

# **NEW ISSUES IN REFUGEE RESEARCH**

**Research Paper No. 169**

## **Witchcraft allegations, refugee protection and human rights: a review of the evidence**

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January 2009



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ISSN 1020-7473

## Introduction

Accused witches have been executed by hanging, drowning and burning at the stake throughout history. The persecution of accused witches continues today in communities around the globe. Both men and women are at risk of accusation and over the past decade children are increasingly falling victim to such allegations. Startling accounts of torture, starvation, abandonment and death have been documented. Protection concerns can arise at home and in the context of forced displacement or voluntary migration. Witchcraft accusations, the associated risk of persecution, the cycle of displacement, and what this means for those in the refugee field are the focus of this paper.

Witchcraft beliefs vary among cultures, but the term will be generalized here to mean “harmful actions carried out by persons presumed to have access to supernatural powers.”<sup>1</sup> Belief in witchcraft shapes perceptions and provides an answer to ‘why me?’ when misfortune strikes. “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.”<sup>2</sup>

The validity of witchcraft beliefs is not at issue here. Development workers, human rights activists, and workers from governmental and non-governmental organizations must acknowledge that “witchcraft is real for those who believe in it” and that “it’s no use pretending [witchcraft beliefs] don’t exist or seeking some ground of neutrality” in a society where people believe in witches.<sup>3</sup> These beliefs are held by both the educated and uneducated, the wealthy and the poor, the old and the young in many societies.<sup>4</sup>

A belief in witchcraft is not necessarily problematic; “the actions taken in consequence of belief,” however, may violate human rights standards.<sup>5</sup> Witch hunts and persecutory movements can be understood as “the plans of action that evolve from demonologies.”<sup>6</sup> Thus, witchcraft allegations can profoundly impact those accused by subjecting them to harassment, violence, and even death. In many cases, “to be labelled a witch...is tantamount to being declared liable to be killed with impunity.”<sup>7</sup> Academic literature has tended to neglect the plight of those accused of witchcraft.<sup>8</sup>

This paper examines the link between witchcraft accusations and displacement. Accusations may cause displacement through forced exile or the personal decision to flee from the threat of harm.

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<sup>1</sup> Ashforth, Adam. *Reflections on Spiritual Insecurity in a Modern African City (Soweto)*, 41 *African Studies Review* 39 (Dec. 1998), at 64.

<sup>2</sup> Behringer, Wolfgang. *Witches and Witch-Hunts: A Global History*, Polity Press (2004), at 23.

<sup>3</sup> *Id.* at 44 and 51.

<sup>4</sup> Aguilar Molina, Javier. *The Invention of Child Witches in the Democratic Republic of Congo: Social cleansing, religious commerce and the difficulties of being a parent in an urban culture*, Save the Children (2006), at 9.

<sup>5</sup> ter Haar, Gerrie (ed). *Introduction: the Evil Called Witchcraft in Imagining Evil: Witchcraft Beliefs and Accusations in Contemporary Africa*, Africa World Press (2007), at 9.

<sup>6</sup> Schoeneman, Thomas. *The witch hunt as a culture change phenomenon*, 3 *Ethos* 529 (1975), at 343.

<sup>7</sup> ter Haar, *supra* note 5, at 18.

<sup>8</sup> *Id.* at 3

In contexts where witchcraft beliefs were held pre-flight, allegations may surface throughout the refugee cycle—during flight, while in a camp or urban refugee setting, during repatriation or once resettled: “Claims and counterclaims about the activities of witches and sorcerers tend to exist in the background of community affairs in the societies where such ideas are held. They flourish in the shadows, fed by gossip and rumour, and emerge into public debate or accusations only in times of specific tension.”<sup>9</sup>

In the course of the research undertaken for this paper, no evidence was found that communities adopted witchcraft beliefs subsequent to flight, although their beliefs may manifest differently in times of crisis. When a community believes itself to “be under the threat of physical or cultural extinction,” people tend “to rely more heavily on supernatural explanations.”<sup>10</sup> In fact, “in societies in which the belief in witchcraft is entrenched, accusations of witchcraft and witch-hunts will escalate if the community is under stress.”<sup>11</sup>

Civil war, political repression and other refugee-producing circumstances would assuredly create threats and stress that can exacerbate witchcraft allegations. In addition to individuals being targeted for allegedly practicing witchcraft, the issue may also arise in regards to “persons claiming insecurity and requesting assistance (often in the form of resettlement) because of alleged magic powers affecting them.”<sup>12</sup> This is addressed here only minimally, but may be encountered by refugee workers and asylum officers.

Some of the numerous explanations for witchcraft accusations will be introduced, before turning to the ways in which witchcraft accusations are a protection concern. Documented examples of persecution aimed at alleged witches in various countries will be provided before turning to particular risk groups: women, the elderly and children. Additionally, albinos in East Africa face persecution not because of alleged witchcraft activity, but because they are being killed for their body parts, which are thought to bring good luck. The connection between HIV/AIDS and witchcraft will then be addressed briefly.

This global overview will be followed by an investigation into the impact of witchcraft accusations in a displacement continuum: internally displaced people’s camps, refugee camps, during repatriation and reconstruction, and among resettled refugees. Next, the role of the government will be considered, from outlawing witchcraft accusations to prosecuting alleged witches in government courts. Witchcraft beliefs have also been utilized by rebel groups, in places such as Uganda, Liberia, and Angola.

This brings us to a discussion of the legal aspect of refugee protection based on claims of witchcraft accusations. The experiences of the UNHCR office in Kuala Lumpur and Canada’s Immigration and Refugee Board are noted, with brief reference to cases where individuals claim to be the victim of another’s witchcraft. Expert testimony given in two occult-related asylum

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<sup>9</sup> Stewart, Pamela J. and Andrew Strathern. *Witchcraft, Sorcery, Rumors, and Gossip*, Cambridge Press (2004), at 7.

<sup>10</sup> Harrell-Bond, Barbara. *Imposing Aid*, Oxford University Press (1986), available at [http://www.geog.sussex.ac.uk/scmr/imposing\\_aid/](http://www.geog.sussex.ac.uk/scmr/imposing_aid/) (last visited Dec. 13, 2008). Online version is without page numbers.

<sup>11</sup> Irish, Jenni. *Massacres, Muthi & Misery: Women and Political Violence*, 16 *Agenda* 5 (1993), at 8.

<sup>12</sup> Rasmussen, Mikael. *Email correspondence*, Associate Protection Officer at UNHCR Field Office Kitgum, Uganda (Nov. 2008).

cases in the United States will be noted. We then proceed to the relevant 1951 Refugee Convention grounds: religion and membership of a particular social group. In the majority of stories surveyed, individuals did not proclaim to be witches and only confess unwillingly. Thus, the persecution is typically based on beliefs that are imputed upon the accused. The role of non-state actors and gender protection are also mentioned. Some recommendations for organizations working with affected populations are provided in conclusion.

### **When accusations occur**

Witchcraft accusations have been explained as a consequence of rapid cultural or social change. Witch hunts are “at once reflective of and an agent of sociocultural change.”<sup>13</sup> Events like “ecological changes (i.e., climatic, floral, and faunal changes), natural cataclysms (epidemics, famine, catastrophic storms, floods, and earthquakes), wars, and internal conflicts (caused by economic, political and intellectual revivals and declines)” contribute to sociocultural distortion that leads to cultural disorganization.<sup>14</sup> At this stage, “‘witchcraft,’ ‘communist plots,’ and the like are viable (and sometimes the only) explanations of misfortune (especially in situations where traditional coping mechanisms have been lost or rendered ineffective).”<sup>15</sup> This succinctly illustrates how circumstances may lead refugees and displaced persons to rationalize their suffering by blaming others.

Feelings of envy, hatred, jealousy and fear frequently accompany witchcraft accusations, which have been interpreted as a “conscious or unconscious displacement of responsibility for a rupture in an interpersonal relationship.”<sup>16</sup> A number of other theories attempt to explain the circumstances that might lead to witchcraft accusations. Many are interrelated and include:

*Health, economic, cultural or political crises*<sup>17</sup>: Such crises can lead to “the collapse of community-based safety nets...During these critical periods of indeterminacy, when old and new forms of social organizations are in a state of flux, the anxieties generated by such moments are most likely to be translated into societal fears and suspicions.”<sup>18</sup> In the context of Angola and the Democratic Republic of the Congo, decades of war have led to the breakdown of family and social networks, contributing to the increase in witchcraft accusations against children.

*Economic disparity*: “The poor can be accused of jealousy-induced witchcraft, and the well-to-do can be accused of practising witchcraft to acquire wealth.”<sup>19</sup> Labour migration has been tied to the creation of inequality that can produce envy and resentment.<sup>20</sup> Additionally, “when migrants

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<sup>13</sup> Schoeneman, *supra* note 6, at 338 (author’s emphasis).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 342.

<sup>16</sup> Behringer, *supra* note 2, at 26. And Bever, Edward. *Witchcraft Fears and Psychosocial Factors in Disease*, 30 *Journal of Interdisciplinary History* 573 (Spring 2000), at 575.

<sup>17</sup> Behringer, *supra* note 2, at 209-10.

<sup>18</sup> Fisiy, Cyprian F. *Containing Occult Practices: Witchcraft Trials in Cameroon*, 41 *African Studies Review* 143 (Dec. 1998), at 158.

<sup>19</sup> Golooba-Mutebi, Frederick. *Witchcraft, Social Cohesion and Participation in a South African Village*, 36 *Development and Change* 937 (Sept. 2005), at 940.

<sup>20</sup> Niehaus, Isak. *Perversion of Power: Witchcraft and the Sexuality of Evil in the South African Lowveld*, 32 *Journal of Religion in Africa* 269 (Aug. 2002), at 273.

return to their villages there may be a clash of values, leading to strains and tensions that eventually result in suspicions and accusations of witchcraft.”<sup>21</sup>

*Displacing grievances against the state:* “Many witchcraft accusations between members of the face-to-face community are motivated by grievances that originate outside the community and...are aimed at the wrong sources.”<sup>22</sup> Accusing those near to them is an outlet for conflicts with more powerful outsiders. Refugees may find it easier to blame a neighbour than the forces that displaced them.

*Aimed at outsiders:* While accusations among many cultures are aimed at kin, others target those who are from outside the community or are thought to be at the margins of society either because of their behaviour or physical disabilities.

*Overcrowding or lack of mobility:* “Congested and over-crowded settlements, enforced by outside authorities or by circumstance, are also conducive to witchcraft accusations...it seems plausible that it is not simply compact settlement which constitutes a problem in such cases, so much as its imposition by government, or by force of circumstances, and its accompaniment by internal or external constraints on mobility.”<sup>23</sup> Both issues—crowdedness and lack of mobility—have implications for refugees in camp settings, which are often densely populated and where movement may be restricted.

*Extreme conditions:* Economist Edward Miguel proposed an explanation of witchcraft allegations based on information gathered in western Tanzania. He found that “there are twice as many witch murders in years of extreme rainfall [resulting in drought or floods] as in other years. The victims are nearly all elderly women, typically killed by relatives.”<sup>24</sup> The rainfall led to poor harvests and near-famine conditions, which provided the impetus for “households near subsistence levels of consumption [to] kill (or expel) relatively unproductive elderly household members to safeguard the nutritional status of other members, in response to negative income shocks.”<sup>25</sup>

Miguel notes that there is evidence that Europe and North America experienced extreme weather that lowered crop yields during the time of those witch hunts.<sup>26</sup> More recently, in Angola, “where children were accused of transforming into animals and eating crops during the night, ‘scientific analysis of the situation at the time revealed that there was poor crop yield due to late rains.’”<sup>27</sup> Witchcraft accusations can also be “a means of ridding oneself of burdensome obligations of

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<sup>21</sup> Golooba-Mutebi *Witchcraft, Social Cohesion*, *supra* note 19, at 940.

<sup>22</sup> Simmons, William. *Powerlessness, Exploitation and the Soul-Eating Witch*, 7 *American Ethnologist* 447 (Aug. 1980), at 448.

<sup>23</sup> Golooba-Mutebi *Witchcraft, Social Cohesion*, *supra* note 19, at 939-40 (referencing Abrahams, 1994: 13-14).

<sup>24</sup> Miguel, Edward. *Poverty and Witch Killing*, 72 *Review of Economic Studies* 1153 (2005), *available at* [http://elsa.berkeley.edu/~emiguel/pdfs/miguel\\_witch.pdf](http://elsa.berkeley.edu/~emiguel/pdfs/miguel_witch.pdf) (last visited Dec. 13, 2008), at 1. Miguel’s study used data from 67 villages over a period of 11 years.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 6.

<sup>27</sup> UNHCR, *Angola Annual Protection Report* (2005).

loyalty and support,” as evidenced by the targeting of elderly women and children in many cases.<sup>28</sup>

### **Accusations over time and around the globe**

Historically, witch-hunts have not been confined to a specific time or place. Besides Europe and North America, there were major persecutions in such places as “Ancient Rome...Inca Peru, Aztec Mexico, Russia, China, India, and some Bantu empires of Africa.”<sup>29</sup> Information on contemporary witchcraft in Africa abounds, while only cursory information is available from other locations.<sup>30</sup> This does not mean that witchcraft persecution does not exist elsewhere, just that what has been documented comes overwhelmingly from Africa. Witchcraft beliefs are relevant for traditional African religions, but “comparative ethnographic and historical data attest to the importance of such beliefs in Christian, Muslim, Buddhist, and Hindu contexts” as well.<sup>31</sup>

#### *Asia*

In 1998, approximately one hundred alleged sorcerers were killed in Banyuwangi District, East Java, Indonesia.<sup>32</sup> Such killings have been recorded sporadically over the past fifty years and tend to target older males.<sup>33</sup> In Cambodia, eight accused witches were killed by mobs in 2003.<sup>34</sup> However, it is indicated that “in some of these cases, political killings may have been explained away as revenge killings for sorcery.”<sup>35</sup>

Belief in sorcery is widespread throughout Thailand, but accusations manifest differently based on region: “In north-eastern Thailand people have limited the frequency of their sorcery accusations [because sorcery is assumed to have very serious and often lethal consequences]; in the Malay south people have restricted the gravity of afflictions they attribute to sorcery; and in Ayudhya people have avoided branding as sorcerers potentially culpable practitioners within their own [ethnic] group.”<sup>36</sup> There were instances of suspected sorcerers being forcibly driven out of villages by mobs.<sup>37</sup> In Bangladesh, remittances sent by sons and husbands working abroad

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<sup>28</sup> Douglas, Mary. *Sorcery Accusations Unleashed: The Lele Revisited*, 69 *Journal of the International African Institute* 177 (1999), at 187.

<sup>29</sup> Behringer, *supra* note 2, at 243.

<sup>30</sup> This may be due the language of research/documentation and linguistic limitations on the part of the researcher.

<sup>31</sup> Ellen, Roy. *Anger, Anxiety, and Sorcery: An Analysis of Some Nuaulu Case Material from Seram, Eastern Indonesia*, in *Understanding Witchcraft and Sorcery in Southeast Asia* (Watson, C.W. and R.F. Ellen ed.), University of Hawaii Press (1993), at 11.

<sup>32</sup> Herriman, Nicholas, *Fear and Uncertainty: Local Perceptions of the Sorcerer and the State in an Indonesian Witch-hunt*, 34 *Asian Journal of Social Science* 360 (2006), available at <http://arts.monash.edu.au/mai/staff/fearuncertainty.pdf> (last visited Dec. 13, 2008), abstract.

<sup>33</sup> *Id.* at 363-4.

<sup>34</sup> U.S. Department of State. *Country Report on Human Rights Practices: Cambodia* (2003), available at <http://www.unhcr.org/refworld/docid/403f57b7c.html> (last visited Dec. 13, 2008).

<sup>35</sup> *Id.*

<sup>36</sup> Golomb, Louis. *Supernaturalist Curers and Sorcery Accusations in Thailand*, 27 *Soc Sci Med* 437 (1988), at 441.

<sup>37</sup> *Id.* at footnote 15.

have created inequalities that are “conducive to the proliferation of sorcery accusations.”<sup>38</sup> The son’s wife is usually the “prime suspect” for witchcraft or sorcery because of her outsider status.<sup>39</sup>

### *Middle East*

The Saudi Arabian government is holding “an unknown number of detainees...in prison on the charge of ‘sorcery.’... In a few cases, self-proclaimed ‘miracle workers’ have been executed for sorcery involving physical harm or apostasy.”<sup>40</sup> However, not all of those executed have confessed to witchcraft. In 1996, a Syrian named `Abd al-Karim Mara`i al-Naqshabandi was executed for “practicing witchcraft (sihr) against his employer, who is the son of the former king of Saudi Arabia and the nephew of the current king.”<sup>41</sup>

In November 2007, Mustafa Ibrahim, an Egyptian pharmacist working in Saudi Arabia, was executed for “having tried ‘through sorcery’ to separate a married couple, according to a Ministry of Interior statement.”<sup>42</sup> Fawza Falih was convicted in April 2006 and sentenced to death “on a ‘discretionary’ basis, for the benefit of ‘public interest’ and to ‘protect the creed, souls and property of this country.’”<sup>43</sup> As of February 2008, Human Rights Watch was trying to pressure the government to halt her execution.<sup>44</sup> Classical Islamic texts call for different definitions and punishments for witchcraft and “several lawyers and experts in Islamic law contacted by Human Rights Watch expressed great surprise that someone would be executed for witchcraft under Islamic law.”<sup>45</sup>

### *Latin America*

According to *Witches and Witch-Hunts: A Global History*, “Central America is another hot house of persecution in the twentieth century.”<sup>46</sup> In Bolivia, there are reports that alleged witches are burned or buried alive, particularly in “indigenous communities in areas with little or no central government presence.”<sup>47</sup> Those that have alternatively been expelled or fled death threats

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<sup>38</sup> Callan, Alyson. ‘What else do we Bengalis do?’ *Sorcery, overseas migration and the new inequalities in Sylhet, Bangladesh*, 13 *Journal of the Royal Anthropological Institute* 331 (2008), abstract.

