****

**KENYA NATIONAL COMMISSION ON HUMAN RIGHTS**

**Submission on the situation of the violations and abuses of human rights rooted in harmful practices related to accusations of witchcraft and ritual attacks, as well as stigmatization**

**Presented to**

**The Office of the United Nations High Commissioner for Human Rights**

**18th September 2022**

Kenya National Commission on Human Rights 1st Floor, CVS Plaza, Lenana Road

P.O. Box 74359-00200

NAIROBI, KENYA

Tel: 254-20-2717908 /2717256/2712664

Fax: 254-20-2716160

Website: [www.knchr.org](http://www.knchr.org)

Email: [haki@knchr.org](mailto:haki@knchr.org)

1. **INTRODUCTION**
2. The Kenya National Commission on Human Rights (“KNCHR” or “National Commission”) is an independent National Human Rights Institution established under Article 59 of the Constitution of Kenya, 2010 with a broad mandate to promote a culture of respect for human rights in the Republic of Kenya. The operations of the National Commission are guided by the United Nations Paris Principles on the establishment and functioning of Independent National Human Rights Institutions commonly referred to as the Paris Principles and is accredited as an ‘A’ status institution for its compliance with the Paris Principles by the Global Alliance of National Human Rights Institutions (GANHRI). The Commission also enjoys Affiliate Status before the African Commission on Human and Peoples’ Rights.
3. The Commission submits this information pursuant to its constitutional mandate to promote a culture of respect for human rights in Kenya.
4. **INFORMATION ON THE SITUATION OF THE VIOLATIONS AND ABUSES OF HUMAN RIGHTS ROOTED IN HARMFUL PRACTICES RELATED TO ACCUSATIONS OF WITCHCRAFT AND RITUAL ATTACKS, AS WELL AS STIGMATIZATION**
5. **Measures to ensure the elimination of harmful practices amounting to human rights violations related to accusations of witchcraft and ritual attacks**
6. What measures have been put in place, including legal and policy ones, to ensure the elimination of harmful practices amounting to human rights violations related to accusations of witchcraft and ritual attacks, as well as stigmatization?

Legal measures

Chapter four of the Constitution of Kenya, 2010[[1]](#footnote-1) provides a robust, progressive and expansive Bill of Rights which recognizes human rights as inherent to every human being and not granted by the State. This has been the framework for driving all social, economic and cultural policies. The Constitution is also specific on the rights and fundamental freedoms that shall not be limited, for instance freedom from torture and cruel, inhuman or degrading treatment or punishment.[[2]](#footnote-2) Article 27 safeguards the right of every person to equality and freedom from discrimination regardless of age, social origin, conscience, belief, culture, dress or any other grounds. The right to human dignity (Article 28) as well as the right to the freedom and security of the person (Article 29) are also expressly guaranteed under the Bill of Rights. The latter *inter alia* secures the right of every person ‘not to be subjected to any form of violence from either public or private sources’. Property rights are also guaranteed under Article 40 of the Constitution, one may acquire and own property in any part in Kenya. Article 57 secures the rights of older members of the society[[3]](#footnote-3) including the right, “(a) to fully participate in the affairs of society; (b) to pursue their personal development; (c) to live in dignity and respect and be free from abuse; and(d) to receive reasonable care and assistance from their family and the State”. Additionally, Article 2 (6) of the Constitution provides that treaties or conventions ratified by Kenya are part of the law of Kenya. This ensures that regional and international human rights treaties and frameworks form part of enforceable Kenya’s laws. Other relevant provisions include:

