

Witchcraft Accusations & Persecution in Nepal

2014 COUNTRY REPORT



WHRIN
THE WITCHCRAFT & HUMAN RIGHTS
INFORMATION NETWORK

Awareness.
Understanding.
Solutions.



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Warning! Readers may find some of the images and stories in this report disturbing. Please do not read any further if you feel you may be affected by such issues.

1. FOREWORD

The belief in witchcraft is endemic within all societies. Despite the fact that this belief often leads to some of the most horrific forms of human rights violations taking place today, these abuses have received relatively little in-depth analysis by the international human rights community. This report, the first in a series of WHRIN country reports, focuses on the widespread violations that take place in Nepal due to the belief in *Boksi* (witches).

At this crucial time in the evolution of the Nepalese nation state, the objective of this report is to make an important contribution in the field of human rights. Through raising awareness of this issue, we hope to be able to work with the Nepalese Government and civil society organisations to develop the solutions required to put a stop to the torture and killing of women in the name of 'combatting witchcraft'.

2. ACKNOWLEDGEMENT

WHRIN is fortunate to have worked on this project with leading human rights organisations and practitioners. Our sincere thanks go to the Bar Human Rights Committee of England and Wales (BHRC) for their commitment to work on upholding the rights of people accused and persecuted for witchcraft around the world. In particular for Professor Susan Edwards' (Barrister and human rights activist) outstanding contribution on helping write this report on behalf of the BHRC. Also to the report's editors - Dr Theodora Christou and Zimran Samuel - from the Executive Committee of the BHRC.

In Nepal, the work of Forum for Protection of People's Rights (PPR Nepal) and its director, Rajendra Ghimire, was the inspiration for this project. WHRIN remains humbled and grateful for having the opportunity to work with such passionate and committed human rights defenders. The report would not have been possible without the work of WHRIN Associates, Joe Wood (photographer - www.joe-wood.eu) and Ugne Grigaite (social worker), who travelled to Nepal in early 2013 in order to help facilitate the report. Samantha Spence also deserves gratitude for her efforts to support the research carried out on the report.

All of the work carried out on this project has been undertaken pro-bono and we believe that this highlights the serious commitment of all partners to raising awareness of these issues. We hope that it will act as an important step in finding the solutions needed to put a stop to one of the 21st century's most horrific human rights abuses.

1. UNDERSTANDING TERMINOLOGY

In recent years human rights violations which take place due to beliefs in witchcraft have entered into the discourse of violence against women, children, disabled and the elderly. These violations are increasingly being recognised as some of the most horrific abuses witnessed today; nevertheless, the terminology used to document such cases remains, at best, confusing. Terms such as witchcraft accusations,¹ witchcraft allegations,² witchcraft branding,³ or witchcraft stigmatization⁴ are frequently used in order to try to capture the *belief* that someone is a witch and the act of *labelling* them as a witch. However, each of these terms fails to capture the horror of the subsequent abuse that often takes place due to this belief and label. Other terms used which make an attempt in this regard, such as witchcraft-based violence⁵ or witchcraft-related abuse,⁶ only confuse the reader and interventionist/policy makers further, as they suggest that the violence or abuse has taken place due to witchcraft, rather than due to *belief* in witchcraft. This is deeply misleading and potentially dangerous in that they may reinforce the beliefs that lead to such abuse.

Whilst other similar forms of human rights violations, such as Female Genital Mutilation (FGM) or Violence against Women (VAW), have clearly identifiable names and acronyms widely used across all fields, the type of violations that this report focuses on have no universally agreed terms. For this reason, the report wishes to introduce a term into the discourse that the authors believe captures the problem succinctly and which will form the basis of all future communications on these issue. This new term is **“Witchcraft Accusation and Persecution” (WAP)**.

Clarification is also required as to what we consider to constitute “witchcraft”. It is important to note that there is no universally accepted definition of witchcraft, the term means different things to different people in different places. Nonetheless, primarily⁷ witchcraft is regarded as a negative, malevolent force, which is used by people – ‘the witches’ – in the spirit realm to bring about harm in the physical realm. It is the art of doing evil by means of spiritual power.

¹ Think Africa. Protect or Prosecute? Conjuring up Solutions to Witchcraft Accusations (Jan. 27, 2013), available at <http://thinkafricapress.com/burkinafaso/protect-or-prosecute-african-states-and-witchcraft-accusations>

² UNHCR. Witchcraft allegations, refugee protection and human rights: a review of the evidence (Jan 2009), available at <http://www.unhcr.org/4981ca712.html>

³ The Guardian. Why is child abuse tied to witchcraft on the rise? (Jan. 18, 2012), available at <http://www.theguardian.com/society/2012/jan/18/child-abuse-witchcraft-exorcism-rise>

⁴ Stepping Stones Nigeria. Witchcraft stigmatization in Nigeria: Challenges and successes in the implementation of child rights (Jan 2013), available at <http://isw.sagepub.com/content/56/1/22.abstract>

⁵ Chilimampunga, C. The Extent and Nature of Witchcraft-Based Violence against Children, Women, and the Elderly in Malawi(2012), available at <http://www.eldis.org/go/display&type=Document&id=62536#.UhdHdhs3uSo>

⁶ Patheos. The Action Plan to Stop Christian Witchcraft-Related Child Abuse (2012), available at <http://www.patheos.com/blogs/wildhunt/2012/08/britains-action-plan-to-stop-witchcraft-related-child-abuse.html>

⁷ However, there are some people, primarily in Europe and the United States, who call themselves ‘witches’. Such people follow a constructed neo-pagan religion, usually called Wicca, which is not witchcraft in the sense that the majority mean it

2. INTRODUCTION

2.1 NEPAL - FACTS



Nepal is a landlocked multi-ethnic, multilingual, multi-religious country, situated north of India in the Himalayas. It has a population of approximately 26.5 million. The predominant religion is Hindu (81.34%), with the remainder comprising of Buddhist (9.04%), Muslim (4.39%), Kirant (3.05%), Christian (1.42%) and unspecified (0.76%). Nepal can broadly be divided into three ecological zones, viz., the lowland (Tarai), the midland (Hill) and the highland (Mountain).

Capital	Kathmandu
Population*	26494504
Life Expectancy**	64.1 Years
Literacy*	65.9%
Unemployment rate (% of labour force without jobs)*	46%
Population below poverty line*	25.16%
Human Development Index**	157

* Statistics from central Bureau of Statistics Nepal

** Statistics from UN Development Programme

According to the US State Department, “Nepal is one of the poorest countries in the world [...] The country faces several medium-and long-term development challenges, including strained capacity in government, civil society and the private sector to drive the development agenda, high vulnerability to climate change and a massive youth bulge”. Corruption, throughout Nepal, is widespread. The country ranks as joint 139th out of 179 countries in Transparency International’s 2012 corruption perceptions index⁸ alongside Nigeria, Kenya, Azerbaijan and Pakistan. Furthermore, within Nepal, discriminatory values and practices are endemic. These include, patriarchal beliefs, values, practices and unequal power relations, interpretation of laws through a patriarchal lens, thus, reinforcing gender inequality, societal constraints that render the questioning and challenging of religious and cultural beliefs taboo and the commodification of women.