<sup>39</sup> *Id.* at 341

<sup>40</sup> Gunn, Jeremy. *The Complexity of Religion in Determining Refugee Status*, Roundtable on Religion-Based Refugee Claims, UNHCR and Church World Service (Oct. 24, 2002), at 38.

<sup>41</sup> Human Rights Watch (HRW). *Saudi Arabia: Flawed Justice: The Execution of ‘Abd al-Karim Mara’I al-Naqshabandi* (Oct. 1, 1997), available at <http://www.unhcr.org/refworld/docid/3ae6a8006.html> (last visited Dec. 13, 2008).

<sup>42</sup> HRW. *Saudi Arabia: Halt Woman’s Execution for ‘Witchcraft.’ Fawza Falih’s Case Reveals Deep Flaws in Saudi Justice System*, Press Release (Feb. 14, 2008), available at <http://www.hrw.org/english/docs/2008/02/14/saudia18051.htm> (last visited Dec. 14, 2008).

<sup>43</sup> *Id.*

<sup>44</sup> *Id.* She was still awaiting execution in August 2008, but a more recent update was not found.

<sup>45</sup> HRW *Flawed Justice*, *supra* note 42.

<sup>46</sup> Behringer, *supra* note 2, at 218.

<sup>47</sup> U.S. Department of State, *Country Report on Human Rights Practices: Bolivia* (1999), available at <http://www.unhcr.org/refworld/docid/3ae6aa6c4.html> (last visited Dec. 14, 2008).



make up a “significant community of witch refugees” in Santa Cruz.<sup>48</sup> Accused sorcerers have been killed by violent mobs in rural areas in both Guatemala and Haiti.<sup>49</sup> After a male voodoo priest in the Haitian village of Chenet was killed for allegedly poisoning two brothers, there was no investigation.<sup>50</sup> About eighty cases of witchcraft were documented in a Zapotec village in Oaxaca, Mexico in the late 1960s.<sup>51</sup>

### *Europe*

In Poland, newspaper articles from 1956-1984 and interviews in 1984-5 indicate that “communities have taken violent action against suspected witches, including burning to death, when law does not provide for formal prosecution.”<sup>52</sup>

### **Women as a risk group**

Many communities label, target, and persecute women as witches. Although “these practices may be culturally condoned in the claimant’s community of origin,” it still amounts to persecution.”<sup>53</sup> The Special Rapporteur on Violence Against Women identified witchcraft beliefs as a cultural practice that is violent towards women in a 2002 report, citing cases from South Africa, India and Nepal.<sup>54</sup>

Traditional justice mechanisms may punish women or girls for offences that are not illegal under national or international law.<sup>55</sup> In Sierra Leone, although chiefs are not authorized to adjudicate on witchcraft cases, for which there is no crime in national Sierra Leonean law, chiefs have nevertheless illegally carried out functions beyond their competency and “at times they collude with men in the community to forcibly evict women and children from their homes or subject them to arbitrary detention and other forms of gender based violence.”<sup>56</sup> Charges and fines

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<sup>48</sup> Miguel, *supra* note 24, at 6.

<sup>49</sup> U.S. Department of State. *Country Report on Human Rights Practices: Guatemala* (2000), available at <http://www.unhcr.org/refworld/docid/3ae6a8804.html> (last visited Dec. 14, 2008). And U.S. Department of State. *Country Report on Human Rights Practices: Haiti* (2001), available at <http://www.unhcr.org/refworld/docid/3c84d9914.html> (last visited Dec. 14, 2008).

<sup>50</sup> U.S. Dept. of State Haiti, *supra* note 51.

<sup>51</sup> Behringer, *supra* note 2, at 25.

<sup>52</sup> Schiffmann, Aldona Christina. *The witch and crime: The persecution of witches in twentieth-century Poland in New Perspectives on Witchcraft, Magic, and Demonology* (Levack, Brian ed.), Taylor & Francis (2001).

<sup>53</sup> UNHCR. *Guidelines on International Protection No. 6: Religion-Based Refugee Claims under Article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees*, HCR/GIP/04/06 (Apr. 28, 2004), available at <http://www.unhcr.org/refworld/docid/4090f9794.html> (last visited Dec. 14, 2008), at 508.

<sup>54</sup> UN Commission on Human Rights. *Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, Cultural practices in the family that are violent towards women*, E/CN.4/2002/83, (Jan. 31, 2002).

<sup>55</sup> UNHCR. *Handbook for the Protection of Women and Girls* (Jan. 2008), available at <http://www.unhcr.org/protect/PROTECTION/47cfae612.html> (last visited Dec. 14, 2008).

<sup>56</sup> Amnesty International. *Sierra Leone: Women face human rights abuses in the informal legal sector*, AFR 51/002/2006 Resource Centre Reports (May 17, 2006), available at [http://www.amnesty.ca/resource\\_centre/reports/view.php?load=arcview&article=3635&c=Resource+Centre+Report](http://www.amnesty.ca/resource_centre/reports/view.php?load=arcview&article=3635&c=Resource+Centre+Report) (last visited Dec. 14, 2008), at Intro and footnote 14.

against one woman accused of witchcraft by her husband were dropped by the chief only after being contacted by a human rights lawyer from the Access to Justice Project in Makeni.<sup>57</sup>

During the European witch-hunts that took place from approximately 1450 to 1750, there were roughly 100,000 trials and half as many executions.<sup>58</sup> About three-quarters of those accused were women, although the numbers in some places were even more disproportionate. In Hungary, Denmark and England, roughly 90% of 'known witches' were women.<sup>59</sup> Conversely, 90% in those accused in Iceland, 60% in Estonia and 50% in Finland were men.<sup>60</sup>

As a more recently documented exception, the Lugbara tribe in Kenya attributes witchcraft to men, rather than women.<sup>61</sup> Current news articles indicate, conversely, that women in ethnically Kisii areas have been predominately killed as accused witches: in May 2008, 15 women were killed by a mob in a region "dubbed Kenya's 'sorcery belt' due to mob attacks on women suspected of witchcraft."<sup>62</sup> The bulk of available cases indicate that women are more often subjected to witchcraft accusations, although exceptions do exist.

The persecution of suspected witches is evident in Papua New Guinea, where an estimated 200 were killed in a single province in a year.<sup>63</sup> Although the Act of Sorcery in the criminal code allows for the prosecution of those responsible for the deaths of accused witches, witnesses often fail to cooperate out of fear or complacency.<sup>64</sup> Suspected witches have been thrown from cliffs, tortured, dragged behind cars, burnt, or buried alive.<sup>65</sup> Four women were killed in early 2007 for supposedly causing a fatal car accident.<sup>66</sup> Sarah Garap, a human rights defender interviewed by Amnesty International, indicated that 95% of those accused, tortured and killed are women and that "those who intervene are themselves at risk of being accused and killed."<sup>67</sup> Rarely are deaths of alleged witches investigated or those responsible brought to justice.<sup>68</sup>

Recent newspapers articles indicate that women continue to be accused of witchcraft in India. In March 2008 in the state of Bihar, a woman was tied to a tree and beaten, but escaped without

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<sup>57</sup> *Id.* at footnote 16.

<sup>58</sup> Gendercide Watch. *Case Study: The European Witch-Hunts, c. 1450-1750, and Witch-hunts Today*, available at [http://www.gendercide.org/case\\_witchhunts.html](http://www.gendercide.org/case_witchhunts.html) (last visited Dec. 14, 2008).

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> AFP, *Kenya mob burns 15 women to death over witchcraft* (May 21, 2008), available at [http://www.breitbart.com/article.php?id=080521153625.1ijzzvn1&show\\_article=1](http://www.breitbart.com/article.php?id=080521153625.1ijzzvn1&show_article=1) (last visited Dec. 14, 2008).

<sup>63</sup> Squires, Nick. *Witchcraft brings murder to Pacific paradise: AIDS has revived black magic in Papua New Guinea*, *The Daily Telegraph* 21 (Feb. 9, 2007).

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> Amnesty International. *Papua New Guinea: Violence against women: Not inevitable, never acceptable*, ASA 34/002/2006 (Sept. 4, 2006), available at <http://www.amnesty.org/en/library/info/ASA34/002/2006> (last visited Dec. 14, 2008), at 2.

<sup>68</sup> Amnesty International. *Papua New Guinea, Women Human Rights Defender Anna Benny Appeal Case*, ASA 34/005/2006 (Sept. 4, 2006), available at <http://www.amnesty.org/en/library/asset/ASA34/005/2006/en/dom-ASA340052006en.pdf> (last visited Dec. 14, 2008).

major injury; six people were arrested for their involvement.<sup>69</sup> In May 2008, an Indian woman was beaten and burnt in an eastern village in Orissa for alleged practicing witchcraft; her husband and neighbours were arrested for her death.<sup>70</sup>

While about five reports a month are lodged with police against women believed to be witches in Jharkand state, the national figure could be in the thousands.<sup>71</sup> Hundreds of those women are subsequently killed or injured.<sup>72</sup> Others are publicly humiliated (i.e. being fed human excrement or paraded naked), tortured (i.e. having their eyes gouged), or are exiled from their village.<sup>73</sup> In late December 2008, “police began a probe...into reports that villagers in a tribal area of Chhattisgarh beat 50 women with sticks after accusing them of witchcraft and cut off their hair.”<sup>74</sup> Though killings are rare in this area, “more than 100 women are tortured, paraded naked or harassed in the state every year.”<sup>75</sup>

Puja Roy, in *Sanctioned Violence: Development and the Persecution of Women as Witches in South Bihar*, presents three case studies that demonstrate that while “communities profoundly believe in evil spirits...these beliefs and fears are usually exploited by a few community members who have ulterior motives in suggesting that a woman is a witch,” including maintaining economic or social subjugation or seizing property.<sup>76</sup> Generally, the witch doctor (*ojha*) receives payment for a consultation to determine who is to blame for a certain calamity (death, crop failure, job loss, etc) and can be influenced in his suggestion.<sup>77</sup>

Roy emphasizes that the witch doctor “is revered by society, so that this word is seen as the ultimate truth” and warns that “his hold over a village is something that development workers must consider seriously in terms of its detrimental effect of their programmes.”<sup>78</sup> Additionally, Roy’s case studies indicate a lack of state protection: the village council was instrumental in the persecution of one woman, police were ineffectual in providing protection, and murderers remained free.<sup>79</sup>

According to Seeds, a development organization working with women in Jharkand, the identification of witches is used as a weapon of control against women. Director Shubhra Dwivedy indicates that witchcraft persecution is not diminishing: “It’s been so deeply ingrained for generations, socially and culturally, that it can’t just be undone.”<sup>80</sup> Legislation pushed for by

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<sup>69</sup> CNN Asia, *Indian ‘witch’ tied to tree, beaten by mob* (Mar. 31, 2008), available at <http://www.cnn.com/2008/WORLD/asiapcf/03/28/india.beating/index.html> (last visited Dec. 14, 2008).

<sup>70</sup> Reuters, *Villagers burn woman accused of being witch* (May 30, 2008), available at <http://in.reuters.com/article/topNews/idINIndia-33828820080530> (last visited Dec. 14, 2008).

<sup>71</sup> Prasad, Raekha, *Witch hunt*, *The Guardian* (Mar. 21, 2007), available at <http://www.guardian.co.uk/world/2007/mar/21/india.gender> (last visited Dec. 14, 2008).

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> Kumar, Sujeet, *Police probe assault on 50 ‘witches’ in Chhattisgarh*, Reuters (Dec. 22, 2008), available at <http://in.reuters.com/article/topNews/idINIndia-37142220081222> (last visited Jan. 21, 2009).

<sup>75</sup> *Id.*

<sup>76</sup> Roy, Puja, *Sanctioned Violence: Development and the Persecution of Women as Witches in South Bihar*, 8 *Development in Practice* 136 (May 1998), at 136-7.

<sup>77</sup> Prasad, *supra* note 73.

<sup>78</sup> Roy, *supra* note 78, at 143.

<sup>79</sup> *Id.* at 142.

<sup>80</sup> Prasad, *supra* note 73.

advocacy groups like the Free Legal Aid Committee has outlawed witch-hunting in Jharkand and Bihar, but less than one percent of reported cases actually lead to conviction.<sup>81</sup>

Similarly, women in Nepal face the possibility of being branded a witch and subsequently tortured, run out of their village or killed. In one account, a Dalit woman was stripped naked, beaten and forced for the third time in three years to eat human excrement.<sup>82</sup> Previously she had been fined 3,000 rupees for supposed witchcraft, her husband was fired from his job, and now she has been banned from participating in religious events.<sup>83</sup>

However ineffectual the laws may be in India, there are no such laws to punish those who commit this violence in Nepal.<sup>84</sup> Women's rights activist Bandana Rana's documentary film, *Witch—Myth or Reality*, "exposes the gross violation of human rights of Nepalese women accused of being witches."<sup>85</sup> The problem is worst in the southern Terai region and the elderly, widows, the destitute and those of low caste are often targeted.<sup>86</sup> Witchcraft charges are sometimes used as an excuse to "victimize female relatives, especially widows, to deprive them of their property rights," or to settle a personal vendetta.<sup>87</sup>

Witchcraft accusations can also be "a hallmark of intra-gender struggles. Insubordinate wives, obstinate daughters-in-law, and elderly infertile women fell victim to these accusations."<sup>88</sup> In South Africa, one diviner thought "polygamy ought to be outlawed because it so often led to witchcraft."<sup>89</sup>

### **The elderly as a risk group**

Witch killings in Tanzania, which target women and more specifically elderly women, are among the most well-documented worldwide. The Tanzanian government, media, and non-profit organizations have reported differing statistics as to the number of suspected witches harmed or killed in various periods over the past thirty-plus years. Even the government's statistics cannot always be reconciled: in 2003, the government reported more than 3,072 deaths since 1970 although a 1989 government commission had counted 3,693 deaths between just 1970 and

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<sup>81</sup> *Id.*

<sup>82</sup> Advocacy Project. *Dalit Women Accused of Witchcraft, Forced to Eat Excrement*, 54 *Advocacynet News Bulletin* (Jan. 19, 2006), available at <http://www.advocacynet.org/resource/574> (last visited Dec. 14, 2008).

<sup>83</sup> *Id.*

<sup>84</sup> IRIN. *Nepal: Women tortured for being 'witches'* (Nov. 18, 2007), available at <http://www.irinnews.org/Report.aspx?ReportId=75311> (last visited Dec. 14, 2008), quoting human rights activist Samjha Shrestha.

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.* And Advocacy Project, *supra* note 84.

<sup>88</sup> Niehaus, Isak. *The ANC's Dilemma: The Symbolic Politics of Three Witch-Hunts in the South African Lowveld, 1990-1995*, 41 *African Studies Review* 93 (Dec. 1998), at 294.

<sup>89</sup> Niehaus *Perversion of Power*, *supra* note 20, at 277.

1984.<sup>90</sup> A leaked survey from the Ministry of Home Affairs reported 5,000 people killed between 1994 and 1998.<sup>91</sup>

Other government statistics indicate that 17,220 women were abused for practicing witchcraft between 1998 and 2001 and that 10% of those were killed.<sup>92</sup> Considering that many deaths are not reported to the police, these numbers are likely to be low. The shadow report that HelpAge submitted to the Committee on the Elimination of Discrimination against Women (CEDAW) estimates 1,000 deaths annually with older women accounting for a high percentage of those killed.<sup>93</sup> By its figures, all but nine of the 444 ‘witches’ killed in their project areas between 1999 and 2004 were older women.<sup>94</sup>

Witch-related violence is most prevalent in the northwest regions of Shinyanga and Mwanza, although there are reports of it spreading to Rukwa region in the southwest.<sup>95</sup> A study in Magu, a district within Mwanza, found that elderly widows are particularly at risk because “the implicit causes for accusations in this community appear to be strongly linked to conflicts over property ownership where removal of older persons would expedite occupation by other family members.”<sup>96</sup>

According to HelpAge International, “deep seated cultural beliefs, the low status of women, poverty, and the need to apportion blame and seek redress for a negative event...all contribute to a culture in which these allegations and subsequent violence is tolerated.”<sup>97</sup> They recommended to the CEDAW Committee in 2007 that the Tanzanian government require district councils to “address the intimidation, isolation, abuse and killings” of those accused of witchcraft.<sup>98</sup>

The issue has been on the government’s agenda: witchcraft was named the theme of International Women’s Day in 1999 and the National Policy on Ageing in 2003 acknowledged the need to challenge “outdated customs that are harmful,” such as the killing of alleged witches, in an effort to reduce violence against older women.<sup>99</sup> Scolastica Jullu, the executive director of the Women’s Legal Aid Centre in Dar es Salaam, however, is more critical: “The government is

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<sup>90</sup> Duff, Oliver. *Tanzania suffers rise of witchcraft hysteria*, Independent (Nov. 28, 2005), available at <http://www.independent.co.uk/news/world/africa/tanzania-suffers-rise-of-witchcraft-hysteria-517157.html> (last visited Dec. 14, 2008).