* The Kenya National Commission on Human Rights Commission Act, 2011[[4]](#footnote-4) established the Kenya National Commission on Human Rights to promote and protect human rights and fundamental freedoms in Kenya.
* The National Gender and Equality Commission Act, 2011[[5]](#footnote-5) established the National Gender and Equality Commission to combat discrimination and promote equal opportunities.
* The Counter-trafficking in Persons Act, 2010 defines “exploitation” as “forcible or fraudulent use of any human being for removal of organs or body parts”. Furthermore, it defines “trafficking in persons” as “the recruitment, transportation, transfer, harboring or receipt of another person for the purpose of exploitation”. The penalty provided for a person found guilty of trafficking a person is imprisonment for a term of not less than thirty years or to a fine of not less than thirty million shillings or to both and upon subsequent conviction, to imprisonment for life.[[6]](#footnote-6) The provisions of the Act therefore offer adequate protection for the crime of ritual attacks and killings.
* Section 6 of the Witchcraft Act, 1925[[7]](#footnote-7) provides that any person who accuses or threatens to accuse any person of being a witch or with practicing witchcraft is guilty of an offence and liable to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding five years. However, this section does not apply to any person who makes an accusation to a District Commissioner, a police officer, a chief or any other person in authority.
* The Prevention of Torture Act, 2017[[8]](#footnote-8) criminalizes torture and other acts of cruel, inhuman or degrading treatment.
* The Victim Protection Act, 2014[[9]](#footnote-9) provides for the protection, rights and welfare of victims of offences and abuse of power.
* The Sexual Offences Act, 2006[[10]](#footnote-10) provides for sexual offences, prevention and the protection of all persons from unlawful sexual acts.
* The Land Act, 2012[[11]](#footnote-11) and National Land Use Policy, 2017 provide legal, administrative, institutional and technological frameworks for optimal utilization and productivity of land and land related resources. This anchors the rights to property for women and widows who, in some parts of Kenya, are accused of witchcraft with the aim of expelling and dispossessing them of land.

Policy measures

1. The National Policy on Older Persons and Ageing, 2014 provides a comprehensive framework that addresses the unique challenges that older persons in Kenya face and recognizes their rights. This was necessary because in some areas like Kilifi and Kisii counties in Kenya, the elderly are often accused of witchcraft and end up being tortured and killed. Although the Policy does not specifically address accusations of witchcraft and ritual attacks, section 2.4.3 of the Policy urges the Government, in collaboration with relevant stakeholders to intensify campaigns and sensitization programmes to communities against all forms of abuse on and discrimination against older persons at the family and community levels.[[12]](#footnote-12)
2. Ratification of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons in Africa. Kenya ratified the Protocol on 4th February 2022. Article 8 (2) of the Protocol obligates State parties to “*take all necessary measures to eliminate harmful traditional practices including witchcraft accusations, which affect the welfare, health, life and dignity of older persons, particularly older women*.”[[13]](#footnote-13) Article 9 (2) of the Protocol also directs State parties to *put in place legislation and other measures that guarantee protection of older women against abuses related to property and land rights*.[[14]](#footnote-14) Article 2 (6) of the Constitution of Kenya, 2010 provides that all treaties and conventions ratified by Kenya form part of Kenyan law. The Protocol has however not yet come to force since at the time of making this submission, only 6 African countries had ratified it.
3. Ratification of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa. Kenya ratified the Protocol on 4th February 2022. Article 11 of the Protocol obligates State parties to, “*take all appropriate measures and offer appropriate support and assistance to victims of harmful practices, including legal sanctions, educational and advocacy campaigns, to eliminate harmful practices perpetrated on persons with disabilities, including witchcraft, abandonment, concealment, ritual killings or the association of disability with omens.”[[15]](#footnote-15)* Under Article 2 (6) of the Constitution of Kenya, 2010, all treaties and conventions ratified by Kenya form part of Kenyan law. The Protocol has however not yet come to force as at the time of making this submission, only 3 African countries had ratified it.
4. What measures have been undertaken to ensure that no one is deprived of the right to life, liberty or security of person because of religion or belief, and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on the account of accusations of witchcraft and ritual attacks?
5. Article 27 of the Constitution of Kenya, 2010[[16]](#footnote-16) guarantees inter alia protection from discrimination on the basis of religion, belief and culture. Article 29 provides that every person has the right to freedom and security of person, which includes the right not to be subjected to any form of violence from either public or private sources; torture in any manner, whether physical or psychological; corporal punishment and treated or punished in a cruel, inhuman or degrading manner. Furthermore, Article 32 guarantees every person the right to freedom of conscience, religion, thought, belief and opinion. These are the Constitutional measures that ensure no person is discriminated or targeted solely on the accusation of witchcraft.
6. The Kenya National Commission on Human Rights is mandated under the Prevention of Torture Act, 2017[[17]](#footnote-17) to investigate alleged violations of the provisions of the Act upon receipt of a complaint or on its own initiative and promote the right to freedom from torture and cruel, inhuman and degrading treatment and punishment pursuant to the provisions of the Constitution of Kenya, 2010 and the Act. The Commission is currently pursuing law suit at Kisii Law Courts against perpetrators of murder of four women on allegations of witchcraft.
7. The Witchcraft Act of 1925[[18]](#footnote-18) prohibits accusations of witchcraft if they are not made through the relevant authorities. Violence related to accusations of witchcraft has been dealt with under offences in the Penal Code, including bodily harm, murder and robbery with violence. Under the Act, District Commissioners have the power to relocate those suspected of practicing witchcraft. However, there is no legal definition of “witchcraft” in the Act.
8. Development of a National Plan of Action for Persons with Albinism in Kenya (2022-2027). The National Council for Persons with Disabilities in conjunction with the Kenya National Commission on Human Rights and Organizations of persons with albinism in Kenya, are currently developing a National Plan of Action for Persons with Albinism for the years 2022 to 2027. The development of the report was informed by the Report of the Regional Action Plan on Persons with Albinism (2017-2021). The National Action Plan will guide the efforts of the Kenyan Government, stakeholders, communities and families in scaling up the national response for the care, protection and support of persons with albinism. One of the seven areas of intervention under the Action Plan is the protection of the right to life of persons with albinism, through advocacy and awareness-raising.