As a member state of the United Nations (UN), Nepal has ratified a number of International human rights treaties related to the rights of women. This demonstrates Nepal’s commitment towards protecting and promoting the rights of women. However, according to a 2013 report by Amnesty International,⁹ Nepal’s failure to punish perpetrators of grave human rights violations and crimes under international law, which were committed during the armed conflict which took place between 1996 and 2006, has created an environment where violations continue to be committed with impunity. The departure of the UN Office of the High Commissioner for Human Rights in Nepal, following termination of its agreement with the Government of Nepal in December 2011, has left a significant advocacy and protection vacuum, which exacerbates the dangers faced by human rights defenders attempting to challenge this climate of impunity.

2.2 Violence Against Women

The UN defines Violence against Women (VAW) as, “Any act of gender based violence that result in, or is likely to result in, physical, sexual or mental harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”¹⁰

In recent years the issue of VAW has gained greater public recognition largely due to the sustained efforts of the international women’s movement to seek international reform of women’s human rights. In Nepal, women are exposed to various forms of violence. Whilst many of these forms are witnessed worldwide, according to a 2012 report issued by the Nepalese Government,¹¹ forms of VAW, such as Bokshi (witchcraft) are seen more commonly in Nepal than elsewhere. The report concludes that: “Women, especially widows and women from marginalized communities, are subjected to discrimination and physical, sexual and psychological abuse.”¹² According to the National Women’s Commission 682 incidents of VAW were reported to the agency between mid-2011 and mid-2012. These included 126 reported incidents of sexual violence, 110 murders, 98 cases related to human trafficking, 62 domestic violence cases, 56 incidents of exploitation in foreign employment, and 43 incidents related to accusations of witchcraft, polygamy and child marriage.¹³

Reports from women’s human rights defenders suggest that the majority of cases of VAW go unreported. The Women’s Rehabilitation Centre (WOREC) estimates that only 25% of women who are victims of violence seek medical care and fewer (approximately 20%) seek legal remedies.¹⁴ Dalit women in particular face high levels of violence with cases of human rights violations being reported amongst widowed, divorced or separated women, and women living in the hill regions. Of concern here are recent reports, which suggests that this violence is on the increase. Indeed, as Kelles Viitannen notes, “Violence against women is reported to be increasing, with a surge in cases of dowry deaths and abuse of women accused of practicing witchcraft.”¹⁵

⁸ Transparency International (2012), available at <http://cpi.transparency.org/cpi2012/>

⁹ Amnesty International. The Search for Justice (2013), available at <http://www.amnesty.org/en/library/info/ASA31/001/2013/en>

¹⁰ Article 2, UN Declaration on Violence Against Women 1993, UN General Assembly Resolution 48/104 of 20 December 1993, available at <http://www.un.org/documents/ga/res/48/a48r104.htm>,

¹¹ Office of the Prime Minister and Council of Ministers. A Study on Gender-Based Violence Conducted in Selected Rural Districts of Nepal (November 2012)

¹² Ibid, p.1

¹³ The Himalayan Times. NWC’S request to police headquarters (October. 9, 2012), available at <http://www.thehimalayantimes.com/fullNews.php?headline=NWC’S+request+to+police+headquarters&NewsID=350318>

¹⁴ WOREC. Facts on Violence Against Women in Nepal (2012), available at <http://www.worecnepal.org/sites/default/files/VAW-Fact-Sheet-2012-WOREC.pdf>

¹⁵ United Nations Resident and Humanitarian Coordinator’s Office Nepal. Gender Equality and Social Inclusion: Promoting the Rights of Women and the Excluded for Sustained Peace and Inclusive Development (2011), available at erc.undp.org/evaluationadmin/downloaddocument.html?docid=4712

2.3 Witchcraft Accusations and Persecution (WAP)

Numerous communities label, target and persecute women as witches.¹⁶ WAP can therefore be seen as a worldwide phenomenon claiming the lives and dignity of countless victims across many cultures, faiths and countries; in this sense it has no boundaries. Similarly, women in Nepal face the threat of being branded a witch and subsequently tortured or killed. Numerous documented cases of WAP against women in Nepal exist, highlighting how this belief and practice may lead to their human rights being violated. According to a report by INSEC¹⁷ those identified as witches are: “*tortured, have soot smeared on their face, beaten with hands and fists, with implements, with stinging nettles, forcefully fed excreta, burned, blinded and murdered.*” Similar reported methods of torture are used in many countries where witchcraft belief and WAP prevails.¹⁸

The elderly, widows, the destitute and those of low caste are most often targeted with WAP often being used as an excuse to victimize female relatives, especially widows, to deprive them of their property rights or to settle a personal vendetta. Like other forms of violence against women and children, whilst there are general laws and codes criminalising violence against the person, WAP is rarely reported, rarely prosecuted and if prosecuted, rarely are perpetrators punished. Generally, victims are reluctant to file a case against the perpetrator out of fear and inability to wait for lengthy, complicated and expensive legal procedures.¹⁹

To combat this menace the Forum for Protection of People’s Rights (PPR Nepal) implemented the “Enhancing Access to Justice for Marginalized Women with Special Focus on the Victims of Witchcraft Related Violence” program from 2010 to 2012. This program documented 24 cases of severe violations of women’s rights due to WAP. Cases varied from women being forcibly evicted from their land and property by villagers, to them being beaten and burned alive by angry mobs. It provided free legal counselling and legal aid to the victims as well as working to raise awareness by disseminating materials such as posters, an audio visual documentary and on the spot awareness campaigns.²⁰ PPR Nepal’s documentary – “Sachetana: Against the violence based on witch allegation”²¹ – highlights the gross violations of the rights of Nepalese women that take place in the country due to WAP. According to Mr Rajendra Ghimire, Executive Director of PPR Nepal, “*It is without doubt that, witchcraft is one of the worst allegations against women that is prevalent in the Nepali society today.*”

¹⁶ Amongst others cases have been recorded in Tanzania, India, Saudi Arabia, Indonesia, Ghana and Papua New Guinea.

¹⁷ Informal Sector Service Centre (INSEC) A Study on Violence due to Witchcraft Allegation and Sexual Violence (2012), available at <http://www.inseconline.org/pics/1331279927.pdf>

¹⁸ There have been numerous such cases reported in India, Kenya, Papua New Guinea, amongst others. For example see: The Global Mail, It’s 2013 and They’re Burning Witches (2013) available at <http://www.theglobalmail.org/feature/its-2013- and-theyre-burning-witches/558/>

¹⁹ Forum for Protection of People’s Rights, Nepal (PPR Nepal) Annual Report on Enhancing Access to Justice For Marginalized Women With Special Focus to the Victims of Witchcraft Related Violence (December 2012).