<sup>91</sup> *Id.*

<sup>92</sup> HelpAge International. *Rights and older people: Facts and figures*, available at <http://www.helpage.org/Researchandpolicy/Rights-1/Factsandfigures> (last visited Dec. 14, 2008).

<sup>93</sup> HelpAge International. *NGO Thematic Shadow Report on Older Women’s Rights in Tanzania, Submitted to the 41<sup>st</sup> Session of the Committee on the Elimination of All Forms of Discrimination Against Women In relation to Tanzania’s Combined fourth, fifth, and sixth periodic report of States parties*, CEDAW/C/TZA/6 (April 2008), at 7.

<sup>94</sup> HelpAge *Facts and figures*, *supra* note 94.

<sup>95</sup> HelpAge *Tanzania Shadow Report*, *supra* note 95, at 7.

<sup>96</sup> Heslop, Amanda and Mark Gorman. *Chronic Poverty and Older People in the Developing World*, HelpAge International CPRC Working Paper No. 10 (Jan. 2002), at 20.

<sup>97</sup> HelpAge *Tanzania Shadow Report*, *supra* note 95, at 7.

<sup>98</sup> *Id.* at 3.

<sup>99</sup> HelpAge International, *Witchcraft—A violent threat*, 6 Ageing and Development 9 (July 2000). And HelpAge *Tanzania Shadow Report*, *supra* note 93, at 7.

condoning the killing. Except for cases of rape of older women, I don't find anyone taken to court...because it is old women they don't worry."<sup>100</sup>

HelpAge International and local partners have called on the Burkina Faso government to end the abuse of older women as a result of witchcraft allegations in a submission to the Universal Periodic Review (UPR) of the United Nations' Human Rights Council. Suspected witches face "psychological trauma, physical harm, social exclusion, impoverishment through loss of property and assets, and ultimately banishment from their communities."<sup>101</sup> The submission states that research conducted in 2006 shows that "90% of banished women commit suicide, flee to neighbouring communities where they are unknown or die of starvation as they are unable to reach a town or a reception centre."<sup>102</sup>

These reception centres are not explained in further detail, except to indicate that 89.9% of residents at 11 centres were there as a consequence of witchcraft accusations.<sup>103</sup> Raw numbers were not provided, but 90% were women, 97.2% were illiterate, 82% were of Mossi ethnicity, 75% were over 50 years of age, and 69.9% were first wives in polygamous marriages.<sup>104</sup> Accusation of witchcraft appears to be a "pretext to banish women no longer considered economically or biologically productive to the household."<sup>105</sup> The HelpAge UPR submission recommends that the government prohibit the accusation of witchcraft and provide redress and protection to those accused.<sup>106</sup>

HelpAge International has also been active on behalf of older women accused of witchcraft in Mozambique, which can result in physical attack, psychological abuse, loss of property, or exile.<sup>107</sup> In 1997, there were at least two cases in Macia in which traditional chiefs and healers killed suspected witches, though their gender and age were not included in that report.<sup>108</sup>

In South Africa, both older men and women have been blamed for witchcraft, although statistics indicate that women are twice as likely to be accused.<sup>109</sup> Instances are particularly prevalent in Northern Transvaal and Venda, but witch-hunts and attacks were also recorded on the South

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<sup>100</sup> Duff, *supra* note 92.

<sup>101</sup> Helpage International, Promo Femmes Développement Solidarité and Association le TOCSIN, *Joint NGO Submission for the Initial Universal Periodic Review of Burkina Faso in December 2008*, available at <http://www.helpage.org/News/Latestnews/IKFm> (last visited Dec. 14, 2008), at 1.

<sup>102</sup> *Id.*

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> *Id.* at 2.

<sup>106</sup> *Id.*

<sup>107</sup> HelpAge International, *Stop violence towards older women* (June 14, 2007), available at <http://www.helpage.org/News/Latestnews/Lyi3> (last visited Dec. 14, 2008).

<sup>108</sup> U.S. Department of State, *Country Report on Human Rights Practices: Mozambique* (1997), available at <http://www.unhcr.org/refworld/docid/3ae6aa6410.html> (last visited Dec. 14, 2008).

<sup>109</sup> UN Commission on Human Rights, *supra* note 56, at 17, ¶ 46.

Coast, Limpopo, and Mpumalanga.<sup>110</sup> In two specific locations, Green Valley and Timbavati, older men are more often targeted as supposed witches.<sup>111</sup>

Kate Crehan, researching in northwest Zambia, found that “a belief in the reality of witchcraft was an inescapable part of day-to-day life” and that this “omnipresent reality...cast its threatening shadow over the most basic interactions.”<sup>112</sup> Accusations come first to those who have exceptional skill or exceptional wealth since such success, “people seemed to feel, *must* have been achieved at the expense of others” through witchcraft.<sup>113</sup> Age is also a strong indicator of witchcraft, with both “poverty-stricken old woman” and elderly male authority figures like headmen and chiefs prone to witchcraft allegations.<sup>114</sup> Mob violence against alleged witches was documented, but specific statistics unavailable.<sup>115</sup> In the one case provided, two men identified by a witch-finder were beaten by villagers; the witch-finder was then arrested and charged with inciting violence.<sup>116</sup>

### Children as a risk group

In the past, witchcraft accusations in the villages of the Democratic Republic of the Congo (DRC) were generally directed at elderly women, with only rare instances of exorcism or abuse resulting.<sup>117</sup> Since the early 1990s, particularly in large towns, accusations have shifted to children, the number of such allegations skyrocketed, and the subsequent treatment has become increasingly violent.<sup>118</sup> It appears to be a phenomenon that has not and does not exist in rural areas, “apart from a very few ill-documented exceptions in areas affected by the war.”<sup>119</sup> Thus, “common cultural roots have been distorted from their primary meaning.”<sup>120</sup>

Accused children face abuse by their parents, relatives or pastors who attempt exorcism—through tactics such as the withholding of food or water, beatings, and burnings.<sup>121</sup> Difficult children—those with disabilities or illnesses, the rebellious or badly behaved—may be more vulnerable to witchcraft accusations as “there is clearly a strong tendency towards the social cleansing of children considered to be undesirable.”<sup>122</sup> Advocates estimate that more than sixty

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<sup>110</sup> Irish, *supra* note 11, at 8. And U.S. Department of State. *Country Report on Human Rights Practices: South Africa* (2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2007/100505.htm> (last visited Dec. 14, 2008).

<sup>111</sup> Makhura, Tlou. *Missionary and African Perspectives on the Politics of Witchcraft among the Xhosa and Zulu Communities in the 19th Century Cape and Natal / Zululand*, available at <http://wiserweb.wits.ac.za/PDF%20Files/wirs%20-%20makhura.PDF> (last visited Jan. 23, 2009).

<sup>112</sup> Crehan, Kate. *The Fractured Community: Landscapes of Power and Gender in Rural Zambia*, University of California Press (1997), available at <http://ark.cdlib.org/ark:/13030/ft0779n6dt/> (last visited Dec. 14, 2008).

<sup>113</sup> *Id.*

<sup>114</sup> *Id.*

<sup>115</sup> U.S. Department of State. *Country Report on Human Rights Practices: Zambia* (2007), available at <http://www.state.gov/g/drl/rls/hrrpt/2007/100511.htm> (last visited Dec. 14, 2008).

<sup>116</sup> *Id.*

<sup>117</sup> Aguilar Molina, *supra* note 4, at 18.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> *Id.* at 9.

<sup>121</sup> HRW. *What future? Street children in the Democratic Republic of the Congo* (April 2006), available at <http://www.hrw.org/en/reports/2006/04/03/what-future> (last visited Dec. 14, 2008).

<sup>122</sup> Sengupta, Somini. *Hopes and Tears of Congo Flow in Its Mythic River*, N.Y. Times (Apr. 21, 2004).

percent of the 25,000 street children in Kinshasa have been kicked out of their homes due to allegations of witchcraft, “making it the number one cause of homelessness among youths.”<sup>123</sup>

The situation begs the question, “what makes a society turn on its own young people and see in them the source of evil that threatens the whole community?”<sup>124</sup> Javier Aguilar, a child protection officer for the United Nations Children’s Fund (UNICEF) in Kinshasa and author of an extensive report on the topic for Save the Children, summarizes the driving factors:

The severe financial pressure faced by parents and the sudden deaths that can occur (often AIDS or malaria-related) cause crisis in the family structure and dynamic on three levels: a) weakening or collapse of the extended family, b) family recomposition, c) difficulties in being a parent in a society whose foundations and future prospects have been destroyed. The final blow is delivered by the revivalist churches, which confirm or discover signs of witchcraft. Parents are deeply distressed by what they believe to be witchcraft and, first and foremost, fear for their own well-being.<sup>125</sup>

He has noted that “the perception of children started to change very quickly in the 1990s, when you had child soldiers starting to appear with weapons. So the general perception was that children were a threat” and they became society’s scapegoat.<sup>126</sup>

Additionally, most accused children had lost one or both of their parents and were living with step parents or extended family with financial difficulties.<sup>127</sup> The tradition that extended family would take in their relatives’ children is reportedly being undermined after decades of war, disease and economic burdens have made families “simply unable to cope with [their] care.”<sup>128</sup> Allegations of witchcraft “provide a convenient and hard-to-disprove justification” for the rejection of such responsibility.<sup>129</sup> The Save the Children report also made mention of “centrifugal logic” whereby the most vulnerable members are expelled—much like the Tanzanian study cited in the introduction related to extreme rainfall and the removal of the least productive household members.<sup>130</sup>

There are apparently thousands of churches in the Democratic Republic of the Congo that make money by performing deliverance ceremonies and these are subject to very little, if any, oversight.<sup>131</sup> The Minister of Social Affairs estimates that there might be as many as 50,000

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And Aguilar Molina, *supra* note 4.

<sup>123</sup> Irish Times. *They say I ate my father. But I didn't. I'm not a witch,* World 12 (Aug. 31, 2006).

<sup>124</sup> Account of a German town where children were accused of having been seduced by the devil in 1723. Roper, Lyndal. *Evil Imaginings and Fantasies: Child-Witches and the End of the Witch Craze*, 167 Past and Present 107 (May 2000), at 108.

<sup>125</sup> Aguilar Molina, *supra* note 4, at 5-6.

<sup>126</sup> Baldauf, Scott. *In Congo, superstitions breed homeless children*, Christian Science Monitor 12 (Nov. 30, 2006).

<sup>127</sup> HRW *What future?*, *supra* note 123, at 43. In 1723 Germany, many of the accused children were also children living with step parents. Roper, *supra* note 126, at 118.

<sup>128</sup> HRW *What future?*, *supra* note 123, at 43.

<sup>129</sup> Irish Times, *supra* note 125.

<sup>130</sup> Aguilar Molina, *supra* note 4, at 16-17.

<sup>131</sup> HRW *What future?*, *supra* note 123, at 44.



children being held in churches—often in dismal conditions—as they await exorcism.<sup>132</sup> Despite the adoption of a new constitution in 2005 that outlawed witchcraft allegations against children, law enforcement, judicial and government officials continue to fail to intervene in cases of abuse in homes and churches.<sup>133</sup> Save the Children finds that the government’s inaction has created “an indifference that is killing children and exposing them to repeated abuse.”<sup>134</sup> Their recommendations include better state regulation of churches and monitoring for abuse, as well as the strengthening of awareness-raising with religious leaders and parents.<sup>135</sup>

Children in Angola also face the possibility of witchcraft allegations and the “surge in persecutions of children” has been attributed to 27 years of war in Angola.<sup>136</sup> Ana Silva, a child protection officer working in Angola, echoes an explanation offered by those familiar with the circumstances in the DRC: “The witch situation started when fathers became unable to care for the children, so they started seeking any justification to expel them from the family.”<sup>137</sup> Additionally, the “current phenomenon has seen traditional practices distorted and abused in a context of poverty.”<sup>138</sup> Like the DRC, elderly women in Angola were traditionally “vulnerable to accusations of witchcraft and subsequent abuse,” including beatings, expulsion or death.<sup>139</sup>

Accused children have been subjected to much the same abuse that those in the DRC have suffered; two cases involved a mother using chlorine bleach to blind her daughter and a father injecting his son’s stomach with battery acid in attempts to exorcise them.<sup>140</sup> The practice of witchcraft allegations against children is particularly rampant in Zaire, Uige and Luanda provinces, where many of the accused end up on the streets.<sup>141</sup> The government has reportedly worked at dispelling the belief about child witches since 2000 and the new penal code punishes crimes committed against children accused of being witches.<sup>142</sup>

In 2005, UNHCR and the Instituto Nacional das Crianças (INAC), a national institute for child protection, led six child protection seminars in various towns that targeted the police, traditional leaders, church officials, political parties and other civil society groups.<sup>143</sup> In 2006, UNHCR was focused on returnee and reintegration programs that included participatory assessments with

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<sup>132</sup> Sunday Times. *Torment of Africa’s ‘child witches’* (Feb. 5, 2006), available at <http://www.timesonline.co.uk/tol/news/world/article726977.ece> (last visited Dec. 13, 2008).

<sup>133</sup> Irish Times, *supra* note 125. And HRW *What future?*, *supra* note 123, at 49-50.

<sup>134</sup> Aguilar Molina, *supra* note 4, at 21

<sup>135</sup> *Id.* at 7.

<sup>136</sup> LaFraniere, Sharon. *Mean streets hold little magic for young African ‘witches,’* International Herald Tribune (Nov. 13, 2007), available at <http://www.ihrt.com/articles/2007/11/13/africa/witches.php> (last visited Dec. 14, 2008).

<sup>137</sup> *Id.*

<sup>138</sup> Child Network and Inter-Ecclesiastic Committee for Peace in Angola. *Supplementary Report by NGOs on the Implementation of the Convention on the Rights of the Child, Angola* (Feb. 2004), available at [http://www.crin.org/docs/resources/treaties/crc.37/Angola\\_ngo\\_report.pdf](http://www.crin.org/docs/resources/treaties/crc.37/Angola_ngo_report.pdf) (last visited Dec. 14, 2008), at 11.

<sup>139</sup> U.S. Department of State. *Country Report on Human Rights Practices: Angola* (2007), available at [http://angola.usembassy.gov/angola\\_-\\_country\\_report\\_on\\_human\\_rights\\_practices\\_-\\_2007.html](http://angola.usembassy.gov/angola_-_country_report_on_human_rights_practices_-_2007.html) Angola (last visited Dec. 14, 2008).

<sup>140</sup> LaFraniere, *supra* note 138.

<sup>141</sup> Child Network, *supra* note 140, at 11.

<sup>142</sup> LaFraniere, *supra* note 138. And UNHCR. *Angola Annual Protection Report* (2006), at 33.

<sup>143</sup> Angola 2005, *supra* note 28, at 26-7.

young women aged fourteen to eighteen years in Viana that had been identified as facing protection risks, including as a result of witchcraft accusations.<sup>144</sup>

Community child protection committees have been established in Zaire province and a shelter for abandoned children run by the Catholic Church and the NGO Crianca Futuro operates in Mbanza Congo, 50 miles from the DRC border.<sup>145</sup> Despite these positive developments, children continue to be accused and subjected to ill-treatment. As recently as December 2008, UNICEF Luanda released a study about the human rights implications of witchcraft accusations against children.<sup>146</sup>

There are similar reports of child witchcraft allegations coming from Nigeria, where children are subsequently “burnt, poisoned, slashed, chained to trees, buried alive or simply beaten and chased off into the bush.”<sup>147</sup> In this scenario, evangelical churches also play a large part, charging parents large sums of money for an exorcism. Sam Ikpe-Itauma has established the Child Rights and Rehabilitation Network, which cares for more than 130 children abused and abandoned due to witchcraft accusations.<sup>148</sup> By his estimates, over 5,000 children have been abandoned in this area since 1998 and for approximately every five children on the streets, “we believe one has been killed, although it could be more as neighbours turn a blind eye when a witch child disappears.”<sup>149</sup>

### **Albinos as a risk group**

The discussion of risk groups takes a different twist when considering the treatment of albinos in Africa. In much of the continent, albinos face discrimination and ostracism.<sup>150</sup> They are not being persecuted for practicing witchcraft, but are mutilated and killed to benefit others through an illegal trade in albino skin, bones and hair that are used in potions and charms to bring good luck and make people rich.<sup>151</sup> The graves of albinos have also been robbed for body parts.<sup>152</sup>

In Tanzania, 35 albinos have been murdered in just over a year, particularly in the Lake Victoria areas such as Mwanza, Shinyanga and Mara—areas where elderly women have also been targeted, abused and killed for suspicion of witchcraft.<sup>153</sup> According to Zihada Msembo,

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<sup>144</sup> Angola 2006, *supra* note 144, at 19.

<sup>145</sup> *Id.* at 36.

<sup>146</sup> All Africa. *Angola: UNICEF Publishes Study on Impact of Witchcraft's Accusation Against Children* (Dec. 11, 2008), available at <http://allafrica.com/stories/200812110970.html> (last visited Jan. 23, 2009).

<sup>147</sup> McVeigh, Tracy. *Children are targets of Nigerian witch hunt*, *The Guardian* (Dec. 9, 2007), available at <http://www.guardian.co.uk/world/2007/dec/09/tracymcveigh.theobserver> (last visited Dec. 14, 2008).