1. What measures have been put in place to ensure equal access to justice, including effective remedy, as well as psychosocial support, rehabilitation and reintegration of survivors?
2. Article 48 of the Constitution of Kenya, 2010 mandates the State to ensure access to justice for all persons and any fee required must be reasonable and not impede access to justice.
3. Article 50 (2) (h) of the Constitution of Kenya, 2010 states that where substantial injustice would otherwise result, every accused person has a right to have an advocate assigned to them by the State and at State expense and to be informed of this right promptly.
4. The Legal Aid Act, 2016[[19]](#footnote-19) and the National Action Plan on Legal Aid (2017-2022)[[20]](#footnote-20) are key to achieving land and inheritance rights. Persons accused of witchcraft and frivolously charged have the right to invoke this legislation and Constitutional provision.
5. The Victim Protection Act, 2014 provides for the protection, rights and welfare of victims of offences and abuse of power. The Act further sets up a Victim Compensation Fund to provide for reparations and compensations to victim. "Victim" means any natural person who suffers injury, loss or damage as a consequence of an offence.
6. Belief in witchcraft is generally not deemed to be a mitigating factor in killing someone accused of witchcraft. In *Republic v. John Gachogu & another (2005)*, the High Court ruled that a mere belief in witchcraft did not constitute a circumstance, excuse or mitigation for killing a person believed to be a witch. The Witchcraft Act is rarely used. None of the six cases that involved witchcraft related killings between 1983 and 2010 were brought under the Witchcraft Act, but under murder and manslaughter charges.[[21]](#footnote-21)
7. Community based rescue centres such as the Kaya Godhoma Rescue Centre opened in 2008 in Ganze constituency, Kilifi County to provide shelter and psychological support to elderly persons who fear for their lives due to accusations of witchcraft.
8. **Accountability**
9. What measures have been put in place to bring to justice all perpetrators of human rights violations related to accusations of witchcraft and ritual attacks in compliance with applicable international law?
10. Most attacks have been carried out against elderly women mostly in Gusii land, but parts of the Coastal region including Kilifi County have experienced incidences of witch burning. To curtail this, the police have often arrested suspected perpetrators of these attacks and arraigned them in court on charges of murder, grievous assault, and destruction of property and so on. The KNCHR has even represented the victims’ families in court as justice is sought.[[22]](#footnote-22)
11. The Kenya National Commission on Human Rights, the State’s principal organ for promoting and protecting human rights in the country, has conducted investigations in Gusii land, and submitted the report to the relevant government agencies for action.[[23]](#footnote-23) The Commission has called out for an urgent change of response mechanism, early warning signs and enhancing social protection systems for the vulnerable older persons.
12. The Kisii County Government also inaugurated a taskforce to establish the circumstances under which poor and elderly persons are victimized and accused of witchcraft.[[24]](#footnote-24) The taskforce had one month to identify the extent of the problem in the county and come up with mitigation measures, which will be shared with the national Government for necessary action.[[25]](#footnote-25)
13. Courts have convicted and sentenced perpetrators for human rights violations related to accusations of witchcraft and ritual attacks. Litigation for the four victims of lynching in Kisii County in October 2021 is currently ongoing. Between 17 and 19 May 2022, nine people, including a minor, appeared before the High Court in Kisii for their allegedinvolvement in the murders of four elderly women in Nyagonyi village, Marani, Kisii County. The case was postponed to 26-29 September, 2022.
14. In responding to cases of killings of the elderly accused of witchcraft, the Directorate of Criminal investigation launched an investigation that will bring to book the perpetrators of the attacks.[[26]](#footnote-26) Likewise, in Rabai Constituency following the killing of an elderly man, those who feared for their lives have been allowed to record statements at the police station which will then be used to launch a manhunt for the suspects.[[27]](#footnote-27)
15. Are there comprehensive accountability frameworks that go beyond criminal justice and courts?