²⁰ Ibid

²¹ Youtube (2013), available at <http://www.youtube.com/watch?v=6SX6OuX1mOU>

3 THE BELIEF SYSTEM

3.1 Spiteful Witches, Hungry Ghosts and Angry Spirits

Belief in witchcraft is what drives WAP, thus gaining an understanding of this lies at the heart of the struggle to put a stop to further human rights violations. The reason NGOs and UN agencies have generally failed to acknowledge this lies in the perceived conflict between the freedom of religion or belief and the enjoyment of other human rights.²²

Analysis of the belief system in Nepal highlights that it is broadly similar to that of other countries in that it has prevailed, since ancient times, largely due to the dominance and impervious nature of deep-rooted cultural and religious practices. In particular there is a strong animistic and shamanic tradition. Belief in ghosts, spirits, and witchcraft is widespread, especially in rural areas. Spiteful witches, hungry ghosts, and angry spirits are thought to inflict illness and misfortune. Shamans mediate between the human and supernatural realms to discover the cause of illness and recommend treatment.²³

Women are primarily considered as possessing supernatural powers. Such belief contends that women, possessed by the power of witchcraft, are responsible for a wide-range of misfortune including the sudden death of people, family members or animals, the sudden loss of property or crops, miscarriages and other illnesses and misfortunes.

As with other cultures, the Nepali belief in witchcraft maintains that such women gain their witchcraft powers primarily in two ways. Firstly, it is believed that they learn witchcraft from their mothers and it is passed on as a hereditary occupation. Secondly, in parallel with many parts of Africa, it is believed that the witchcraft can be passed to others via a mysterious, spiritual spell, which is given to others through food and/or drink. Whilst these beliefs may be most deeply held in the rural regions of Nepal, amongst community members with lower literacy levels, such beliefs are in general deeply engrained within society. Regardless of caste, levels of education or geographical locations, the majority of Nepalese people hold such beliefs to be true.

3.2 Understanding Misfortune

Belief in witchcraft can be conceptualized as an attempt by people to rationalize the misfortunes occurring in their life; it shapes perceptions and provides an answer when disaster strikes.²⁴ *“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.”*²⁵ Put simply it provides an explanation for what would be otherwise unexplainable or unbearable.

WAP tends to follow the patterns of tension and conflict in societies. The violence inflicted upon Nepali society by the Nepalese civil war from 1996 - 2006 has contributed to a breakdown of social networks, family ties, friendships bonds and support services. Destruction of the private infrastructures which previously enabled limited access to health and education, and which supported food security and livelihoods, led to a displacement of people. In the face of this some of the gravest human rights abuses have occurred including the systematic use of murder, rape, torture and extortion. These ‘social vacuums’, where extreme poverty, lack of access to basic resources and services and violent abuses of basic human rights abound, provide a fertile breeding ground for WAP and act as a way of explaining life’s misfortunes, thus maintaining the social order. Community members with legitimate frustrations about the lack of economic development in their communities, and without political outlets to express these grievances, look to scapegoat marginalized members of their communities through witchcraft accusations.

²²Interference with qualified rights must satisfy the test (it must be in accordance with the law, pursues a legitimate aim, necessary and proportionate).

However some rights are absolute and these cannot be balanced against the rights of others, they may not be interfered with in any circumstances.

These include those rights engaged in WAP, namely torture and the right to life. In essence the freedom of religion and belief cannot be relied upon by Nepal to avoid its human rights obligations to protect against torture and murder; as well as its positive obligations to investigate such occurrences.

²³Every Culture, available at <http://www.everyculture.com/Ma-Ni/Nepal.html#ixzz2cgnUzOy2>

²⁴UNHCR. Witchcraft Allegations, Refugee Protection and Human Rights: a Review of the Evidence, (Jan 2009)

²⁵Behringer, Wolfgang. Witches and Witch-Hunts: A Global History, Polity Press (2004).

3.3 WAP and Public Health

There is a significant correlation between witchcraft accusations and public health crises. Indeed numerous witch hunts have been triggered by health crises in the past: for example during a tetanus epidemic in Benin and following dysentery and malaria deaths in Papua New Guinea and Tanzania.²⁶ It is believed that the magical power of witches is responsible for the illness of other people in the community. Local people then become overwrought and start inflicting mental and physical torture. If people in a village fall sick, or there is a sudden death of anyone in the community, it is usually a woman who is considered to be a 'witch,' who is blamed for all these tragedies.

Analysis of PPR Nepal program reports, WHRIN records and other NGO reports²⁷ highlights that the majority of cases of WAP are related to public health problems within communities. Amongst other documented cases, victims have been believed to have practiced black magic in order to make a neighbour suffer headaches, accused of casting a spell to make a relative sick or simply believed by the community to have caused death and misfortune.

Based on WHO data,²⁸ existing health care facilities, hygiene, nutrition and sanitation in Nepal are of poor quality, particularly in the rural areas. Disease prevalence is higher in Nepal²⁹ than it is in other South Asian countries, especially in rural areas with diseases such as tuberculosis being one of the major public health problems affecting about 45% of the total population.³⁰ Other public health problems such as infertility, miscarriage and death of new-born children are also often blamed on witchcraft. Indeed the majority of people in rural areas are likely to first seek the services of the local Jhankri to cure the cause of their diseases in the spirit realm, the realm where it is believed the witches operate. Community members who may wish to use western medicine to cure their illnesses find that health care services either do not exist in the area they live or if they do, they are unable to provide the services they need due to inadequate government funding. This is partially down to the Constituent Assembly which functioned in place of Parliament for many years until its dissolution in May 2012, which often left health decisions and progress at a standstill.

CASE STUDY 1: A COUPLE ACCUSED

This couple come from a remote mountain village in the Himalayas. The wife explains how one day she cooked food for her neighbourhood and the following day all of them fell ill. She was then accused of being a 'witch' by her own sister-in-law. From that day on she would be blamed for everybody's illnesses; be it some insignificant disease or a major illness and even death. The husband was also blamed for the community's misfortunes as a result of defending and supporting his wife.

In October 2012, following another incident of violence against them, they both left their village along with their 4 children and went to stay with their relatives. PPR Nepal have supported them through the legal process of filing their case to the police and instigated the legal action against the perpetrators. When asked for their opinion on how this problem can be solved they firmly reply: "education and punishment to the perpetrators".



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The husband and wife remain astonished at the fact that the majority of people in their society and nationwide strongly believe in witchcraft. In their community alone, they say, two ladies were murdered on the grounds of witchcraft accusation. Yet these cases were never reported. Despite not believing in witchcraft, in case of an illness they would go to consult a Jhankri first, not a medical doctor. But then medical assistance is not at all available in their village and they do not feel they have that choice in the first place.

²⁶ UNHCR Policy Development and Evaluation Service. Witchcraft Allegations, Refugee Protection and Human Rights: a Review of the Evidence, (Jan 2009)

²⁷ Informal Sector Service Centre (INSEC) A Study on Violence due to Witchcraft Allegation and Sexual Violence (2012), available at <http://www.inseconline.org/pics/1331279927.pdf>

²⁸ World Health Organisation (WHO), available at <http://www.who.int/countries/npl/en/>

²⁹ Leading diseases and illnesses include diarrhoea, gastrointestinal disorders, goiter, intestinal parasites, leprosy, and tuberculosis, visceral leishmaniasis and tuberculosis

³⁰ Ministry of Health and Population, Nepal. An Assessment on Impact of Conflict on Delivery of Health Service(2005), available at http://www.who.int/hac/crises/npl/sitreps/Nepal_public_health_program_8_july05.pdf

3.4 The Role of the Jhankri

The belief in witchcraft in Nepal is propagated by one of the most powerful people in a community – the Jhankri, or witchdoctor. As well as being relied upon for providing medicinal treatment these men and women also act as the primary identifier of witches within communities. Indeed because Jhankris carry out their work openly and publicly, it is believed that they are male wizards, whose work is purely beneficial to society and they are therefore highly respected within society.