<sup>148</sup> *Id.*

<sup>149</sup> *Id.*

<sup>150</sup> Howden, Daniel. *Killing spree leaves albinos living in fear*, *Independent* (Dec. 8, 2008).

<sup>151</sup> Gettleman, Jeffrey. *Albinos, Long Shunned, Face Threat in Tanzania*, *N.Y. Times* (June 8, 2008), available at <http://www.nytimes.com/2008/06/08/world/africa/08albino.html> (last visited Dec. 14, 2008).

<sup>152</sup> BBC. *Tanzania fear over albino killing* (Dec. 17, 2007), available at <http://news.bbc.co.uk/2/hi/africa/7148673.stm> (last visited Dec. 15, 2008).

<sup>153</sup> Howden, *supra* note 152. And Obulutsa, George. *Albinos live in fear after body part murders*, *The Guardian* (Nov. 4, 2008), available at <http://www.guardian.co.uk/world/2008/nov/04/tanzania-albinos-murder-witchcraft> (last visited Dec. 14, 2008).

secretary general of the Tanzania Albino Society (TAS), “Our biggest fear right now is the fear of living. If you leave work at night as an albino, you are unsure of reaching home safely. When you sleep, you are unsure of waking up in one piece.”<sup>154</sup> The government has acknowledged the problem and taken some steps to address it: in October 2008, President Jakaya Kikwete publicly denounced the practice; the police are taking a census of albinos; officers are escorting albino children to school; an albino woman was recently awarded a seat in Parliament.<sup>155</sup>

However, “some officers have been accused of turning a blind eye in return for cash when attacks on albinos occur” and there is concern about the lack of arrests.<sup>156</sup> Tanzanian police report that more than 170 people are in custody for attacks on albinos, but no one has been prosecuted.<sup>157</sup> The European Parliament issued a resolution in September 2008 condemning the killing of albinos in Tanzania and recognized that “these killings have caused great apprehension and fear among the albino community as they now feel very insecure and are even afraid of staying, walking or travelling alone because of the potential risks.”<sup>158</sup>

One victim’s sister, who is also albino, told reporters, “Please, ask the government to take me away from here. I dare not come out of the house since my brother was killed.”<sup>159</sup> Most recently, the severed limbs of a 13-year old albino killed in Tanzania in early December 2008 were found at the home of a local witch doctor.<sup>160</sup> Additionally, Vicky Ntetema, an investigative journalist, has been forced into hiding after witch-doctors and police involved in albino killings issued death threats against her for exposing them.<sup>161</sup> TAS believes that education—of both albinos and among the wider population—is “the only way to fight back in what has become a battle for survival.”<sup>162</sup>

Six albinos have been killed in Burundi since September 2008.<sup>163</sup> According to the Bujumbura-based online newsletter IDD, a Parliamentary Commission of Enquiry visited Ruyigi Province, an area of refugee return in eastern Burundi, to look at security issues for albinos after two were killed and dismembered.<sup>164</sup> Policemen were involved in one of the killings.<sup>165</sup> UNICEF reported the killing of a six year-old albino girl in November 2008, prompting them to work together with

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And European Parliament. *Albino killings in Tanzania*, Resolution P6\_TA-PROV(2008)0413 (Sept. 4, 2008), available at

<http://www.europarl.europa.eu/document/activities/cont/200809/20080910ATT36832/20080910ATT36832EN.pdf> (last visited Dec. 14, 2008).

<sup>154</sup> Obulutsa, *supra* note 155.

<sup>155</sup> Gettleman, *supra* note 153.

<sup>156</sup> Evans, Ian. *Albinos being targeted in witchcraft killings*, Daily Mail (July 23, 2008), available at <http://www.dailymail.co.uk/news/worldnews/article-1037990/Albinos-targeted-witchcraft-killings.html> (last visited Dec. 14, 2008).

<sup>157</sup> *Id.*

<sup>158</sup> European Parliament, *supra* note 155.

<sup>159</sup> Evans, *supra* note 158.

<sup>160</sup> Howden, *supra* note 152.

<sup>161</sup> Evans, *supra* note 158.

<sup>162</sup> Howden, *supra* note 152.

<sup>163</sup> New York Times. *Burundi: Albino Boy Killed for Parts* (Jan. 2, 2009), available at [http://www.nytimes.com/2009/01/03/world/africa/03briefs-ALBINOBOYKIL\\_BRF.html](http://www.nytimes.com/2009/01/03/world/africa/03briefs-ALBINOBOYKIL_BRF.html) (last visited Jan. 23, 2009).

<sup>164</sup> IDD News email (Sept. 28, 2008), provided by Marguerite Garling of IRC UK.

<sup>165</sup> *Id.*

Burundian authorities to provide better protection.<sup>166</sup> A safe house for albino children has been established in at least one province, but the latest death was of an eight year-old boy at the end of December 2008.<sup>167</sup>

Sparse information is available from neighbouring countries where the killing of albinos is also a problem. An albino woman was killed in Kenya in May 2008. The head of an albino child was found in the luggage of a man trying to enter DRC and there are reports that witch doctors there have been selling albino skin.<sup>168</sup> Three people in Nigeria were convicted of ritually killing an albino infant in 2005.<sup>169</sup>

### Accusations linked to HIV/AIDS

Witch hunts have been triggered by health crises in the past: during a tetanus epidemic in Benin, following dysentery and malaria deaths in Papua New Guinea, and during a meningitis outbreak in Ghana.<sup>170</sup> In communities in the DRC, Papua New Guinea, and Tanzania, among others, HIV/AIDS is perceived to be linked to witchcraft.<sup>171</sup> The spread of HIV/AIDS “has led to a dramatic rise of witchcraft accusations in Zambia, since medical treatment is unavailable and death is traditionally attributed to witchcraft.”<sup>172</sup> For the Azande of Ezo County, Western Equatoria, Southern Sudan, “an HIV positive person has characteristics that are similar to those of a witch or a sorcerer, in that he or she looks like everyone, but is secretly killing them.”<sup>173</sup> In Zimbabwe, self-appointed witch-hunters accuse widows of bewitching people with AIDS, which has led to violence and abuse.<sup>174</sup>

In Zambia, where eighteen percent of those interviewed believed witchcraft was the cause of all recent deaths, C. Bawa Yamba investigates “the place of witchcraft in the cosmology and ontology of the people, and the role it played in their disease perception.”<sup>175</sup> According to Yamba, the large number of deaths due to HIV/AIDS, “the nature of the disease itself as a latent

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<sup>166</sup> United Nations Children’s Fund. *UNICEF calls for better protection for albino children in Burundi* (Nov. 19, 2008), available at [http://news.xinhuanet.com/english/2008-11/19/content\\_10380475.htm](http://news.xinhuanet.com/english/2008-11/19/content_10380475.htm) (last visited Dec. 14, 2008).

<sup>167</sup> *Id.* and NYTimes *Burundi*, *supra* note 165.

<sup>168</sup> Howden, *supra* note 152. And Gettleman, *supra* note 153.

<sup>169</sup> Immigration and Refugee Board of Canada. *Nigeria: Prevalence of ritual murder and human sacrifice and reaction by government authorities (March 2000-July 2005)*, NGA100384.E (July 22, 2005), available at <http://www.unhcr.org/refworld/docid/440ed7372.html> (last visited Dec. 14, 2008).

<sup>170</sup> Behringer, *supra* note 2, at 216-7. And Stewart, *supra* note 9, at 123.

<sup>171</sup> UNHCR. Republic of Congo Annual Protection Report (2006), at 14. And Squires, *supra* note 65. And HelpAge International. *Stop violence against older women* (Mar. 7, 2007), available at <http://www.helpage.org/News/Latestnews/IRMW> (last visited Dec. 14, 2008).

<sup>172</sup> Behringer, *supra* note 2, at 15.

<sup>173</sup> Allen, Tim. *Witchcraft, Sexuality and HIV/AIDS among the Azande of Sudan*, 1 *Journal of Eastern African Studies* 359 (Nov. 2007), at 388.

<sup>174</sup> Harvey, Paul. *HIV/AIDS: What are the implications for humanitarian action?*, Overseas Development Institute (July 2003), available at <http://www.reliefweb.int/rw/lib.nsf/db900SID/LGEL-5PSCU4?OpenDocument> (last visited Dec. 14, 2008), at 18.

<sup>175</sup> Bawa Yamba, C. *Cosmologies in Turmoil: Witchfinding and AIDS in Chiawa, Zambia*, 67 *Journal of the International African Institute* 200 (1997), at 202.

long-drawn-out killer, the stress resulting from the breakdown of society, all fit well into local notions of witchcraft affliction.”<sup>176</sup>

Yamba recounts the story of a witch-finder named Chaka who was responsible for the deaths of at least sixteen local people in 1995 through poison ordeals, although such activity is illegal in Zambia.<sup>177</sup> Notably, those that Chaka accused were local men of prominence and he was able to operate through the backing of the villagers.<sup>178</sup> It was the media, not the police, that ultimately brought Chaka’s witch-finding to an end.<sup>179</sup> The HIV/AIDS implications are worrying: Chaka used the same needle to inject those accused with an unidentified substance on forty-five occasions and used the same razor to tattoo many people as part of his witch-hunting activities.<sup>180</sup>

While the previous discussion focused on risk groups and those that are often targeted in specific communities, this section will begin to consider witchcraft allegations in relation to the suspected witches’ physical location. Allegations can happen at home, which might result in flight within one’s own country or across international borders. Individuals can be accused of being witches within camps, upon return home, or when resettled to a third country. This paper now turns to witchcraft allegations during the refugee cycle, including those cases that were found from an extensive literature review of journal documents, UNHCR internal documents, and news articles.

### **Internally displaced persons**

Historically, the Salem witch trials in the late seventeenth century took place within “a broader context of military and political crisis.”<sup>181</sup> Salem was situated near the front lines of an armed conflict with Indians and the anxiety about “attacks played a significant role in fostering witch hysteria.”<sup>182</sup> “Hundreds of frightened refugees from villages to the north and west that had been raided by the French and Indians” relocated to the Salem area and that “a significant number of the accusers...were orphaned refugees from Maine.”<sup>183</sup>

UNHCR in Northern Uganda categorizes witchcraft, fires, theft, land dispute and other incidents as “supernatural events” and recognizes that such events could have protection implications for the IDP community.<sup>184</sup> Mikael Rasmussen, UNHCR Associate Protection Officer in Kitgum, notes that while no such event has yet been recorded, the issue might be subsumed under a category with a “higher” protection ranking; for example, “if a woman is beaten up because she

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<sup>176</sup> *Id.* at 204.

<sup>177</sup> *Id.* at 208.

<sup>178</sup> *Id.*

<sup>179</sup> *Id.* at 209.

<sup>180</sup> *Id.* at 215.

<sup>181</sup> Godbeer, Richard. *Review of In the Devil’s Snare: The Salem Witchcraft Crisis of 1692 by Mary Beth Norton*, 76 *The New England Quarterly* 484 (Sept. 2003), at 487.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.* And Hoffer, Peter Charles. *Salem Witch Trials*, available at [www.mrellingson.com/Puritan%20PDFs/Salem%20Witch%20Trials%20Cotton%20Mathers.pdf](http://www.mrellingson.com/Puritan%20PDFs/Salem%20Witch%20Trials%20Cotton%20Mathers.pdf) (last visited Jan. 23, 2009).

<sup>184</sup> Rasmussen, *supra* note 12.

is believed to be a witch, it is a direct protection problem that is not recorded as a supernatural event, but rather as physical violence against a woman.”<sup>185</sup>

In June 2007, three women accused of witchcraft were stoned and burned to death by a mob in an IDP camp in Kitgum District, Uganda.<sup>186</sup> Camp elders, lead by the highest political leader in the area, determined who they thought were witches responsible for a motorcycle taxi driver’s death by secret ballot.<sup>187</sup> A ‘half-hearted attempt’ by a local army detachment failed to stop the stoning and the Office for the High Commissioner for Human Rights (OHCHR) “filed a complaint with the army for failing to protect the women.”<sup>188</sup> Police later arrested the leader and two others.<sup>189</sup> UNHCR categorized this as mob justice, rather than a supernatural event.

In another instance, UNHCR Kitgum was able to intervene in witchcraft allegations in a local village so that the problem did not escalate or become violent. A community meeting was convened to hear charges of witchcraft brought by a woman against her co-wife. However, UNHCR and police presence halted the process and “clan leaders later resolved the issue as an internal, domestic issue not linked to witchcraft.”<sup>190</sup>

Presently, Ghana has received wide press and international attention for its “witch camps.” Elderly women in Ghana face witchcraft accusations disproportionately and may be physically assaulted, murdered, or exiled from their homes.<sup>191</sup> The Special Rapporteur on Violence Against Women reported in February 2008 that “violence against women branded as witches is reported from all regions, but the issue is more visible in the north due to...settlements...where women accused of witchcraft can seek refuge and protection from persecution by their own community or family.”<sup>192</sup> The Ghanaian Commission for Human Rights and Administrative Justice estimates that there are roughly 5,000 women in the witch camps.<sup>193</sup>

The Gambaga Outcast Home, just one of at least six camps, accommodates approximately 80 women between the ages of 40 and 70; women also flee to urban areas for safety.<sup>194</sup> Some women have been at Gambaga for more than two decades, unable to return home out of fear.<sup>195</sup> The origins of the witch camps are believed to go back more than one hundred years and “tradition holds that the local gods neutralize a witch’s power to practice her craft once she comes to Gambaga.”<sup>196</sup>

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<sup>185</sup> *Id.*

<sup>186</sup> Cocks, Tim. *Ugandan refugees stone, burn three "witches,"* Reuters (June 10, 2007), available at <http://in.reuters.com/article/worldNews/idINIndia-30243120070610> (last visited Dec. 14, 2008).

<sup>187</sup> *Id.* And Rasmussen, *supra* note 12.

<sup>188</sup> Rasmussen, *supra* note 12.

<sup>189</sup> *Id.*

<sup>190</sup> *Id.*

<sup>191</sup> UN Human Rights Council, *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural, including the Right to Development, Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Yakin Ertürk, Mission to Ghana, A/HRC/7/6/Add.3* (Feb. 21, 2008), at F. 63 and 65.

<sup>192</sup> *Id.* at F. 66

<sup>193</sup> Afrol. *Tables turned in Ghanaian witch case* (Apr. 7, 2001), available at [http://www.afrol.com/News2001/gha002\\_witchhunt.htm](http://www.afrol.com/News2001/gha002_witchhunt.htm) (last visited Jan. 23, 2009).

<sup>194</sup> UN Human Rights Council, *supra* note 193, at F. 67 and 68.

<sup>195</sup> *Id.* at F. 68.

<sup>196</sup> *Id.* at F. 67 and 68.

Forced to flee their homes, women often lose their property or inheritance and, without family support, are destitute in the witch camp.<sup>197</sup> According to a local newspaper, suspected witches “who are reintegrated into their communities through the Presbyterian Outcasts Home project are sometimes maltreated or killed and their murders hushed up.”<sup>198</sup> Having already criminalized violent activities against women accused of witchcraft in 1998, the Special Rapporteur recommends that the Ghanaian government also “criminalize acts of undue accusations” and challenge underlying prejudices against women through awareness-raising campaigns.<sup>199</sup>

Witch ‘sanctuaries’ also exist in South Africa, where “the intensity of persecution and vigilantism has reached such levels that no fewer than ten villages have been established.”<sup>200</sup>

### Refugee camps

The research undertaken for this paper has revealed numerous instances of witchcraft accusations within refugee camps and amongst refugee populations.

*Malawi, Dzaleka camp:* “A refugee lady accused of witchcraft was attacked by the Congolese community” and had to be taken to the Dowa district police station and placed in a safe house for the protection of her and her children.<sup>201</sup> Such “cases of persecution have been on the increase with camp residents threatening one another with death.”<sup>202</sup>

*Zambia:* A paper from UNHCR’s Evaluation and Policy Analysis Unit found that a cultural risk for Angolan refugees in Zambia’s Western Province was witchcraft—“the practice and fear of witchcraft is common, particularly in Mayukwayukwa, and refugees who are accused of it may be attacked.”<sup>203</sup> Additionally, an attempt to integrate elderly refugees with unaccompanied minors was unsuccessful because the children “feared the elderly as a result of cultural beliefs of witchcraft.”<sup>204</sup> In the 1980s, a report by Richard Hall documented the “efforts of the Zambian government to halt a wave of ritual murders” in Kalabo, where “life...has been disturbed by refugees fleeing across the border from the civil war in Angola. The influence of refugees is blamed for the resurgence of traditional beliefs.”<sup>205</sup>

*Zimbabwe, Tongogara camp:* Six elderly refugee widows, “were scorned and suffered verbal abuse” after being accused by the community of being witches. They were relocated to the Waterfalls Transit Center while information about the Witchcraft Suppression Act—which

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<sup>197</sup> *Id.* at F. 68.

<sup>198</sup> Dovlo, Elom. *Witchcraft in Contemporary Ghana in Imagining Evil: Witchcraft Beliefs and Accusations in Contemporary Africa* (ter Haar, Gerrie ed.) Africa World Press, Inc. (2007), at 86.

<sup>199</sup> UNHCR. Ghana Annual Protection Report (Reporting period January to December 2006), at 22. And / UN Human Rights Council, *supra* note 193, at Recommendations.