Not much exists beyond the criminal justice and courts, save for the now use of the councils of elders, including the Abagusii Council of Elders to help resolve such cases and the use of faith-based organizations to create awareness on the need to abandon beliefs in archaic practices such as witchcraft and sorcery. The media has also been instrumental in not only following up on the prosecution of perpetrators, but also creating awareness on the alleged existence of these practices. County governments are also helping through formation of taskforces as is in the case of Kisii County that looks at mitigation measures and calls for the pursuit of lawful means in solving cases.

1. What measures have been put in place to ensure the full, effective and meaningful participation of victims, persons in vulnerable situations, including women, children, persons with disabilities, older persons and persons with albinism, as well as traditional and religious leaders, and faith-based actors in all stages of decision-making processes regarding elaboration and implementation of accountability measures at all levels?
2. Participation of the people is one of the national values and principles of governance stipulated under Article 10 of the Constitution of Kenya, 2010. Therefore all State organs must ensure that the public is involved in every stage of decision-making. Moreover, the Courts have rendered several processes null and void due to lack of public participation and as such, called for such processes to start afresh. This includes the Building Bridges Initiative which was blocked by the Supreme Court in 2021. Further, the Constitution obliges the government to put in place measures including affirmative action measures to address the historically disadvantaged groups. The Constitution and various laws provide for representation of the marginalised groups in elective and appointive posts.
3. The Access to Information Act, 2016[[28]](#footnote-28) gives Kenyans immense powers and right to access any kind of information from State organs with strict timelines, and failure to which the Commission on Administrative Justice or the Ombudsman must take measures against such officer or State office. This enhances accountability and transparency in the discharge of public affairs.
4. The Constitution of Kenya, 2010 also provides for the representation of such groups of persons in the national and county levels of government. There are nominated MCAs, MPs and Senators who represent persons with disabilities, women and the youth in the county assemblies, national Assembly and the Senate.
5. The Victim Protection Act, 2014([No. 17 of 2014](http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2017%20of%202014)) is meant to afford protection for victims of crime and abuse of power and to provide them with support services, reparation and compensation as well as provide special protection for vulnerable victims. More needs to be done to ensure full implementation of the Act including adoption of the Regulations under the Act.
6. **Effective protection of all persons, particularly persons in vulnerable situations, including women, children, persons with disabilities, older persons and persons with albinism**
7. What kind of measures have been put in place to prevent widespread discrimination, stigma, social exclusion and forced displacement experienced as a result of witchcraft accusations and ritual attacks?
8. Article 27 (5) of the Constitution of Kenya, 2010[[29]](#footnote-29) prohibits any person from discriminating directly or indirectly against another person on any ground, including age, social origin, colour, disability, culture, religion, conscience or belief.
9. Article 40 (1) of the Constitution of Kenya, 2010 enshrines the right of every person to own property, either individually or in association with others, in any part of Kenya. Additionally, article 60 (1) of the same Constitution identifies “security of land rights”, “elimination of gender discrimination in law, customs and practices related to land and property in land”, and “encouragement of communities to settle land disputes through recognized local community initiatives consistent with the Constitution” as some of the principles of land policy. Noting that forced displacement and the possession of land held by elderly persons is the ultimate goal of accusations of witchcraft in most parts of Kenya, these provisions serve as sources of protection of the land rights of elderly persons.
10. Section 9 of the Witchcraft Act, 1925[[30]](#footnote-30) however permits a District Commissioner, “after due inquiry and having satisfied himself that the person so suspected *causes or is likely to cause* fear, annoyance or injury in mind, person or property to any other person by means of pretended witchcraft, may for reasons to be recorded order the person so suspected to reside in any locality within his district to be named by the District Commissioner”.
11. What kind of measures, including safe shelters, psychosocial support and rehabilitation services, have been undertaken to ensure effective protection of victims of human rights violations rooted in harmful practices related to accusations of witchcraft and ritual attacks?