CASE STUDY 2: A JHANKRI

This Jhankri lives in an old wooden house in Central Nepal. The walls are covered with a number of pictures of Hindu deities. Next to these there hangs a giant board with an extensive pricelist for treatments of various illnesses of body and mind. Prices range from 100 NRP to 25,000 NRP.

The Jhankri explains that he can offer treatment to people with 22 different ailments or diseases, starting with palm reading, checking pulse and future telling and finishing with treating severe psychosis or “...mad, ghost”. He heals by chanting mantra as well as using some traditional medication.

When he was 7 years old he was taken away by a senior Jhankri to a jungle for four years of learning. Following this, he then started treating people himself. Whilst born a Buddhist, following the four years of studying with a Jhankri in the jungle, he decided to follow the Hindu faith. He has a strong belief in witchcraft and also currently has 84 students of his own.



© Joe Wood

Puja Roy presents three case studies, which demonstrate that whilst “*communities profoundly believe in evil spirit 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. Generally, the witch doctor receives payment for a consultation to determine who is to blame for a certain misfortune (death, crop failure, job loss, etc) and can be influenced in his suggestion. 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.*”³¹

One eye witness recounted her experience with a Jhankri in Karahiya-1, Rupandehi District as follows:

The victim had been acted strangely for some days. Villager’s [...] started to think of the witches as the main cause. They decided to invite a Jhankri to help find the cure. He started his process by remembering the name of his god. He tied the victim with a leather cord and started inserting the fingers in both the ears. Blood came from the ears of the victim [...] the Jhankri told that the blood was coming from the body of the witch, not from the victim. All villagers believed him [...] The villagers then insisted that the Jhankri find the witch behind the madness [...]the Jhankri then charged a woman as being the witch. The woman accused for being the witch was a close neighbour of the victim. When she knew that she was charged for being the witch, she started to cry and weep in her house. The family of the victim waited for many days to see the effect of Jhankri. There was no progress in the condition of the victim [...] Finally, they took the victim to the hospital.

³¹ P Roy, Sanctioned Violence: Development and the Persecution of Witches in South Bihar. Development in Practice (1998)

Whilst the Jhankri may continue to hold positions of power within the community, women accused of witchcraft are severely stigmatised and suffer from both physical and mental torture. The common forms of victimisation used are all deliberate, planned and involve extreme methods to inflict the most suffering on the victim. The methods are frequently sadistic, prolonged and involve clear acts of torture which would otherwise be recognised as such within both domestic and international law. It is, therefore, hardly surprising that having been the victim of such prolonged violence and torture many of these women confess to being witches.

4. SCALE OF THE PROBLEM

We do not know exactly how many cases of WAP take place across Nepal each year. Unwillingness of victims to report offences, the remote nature of many of the villages where the abuse takes place and a lack of any central database to record cases make it impossible to know the full scale. Human rights organisations and academics across the world believe the cases of WAP which are drawn to the attention of government, NGOs and the media³² represent only the tip of the iceberg.³³

The following table sets out the details of 18 reported cases, which were reported online by Nepali media in 2013 and documented by WHRIN.

Name and Age of Victims	Date and Area WAP took place	Form of Abuse	Reason for Abuse
Domani Chaudhary (35)	Feb 6 th Dhodana VDC-2 Siraha	Beaten severely	Death of neighbours new born baby
Kari Das (45)	March 2 nd Damhimadai VDC Mahottari district	Beaten Severely	Accused by relatives and neighbours
Raj Kumari Rana (65)	5 th April Beladevipur VDC Kalali district	Beaten severely with wooden stick inserted into her anus	Death of neighbours new born baby
Unknown (60)	6 th April Western region	Beaten severely, head shaved and forced to eat excreta	Believed to have caused deaths and misfortune in village
Masini Tamang, (35)	10 th April Lachyang VDC Nuwakot district	Tied up and beaten severely	Believed to have cast a spell on villager to make them ill
Dhegani Mahato (40)	18 th April Bagauda	Murdered (burned alive)	Accused by jhankri of casting spell on neighbour to make them ill
Pokchi Maya Rumba (age unknown) and her daughter Sunita Rai (26)	May 24 th Faparbadi VDC1 Makwanpur district	Beaten severely	Accused by relatives and neighbours
Maili Tamang (40) and Kanchhi Tamang (27)	July 22 nd Ichok VDC9 Sindhupalchok district	Beaten severely, tortured, heads shaved and forced to eat excreta	Accused by jhankri of casting spell on neighbour to make them ill
Unknown (75)	12 th August Kavre, Mahadevtar VDC (Hill)	Beaten severely	Believed to have caused misfortune befalling neighbours
Parvati Chaudhary (45)	16 th August Supauli, Parsa (Terai)	Murdered	Accused of casting evil spell on neighbours daughter
Unknown (21)	19 th August Sadhutole of Supauli VDC (Terai)	Murdered	Using witchcraft to cause neighbours headaches
Pramila Shakya (40)	23 rd August Kathmandu	Beaten severely and tortured	Believed to have caused sons mental health problems
Babita Chaudhary (21)	24 th August Uttaraitol, Udayapur district.	Beaten	Accused of casting spell on her classmate
Bechani Devi Yadav (32)	10 th November Boriya 8 in Saptari district	Beaten severely and tortured	Using supernatural powers to cause illness to people, animals and even plants.
Aasha Devi Nepali (27)	28 th November Sundaradevi, Nuwakot district	Beaten severely and tortured	Believed to be responsible for the death of a family member
Basanti Maharjan (42)	27 th December Kathmandu	Murdered	Jhankri blamed brother-in-laws illness on her

Table 1: Examples of Abuse in 2013

³²Al Jazeera. Every month in Nepal, at least four women are accused of witchcraft and then beaten and tortured. (May 19, 2013), available at <http://www.aljazeera.com/video/asia/2013/05/2013519171949902837.html>

³³Patheos. More Witches Have Been Executed Since World War II Than in Centuries Past (2013), available at <http://www.patheos.com/blogs/friendlyatheist/2013/07/04/more-witches-have-been-executed-since-world-war-ii-than-in-centuries-past/>

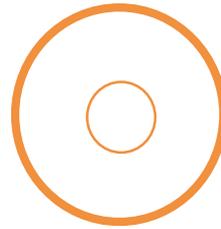
Whilst WAP is found in every community in Nepal, in the past it is believed to be most prevalent in the Terai and Mahottari districts.³⁴ However, analysis of WHRIN's 2013 records (see appendix 1) of cases of WAP in Nepal highlight that the abuse is spread throughout many parts of the country. Whilst the majority are recorded in rural areas cases WAP is not isolated to these areas and cases have recently been reported in Kathmandu. In line with the findings of the 2012 Nepal Governmental report, reported incidents of recent violence (in the past 12 months) were primarily associated with women aged 30 and above.