<sup>200</sup> Gendercide Watch, *supra* note 60.

<sup>201</sup> UNHCR. Malawi Annual Protection Report (Reporting Period January 2007 – December 2007), at 3.3 on page 24.

<sup>202</sup> *Id.* at 25.

<sup>203</sup> Bakewell, Oliver. *Review of CORD Community Services for Angolan Refugees in Western Province*, UNHCR Evaluation and Policy Analysis Unit EPAU/2002/14 (Dec. 2002), at 35.

<sup>204</sup> UNHCR. Zambia Annual Protection Report (2003), at 14, reference to the Meheba Project.

<sup>205</sup> Harrell-Bond, *supra* note 10.

outlaws such practices—was disseminated. The women have “returned to the camp and seem to have reintegrated,” although “their protection situation will continue to be monitored.”<sup>206</sup>

*Botswana, Dukwe camp:* Refugee children’s protection concerns included: “older children must walk through the bush to get to the secondary school, and report murders and mutilation linked to witchcraft in the area.”<sup>207</sup>

*Tanzania:* Witchcraft is a belief that is well-rooted among Burundian refugees in Tanzania and demonstrates the continued transmission of cultural knowledge among refugee populations.<sup>208</sup> “Refugees assert that cases of witchcraft regularly occur, even if only a few are reported to humanitarian organizations.”<sup>209</sup> Three accused witches were killed in Kanembwa Camp by strangulation or fire in 2006-2007.<sup>210</sup> Interviews with several refugees indicated that “witchcraft is not playing a larger role in their lives in Dar es Salaam compared to life at home before the flight.”<sup>211</sup>

*Democratic Republic of the Congo:* Accused witches are reportedly put in detention to prevent revenge from the community; in one documented case, “a 66 year old refugee was accused by his neighbourhood of killing his 27 year-old son using witchcraft...The father was put in detention by the local police after the neighbourhood had threatened him and burned his house. He and his wife stayed in detention for a few days without any assistance.”<sup>212</sup> The report goes on to say, “In this connection it is relevant to bear in mind the situation of returned asylum seekers.”<sup>213</sup>

The International Rescue Committee Field Coordinator at Kigoma’s refugee transit center in north-western Tanzania reports that they received an albino protection case in November 2008.<sup>214</sup> A three year old albino girl and her Congolese mother were transferred from Lugufu Camp after two attempted kidnappings of the child. The refugees have been removed “from the general population for their protection while there is an investigation and determination on the course of action” by UNHCR and the Tanzanian government. They are being housed at the dispensary, rather than the main hall, of the transit center for better monitoring and protection.

*Sierra Leone:* In addition to domestic laws and UNHCR camp regulations, refugees in Sierra Leone’s eight camps are governed by refugee-recommended by-laws that address “minor

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<sup>206</sup> UNHCR. Zimbabwe Annual Protection Report (2004), at 20.

<sup>207</sup> UNHCR. *Through the eyes of a child: Refugee children speak about violence, A report on participatory assessments carried out with refugee and returnee children in Southern Africa 2005-2007* (Mar. 2008), available at <http://www.reliefweb.int/rw/lib.nsf/db900SID/AMMF-7CFJKG?OpenDocument> (last visited Dec. 15, 2008), at 14.

<sup>208</sup> Fouéré, Marie-Aude. *Traditional Knowledge in Refugee Camps, The Case of Burundian Refugees in Tanzania*, UNESCO Field Office Dar es Salaam (2007), available at <http://www.unesco.org/culture/ich/doc/src/00364-EN.pdf> (last visited Dec. 15, 2008), at 13.

<sup>209</sup> *Id.* at 14.

<sup>210</sup> *Id.* at 14, footnote 11.

<sup>211</sup> Willems, Roos. *Embedding the Refugee Experience: Forced Migration and Social Networks in Dar es Salaam, Tanzania*, University of Florida (2003), at 193, footnote 16.

<sup>212</sup> UNHCR. *Comments on the Democratic Republic of Congo Country Report of October 2005*, RDS-IND Home Office Operational Guidance (Nov. 2005), at 17. From an interview with an individual refugee (country of origin unspecified) by UNHCR Kinshasa.

<sup>213</sup> *Id.*

<sup>214</sup> Crothers, Richard. *Email correspondence*, IRC Deputy Director of Operations and Finance (Nov. 2008).



wrongs” and are meant to be a dispute resolution mechanism similar to “the traditional justice system that the chiefs and elders practiced in their country of origin.”<sup>215</sup> These Grievance Committees are limited in the offences they have jurisdiction over and the sentencing is generally limited to a fine or community service.<sup>216</sup> The prosecution of witchcraft was included in the draft of the by-laws initially submitted by the refugees, which UNHCR protection staff objected to, yet “seemed plausible to the Sierra Leonean government counterparts.”<sup>217</sup>

In order to proceed with the project, UNHCR agreed to allow the Grievance Committees to hear witchcraft cases, fearing that such exclusion would “push witchcraft...outside the agreed system and impair UNHCR’s role to monitor and influence the proceedings.”<sup>218</sup> The belief was that by sending witchcraft punishment underground, the sanctions would most likely be more severe.<sup>219</sup> The Grievance Committee hearings are public and monitored by camp management and the UNHCR Protection Unit.<sup>220</sup> The question remains whether “acceptance by UNHCR of by-laws that criminalize witchcraft [is] a ‘compromise too far’” since it would disproportionately affect women.<sup>221</sup>

*Sudan:* Witch-killings occurred in the 1980s among the Lugbaras, Madis, Acholis and other tribal groups both “in the refugee settlements in Sudan and following their return to Uganda.”<sup>222</sup> Barbara Harrell-Bond recounts witchcraft accusations in Ugandan camps in Sudan in 1982 and concludes that “one of the most serious and widespread symptoms of the psychosocial state of the Ugandan refugees was the frequency of assaults on, and even murders of, individuals who, in the atmosphere of sickness and sudden death, had been identified as ‘poisoners.’”<sup>223</sup>

A foreman from Roronyo was able to save an accused witch from about 400 attackers in the UNHCR office compound. Despite the threat of prosecution and the posting of police in settlements, poisoning accusations continued. The refugees “strongly resented the government’s attempt to move the legal definition of the crime from accused to accuser.” Harrell-Bond reports knowing of only two cases “where a victim accused of poisoning, having survived the initial attack, is still living in the same settlement”: one was the direct result of an intervention by

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<sup>215</sup> UNHCR. *Operational Protection in Camps and Settlements: A Reference Guide of Good Practices in the Protection of Refugees and Other Persons of Concern* (Dec. 15, 2005), at A3.

<sup>216</sup> *Id.* “The process is subject to the laws of the host country and prohibits the hearing or adjudication of major criminal offences including sexual offences.” Cases may include those related to “petty thefts, love affairs and adultery, refusal to perform required camp duties, witchcraft, as well as other vague offences under titles such as ‘fighting’, ‘insults’, ‘incitement’, ‘riotous conduct’, ‘tribalism’, and ‘religious argument’” da Costa, Rosa. *The Administration of Justice in Refugee Camps: A Study of Practice*, UNHCR Department of International Protection PPLA/2006/01 (March 2006), at 73.

<sup>217</sup> UNHCR *Operational Protection*, *supra* note 217, at A4.

<sup>218</sup> *Id.*

<sup>219</sup> da Costa, *supra* note 218, at 74.

<sup>220</sup> UNHCR *Operational Protection*, *supra* note 217, at A4.

<sup>221</sup> *Id.* at A6.

<sup>222</sup> Allen, Tim. *Understanding Health: Biomedicine and Local Knowledge in Northern Uganda in Health Promotion: New discipline of Multi-Discipline?* (Edmondson, R. and C. Kelleher ed.) Irish Academic Press, (2000), at 14.

<sup>223</sup> Harrell-Bond, *supra* note 10.

Harrell-Bond and the other woman lived in the UNHCR office compound, “under the constant protection of the settlement officer.”<sup>224</sup>

Similarly, Sudanese refugees in Moyo-Palorinya settlement in Northern Uganda were concerned after nine cases of possible poisoning or ‘witchcraft’ were reported in 2003.<sup>225</sup>

*Chad:* In 2007, multiple cases of witchcraft allegations were reported in camps that are home to refugees from the Central African Republic. In Dosseye camp, eleven refugees died from illnesses in a single week and “suspicions of witchcraft lead to cases of assault and arson.”<sup>226</sup> Four ethnic Peul refugee women were attacked and had their tents burned for allegedly practicing witchcraft.<sup>227</sup> Refugees, who subsequently “lost faith in modern medicines,” turned to traditional healers and neglected the health clinic, avoided the camp’s well and drank from swamps and rivers—measures that further exacerbated health problems in the population.<sup>228</sup>

In September 2007, one of the accused witches remained at the local security station in Amboko “because she is still afraid of returning to Dosseye refugee camp although the other ‘alleged witches’ have been able to return and re-integrate into the refugee community” and the Amboko and Gondje camps were “reluctant to receive this refugee woman and her family.”<sup>229</sup> By November, the woman was transferred back to Dosseye camp, where she was housed near the security station to ensure her safety.<sup>230</sup>

In Gondje camp, a man and his son had to be relocated to Dosseye after allegations of witchcraft.<sup>231</sup> Another male refugee admitted to practicing witchcraft and when he suggested going to Memhong to relieve himself of the “witches who had taken possession of him,” UNHCR agreed in the hopes that this would prevent any negative health or protection consequences that had been seen in Dosseye earlier in the year.<sup>232</sup>

In November 2007 in Yaroungou camp, a male refugee was arrested for having caused the death of a teacher by witchcraft and UNHCR Danamadji was attempting to have the refugee released from prison.<sup>233</sup> At Amboko camp, three refugee women who accused a female refugee teacher of witchcraft were given a 15 day prison sentence and fined.<sup>234</sup> A court found three alleged witches innocent, compensated them for the destruction of their homes and injuries suffered, and

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<sup>224</sup> *Id.*

<sup>225</sup> Blogg, James and Carina Hickling et al. *Evaluation of quality, access to and use of reproductive health services for refugees and internally displaced persons*, Inter-agency Global Evaluation of Reproductive Health Services for Refugees and Internally Displaced Persons (2004), available at [http://www.iawg.net/resources/2004\\_global\\_eval/documents/REPORT/report-sec-3.pdf](http://www.iawg.net/resources/2004_global_eval/documents/REPORT/report-sec-3.pdf) (last visited Dec. 15, 2008), at 78-9. The report did not indicate whether any particular individuals were blamed or harmed as a result.

<sup>226</sup> UN News Service. *UN Refugee Agency Says Witchcraft Allegations Plague Camps in South, Africa News* (Oct. 26, 2007).

<sup>227</sup> U.S. Committee for Refugees and Immigrants. *Chad Country Report*, World Refugee Survey (2008), available at <http://www.refugees.org/countryreports.aspx?id=2126> (last visited Dec. 15, 2008).

<sup>228</sup> UN News Service, *supra* note 228.

<sup>229</sup> UNHCR. *Chad Situation Report* (Sept. 22, 2007), at 5.

<sup>230</sup> UNHCR. *CHAD Situation Report* (Nov. 21, 2007), at 6.

<sup>231</sup> UNHCR. *CHAD Situation Report* (Mar. 19, 2007), at 7.

<sup>232</sup> UNHCR. *CHAD Situation Report* (Aug. 18, 2007), at 5.

<sup>233</sup> UNHCR Nov. 2007, *supra* note 232, at 6.

<sup>234</sup> UNHCR. *Chad Situation Report* (Feb. 12, 2007), at 7.

sentenced fifteen refugees that had attacked them to probation and fines.<sup>235</sup> The alleged witches were then transferred to other camps for their protection and are being monitored by UNHCR.<sup>236</sup>

UNHCR organized seven awareness-raising meetings, focusing on “health, sanitation, community cohesion and the danger of accusing people without evidence.”<sup>237</sup> In November 2007, UNHCR reported that “for some months [there] have been no further accusations of witchcraft [so] it is believed that the various interventions carried out by UNHCR Gore to end these harmful accusations among the refugees have had a very positive effect.”<sup>238</sup>

*South Africa:* On the fringes of the South African village of Tiko there is a community of Mozambican self-settled refugees that fled civil war in the late 1980s.<sup>239</sup> In his field work there, Fred Golooba-Mutebi found that while there were occasional attacks, expulsions or murders of suspected witches among the South Africans, “witchcraft hardly features in [the refugees’] preoccupations...[and] is not a major concern in their community,” noting “the absence of witchcraft-related arson, expulsions or killings.”<sup>240</sup> Additionally, the South Africans do not target the refugees for witchcraft allegations, “contrary to what one would expect, given the widely publicized nasty experiences of immigrants” there.<sup>241</sup>

Golooba-Mutebi attributes the difference to low levels of trust and reciprocity among the South Africans, which are abundant among the Mozambicans.<sup>242</sup> Refugees may have greater social cohesion given their shared suffering and hardship and the need to “build up social capital” in order to survive.<sup>243</sup> The refugees, uprooted through forced migration, ultimately chose to stay in that particular village, while the South Africans were forcibly relocated through Apartheid policies.<sup>244</sup> As mentioned above, witchcraft killings have been documented in Mozambique. The fact that witchcraft accusations within this population of refugees are so minimal is distinctive and demonstrates that the factors that contribute to accusations vary across populations, cultures, and locales.

## Repatriation and reintegration

Accusations of witchcraft amongst Ugandan returnees can be tied to the “fraught processes of opening up farmland and re-asserting gendered hierarchies after the return of the population from refugee settlements in Sudan [where they had greater access to land]...These were especially

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<sup>235</sup> UNHCR. CHAD Situation Report (Aug. 18, 2007), at 5. Not enough identifying information in report to indicate if these were cases already addressed in other reports or were separate incidences.

<sup>236</sup> UNHCR Aug. 2007, *supra* note 234, at 5.

<sup>237</sup> UN News Service, *supra* note 228.

<sup>238</sup> UNHCR Nov. 2007, *supra* note 232, at 6.

<sup>239</sup> Golooba-Mutebi, Frederick. *Witchcraft, Trust, and Reciprocity among Mozambican Refugees and their South African Hosts in a Lowveld Village*, Forced Migration Working Paper Series #9, University of Witwatersrand (June 2004).

<sup>240</sup> *Id.* at 6.

<sup>241</sup> *Id.*

<sup>242</sup> *Id.* at 14.

<sup>243</sup> *Id.* at 21 and 19.

<sup>244</sup> *Id.* at 21.

common when a wife for whom no bride-price had been paid was living in a home where she was in competition for resources with her husband's resident sisters."<sup>245</sup>

Tim Allen, who has written several articles about witchcraft in Uganda, warns that the establishment of traditional justice systems in Northern Uganda are not "inherently benign," citing as an example witchcraft cases where those accused were "marginal individuals, mostly women" that were tortured and killed.<sup>246</sup> In the context of reconstruction, repatriation and reintegration after decades of civil war, the implications of any justice system that might be retained or established must be considered from a rights-based approach with particular attention to women.

Sudanese refugees returning from Uganda to Kajo-Keji County, Central Equatoria State, Sudan are prone to witchcraft allegations because "while in exile, it is believed that they adopted [a] new type of witchcraft."<sup>247</sup> The refugees, of the Kuku tribe, fled during the war in South Sudan.<sup>248</sup> Although allegations affect other areas in Central Equatoria State, communities in Kajo-Keji tend to confront witches in a much less discreet way than elsewhere.<sup>249</sup> In 2007, there were five reported incidences of mob justice related to witchcraft allegations.<sup>250</sup> Police are constrained by lack of resources and support, so often "the only solution...is to keep the suspected witches in custody for their security and safety."<sup>251</sup>

The community perceives the protection threat to be coming from the accused witch and violence may result if the police are perceived to have failed to protect them.<sup>252</sup> In August 2007, UNHCR Kajo-Keji called an inter-agency meeting with the local authorities after one individual was killed and another hospitalized following two instances of mob violence against accused witches.<sup>253</sup> In November 2007, the homes of 15 female returnees who were suspected of being witches were destroyed and looted.<sup>254</sup> The police requested that UNHCR assist with sensitization campaigns covering law and order and the rights of returnees and UNHCR organized four Community-Based Protection workshops<sup>255</sup> As of July 2008, there has reportedly been no mob justice cases related to witchcraft in Kajo-Keji.<sup>256</sup>

Returned Burundians report that one indication of "good socio-cultural reintegration" is that "witchcraft is not used against returnees."<sup>257</sup> In Sierra Leone, those wounded or amputated

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<sup>245</sup> Allen, Tim. *The International Criminal Court and the invention of traditional justice in Northern Uganda*, 107 *Politique Africaine* 147 (Oct. 2007) .

<sup>246</sup> *Id.* at 158-9.

<sup>247</sup> UNHCR. *Briefing Note on Witchcraft Practices in Kajo-Keji, Central Equatoria*, Internal Document (2008), at 1. The 'new' witchcraft enables witches to enslave their dead victims to carry out work for them like a zombie.

<sup>248</sup> *Id.*

<sup>249</sup> *Id.* at 4.

<sup>250</sup> *Id.* at 3. Numbers on table do not tally with written report that includes two attacks in August 2007.

<sup>251</sup> *Id.* at 2.

<sup>252</sup> *Id.* at 2-3.

<sup>253</sup> *Id.* at 3.

<sup>254</sup> *Id.*

<sup>255</sup> *Id.* at 4.