A number of rescue centers have been set up to protect, offer psychosocial support and rehabilitate victims of accusations of witchcraft. These include the Mekatilili Menza Cultural Resource and Rescue Center, Kaya Godoma Rescue Center and Mrima wa Ndege village in Kilifi County, Kenya.[[31]](#footnote-31) In terms of psychosocial support the rescue centers have received food donations from well-wishers, county governments, legal fraternity and different organizations. Organizations such as the Kenya Red Cross society have donated tents to shelter the afflicted men and women.

1. What kind of initiatives have been organized, focusing on, inter alia, gender equality, education, health, housing, livelihood, women’s autonomy and decision-making, community mobilization and awareness raising, to prevent human rights violations rooted in harmful practices related to accusations of witchcraft and ritual attacks, particularly against persons in vulnerable situations, including women, children, persons with disabilities, older persons and persons with albinism?
2. Initiatives of albinism organizations: Launch of the “Niko na Haki awareness campaign on albinism”. In March 2016, the National Albinism Society of Kenya launched an albinism awareness campaign that targeted teachers, security personnel and religious clerics. The aim of the campaign was to address the myths and misconceptions held towards persons with albinism, who often suffer human rights violations such as ritual killings in the region. The Chairperson of the Association, Nominated Senator Isaac Mwaura, a person with albinism, also called on Kenyans to protect their relatives who have albinism ahead of the October 25th General Elections in Tanzania. Notably, persons with albinism living along the Kenyan-Tanzanian border are often targets of trafficking to neighboring Tanzania for election-related rituals.[[32]](#footnote-32)
3. Government initiatives: The Government has created awareness through the media and public rallies against ritual killings. A number of targeted workshops and support programmes with various partners in different sectors that cater to the educational, health care and employment needs of persons with albinism, have been implemented.[[33]](#footnote-33) Community training workshops have been conducted in Gusiiland to educate and inform people that the practice of *witch lynching* is a violation of the fundamental right to life.
4. Campaigns by religious bodies: Following the rise in killings of elderly people in the Coastal region of Kenya on accusations of witchcraft, the local Coastal Kaya Council of Elders has been working with the Coast Inter-Faith Organization, which is under the Catholic leadership of Mombasa to create awareness on the need to respect and protect the elderly.[[34]](#footnote-34) Additionally, in December 2019 and January 2020, the Seventh-Day Adventist Church in Kilifi County, Coastal Kenya, launched a two-week door-to-door evangelistic campaign in Ganze constituency to sensitize locals against arbitrary killings of elderly persons and to raise awareness about their rights.[[35]](#footnote-35)
5. Initiatives by traditional leaders: Traditional leaders have also been proactive in efforts to end human rights violations meted on the elderly. Kaya Elders of the Mijikenda community in coastal Kenya, for instance, unveiled youth committees to assist the Government in ending killings of the elderly and land grabbing. The youth committees were set to be established in the six counties of the Coastal region of Kenya, where cases of human rights violations based on accusations of witchcraft primarily affect the elderly.[[36]](#footnote-36)
6. Initiatives by leaders: Various leaders of regions where human rights violations rooted in accusations of witchcraft are rife have publicly condemned the violations meted against elderly persons, embarked on public awareness campaigns against the vice and directed leaders under their authority to take measures to address the rampant violations. For example, one Kilifi County Commissioner, upon assumption in office in 2020, instituted an initiative to have family members of a murdered elderly person arrested. He also embarked on a public awareness campaign against violations of elderly persons, through Nyumba Kumi elders.[[37]](#footnote-37) In addition, a Coast Regional Commissioner ordered chiefs in Kilifi County to take stock of all persons aged 50 years and above and ensure they are protected from attacks.[[38]](#footnote-38)
7. Have you analyzed human rights violations rooted in harmful practices related to accusations of witchcraft and ritual attacks, including key drivers, aggravating factors, such as unequal access to resources, poverty and socio-economic situations, climate change, humanitarian settings? If yes, what were the key findings?

