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2F37%2F57%2FAdd.2&Language=E&DeviceType=Desktop&LangRequested=False>.

occurring practices and violations. The inadequate efforts by the international community arise partially from “the difficulty of defining ‘witches’ and ‘witchcraft’ across cultures”,⁸ which highlights a key need for a normative framework or formal mechanism to conceptualize, record, monitor and respond to human rights violations and harmful practices related to these issues across countries and regions.⁹

Penal Reform International briefing note

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⁸ Ibid.

⁹ Witchcraft and Human Rights Information Network (WHRIN), *Witchcraft Accusations and Persecution; Muti Murders and Human Sacrifice: Harmful Beliefs and Practices Behind a Global Crisis in Human Rights* <http://www.whrin.org/wp-content/uploads/2017/10/2017-UNREPORT-final.pdf>.