<sup>256</sup> Halim, Khalid. *Email correspondence*, (July 31, 2008).

<sup>257</sup> Fouéré, *supra* note 210, at 25.

during the war are “not only regarded as rebel victims but also as victims of demons/evil spirits,” and thus often treated as outcasts and abandoned by family and friends.”<sup>258</sup>

In the reconstruction setting of post-conflict Liberia, witchcraft, ritual killings and trials by ordeal are issues at the forefront of the human rights agenda. The May-October 2007 Report on the Human Rights Situation in Liberia noted instances of witchcraft that violated fundamental human rights and called on the government to develop and enforce laws against such activities.<sup>259</sup> The reported instances were found throughout Liberia.

*River Cess County:* A mob beat an elderly woman accused of witchcraft along with her husband and looted their home. Police officers attempting to protect the couple were also attacked. No one was arrested and the Liberian National Police (LNP) “claimed they were facing political pressure from high-ranking community leaders not to take action.”<sup>260</sup>

*Maryland County:* Four individuals believed to be responsible for witchcraft were beaten by villagers in Gbeken and no arrests were made.<sup>261</sup>

*Bong County:* An ex-combatant was paid by two individuals to kill a woman’s grandson in revenge for suspected witchcraft. All three were arrested.<sup>262</sup>

*Montserrado County:* A witch finder was invited into the community to remove “impediments to the town’s development.” Four accused persons fled but the police were unable to prosecute the witch-finder as the Ministry of Internal Affairs had reportedly authorized the rituals.<sup>263</sup>

*Nimba County:* Trials by ordeal continue, particularly to determine guilt or innocence of suspected witches. In Nimba County, 37 accused witches and witchdoctors—most of whom were women—were “held captive for two months with the blessing of the local chiefs and subjected to beatings and torture, including starvation and rubbing mud and pepper into body orifices.”<sup>264</sup> At least one died from injuries. Eight people arrested for this abuse have been released on bail. Government offices, like the Ministry of Post and Telecommunications, have reportedly used trial by ordeal to identify thieves.<sup>265</sup>

*Bomi County:* In this county, the LNP arrested a man accused of transforming into a baboon and terrorizing citizens.<sup>266</sup> The National Traditional Council of Liberia in the Ministry of Internal Affairs prepared to carry out a trial by ordeal but interventions by the Human Rights Protection Service and the Solicitor-General lead to the man’s release and prevented the trial by ordeal. The

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<sup>258</sup> Schanke, Elise. *Housing and reintegration of amputees and war-wounded in Sierra Leone*, 21 *Forced Migration Review* 60 (2004), at 60.

<sup>259</sup> UN Mission in Liberia. *Report on the Human Rights Situation in Liberia May-Oct 2007*, Human Rights and Protection Section (Apr. 2, 2008), available at <http://www.unhcr.org/refworld/docid/47fb8c9d2.html> (last visited Dec. 16, 2008).

<sup>260</sup> *Id.* at 10, ¶ 18.

<sup>261</sup> *Id.*

<sup>262</sup> *Id.* at 23, ¶ 54.

<sup>263</sup> *Id.*

<sup>264</sup> Africa News. *Liberia: UN Urges Government to Outlaw Trials by Ordeal* (June 4, 2007).

<sup>265</sup> *Id.*

<sup>266</sup> UN Mission in Liberia, *supra* note 261, at 23, ¶ 53.

man is out on bail but charged with “terroristic threats” and aggravated assault.<sup>267</sup> President Ellen Johnson-Sirleaf “revoked in November [2007] all government licenses to stage trial by ordeal with a poisonous substance called sassywood,” a potion made from tree bark.<sup>268</sup> In another positive step, four accused witches were released from prison after a year of detention without trial.<sup>269</sup>

According to UNHCR Regional Protection Officer Kate Pooler, an elderly Liberian man was identified by fellow villagers as a witch upon his return from Guinea.<sup>270</sup> A local magistrate imprisoned him and UNHCR, which viewed this as a protection problem, intervened. Through negotiations with village authorities, it was decided that he could be released and reintegrated into the community after a purification ceremony. UNHCR staff and villagers pooled their money to buy a cat, a chicken, a goat and a sheep to sacrifice and the villagers drank the blood. No further problems were reported.

A group of women claimed that they “cannot return (or remain in Liberia)” because they were being targeted by Poro Society members for opposing female genital mutilation (FGM). They alleged they were being harmed through witchcraft exercised by the Poro Society, but these claims were determined to be unfounded.<sup>271</sup> Harm from witchcraft practice is much less likely to be viewed as credible by Western aid workers and asylum officers because of disbelief and lack of evidence.

### **Witchcraft in developed countries**

When individuals migrate—either voluntarily or involuntarily—witchcraft beliefs they might hold travel with them, though “they may respond differently to such beliefs in their new environment.”<sup>272</sup> Despite new anxieties that may arise, the context of migration “tends to limit violent action on the basis of witchcraft fears.”<sup>273</sup> This is not always the case, however.

Witchcraft-related child abuse and killings have made headlines in the United Kingdom in the last few years. In 2000, Victoria Climbié, an eight-year old child from the Ivory Coast, was abused and murdered by her relatives because they believed she was possessed by evil spirits.<sup>274</sup>

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<sup>267</sup> *Id.*

<sup>268</sup> Africa News *Outlaw Trials By Ordeal*, *supra* note 266.

<sup>269</sup> Africa News. *Liberia: UN Puts Witchcraft Center Stage* (April 3, 2008).

<sup>270</sup> Pooler, Kate. Interview with Regional Protection Officer conducted by Maria Riiskjaer (UNHCR) on Nov. 27, 2008.

<sup>271</sup> UNHCR. *Liberia Annual Protection Report* (Reporting period January 2004 – December 2004), at 13.

<sup>272</sup> Ter Haar, Gerrie (ed). *Ghanaian Witchcraft Beliefs: A View from the Netherlands in Imagining Evil: Witchcraft Beliefs and Accusations in Contemporary Africa*, Africa World Press (2007), at 108.

<sup>273</sup> *Id.* at 109.

<sup>274</sup> BCC. *NSPCC calls for specialist agency* (June 3, 2005), available at [http://news.bbc.co.uk/2/hi/uk\\_news/4607773.stm](http://news.bbc.co.uk/2/hi/uk_news/4607773.stm) (last visited Dec. 14, 2008). And Westhead, James. *Abuse case sparks new fears* (June 3, 2005), available at [http://news.bbc.co.uk/2/hi/uk\\_news/4602543.stm](http://news.bbc.co.uk/2/hi/uk_news/4602543.stm) (last visited Dec. 14, 2008).

The torso of a Nigerian boy, known as Adam, was found in the Thames in 2001 and was believed to be the result of ritual killing.<sup>275</sup>

In 2005, three adults were found guilty of child cruelty after abusing ‘Child B’ for months for being a witch.<sup>276</sup> Abuse included cutting her on the chest with a knife, beatings, kickings, starvation, and rubbing chilli peppers into her eyes.<sup>277</sup> Child B and one of the women, who claimed to be her mother, arrived to England in 2002 as Angolan refugees.<sup>278</sup> DNA tests disproved that the woman was B’s mother, though she may be her aunt.<sup>279</sup> Sita Kisanga, another of the abusers, said that her north London church, Combat Spirituel, had identified B as a witch, though the church’s pastor denies it.<sup>280</sup>

Richard Hoskins, an African studies expert, went to Kinshasa, DRC in 2004 at the request of “lawyers acting for a child in the care of a London council’s social services department” to determine if it would be in the best interests of the child for him to be sent to Kinshasa to be exorcised and delivered of kindoki (witchcraft).<sup>281</sup> Hoskins found “children starved for days...intimidated, shaken and shouted at by pastors” and “heard rumours of much, much worse—of children from Europe ending up on the streets and others beaten to death.” There are reports of children being abandoned overseas as the result of witchcraft allegations.<sup>282</sup>

Children, including unaccompanied minors, can travel both domestically and abroad with “considerable ease in a way that is very difficult to monitor,” which increases their vulnerability.<sup>283</sup> Africans Unite Against Child Abuse (AFRUCA) has stressed that the government has “a duty of care...[and] must take full responsibility for ensuring a child, no matter their status, is not removed from the UK to a situation whether [sic] their life would be in danger because they have been stigmatized as a witch.”<sup>284</sup>

The Department for Education and Skills (DfES) commissioned a report to “gauge the extent, nature and geographical spread of child abuse linked to accusations of ‘possession’ or ‘witchcraft.’”<sup>285</sup> Thirty-eight cases involving forty-seven children were identified and analyzed.<sup>286</sup> Boys and girls were equally at risk, with most aged 8 -14 years.<sup>287</sup> Accusations of witchcraft are often directed at children considered difficult or different; at least fourteen of the

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<sup>275</sup> Shafik, Meghji. *Child Protection: Faith healers*, Children Now 18 (Apr. 4, 2007).

<sup>276</sup> BBC. *Witch trial girls’ ‘mother’ found* (July 11, 2005), available at [http://news.bbc.co.uk/2/hi/uk\\_news/4670727.stm](http://news.bbc.co.uk/2/hi/uk_news/4670727.stm) (last visited Dec. 14, 2008).

<sup>277</sup> Dodd, Vikram. *Refugee orphan ‘tortured as witch,’* The Guardian (May 10, 2005), available at <http://www.guardian.co.uk/uk/2005/may/10/ukcrime.childprotection> (last visited Dec. 14, 2008).

<sup>278</sup> *Id.*

<sup>279</sup> *Id.*

<sup>280</sup> Sunday Times, *supra* note 134.

<sup>281</sup> *Id.*

<sup>282</sup> Stobart, Eleanor. *Child Abuse Linked to Accusations of ‘Possession’ and ‘Witchcraft,’* UK Department for Education and Skills Research Report 750 (2006), at 3.

<sup>283</sup> *Id.* at 25.

<sup>284</sup> Africans Unite Against Child Abuse. *Safeguarding Children from Abuse linked to a Belief in Spirit Possession Consultation Response Form* (2007), at 11.

<sup>285</sup> Stobart, *supra* note 284, at 4.

<sup>286</sup> *Id.* at 9.

<sup>287</sup> *Id.*

forty-seven children involved had “some degree of disability, imperfection or blemish.”<sup>288</sup> The nationality of families and children involved were: Mauritius, Tanzania, Burundi, DRC, Angola, Nigeria, Ghana, Ivory Coast, Caribbean, South Asian, and White English.<sup>289</sup>

The report cautioned that witchcraft beliefs are “not confined to particular countries, cultures or religions nor is it confined to recent migrants.”<sup>290</sup> However, all but one of the families involved were first or second generation migrants, though half of the accused children were born in the United Kingdom.<sup>291</sup> Negative migration experiences include “isolation from extended family, a sense of not belonging, alienation or feeling threatened or misunderstood, as well as significantly unfulfilled expectations of quality of life” that can add stress for the family and contribute to abuse.<sup>292</sup>

The extent of the problem is hard to pinpoint because faith-related abuse is “a hidden crime that usually takes place in people’s homes,” with only an estimated five percent of crimes involving possession or witchcraft reported.<sup>293</sup> Additionally, “refugee or asylum-seeking communities may not be forthcoming because they fear information will be used against them.”<sup>294</sup>

In an effort to penetrate such communities, the Metropolitan Police Service created Project Violet in May 2005 to “prevent and detect ritualistic, faith-related child abuse by engaging faith communities and partners in a coordinated strategic approach.”<sup>295</sup> Over 230 pastors have received child protection trainings from Project Violet and Churches Child Protection Advisory Service and efforts to improve trust, build communication and raise awareness have been aimed at children’s services, teachers, police, non-profit organizations, and communities as well.<sup>296</sup>

It is unlikely that this problem is limited to England, although that is where most of the research has been done thus far. In addition, a psychiatrist in the Netherlands outlined the case of an Angolan boy that was mistreated by his stepmother and her friend because they believed he was a witch.<sup>297</sup> She diagnosed both women with post-traumatic stress disorder and differing

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<sup>288</sup> *Id.* at 15 and 21.

<sup>289</sup> *Id.* at 12.

<sup>290</sup> *Id.* at 28.

<sup>291</sup> *Id.* at 24 and 13.

<sup>292</sup> HM Government, Safeguarding Children from Abuse Linked to a Belief in Spirit Possession (May 2007), available at <http://www.everychildmatters.gov.uk/resources-and-practice/IG00220/> (last visited Dec. 15, 2008), at 8.

<sup>293</sup> Alderson, Andrew and Chris Johnston. *Dozens of African children beaten, abused and accused of witchcraft, say detectives*, The Telegraph (June 4, 2005), available at <http://www.telegraph.co.uk/news/uknews/1491422/Dozens-of-African-children-beaten,-abused-and-accused-of-witchcraft,-say-detectives.html> (last visited Dec. 14, 2008). And Shukor, Steven. *African children ‘at risk of ritual abuse,’* BBC News (Dec. 20, 2006), available at [http://news.bbc.co.uk/2/hi/uk\\_news/england/london/6177001.stm](http://news.bbc.co.uk/2/hi/uk_news/england/london/6177001.stm) (last visited Dec. 14, 2008).

<sup>294</sup> Shafik, *supra* note 277, quoting Zainab Adan, community partnership advisor for Newham Council.

<sup>295</sup> Metropolitan Police Authority. *Child Abuse Investigation Command (Faith-related child abuse and child trafficking)*, Report 14 (May 12, 2005), available at <http://www.mpa.gov.uk/committees/x-ppr/2005/050512/14.htm> (last visited Dec. 15, 2008).

<sup>296</sup> HM Government Department of Children, Schools and Families, *Government Commissioned Report on Abuse Linked to Witchcraft Published Today* (June 29, 2006), available at [http://www.dcsf.gov.uk/pns/DisplayPN.cgi?pn\\_id=2006\\_0095](http://www.dcsf.gov.uk/pns/DisplayPN.cgi?pn_id=2006_0095) (last visited Dec. 15, 2008).

<sup>297</sup> Ederveen- Grochowska, Agnieszka. *Forensic Psychiatric Evaluation: A Case of Witchcraft Accusation*, Bulletin of Transcultural Special Interest Group of Royal College of Psychiatrists (Autumn 2007), at 4.



personality disorders, suggesting that the “initial misfortune” that lead to the witchcraft accusation might be “refusal of refugee status and lack of finances.”<sup>298</sup>

The “idiom of witchcraft,” which was “initially used to restore moral order and to explain misfortune, eventually became the vehicle for abuse.”<sup>299</sup> In Dutch law, if an “individual’s different cultural background had influenced their actions at the time of the offense,” that can be used as a cultural defense.<sup>300</sup> Both women were found guilty of abuse, but the stepmother appealed and her “solicitor successfully argued that differences between nations, groups and individuals must be taken into consideration in legal cases” despite so-called “framework values.”<sup>301</sup>

### States and armed conflicts

In some cases, states play an active role in prosecuting those accused of witchcraft; conversely, other states have outlawed witchcraft accusations and try those who make allegations against others. In the latter case, “state intervention has created the impression that the authorities are keener to protect witches than their victims.”<sup>302</sup> This is a similar reaction to the approach of colonial governments, which were often perceived to be “a strong ally of the witch” because accused witches were frequently released for lack of substantive proof.<sup>303</sup> If individuals subsequently took matters into their own hands, they “were instantly convicted of their acts and harsh sentences were meted out against them by the same colonial courts.”<sup>304</sup> This drove the practice of dealing with witchcraft underground.

Several post-colonial African governments faced a “popular demand for the eradication of evil particularly where anti-witchcraft movements had flourished earlier.” Witchcraft eradication was an important issue in Zambia under President Kenneth Kaunda and Malawi’s former President Hastings Kamuzu Banda “actively encouraged the youth league of his state party to engage in violent anti-witchcraft activities.”<sup>305</sup> In Benin in the 1970s, when President Mathieu Kerekou’s Marxist-Leninist campaign against class war used the language of witchcraft, “the government’s intention was misinterpreted and the campaign got completely out of hand. The populace began to chase old women, who were held responsible for a dramatically increased infant mortality.”<sup>306</sup>

Since 1980, Cameroon’s government courts have heard cases of alleged witchcraft and those convicted “may face a prison term of 2 to 10 years and a fine of 5,000 to 100,000 CFA francs.”<sup>307</sup> The “institutionalization of the crimes of witchcraft, magic, and divination has been

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<sup>298</sup> *Id.* at 4-5.

<sup>299</sup> *Id.* at 5.

<sup>300</sup> *Id.*

<sup>301</sup> *Id.*

<sup>302</sup> Golooba-Mutebi *Witchcraft, Social Cohesion*, *supra* note 19, at 941.

<sup>303</sup> Fisiy, *supra* note 18, at 149.

<sup>304</sup> *Id.*

<sup>305</sup> Behringer, *supra* note 2, at 211.

<sup>306</sup> *Id.* at 11-12.