Yes. The key driver of human rights violations rooted in harmful practices related to accusations of witchcraft and ritual attacks is unequal access to land. Across all the regions in Kenya where this harmful practice is rife, access to land is the key motivating factor behind the killings of elderly persons. In most cases, the human rights violations are perpetrated by relatives of the victims. The perpetrators are often young, unemployed and lacking access to resources that could empower them. They therefore resort to accusing their elderly relatives of witchcraft and once they succeed in getting rid of them, they possess their land.[[39]](#footnote-39) Where victims are women, these attacks are a symptom of deeper patriarchal beliefs that girls and women should not inherit nor own land and other property. Drought and famine in the coastal region has also motivated relatives to dispossess their elderly of land, in order to sell it and gain access to a source of income. Lastly, mental illnesses such as dementia are widely misunderstood in local communities and residents often attribute them to witchcraft.

Ritual attacks against persons with albinism are prevalent during election seasons. This practice is fueled by the belief that electoral victory can be realized through witchcraft and the use of body parts of persons with albinism. Furthermore, persons with albinism living along the Kenyan-Tanzanian border are trafficked to Tanzania during its election season.[[40]](#footnote-40)

1. **Data collection**
2. Have you collected disaggregated data, based on gender, age, disability, ethnicity, religion etc. about human rights violations and abuses rooted in harmful practices related to accusations of witchcraft and ritual attacks, as well as stigmatization? How such data is collected? Please share available disaggregated data on the phenomenon.

The Kenya National Commission on Human Rights conducted a fact-finding mission in Kisii, Kenya in October 2021 following the lynching of four elderly and poor women on accusations of witchcraft. The Commission established that the lynching trend largely affects old and poor women in Gusiiland. Although old men may fall victim to “witch burning”, women, particularly the poor and old, are targeted.[[41]](#footnote-41)