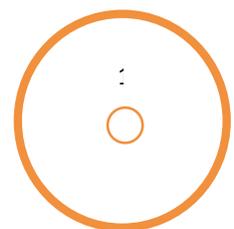
Severe beating



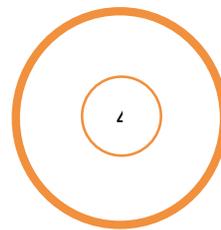
Forced to eat excreta



Head shaved



Sexual violence



Murdered



Tortured

CASE STUDY 3: DHEGANI DEVI MAHATO !

Mrs. Dhegani Devi Mahato aged 40 from Chitwan district was tortured with sticks, stones and knives before being set on fire due to the belief that she was a witch. Her family blamed her for illnesses they suffered and this was confirmed by the local Jhankri.

Whilst perpetrators of WAP are rarely brought to justice, this landmark cases in 2013 suggests that the Nepali judiciary is beginning to acknowledge the significance of this form of abuse and the need to deliver the justice required to act as a deterrent to carry out this form of abuse. In January 2013, eight men, including the Jhankri were sentenced to prison terms of 20 years each for the murder of Dhegani Devi Mahato in 2012. Din Bandhu Baral, an officer at Chitwan district court, told the press that the verdicts will “serve as an apt precedent at a time when protests are being organised across the country demanding stern action against the perpetrators of violence against women.”



³⁴Sah, K. A Study of the Problem of Witch Accusation in Nepal (2007)

5. LEGAL OVERVIEW

5.1 International Human Rights Legal Framework

There are several international treaties protecting human rights which should be used to protect victims of witchcraft accusation and persecution (WAP). There is first a general framework of human rights whose principles have been embraced by Nepal. The Universal Declaration of Human Rights 1948 (UDHR), under Art 1 asserts the inherent dignity and the equal and inalienable rights of people and Art 2 affirms that the rights to be asserted to protect all members of the human family. These principles prioritise the right to human dignity which should underscore considerations within the law and legal policy. This includes securing and protecting the dignity of those subjected to WAP in all its forms and the prevention of WAP.

Subsequent binding covenants, the International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR) and the International Covenant on Civil and Political Rights 1966 (ICCPR) mirror the UDHR core principles. On 14th May, 1991, Nepal became a party to both the ICESCR and the ICCPR.³⁵ Enforcement at the UN level of the provisions in these two covenants is provided in the Optional Protocol of both the ICESCR and ICCPR. Nepal has not signed either of these protocols. This omission needs to be addressed if the ICCPR and ICESCR are to have binding effect in practice. With regard to the above Covenants women are a particular constituency in Nepal requiring protection and redress, especially those accused of witchcraft.

Other relevant Conventions include the Genocide Convention 1948; the Refugee Convention 1951 (which is not signed or ratified by Nepal); and the Convention against Torture, Cruel, Inhuman and Degrading Treatment or Punishment 1984 (CAT). A limitation of all these three conventions lies in their original framing which did not envisage private acts of non-state actors with the result that women were systematically excluded. However, now under CAT a State's obligation extends to protecting an individual from private acts. Nonetheless, there is still a challenge for both legal and political advocacy in bringing women's suffering as a result of witchcraft accusations and persecution within this rights framework.

The Genocide Convention has yet to recognise specific forms of violence against women including rape, albeit that under the Statute of Rome of the International Criminal Court 1997, Art 7 (1)(g), rape is recognised as a crime against humanity. WAP still remains tangential and WAP is articulated in terms which may fall outside the Convention. In this regard women are the primary victims of WAP and targeted because they are women, and this persecution occurs across the world, not only in Nepal.

The Refugee Convention in its original form was also closed to women who although had a 'wellfounded fear of persecution' the Convention determined that only race, religion, nationality, membership of a particular social group or political opinion were relevant constituencies for protection. The Refugee Convention's scope of protection has now been extended to recognise women as a particular social group. Recently, the gender specificity of persecution has been further realised, for example in relation to domestic violence, female genital mutilation, forced marriage, prostitution, rape and 'honour' killing.. WAP was recognised in the UK in the case of *RG (Ethiopia) and Secretary of State for the Home Department* [2006] EWCA Civ 339. We strongly recommend that Nepal should consider signing up to the Refugee Convention.

The Torture Convention has also offered limited protection for women as it construes state agents as the archetypal perpetrator (see Part I Art 1). However, it has now been recognised that a State's obligation to protect extends to the private sphere. For the purposes of the Torture Convention, the torture experienced by those subjected to WAP, is considered a private matter and not committed by state agents on behalf of the state. However, such acts of violence are perpetrated with the knowledge of public officials and the state and therefore it is argued that such acts of violence fall within the Convention as do acts committed by private actors.

³⁵The ICCPR especially provides for equality (Art 3), an inherent right to life (Art 6) a right to be free from torture and degrading treatment (Art 7) and to be protected by law (Art 17). All of which are especially relevant with regard to ensuring the protection of all subjects from witchcraft persecution.

5.2 CEDAW - Women On the margins

In Nepal WAP is perpetrated largely against women and so it is another form of violence against women. Since women have remained on the margins of international law, it was considered necessary to introduce a specific regime addressing gender. The Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW), was entered into force in 1981.³⁶ CEDAW's objective is to eradicate violence against women in public and private life. It has been used in various ways to combat sex trafficking, domestic violence and female genital mutilation. CEDAW targets specific forms of discrimination detailing the measures that the State must undertake to eliminate discrimination. It also establishes a reporting obligation on States parties to report at least every four years on measures they have undertaken. On 15th June 2007, Nepal ratified the Optional Protocol. This was a significant step in recognising the competence of the Committee to initiate and conduct an inquiry. Dr. Renu Rajbhandari on behalf of National Alliance of Women Human rights defenders - Nepal, in a CEDAW session said, "Social violence such as dowry, bride burning, and caste discrimination and witch persecution is on rise. Most perpetrators are seldom penalized, in contrarily victims gets ostracized and displaced."³⁷

Protection from violence against women was further strengthened by the Declaration on the Elimination of Violence against Women 1993 (DEVAW) and the UN General Assembly Resolutions on the Intensification of Efforts to eliminate all Forms of Violence against Women 2009 and 2010.³⁸

5.3 Witchcraft - Women and International Human rights law

As a signatory to the Convention on Torture, the Genocide Convention and CEDAW, Nepal has clear obligations to protect women from WAP.

5.3.1 Private violence and women's rights in Nepal

In Nepal, two problems obstruct the enjoyment of women's human rights and specifically the protection of women (and children) from WAP. First, traditionally human rights discourse has focused on restraining violations perpetrated by the State³⁹ with the result that private acts of violence go unrecognised. Second, as Ishay and Chinkin⁴⁰, amongst others, recognise matters relating to civil individual rights become marginalised and subordinated when wider political issues are at stake. Professor Chinkin, in an article⁴¹ on social and cultural rights post conflict, argues that private rights and women become invisible especially where there is political conflict and also in the aftermath of conflict, such that trafficking, domestic violence, sexual exploitation and WAP become displaced. In addition, the human rights community may become fragmented and pulled in different directions where the priority is with bringing the human rights abuses of the nation state into focus, for example, torture, disappearance, extra judicial killings and lack of fair trial. It is of special significance that Nepal faced with its own civil strife, before and after the April 2006 uprising, further subordinated WAP down the political agenda.