<sup>307</sup> Geschiere, Peter and Cyprian Fisiy. *Domesticating Personal Violence: Witchcraft, Courts and Confessions in Cameroon*, 64 *Journal of the International African Institute* 323 (1994), at 323.

fraught with evidential problems of proof” and because conviction depends heavily on the individual judge, there is little consistency in the application of the law.<sup>308</sup>

In the Central African Republic, hundreds of people are charged each year by “Bangu’s witchcraft police” for practicing witchcraft. Several accused women were buried alive in the southwest town of M’baiki, while others have reportedly been executed or had their houses torched.<sup>309</sup>

During the anti-apartheid struggles in South Africa, “witchcraft eradication movements acquired strong political overtones.”<sup>310</sup> Young men known as Comrades took the lead, accusing hundreds of elders, destroying their homes and banishing them from their villages; there were at least 389 witchcraft-related killings in the Northern Province between 1985 and 1995.<sup>311</sup> However, it should be noted that the accused were of “various political affiliations and were not condemned for being political enemies of the Comrades.”<sup>312</sup>

Local ANC leaders were caught between the pressure of their constituents, who wanted assistance in combating witchcraft, and their political superiors, who required that they oppose witch-hunting.<sup>313</sup> ANC leaders “did not halt the witch-hunts, but rather sought to minimize their terror,” overseeing “how the Comrades collected money and visited the witch-diviner, but could not countenance the killing or expulsion of witches.”<sup>314</sup>

After a series of particularly violent witch-hunts in 1990, the “ANC branches and the Civics became extremely reluctant to mediate in disputes concerning witchcraft.”<sup>315</sup> The Truth Commission granted amnesty to thirty-four individuals detained for the murder of twenty-six witches in the early 1990s on the grounds that they “had been driven by traditional belief in witchcraft.”<sup>316</sup>

The Mpumalanga Province in South Africa drafted a Witchcraft Suppression Bill in 2007, which would have outlawed witchcraft practices, the accusation of witchcraft by others, and regulate the work of traditional healers as an effort to combat the “high level of violence in the province caused by allegations of witchcraft.”<sup>317</sup> The South African Pagan Rights Alliance (SAPRA), an

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And Immigration and Refugee Board of Canada. *Cameroon: Witchcraft in Cameroon; tribes or geographical areas in which witchcraft is practised; the government's attitude* (2004), CMR43570.FE (May 17, 2005), available at <http://www.unhcr.org/refworld/docid/440ed6e819.html> (last visited Dec. 14, 2008).

<sup>308</sup> Fisiy, *supra* note 18, at 143 and 160.

<sup>309</sup> Jones, Lucy. *Central Africa witchcraft cops fight sorcery boom*, Reuters (Aug. 26, 2002).

<sup>310</sup> Niehuas, *Perversion of Power*, *supra* note 89, at 274.

<sup>311</sup> *Id.*

<sup>312</sup> Niehaus *ANC Dilemma*, *supra* note 90, at 104.

<sup>313</sup> *Id.* at 93.

<sup>314</sup> *Id.* at 104.

<sup>315</sup> *Id.* at 105.

<sup>316</sup> Behringer, *supra* note 2, at 215.

<sup>317</sup> Zigomo, Muchena. *S. Africa witches fight for rights* (July 20, 2007), available at <http://www.reuters.com/article/lifestyleMolt/idUSL2080650220070720?pageNumber=1&virtualBrandChannel=0> (last visited Jan. 23, 2009) and South African Government. *Mpumalanga province suspends the drafting of the provincial Witchcraft Suppression Bill of 2007* (June 24, 2008), available at [http://www.search.gov.za/info/previewDocument.jsp?dk=%2Fdata%2Fstatic%2Finfo%2Fspeeches%2F2008%2F08062412451002.htm%40Gov&q=%3Cphrase%3E+\(housing+mpumalanga+provincial\)+%3CAND%3E\(+Category%](http://www.search.gov.za/info/previewDocument.jsp?dk=%2Fdata%2Fstatic%2Finfo%2Fspeeches%2F2008%2F08062412451002.htm%40Gov&q=%3Cphrase%3E+(housing+mpumalanga+provincial)+%3CAND%3E(+Category%2F)

organization that represents thousands of self-identified witches, opposed the bill as being an infringement on their right to equality, freedom of association, religion and choice of occupation.<sup>318</sup> As of June 2008, the bill was suspended, pending consultations with stakeholders and more extensive research.<sup>319</sup>

Witchcraft beliefs operate in many African conflicts, including Uganda, DRC, Angola, and Liberia. Analysis of modern African wars must take into consideration the role that traditional religion plays, from providing legitimacy to insurgent groups, to mobilizing support, to serving as a tool for intimidation.<sup>320</sup> For example, the Holy Spirit Movement in Uganda, which “promised to cleanse the Acholi of the evil spirits and witchcraft that had caused so much trouble in the first place,” required soldiers to “undergo initiation rites in which they burned their old clothes and any magic charms, and swore by the Bible that they would no longer practice any form of sorcery or witchcraft.”<sup>321</sup> Mai-Mai soldiers in Northeast DRC, who used amulets and charms for protection, were believed to have liberated the local populace from Mobutu Sese Seko’s forces using supernatural power.<sup>322</sup>

Both the Popular Movement for the Liberation of Angola (MPLA) and the National Union for the Total Independence of Angola (UNITA) tried and executed witches, according to interviews with refugees from Angola in Namibia: “It was said that initially only real witches and traitors were executed. Later, false accusations sharply increased the number of those convicted—leading to the MPLA’s decision to put a stop to the practice...UNITA is said to be burning witches still.”<sup>323</sup> While those interviewed tended to believe that witches ought to be punished, they recounted that “innocent people were killed merely because they had personal enemies or did not comply exactly with the absurd rules UNITA imposed. Anyone who expressed concern...or complained...risked being accused of treason or witchcraft and subsequently executed.”<sup>324</sup> Jonas Savimbi, rebel leader of UNITA, was said to be a witch himself.<sup>325</sup>

Elements of witchcraft were also present in Liberia’s war, although the war “was not ‘about’ witchcraft.”<sup>326</sup> Liberians manipulated spiritual forces in order to gain power or protection.<sup>327</sup> Fighters wore amulets for invincibility and ate flesh and organs, including the heart, to acquire

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3Cmatches%3E+)&t=Mpumalanga+Local+Government+and+Housing+on+Witchcraft+Suppression+Bill (last visited Jan. 23, 2009).

<sup>318</sup> *Id.* Zigomo.

<sup>319</sup> South African Government, *supra* note 319.

<sup>320</sup> Wlodarczyk, Nathalie. *Witchcraft, War and Rationality: the strategic functions of traditional religion in contemporary African conflict*, Department of War Studies, King’s College London (Mar. 2004), available at [http://www.allacademic.com/meta/p\\_mla\\_apa\\_research\\_citation/0/7/3/6/8/p73688\\_index.html](http://www.allacademic.com/meta/p_mla_apa_research_citation/0/7/3/6/8/p73688_index.html) (last visited Dec. 14, 2008).

<sup>321</sup> HRW. *The Scars of Death: Children Abducted by the Lord’s Resistance Army in Uganda*, 1-56432-221-1 (Sept. 1, 1997), available at <http://www.unhcr.org/refworld/docid/3ae6a8410.html> (last visited Dec. 15, 2008).

<sup>322</sup> Wild, Emma. ‘*Is It Witchcraft? Is It Satan? It Is a Miracle.*’ *Mai-Mai Soldiers and Christian Concepts of Evil in North-East Congo*, 28 *Journal of Religion in Africa* 450 (Nov. 1998), at 461.

<sup>323</sup> Brinkman, Inge. *Ways of Death: Accounts of Terror from Angolan Refugees in Namibia*, 70 *Journal of the International African Institute* 1 (2000), at 15.

<sup>324</sup> *Id.* at 15-16.

<sup>325</sup> *Id.* at 16.

<sup>326</sup> Ellis, Stephen. *Weapons: Some Evidence from the Liberian War*, 31 *Journal of Religion in Africa* 222 (May 2001), at 224.

<sup>327</sup> *Id.* at 234.

the power of the victim had possessed.<sup>328</sup> Politicians allegedly practiced ‘civilized’ witchcraft through ritualistic murder and human sacrifices “for the purpose of retaining or obtaining a government post.”<sup>329</sup>

### Witchcraft persecution claims

Between January and April 2005, five Nigerians presented claims based on witchcraft, cults or secret societies to UNHCR Kuala Lumpur.<sup>330</sup> Internal analysis found that credibility, internal flight alternatives (IFA) and state protection were common issues raised by the cases. Summaries were provided for three of the cases, none of which were related to flight due to witchcraft accusations or fear of being targeted by witchcraft. Relevant country of origin information (COI) indicated that cults and secret societies were prevalent but that protection within Nigeria and police assistance would generally be available, although it could not be “fully rule[d] out that a person being victimized or threatened by members of a secret cult would at all times be able to find safety.”<sup>331</sup>

The report recommended that accelerated or on-the-spot refugee status determination be given when similar or recurrent claims of this kind were presented at the substantive registration stage.<sup>332</sup> The assumption is that credibility could be expediently assessed because fraudulent claims would be vague and lacking detail. If the claim is found to be credible, the focus would turn to IFA as COI indicates wide availability of protection for victims of non-state agents of persecution.<sup>333</sup>

UNHCR Kuala Lumpur also provided information regarding the use of a Focused RSD Form (FRF) for Liberians who claim fear of return due to the practice of black magic amongst their tribesmen.<sup>334</sup> The FRF “may only be used if a thorough analysis of a given caseload is indicative of common claims within that caseload, which may then be adjudicated using clear factual parameters; well-supported and reliable [COI]; and correct legal analyses.”<sup>335</sup> COI indicates that “police involvement was minimal in traditional matters such as ritual killings, trials by ordeal or witchcraft, or vigilante action against people suspected of being witches.” IFA remains a consideration in establishing a credible refugee claim.<sup>336</sup>

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<sup>328</sup> *Id.* at 222-3.

<sup>329</sup> *Id.* at 232.

<sup>330</sup> Liew, Reuben (Senior Eligibility Officer). *Analysis of Nigerian caseload*, UNHCR Kuala Lumpur (Apr. 21, 2005), table 1.1 at 4.

<sup>331</sup> *Id.* at 3, quoting Danish Immigration Service, “Report on Human Rights Issues in Nigeria, Joint British-Danish fact-finding mission to Abuja and Lagos, Nigeria,” January 2005.

<sup>332</sup> *Id.* at 6.

<sup>333</sup> *Id.* at 6-7.

<sup>334</sup> UNHCR Kuala Lumpur. *Focused RSD Form: Liberia*, at 10.

<sup>335</sup> *Id.* at 7.

<sup>336</sup> “UNHCR’s current position on IFA...provides that: a) in cases where persecution is by State agents, there is a presumption of countrywide persecution and an alternate location is not a relevant consideration; b) in cases where persecution is by non-State agents, and the State has been unwilling to protect the claimant in one part of the country, it can be presumed that the State would be unwilling to extend its protection in any other part of the country; c) to be a relevant alternative, a potential area of relocation must be physically, safely, and legally accessible to the claimant; d) an individual may not be denied refugee status merely because he could have relocated

The Immigration and Refugee Board of Canada (IRB) has conducted a number of brief country condition analyses related to witchcraft, indicating that it has been the subject of various asylum claims. However, the specifics and outcomes of such cases could not be ascertained. The IRB research included the following:

*Chile:* The Research Directorate found references to witchcraft only “in the context of folkloric healing and superstition among the Mapuche Indians and in the southern island of Chiloé” and that “the last ritual sacrifice, in 1860, ‘caused an uproar.’”<sup>337</sup> The sources consulted provided no information on the use of witchcraft by the police or military, which had been the specific question at hand.

*Kenya:* Sources confirmed that witches often female and/or elderly were killed by mobs in Kenya and that few perpetrators were brought to justice.<sup>338</sup> No information was gathered that related to “the reaction of the police to such incidents, on safe areas set up for people accused or on the possibility of moving within Kenya to avoid accusers.”

*Nigeria:* Several inquiries about witchcraft in Nigeria were undertaken. Sources indicated that witchcraft beliefs are widespread, that the treatment of accused witches includes violence and death, that police usually express ‘indifference’ and that witchcraft itself is a punishable crime in Nigerian law.<sup>339</sup> Over 30 priests were arrested in 2004 when 50 mutilated bodies used for ritual sacrifices were found near shrines in Anambra State.<sup>340</sup> The same year at least 25 accused witches died by trial-by-ordeal.<sup>341</sup> Senior police officers, an Assistant Inspector General of Police, and a former governor were implicated in the killings.<sup>342</sup>

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to an IFA unless it would have been reasonable to expect him to do so; e) a determination of the reasonableness of an IFA requires an examination of all relevant criteria, including whether the individual can enjoy fundamental civil, political, economic, social and cultural rights as a citizen (or habitual residence for a stateless person) in the area of relocation, including economic survival, without facing an undue hardship; f) if the individual risks being persecuted, including any new form of persecution, it is not reasonable to expect relocation.” Musalo, Karen. *Claims for Protection Based on Religion or Belief: Analysis and Proposed Conclusions*, University of California (Dec. 2002), at VI.

<sup>337</sup> Immigration and Refugee Board of Canada. *Chile: Information on the practice of witchcraft and whether many members of the police and military are members of groups practicing witchcraft*, CHL26074.E (Jan. 1, 1997), available at <http://www.unhcr.org/refworld/docid/3ae6ac844.html> (last visited Dec. 14, 2008).

<sup>338</sup> Immigration and Refugee Board of Canada. *Kenya: People accused of being witches, including prevalence by gender, tribe and area, existence in rural areas versus urban areas, treatment of the accused by accusers, reaction of the police to complaints by such accused of threats and attacks, safe areas, or villages set up for such accused, and possibility of moving within Kenya to avoid accusers*, KEN38973.E (May 10, 2002), available at <http://www.unhcr.org/refworld/docid/3df4be548.html> (last visited Dec. 14, 2008).

<sup>339</sup> Immigration and Refugee Board of Canada. *Nigeria: The belief in witchcraft; whether it is confined to certain tribes or regions; the treatment of those accused of being witches; whether traditional medicine men are accused of being witches; the treatment of families of those accused of being witches; police reaction to the killing of those accused of being witches; whether there are safe areas or villages to which those accused of being witches can go*, NGA39321.E (Sept. 6, 2002), available at <http://www.unhcr.org/refworld/docid/3f7d4ddf23.html> (last visited Dec. 14, 2008).

<sup>340</sup> Immigration and Refugee Board of Canada. *Nigeria: Prevalence of ritual murder and human sacrifice and reaction by government authorities (March 2000-July 2005)*, NGA100384.E (July 22, 2005), available at <http://www.unhcr.org/refworld/docid/440ed7372.html> (last visited Dec. 14, 2008).

<sup>341</sup> Immigration and Refugee Board of Canada. *Nigeria: The belief in witchcraft; treatment of those accused of being witches and the treatment of their families; police reaction to the killing of those accused of being witches; whether*

At least two U.S. asylum cases in 2008 dealt with occult claims. Katherine Luongo, Assistant Professor in North-eastern University's History Department, provided expert testimony in two affidavits in which Kenyans were applying for asylum because of the threat of witchcraft accusations.<sup>343</sup> Both primary applicants had diagnosed mental illness—one was bipolar and the other schizophrenic. Treatment and medication for both illnesses would be hard to access in Kenya, it was argued, and manifestations of the diseases would be construed by fellow Kenyans as evidence of devil worship or witchcraft practice.

Luongo testifies that those accused of witchcraft are “highly vulnerable to communal violence,” which is likely to be lethal. She notes further that “given the absence of an effective state law enforcement apparatus and the willingness of the state to contract out its monopoly over juridical violence, vigilantism has become normalized in postcolonial Kenya” and that “state authorities would be unwilling or unable to effectively override the dictates of local leaders.”

These two asylum cases highlight the issue of violence and persecution carried out by non-state actors. Harm or the threat of harm from non-state actors can constitute a lack of state protection in the following ways: unwillingness or inability to protect individuals from serious harm; no legal recourse to prevent, investigate or punish such actions; lack of police response; toleration of practices despite laws against them; discriminatory laws; laws or penalties administered in a discriminatory fashion.<sup>344</sup>

UNHCR, the United Kingdom, New Zealand, Canada and the United States hold that “Convention protection may be extended to the victims of non-State agents when the State is either unable or ineffective in providing protection” and not just to instances when a state “encourages persecution or is unwilling to offer protection.”<sup>345</sup>

Although a state may prohibit a persecutory practice—such as the accusation of witchcraft and subsequent violence—it “may nevertheless continue to condone or tolerate the practice, or may not be able to stop the practice effectively... [and] the practice would still amount to persecution.”<sup>346</sup> Tanzania, for example, was criticized by Amnesty International in 1997 for failing to prevent “community-based persecution” of those accused of witchcraft.<sup>347</sup>

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*there are safe areas or villages to which those accused of being witches can go*, NGA100176.E. (June 14, 2005), available at <http://www.unhcr.org/refworld/docid/440ed73420.html> (last visited Dec. 14, 2008).

<sup>342</sup> Kingsley Jesuorobo & Associates. *A Man Accused of Witchcraft Wins Last Minute Stay of Deportation*, Legal Developments (Jan. 26, 2005), available at <http://kjlawoffice.com/legaldev.htm> (last visited Dec. 15, 2008).

<sup>343</sup> Luongo, Katherine. *Email correspondence including redacted copies of affidavits* (Jan. 2009).

<sup>344</sup> Asylum Aid. *A Summary by the Refugee Women's Resource Project* (June 2006), available at [www.asylumaid.org.uk/data/files/gender\\_guidelines\\_summary.doc](http://www.asylumaid.org.uk/data/files/gender_guidelines_summary.doc) (last visited Jan. 21, 2009), at para 1.5.

<sup>345</sup> Musalo, *supra* note 338, at 10-11.