1. **Challenges and opportunities**
2. What have been the key challenges to prevent and address human rights violations and abuses rooted in harmful practices related to accusations of witchcraft and ritual attacks, as well as stigmatization?
3. Cross border nature of the crime of ritual attacks: Ritual attacks against persons with albinism are rife along the Kenyan-Tanzanian border. In a number of cases, victims of ritual attacks have been unable to secure justice after the perpetrator of the ritual attack crosses over to Tanzania. Cross border cooperation between Kenyan and Tanzanian authorities has been minimal.[[42]](#footnote-42)
4. Legal illiteracy and financial barriers: Most victims of human rights violations rooted in accusations of witchcraft and ritual killings are usually unaware of their rights and the legal procedures necessary to report and obtain redress for violations meted against them. They face barriers such as lack of courts at the village, unaffordable court and lawyer fees, and cases where perpetrators pay bribes to police to avoid prosecution.[[43]](#footnote-43)
5. Lack of information/low levels of monitoring by civil society organizations and organizations representing persons with albinism, on the legal status of cases of ritual killings reported to law enforcement personnel. These organizations often lack the financial means and expertise to conduct legal monitoring activities.[[44]](#footnote-44)
6. Fear of reprisals from family and community members. Victims or witnesses may fail to report an attack to authorities when they lack adequate protection measures from reprisals, particularly where the perpetrator is a family or community member. Resultantly, many cases of attacks go unreported, hindering the delivery of justice and the elimination of the practice.
7. Have you identified some promising practices in this regard? No.
8. What kind of further action could be undertaken by existing mechanisms at the United Nations for the elimination of harmful practices amounting to human rights violations related to accusations of witchcraft and ritual attacks, as well as stigmatization?
9. Undertake country visits to establish the situation of violations of human rights rooted in witchcraft accusations and produce reports on findings.
10. Receive and act on individual cases of violations of human rights rooted in accusations of witchcraft and ritual killings.
11. Collaborate with National Human Rights Institutions and other relevant stakeholders to advocate against and create awareness on the harmful practice.
12. Support efforts towards addressing the root causes of such violations.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Constitution of Kenya, 2010, available at <http://kenyalaw.org/lex/actview.xql?actid=Const2010> [↑](#footnote-ref-1)
2. Ibid Article 25 (a) [↑](#footnote-ref-2)
3. Article 260 of the Constitution of Kenya, 2010 defines ‘older member of society’ as a person who has attained the age of sixty years. [↑](#footnote-ref-3)
4. Kenya National Commission on Human Rights Act, 2011, available at <https://www.knchr.org/Portals/0/Articles/KenyaNationalCommissiononHumanRights_Act_No14of2011.pdf?ver=2016-08-01-132051-907> [↑](#footnote-ref-4)
5. National Gender and Equality Commission Act, 2011, available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/89319/115496/F749616565/KEN89319%202012.pdf> [↑](#footnote-ref-5)
6. Counter-trafficking in Persons Act, 2010, available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/84999/115494/F-2071338712/KEN84999.pdf> [↑](#footnote-ref-6)
7. Section 6, Witchcraft Act, available at <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%2067> [↑](#footnote-ref-7)
8. Prevention of Torture Act, 2017, available at <http://kenyalaw.org:8181/exist/rest//db/kenyalex/Kenya/Legislation/English/Acts%20and%20Regulations/P/Prevention%20of%20Torture%20Act%20-%20No.%2012%20of%202017/docs/PreventionofTortureAct12of2017.pdf> [↑](#footnote-ref-8)
9. Victim Protection Act, 2014, available at <http://kenyalaw.org:8181/exist/rest//db/kenyalex/Kenya/Legislation/English/Acts%20and%20Regulations/V/Victim%20Protection%20Act%20-%20No.%2017%20of%202014/docs/VictimProtectionAct17of2014.pdf> [↑](#footnote-ref-9)