The result is as Kumar, in a report entitled 'Violence Against Women in Nepal', recognises, "Though the National Human Rights Commission works on the issue, other human rights concerns in this wartorn country take precedence.... A Report on Violence by Amnesty International (2001) also reported that women have been the victim of mental and physical abuse, rape and other human rights violations by both Maoists and government security forces.⁴² This is the context in which the struggle to achieve recognition of the problem of WAP on the national and international agenda competes.

³⁶ State party's ratifications 187. Ratified on April 22nd 1991 by Nepal

³⁷ See <http://www.worecnepal.org/news/statement-dr-renu-rajbhandari-cedaw-session> (accessed March 28th 2014)

³⁸ Art 4 of DEVAW requires states to 'pursue by all appropriate means and without delay a policy of eliminating violence against women'. 39 M R Ishay *The History of Human Rights* University of California Press, 2008.

⁴⁰ C Romany, 'State Responsibility Goes Private: A Feminist Critique of the Public/Private Distinction in International Human Rights Law', in R Cook (ed) *Human Rights of Women: National and International Perspectives* University of Pennsylvania Press, 1994, see H Charlesworth and C Chinkin, *The Boundaries of International Law: A Feminist Analysis* Manchester University Press, 2000.

⁴¹ C Chinkin, *The Protection of Economic, Social and Cultural Rights Post Conflict* accessed at http://www2.ohchr.org/english/issues/women/docs/Paper_Protection_ESCR.pdf

⁴² Joshi, Dr. Sunil Kumar. (2008, May 22). *Violence Against Women in Nepal -- An Overview*, The Free Library.(2008). p3, Retrieved November 30, 2008.

5.4 Human Rights Activism in Nepal

5.4.1 The National Human Rights Commission

The National Human Rights Commission (NHRC) of Nepal was established as an independent body in 2000. The Interim Constitution of 2007 in Part 15 laid down its statutory authority.⁴³ NHRC has conducted monitoring on WAP, recently monitoring the incidents of inhumane and humiliating treatment perpetuated on Raj Kumari Rana for allegedly practising witchcraft. It has set out clear recommendations including the need:

- for greater collaboration between the NHRC and the Judiciary for the protection and promotion of human rights
- to foster greater unison between the state bodies and civil society for the effective enforcement of human rights.
- for the law enforcement agency to establish a special division, a ‘cell headed by a woman officer at their disposal for handling the cases related to violence against women.’

5.4.2 National Women’s Commission

The National Women’s Commission was established on 7th March 2002 to advance women’s development and empowerment. With an emphasis on gender equality, and the achievement of the 11th amendment to the Civil Code making it compatible with CEDAW. The Commission has also been involved in campaigning to protect women from WAP.

5.4.3 PPR Nepal

The Forum for Protection of People’s Rights, Nepal (PPR Nepal) a non-governmental organization established in 2002 advocates and works in the area of human rights and access to justice. Significantly PPR Nepal has been instrumental in raising consciousness and campaigning on violence against women including the problem of WAP.

5.5 National Laws and Regional Framework

5.5.1 Constitutional Framework

Nepal may not be subject to a regional convention which this report recognises should be an urgent recommendation for the region as a whole, but Nepal does have a Constitution. In cognisance of Nepal’s Constitution contained within it is the framework for the protection of those subject to WAP. The Interim Constitution of Nepal 2063 (2007) demanded: “WHEREAS, having determined for progressive restructure of the state in order to resolve the existing problems of the country based on class, caste, region and gender.”⁴⁴ The intersectionality of class, caste and gender are all relevant to WAP where those so persecuted face multiple discriminations.

http://www.academia.edu/183952/Violence_against_Women_in_Nepal_-_An_Overview accessed March 28th

⁴³Para 131.asserts: National Human Rights Commission: (1) There shall be a National Human ‘Rights Commission in Nepal consisting of the following Chairperson and the members’ and Para:132. Sets out the Functions, Duties and Power of the National Human Rights Commission: ‘(1) It shall be the duty of the National Human Rights Commission to ensure the respect, protection and promotion of the human rights and its effective implementation’.

⁴⁴The following provisions are also of importance to addressing WAP: Part 3 of the Interim Constitution addresses fundamental rights, Article 12 (1) of interim constitution of Nepal every individual has the right to live with a dignity, and no law shall be made which provides for the death penalty.’

Art 13(2) the right to equality states: ‘(2) No discrimination shall be made against any citizen in the application of general laws on grounds of religion, race, sex, caste, tribe, origin, language or ideological conviction or any of these.’ In this regard the non- enforcement of the law or under enforcement of the law in witchcraft persecution occurs precisely because the victim is powerless and also female.

5.6 The General Criminal Offences

5.6.1 Criminal Justice System in Nepal

Criminal law legislation exists which could and should be used to prosecute WAP and related violence since such violence involves assaults, threats and murder. These offences are all provided for in the General Criminal Code. However, many identify a broader problem in the failure of a justice system to implement the existing law. Mandira Sharma accuses the illegal behaviour of governmental actors as in part responsible for a flawed criminal justice system.⁴⁵ Yuba Raj Subedi and Soorya Prasad Pokharel, in their study of the 'Criminal Justice System of Nepal'⁴⁶ similarly found deficiencies in the system of prosecution. They argue that it is essential therefore that both police and prosecutors have clear policies in place to deal with WAP offences and are trained to recognise that the state owes an obligation to protect every citizen from such abusive practices. Clearly there is an urgent need to provide education and training which assists state officials at all levels to understand their obligation under existing international and domestic law and to introduce measures to ensure obligations are met.

In addition, the above authors also draw attention to the general problem of what they describe as a prevailing culture of impunity that allows for corrupt and criminal acts among officials without fear of reprimand, and discrepancies in domestic laws, which remain vague, inconsistent, or in conflict with Nepal's international commitments. This problem is magnified when there is a calcified reluctance to deal with cases of WAP.

5.6.2 The Criminal Law Offences

All the incidents of infliction of violence in witchcraft persecution that are documented by PPR Nepal, and other human rights groups Informal Sector Service Centre (INSEC) which include assaults, forcefully feeding the victim with human excreta, hitting with hot spoon/hot iron rod on different parts of the body, beating with stinging nettles dipped in cold water, tearing and removal of clothing, killing etc., constitute acts of criminal violence. Other forms of persecution include publically insulting, terrorising and putting a person in such fear so as to expel them from the community. Assaults, threats and murder are all offences provided for in the General Criminal Code.⁴⁷ Therefore it is expected that Nepal will respect, protect and fulfil the rights embodied in its domestic criminal law.