<sup>346</sup> UNHCR. *Guidelines on International Protection: Gender-related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, HCR/GIP/02/01 (May 7, 2002), at ¶ 11.

<sup>347</sup> International Women's Rights Action Watch. *Tanzania, Second and third periodic reports dated 30 September 1996*, available at <http://www1.umn.edu/humanrts/iwraw/publications/countries/tanzania.htm> (last visited Dec. 16, 2008).

## Convention grounds

The 1951 Refugee Convention stipulates that a refugee must be persecuted “for reasons of race, religion, nationality, membership of a particular social group or political opinion.”<sup>348</sup> The two Convention grounds most relevant to this discussion are religion and membership to a particular social group. In both cases, it is important to consider the imputation of belief or identity by the persecutor.

Religion has been characterized as a belief, an identity or a way of life.<sup>349</sup> The way academics or a religious community define religion may not be as important as “the attitudes of those who are causing the religious persecution.”<sup>350</sup> The International Protection Guidelines on Religious Persecution state that “it may not be necessary...for an individual (or group) to declare that he or she belongs to a religion, is of a particular religious faith, or adheres to religious practices, where the persecutor imputes or attributes this religion, faith or practice to the individual or group.”<sup>351</sup> Where an individual’s persecution is based on imputed religious belief, no actual knowledge or observance of the attributed religion is required.<sup>352</sup> Religious persecution may actually occur “for a variety of reasons that have nothing to do with the beliefs that are actually held by a claimant.”<sup>353</sup>

Two Canadian cases demonstrate potential difficulties that can arise when religion is used as a ground for occult-related claims. A Nigerian applicant who feared a ‘vampire cult’ for his refusal to join was denied refugee status in *Oloyede v. Canada*.<sup>354</sup> The court found that the applicant “had been subjected to cult criminal activity rather than religious persecution.”<sup>355</sup> In *Omoruyi*, a Nigerian man refused to join the Ogboni secret cult based on his Christian beliefs. The cult demanded that, among other things, he “surrenders his father’s body for ritual mutilation and burial.” The Ogboni killed and mutilated his brother—who they mistook for him—and murdered his son. The court, however, denied protection “observing that the Ogboni had no intent to harm him for his religion, but simply to punish him because he refused to comply with their demands.”<sup>356</sup>

In early 2005, Canadian Immigration authorities granted a Nigerian accused of witchcraft a temporary stay of removal pending a judicial review of the individual’s application.<sup>357</sup> The man’s lawyer, Kingsley Jesuorobo, argued that a new development—“the client has recently been accused of witchcraft to the detriment of his relatives”—since the last assessment of his case in 2003 necessitated a fresh review of the case as stipulated by the Canadian Immigration and Refugee Protection Act and Regulations.

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<sup>348</sup> Convention Relating to the Status of Refugees 189 U.N.T.S. 150 (entered into force Apr. 22, 1954), at Art. 1A (2).

<sup>349</sup> UNHCR *Guidelines on Religion-Based Refugee Claims*, *supra* note 55, at ¶ 5.

<sup>350</sup> Gunn, *supra* note 41, at 14.

<sup>351</sup> UNHCR *Guidelines on Religion-Based Refugee Claims*, *supra* note 55, at ¶ 9.

<sup>352</sup> *Id.* at ¶ 31. And Gunn, *supra* note 41, at 53.

<sup>353</sup> Gunn, *supra* note 41, at 52.

<sup>354</sup> Musalo, *supra* note 338, at 43.

<sup>355</sup> *Id.*, referencing *Oloyede v. Canada (Minister of Citizenship and Immigration)* [2001] 2001 FCT 255, available at <http://decisions.fct-cf.gc.ca>.

<sup>356</sup> *Id.*

<sup>357</sup> Kingsley Jesuorobo & Associates, *supra* note 344.

Justice Campbell of the Federal Court granted the stay of removal as evidence was presented that accused witches face serious harm, including death, in Nigeria. Jesuorobo identified two elements of his client's fear: "the invasion of his freedom of religion" as a Christian not wanting to perform the "so-called witch verification exercises" and "the physical maltreatment to which an accused is subjected...as well as the probable death that often results from the consumption of the concoctions which invariably prove to be poisonous."<sup>358</sup>

Given the degree that women are affected by witchcraft accusations, it is important to consider the gender dimension. According to UNHCR International Protection Guidelines, "particular attention should be paid to the impact of gender on religion-based refugee claims, as women and men may fear or suffer persecution...in different ways to each other," mentioning harmful traditional practices and specifically stating that "women are still identified as 'witches' in some communities and burned or stoned to death."<sup>359</sup>

In another Canadian asylum case, a Nigerian woman feared persecution from her in-laws after her husband died. She refused to undergo certain rites, marry her younger brother-in-law and was accused of being a witch. Because her "brother-in-law was a senior police officer with the apparent ability to locate her anywhere in Nigeria" and police do not intervene in family matters generally, the court found "a well-founded fear of persecution on the interrelated grounds of religion and membership in a particular social group should she return to Nigeria, and neither state protection nor an internal flight alternative would be available to her."<sup>360</sup>

If the state is unable or unwilling to protect an individual from a non-state actor, "it should not be mistaken as a private conflict, but should be considered as valid grounds for refugee status."<sup>361</sup> As with domestic violence or female genital cutting claims, the fact that witchcraft accusations and persecution are often carried out among kin does not relieve a state in its obligation to provide protection.

As mentioned in the preceding case, an additional or alternative Convention ground is membership of a particular social group (PSG). There are two dominant approaches to membership of a particular social group that governments have used in adjudicating such claims—protected characteristic and social perception.<sup>362</sup> UNHCR's Guidelines on International Protection suggests combining the two approaches to adopt a single standard:

A particular social group is a group of persons who share a common characteristic other than their risk of being persecuted, or who are perceived as a group by society. The characteristic will often be one which is innate,

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<sup>358</sup> *Id.* An email to Jesuorobo requesting the outcome of this case was not returned.

<sup>359</sup> UNHCR *Guidelines on Religion-Based Refugee Claims*, *supra* note 55, at ¶ 24.

<sup>360</sup> Immigration and Refugee Board of Canada. *Compendium of Decisions, Guideline 4: Women Refugee Claimants Fearing Gender-related Persecution, Update*, CRDD T99-06804 from July 11, 2000 (Feb. 2003), available at [http://www.irb-cisr.gc.ca/en/references/legal/rpd/compendium/index\\_e.htm](http://www.irb-cisr.gc.ca/en/references/legal/rpd/compendium/index_e.htm) (last visited Dec. 15, 2008), at 36-7.

<sup>361</sup> UNHCR *Guidelines on Religion-Based Refugee Claims*, *supra* note 55, at ¶ 24.

<sup>362</sup> UNHCR. *Guidelines on International Protection: 'Membership of a particular social group' within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, HCR/GIP/02/02 (May 7, 2002), at ¶ 5-6.



unchangeable, or which is otherwise fundamental to identity, conscience or the exercise of one's human rights.<sup>363</sup>

As with imputed religious claims, an individual need not consider himself a part of a social group so long as his persecutors believe him to be a member. According to Australian Justice Burchett in *Ram v. MIEA & Anor*, “A social group may be identified...by the perceptions of its persecutors rather than by reality. The words ‘persecuted for reasons of’ look to their motives and attitudes, and a victim may be persecuted for reasons of [membership of a PSG] to which they think he belongs, even if in truth they are mistaken.”<sup>364</sup>

More specifically, Justice McHugh of the High Court of Australia wrote, “Nor is it necessary that the group should possess the attributes that they are perceived to have. Witches were a particular social group in the society of their day, notwithstanding that the attributes that identified them as a group were often based on the fantasies of others and a general community belief in witchcraft.”<sup>365</sup> In his reference, Justice McHugh fails to acknowledge—or is not aware—that witch persecution continues today. In the same case, Justice Kirby argued for a case by case approach since “the phrase ‘particular social group’...is impossible to delimit...by a precise definition” and that adjudicators “will recognize persecuted social groups of particularity when they see them.”<sup>366</sup>

The likelihood of witchcraft accusation increases for those who fit the local stereotype about who might be a witch, whether it is based on age, gender, physical attributes, success, or membership in a specific family. Those specific characteristics distinguish the accused from society at large. Even in societies where anyone could be accused of being a witch, the community's perception is enough to place the accused individual within the particular social group of suspected witches. The society may or may not act violently towards individuals in such a group and may not always act consistently.

## Conclusion

Witchcraft belief itself does not necessarily translate into a protection concern. Professor Walter E.A. van Beek has proposed an escalation ladder to describe the factors that can propel belief to violence. Within each community, the following can influence the acceleration of suspicion to murder: notions of evil, strength or vulnerability of relationships, notions of agency, divination practices, inter-group power relations and the judicial situation all impact the path that accusations take.<sup>367</sup> Each step of the ladder provides an opportunity of halting the escalation; “it is at these points that policy makers seeking to halt witchcraft-related violence may intervene and influence the process.”<sup>368</sup>

One method that has been employed to combat witchcraft-related violence is through legislation outlawing such action and prosecution of individuals who make accusations or harm suspected

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<sup>363</sup> *Id.* at ¶ 11.

<sup>364</sup> Australian Government Department of Immigration & Multicultural & Indigenous Affairs, *Particular Social Group: An Australian Perspective*, Paper Prepared as a Contribution to the UNHCR's Expert Roundtable Series (2007), available at [http://www.immi.gov.au/media/publications/refugee/convention2002/07\\_social\\_group.pdf](http://www.immi.gov.au/media/publications/refugee/convention2002/07_social_group.pdf) (last visited Dec. 15, 2008), at 72.

witches. As discussed previously, this tactic was used by colonial powers and often led to clandestine attacks on alleged witches. South Africa's Ralushai Commission of Inquiry into Witchcraft Violence and Ritual Murder in the Northern Province, set up to probe into witchcraft killings, concluded that "legislation constituted 'an unacceptable solution to the problem of witchcraft and witch-killings.'"<sup>369</sup>

Problems include the unwillingness of communities to name perpetrators and local policemen's belief in the guilt of the accused.<sup>370</sup> Additionally, residents will likely strongly resist the prosecution of witch killers because they "believe that killing witches ultimately promotes community welfare."<sup>371</sup> Any action taken by governments or aid agencies in an attempt to legislate a solution must keep the potential consequences—including forcing action underground—in mind.

Child advocacy organizations in England have been pushing to make it a crime for anyone to describe a child as a witch or possessed by the devil, to carry out any form of ritual or exorcism rite on a child because s/he is a witch, and to make it an offence to send a child outside the UK to be exorcised.<sup>372</sup> This move would hold pastors accountable for the demonizing of a child that can lead to abuse within the church or at home and can be a lucrative money-maker.<sup>373</sup>

AFRUCA has also called for legislation to better regulate the establishment and monitoring of places of worship to ensure that leaders "are fit to be spiritual leaders with responsibilities for vulnerable families and their children most of whom rely exclusively on their faith networks for support, help and assistance in settling into their lives in the country."<sup>374</sup> Tighter immigration rules have also been suggested for African religious leaders seeking to travel to Britain.<sup>375</sup>

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<sup>365</sup> The case was actually unrelated to witchcraft and focused on a Chinese couple that alleged persecution based on China's one-child rule. High Court of Australia. *A v Minister for Immigration & Ethnic Affairs*, HCA 4; (1997) 190 CLR 225; (1997) 142 ALR 331 (24 February 1997), available at <http://www.austlii.edu.au/au/cases/cth/HCA/1997/4.html> (last visited Dec. 15, 2008).

<sup>366</sup> Australian Government, *supra* note 366, at 69, quoting *Applicant A & Anor v MIEA & Anor* (1997) 190 CLR 225, Kirby J at 303–308.

<sup>367</sup> van Beek, Walter E.A. *The Escalation of Witchcraft Accusations in Imagining Evil: Witchcraft Beliefs and Accusations in Contemporary Africa* (ter Haar, Gerrie ed.) Africa World Press (2007), at 308.

<sup>368</sup> ter Haar *Intro*, *supra* note 5, at 14.

<sup>369</sup> Golooba-Mutebi *Witchcraft, Social Cohesion*, *supra* note 19, at 950.

<sup>370</sup> *Id.* at 951.

<sup>371</sup> Miguel, *supra* note 24, at 25.

<sup>372</sup> AFRUCA. *Proposal for a New Law Against Diagnosing a Child as a Witch or Demonising a Child and Carrying Out Exorcism Rites on a Child*, available at

<http://www.afruca.org/documents/PROPOSALS%20FOR%20A%20NEW%20LAW%20AGAINST%20CALLING%20A%20CHILD%20A%20WITCH%20OR%20DEMONISING%20A%20CHILD.doc> (last visited Dec. 16, 2008)

<sup>373</sup> BBC. *BBC to broadcast calls to make accusing a child of witchcraft illegal* (Jan. 25, 2007), available at [http://www.bbc.co.uk/pressoffice/pressreleases/stories/2007/01\\_january/25/witchcraft.shtml](http://www.bbc.co.uk/pressoffice/pressreleases/stories/2007/01_january/25/witchcraft.shtml) (last visited Dec. 14, 2008).

<sup>374</sup> AFRUCA. *Africans United Against Child Abuse for Immediate Release* (June 30, 2006), available at <http://www.afruca.org/documents/Pdf's/AFRUCA%20DFES%20REPORT%20PRESS%20RELEASE.pdf> (last visited Dec. 14, 2008).

<sup>375</sup> Ward, Lucy. *Churches to attend ritual abuse summit*, *The Guardian* (July 12, 2005), available at <http://www.guardian.co.uk/uk/2005/jul/12/childprotection.religion> (last visited Dec. 14, 2008).

Immigration officials should be included in efforts to monitor the movement of children into and out of the UK to better protect those at risk.<sup>376</sup>

HelpAge International and the Magu Poverty Focus on Older People Rehabilitation Centre (MAPERECE), a Tanzanian NGO, established the Sukumaland Older Women's Programme to reduce witchcraft accusations, particularly as it impacts elderly women.<sup>377</sup> Efforts include legal advice to villagers about marriage and inheritance laws, awareness-raising about ageing and gender issues through song and plays, visits by caregivers who assess needs and distribute food and other items, the building of more secure houses, and small income generating projects for widows to improve their financial status.<sup>378</sup>

These interventions have "shown that it is possible to reduce killings by up to 90% in communities in Sukumaland."<sup>379</sup> Additionally, where elderly women are considered burdensome, the provision of pensions would "transform them from a net household economic liability into an asset."<sup>380</sup> In Northern Province, South Africa, witch killings decreased significantly with the introduction of the old age pension.

Witchcraft-related violence has been shown to be connected to property and inheritance confiscation in several countries, including Tanzania, Zambia and India.<sup>381</sup> Acknowledging and combating this underlying cause of accusations could help alleviate the problem. HelpAge International has urged for a non-discriminatory inheritance law and legislation to prevent the seizure of property on the death of a spouse in Tanzania.<sup>382</sup> In Zambia, "provision of title deeds for rural people with smallholdings would provide some security against the type of land-grabbing that now induces many witchcraft accusations."<sup>383</sup>

Interventions suggested within an Indian context focus on unequal gender relations, which are viewed by some as the root cause of witchcraft-related violence.<sup>384</sup> These include: focusing on the problem from the angle of atrocities against women; strengthening women's groups; mainstreaming gender in development planning; sensitizing police and government officials; and increasing access to health and education. Though some solutions may have wide relevance, public policy efforts to combat witchcraft-related persecution should respond to the nuances of belief within the particular community.

An extensive literature review of journal articles, UNHCR internal documents and newspapers has shown that witchcraft accusations lead to violence and persecution in locations throughout the world. Protection concerns from witchcraft allegations can occur at home and also impact

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<sup>376</sup> HelpAge International, *Challenging Beliefs about Witchcraft*, 51 *Ageways* 6 (Apr. 2002), available at [http://www.helpage.org/Resources/Regularpublications/Ageways/main\\_content/kFPX/AW59.pdf](http://www.helpage.org/Resources/Regularpublications/Ageways/main_content/kFPX/AW59.pdf) (last visited Dec. 15, 2008), at 29-30.

<sup>377</sup> *Id.* at 6.

<sup>378</sup> HelpAge *Stop violence against older women*, *supra* note 170.

<sup>379</sup> HelpAge *Tanzania Shadow Report*, *supra* note 93.

<sup>380</sup> Miguel, *supra* note 24, at 25.

<sup>381</sup> HelpAge International, *HelpAge urges action on older women's rights in Tanzania* (Apr. 24, 2008), available at <http://www.helpage.org/News/Mediacentre/Pressreleases/m7BO> (last visited Dec. 15, 2008).

<sup>382</sup> *Id.*

<sup>383</sup> ter Haar *Intro*, *supra* note 5, at 23.

<sup>384</sup> Roy, *supra* note 78, at 144-5.

individuals throughout the cycle of displacement. Witchcraft-related violence may manifest as domestic violence, child abuse, or mob justice.

Workers at international organizations and non-governmental organizations must be aware of the tenacity of witchcraft beliefs, the very real threat they can create for individuals, and be willing to provide protection through monitoring, relocation, and awareness-raising campaigns. UNHCR and governments need to be prepared to apply refugee law to claims that are based on witchcraft. By being aware that the phenomenon of witch persecution is still very much alive, those in the refugee field may be better prepared to pre-empt or respond to the associated violence and provide protection as needed.