International law and the legal framework detailed above, including CEDAW, offers protection to those who are victims and putative victims of persecution and victimisation. Where a state is a signatory to international conventions, treaties and protocols then it is obliged to take all necessary action to implement the human rights protected in and by these instruments. Where Nepal is a signatory to human rights conventions, then it is obliged to comply with these Conventions. Where a state fails to honour its obligations an individual, or an individual together with an organization may institute proceedings against that state. It is thus expected that Nepal will respect, protect and fulfil the rights embodied in these instruments and give effect to international law.

Art 14 Right against Untouchability and Racial Discrimination: (1) is also relevant. It states: '(1) No person shall, on the ground of caste, descent, community or occupation, be subject to racial discrimination and untouchability of any form. Such a discriminating act shall be liable to punishment and the victim shall be entitled to the compensation as provided by the law'. Art 20 Right of Woman is also relevant: It states : (3) No physical, mental or any other form of violence shall be inflicted to any woman, and such an act shall be punishable by law.'

⁴⁵'Criminal Justice System in Nepal', Mandira Sharma in *The Nepali Security Sector An Almanac* pp 277-293 Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva, Switzerland <http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=114920>

⁴⁶Yuba Raj Subedi and Soorya Prasad Pokharel, 'Criminal Justice System of Nepal', Office of the Attorney General of Nepal (2010), available at http://www.attorneygeneral.gov.np/document/Comparative_Study/Criminal_Justice_System_of_Nepal.doc.

⁴⁷The Criminal code provides for this conducts and criminalises it (Criminal Code Bill, 2011, Criminal Procedural Code Bill, 2011, Criminal Offences (Assessment and Execution of Punishment) Bill 2011. What is required is a commitment to act on complaints to proceed against perpetrators and to

5.7 WAP and the Law

In efforts to eradicate the practice of WAP, specific provisions covering such persecution are included in the criminal law. These specific offences are important since there is a clear attempt to draw on International Conventions and embed these international obligations in legislation. For example, the following offences clearly draw on the UN Declaration and its human dignity principles and the ICCPR specifically with regard to challenging the inhuman and degrading treatment which characterises so much of WAP.

5.7.1 WAP Specific Offences

The drafts and report of the Penal Code, Criminal Procedure Code and the Sentencing Act 2010 is of particular relevance, and clearly draws on the overarching obligation in Art 2 of the UDHR and CEDAW to treat all without discrimination.

5.7.2 Penal Code, Criminal Procedure Code and the Sentencing Act 2010

This makes some significant developments in formulating witchcraft persecution related offences. Chapter-10 Offences Relating to Social Discrimination and Degrading Treatment 170. Not to do inhuman treatment:

- (1) No person shall do or cause to be done inhuman or degrading treatment to anyone.
- (2) For the purpose of sub-section (1), any of the following act shall be deemed to be an inhuman or degrading treatment:
 - (a) Accusing one of being a witch;
 - (b) Expelling one from his/her place of residence on the charge of being a witch;
 - (c) Excommunicating one from the society; or
 - (d) To do cruel, inhuman or degrading treatment having committed any other act.
- (3) Whoever commits the offence referred to in sub-section (1) shall be liable to a punishment with an imprisonment not exceeding three years or with a fine not exceeding thirty thousand rupees or with the both.
- (4) In case a public official commits the offense referred to in this Section, he/she shall be liable to an additional punishment with imprisonment not exceeding three months.

The law recognises the aggravated form of assault that arises from witchcraft persecution and this is reflected in the penalty. Further an obligation is also placed on the public official to challenge witchcraft persecution in all its forms and so when a public official is party to such persecution the sentencing is harsher.

5.7.3 The Muluki Ain (General Code)

The Muluki Ain also makes provision for criminalising witchcraft persecution. Number 10B.5:
If a person accuses another person of a witch or banishes him or her from his or her place of residence on such accusation or excludes him or her from social activities or does any other inhuman or degrading treatment or commits torture or banishes any ill (sick) person from his or her place of residence by rejecting or doing any inhuman or degrading treatment to him or her on the ground that he or she has suffered from any disease, the person shall be liable to the punishment of imprisonment for a term ranging from Three months to Two years or a fine of Five Thousand Rupees to Twenty Five Thousand Rupees or both.

5.7.4 The Anti-Witchcraft Bill

An Anti-Witchcraft Bill proposed by the National Women Rights Forum Kathmandu is regarded as a significant step in challenging WAP. Drafted in 2011 the main objectives of the Bill are as follows:

- To criminalise the act of witch allegation, inhuman or degrading treatment or torture on the basis of such allegation,
- To control crime related to witch allegation,
- To protect the victims of such violation and provide justice to them.

It lists the acts which are defined as crime such as, “beating in the name of witch, force feeding of excreta, forceful eviction, social exclusion alleging witch, allege as a family or witch or allege as a witch.” The District Court has jurisdiction to hear the case and the Court can issue an interim protective order if required. The Bill has a prescribed range of punishment from 5 years to 10 years imprisonment and fifty thousand to one hundred thousand Nepali rupees. The Bill also provides for compensation to the victim, and the perpetrator can be ordered to pay medical expenses. The Bill also obliges the Government of Nepal to run necessary awareness raising programs in the community level in order to prevent the harmful superstitious beliefs including witch allegation.

5.8 Impact of Current Legislation

NGOs working to raise awareness of the problem of WAP in Nepal draw heavily on the several international law instruments in emphasising the obligations of Nepal to protect victims of WAP persecution. They all recognise witchcraft as yet another form of violence against women. Subodh Raj Pyakurel Chairperson of INSEC has stated: “Accusations of the so-called practice of witchcraft, rape and incidents of sexual violence are some of the examples of violence against women which occur in Nepalese society.”⁴⁸

They point to the lack of effective laws, the poor implementation of existing laws and the lack of accountability of government authorities. There is a lack of proper implementation of existing laws and international Conventions. There are too few prosecutions and derisory sentences. Pressure is put on victims to consent to the perpetrator being ‘bound over’ at the local police station in out of court settlements. Such victims are already powerless and terrified and thus give in to such agreements.

⁴⁸ A Study on Violence due to Witchcraft Allegation and Sexual Violence, For Human Rights and Social Justice Informal Sector Service Centre (INSEC), PO Box : 2726, Kathmandu, Nepal Tel: +977 1 4278770 Fax:+977 1 4270551 Email: insec@insec.org.np Web site: www.insec.org.np Preface p.2.

6. RECOMMENDATIONS

To its great credit Nepal has made significant progress in the Millennium Development Goals (MDGs) and is on track to achieve five of the eight goals by the 2015 deadline. This is remarkable considering the political and social challenges prevailing in the country. The 2013 elections and recent election of the new Prime Minister, Sushil Koirala, provide further sources of hope that a culture of upholding women's rights may one day prevail in the country.

This historic moment in time also provides a great opportunity to ensure that this issue of WAP in Nepal and the widespread violations of women's rights that take place due to this belief are etched on the public and political consciousness. However, realistically, it will not be possible to put a stop to WAP in the near future since religious beliefs systems and attitudes towards women are so deeply engrained within Nepali society. The response to this challenge will require patience, courage and collaboration between the agencies working to prevent violence against women.

It is the belief of the authors that, if implemented, the following recommendations would significantly reduce levels of WAP in Nepal and contribute to a society where the rights of women are respected and upheld.

6.1 Community Level Responses

6.1.1 Public Education

A lack of knowledge and understanding of the rational reasons why misfortune has occurred remains one of the significant challenges to preventing WAP in Nepal. This is especially notable when applied to levels of understanding of public health issues, which remain the trigger behind most cases of WAP. In particular there is a need to develop a toolkit that can be used by development workers in villages to demystifying the common illnesses that are considered as signs of witchcraft. Additionally there should be widespread distribution of educational materials such as posters, calendars, DVDs etc, amongst communities to raise awareness of these issues and the need to uphold the rights of women.

6.1.2 Identifying community champions

Former victims of WAP, women's rights defenders, community leaders and religious practitioners who oppose the practice of WAP should be identified and empowered with the resources needed to hold workshops. These workshops would explore the beliefs behind the abuse and what impact it can have on innocent women's live.

6.2 National Level Responses

6.2.1 Legislation

The following recommendations are made in relation to legislation:

- Strengthening existing laws on criminal offences and specific witchcraft laws to ensure offenders are prosecuted should be prioritised.
- A new law to specifically criminalise the act of branding women as witches should be incorporated into the new Constitution.
- The Anti-Witchcraft Bill proposed by the National Women Rights Forum in 2011 should form the central basis of this legislation. As well as criminalizing the act of WAP this law will also ensure that victims are provided with the rehabilitation and support they so desperately need. We therefore urge that this Anti -WAP Bill be supported.

The fact that there are currently no witness protection schemes in operation in Nepal discourages victims to come forward and this needs to be addressed at policy level immediately if the current culture of impunity is to be overcome. Finally there needs to be proper recording of WAP related offences and prosecutions. An annual report should therefore be compiled by district governments and submitted to the central Government and human rights commission in order to provide the opportunity for evaluation and monitoring.

6.2.2 Training for Police, Lawyers and Judiciary

There is a clear need to provide training which assists state officials at various levels to better understand WAP and recognise their obligations under existing international and domestic law. Some officials, such as the police, see WAP as a peripheral issue and are therefore reluctant to register cases of WAP. Women's rights and WAP need to be a central component of any such training for police, prosecution professionals and judges. Additionally, a review of the judicial process needs to take place as court proceedings are currently far too lengthy, expensive, formal and not sensitive towards victims. Sentences for WAP cases should be reviewed in order to ensure that perpetrators receive tougher punishments because the offence is aggravated.

6.2.3 Prosecution and Regulation of Jhankris

Securing more successful prosecutions of Jhankris found to have been instrumental in cases of WAP should be prioritised and once secured also publicised widely. Self-regulation of Jhankris via networks of practitioners should be encouraged. This should focus on ensuring that they are aware that:

- i) Alleging someone as a witch is crime and this leads to imprisonment and fine. Specific examples should be provided.
- ii) If someone comes to them for treatment they should also be referred to health professionals for treatment.
- iii) Promoting the belief in witchcraft may lead to cases of severe human rights violations.

6.2.4 Improvement of Public Health Services

The Nepali government and International partners should prioritise improving access to public health facilities, most especially in remote and marginalized regions of the country. The current situation whereby citizens consult the services of Jhankris due to a lack of availability of public health services should not be allowed to continue. It is recognised that Jhankris who rely on their 'practice' for their livelihood and social status in the community may need to be otherwise employed and integrated into the community to prevent their undermining of any of the measures to challenge WAP.

6.2.5 Education

Greater importance should be placed by national and international agencies on ensuring that Nepali children and adults are literate. Research and development of literacy programmes that work to benefit the rural poor should also be prioritised by government. Whilst no empirical data exists to prove that higher literacy rates lead to reductions in WAP, it would be fair to assume that this may be the case. Additionally, greater understanding of WAP and human rights should be incorporated into the secondary school curriculum and ways of promoting greater awareness into existing nonformal education programmes should be identified.

6.2.6 Civil Society

There are a multitude of institutions and organizations in both the public and private sectors that work to address violence against women. Increasing collaboration and co-operation between these actors will be the key to a strong and sustained response to WAP. Further to this a national network of activists and organisations that are committed to put a stop to WAP should be formed and supported by the International community. Such a network could share learning and monitor, document cases of abuse across all areas of the country. Findings could be used to write up an annual status report on the situation of WAP and guide a joint advocacy strategy which should focus at local, national and international levels. In particular consideration should be made to Nepal's upcoming UPR in 2015.

6.2.7 Media

The importance of working with media partners to educate people about the illegality of WAP and promote greater understanding of women's rights cannot be underestimated. Training should be provided to key media persons in order to encourage them to prepare and broadcast public service announcements and encourage public debates of the issues. Celebrities should be encouraged to appear in TV, radio and newspapers in order to challenge the practice and advocate for the rights of victims. Billboards condemning the practice should be placed in strategic places across each region and musicians should be engaged to produce culturally appropriate songs to be broadcast across the country on FM radio.

6.3 UN / International Level Responses

6.3.1 Need for a specific regional convention

There is a pressing need for the Nepali government to recognise the Refugee Convention and within its ambit WAP as constituting a well-founded fear of persecution.

6.3.2 Call for Global Conference on WAP

Nepal is but one of many states where women, children and the elderly face these forms of human rights violations. Whilst issues such as FGM and violence against women have received significant attention and support, to date, the response to WAP has been poor. A good starting point to work to address this would be for the Office of the High Commissioner for Human Rights Office of the High Commissioner for Human Rights to organise an International conference where Nepalese organisations could share ideas and work together to develop good practice in this emerging field.

6.3.3 International Aid Agencies and Donor Support

Nepali NGOs and Human Rights defenders need greater support and financial assistance from such agencies if we are to put a stop to these practices. Whilst smaller funders such as HAMU Norway have been very generous with their support for grassroots initiatives working to combat WAP, there has been little higher level support for projects offered by international development agencies such as USAID or the UK's Department for International Development. If NGOs and activists are to be able to put a stop to WAP in Nepal greater support may need to be provided by such agencies.

6.3.4 International Reporting Mechanisms

If justice for victims of WAP is not accessible at national level, Nepali NGOs and activists should work with international partners to lodge complaints through reporting mechanisms such as Universal Periodic Review Process, UN Human Rights Committee, CEDAW Committee, Committee Against Torture Committee, Committee on the Rights of the Child and the Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on violence against women, its causes and consequences.

The principle aim of this report is to further raise awareness and understanding of the issue of WAP in Nepal and contribute positively towards enabling victims to gain access to justice. Should it help stimulate greater debate inside and outside of Nepal then its aim will have been fulfilled. Whilst the implementation of the report's recommendations may positively contribute to preventing further cases of WAP taking place in Nepal, it is the author's belief that more consultation and collaboration will need to take place with Nepali stakeholders before long-term solutions may be developed. Attempts to prevent this form of violation of human rights must therefore be flexible, able to adapt to local circumstances, and should not depend on finding the same events and the same causes everywhere. External agencies such as WHRIN and the Bar Human Rights Committee may be able provide support and encouragement. However, ultimately, it is the Nepali people and institutions that hold the key to developing solutions to WAP.



Awareness.
Understanding.
Solutions.

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