10. Sexual Offences Act, 2006, available at <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%203%20of%202006> [↑](#footnote-ref-10)
11. Land Act, 2012, available at <http://kenyalaw.org:8181/exist/kenyalex/sublegview.xql?subleg=No.%206%20of%202012> [↑](#footnote-ref-11)
12. Ministry of Labour, Social Security and Services, “National Policy on Older Persons and Ageing,” (Revised 2014), available at <https://partners-popdev.org/ageing/docs/National_Policy_on_Older_Persons_and_Ageing_Kenya.pdf> [↑](#footnote-ref-12)
13. Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons in Africa, accessible at <https://au.int/sites/default/files/treaties/36438-treaty-0051_-_protocol_on_the_rights_of_older_persons_e.pdf> [↑](#footnote-ref-13)
14. Ibid. Article 9 (2) [↑](#footnote-ref-14)
15. Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Persons with Disabilities in Africa, accessible at <https://au.int/sites/default/files/treaties/36440-treaty-protocol_to_the_achpr_on_the_rights_of_persons_with_disabilities_in_africa_e.pdf> [↑](#footnote-ref-15)
16. Ibid, Article 27 [↑](#footnote-ref-16)
17. Ibid [↑](#footnote-ref-17)
18. Ibid [↑](#footnote-ref-18)
19. Legal Aid Act, 2016, available at <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%206%20of%202016> [↑](#footnote-ref-19)
20. National Action Plan on Legal Aid (2017-2022), available at <https://kecosce.org/wp-content/uploads/2020/02/NAP-Legal-Aid-2017-2022.pdf> [↑](#footnote-ref-20)
21. Using the law to tackle accusations of witchcraft: HelpAge International’s position [https://www.a4id.org/wp-content/uploads/2016/03/Using-the-law-to-tackle-accusations-of-witchcraft-HelpAge-Internationals-position-1.pdf p18](https://www.a4id.org/wp-content/uploads/2016/03/Using-the-law-to-tackle-accusations-of-witchcraft-HelpAge-Internationals-position-1.pdf%20p18) [↑](#footnote-ref-21)
22. See <https://nation.africa/kenya/counties/kisii/witchcraft-claims-paralyse-court-session-in-kisii-3819766> [↑](#footnote-ref-22)
23. See KNCHR, ‘Press Statement: Lunching of Elderly and Poor Women in Gusiiland’ (5th November 2021) available at https://www.knchr.org/Articles/ArtMID/2432/ArticleID/1123/Press-Statement-Lynching-of-Elderly-and-Poor-Women-in-Gusiiland. [↑](#footnote-ref-23)
24. See <https://www.kisii.go.ke/index.php/item/2149-ongwae-appoints-a-taskforce-to-investigate-lynching-of-suspected-witches> [↑](#footnote-ref-24)
25. See <https://www.citizen.digital/news/governor-ongwae-appoints-taskforce-to-probe-witchcraft-crisis-in-kisii-n285753> [↑](#footnote-ref-25)
26. See <https://nation.africa/kenya/news/what-kenyan-law-says-about-witchcraft-3587990> [↑](#footnote-ref-26)
27. See <https://www.the-star.co.ke/counties/coast/2022-03-13-elderly-man-hacked-to-death-over-witchcraft-allegations/> [↑](#footnote-ref-27)
28. Access to Information Act, 2016, available at <https://www.cuk.ac.ke/wp-content/uploads/2018/04/Access-to-Information-ActNo31.pdf> [↑](#footnote-ref-28)
29. Article 27 (5), Constitution of Kenya, 2010, available at <http://kenyalaw.org/lex/actview.xql?actid=Const2010> [↑](#footnote-ref-29)
30. Section 6, Witchcraft Act, 1925, available at <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=CAP.%2036> [↑](#footnote-ref-30)
31. See <https://www.dw.com/en/kenyas-shelter-for-suspected-witches/av-59202970> and <https://www.the-star.co.ke/news/big-read/2021-05-29-agony-of-kilifi-elders-murdered-for-witchcraft-in-land-grab/> [↑](#footnote-ref-31)
32. See <https://www.the-star.co.ke/counties/central/2015-04-07-mp-saves-albinos-ahead-of-tz-polls/> and <https://www.citizen.digital/news/myths-on-albinism-misplaced-association-says-119630> [↑](#footnote-ref-32)
33. Visit to Kenya: Report of the Independent Expert on the enjoyment of human rights by persons with albinism, accessible at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/013/58/PDF/G1901358.pdf?OpenElement> par 56 [↑](#footnote-ref-33)
34. See <https://www.standardmedia.co.ke/entertainment/counties/article/2001280356/grey-haired-elders-in-hiding-as-locals-hunt-them-down-over-witchcraft> [↑](#footnote-ref-34)
35. See <https://www.kenyanews.go.ke/church-in-malindi-launches-campaign-against-murder-of-elderly-persons/> [↑](#footnote-ref-35)
36. See <https://www.standardmedia.co.ke/coast/article/2000151204/kaya-elders-unveil-plan-to-stop-killing-of-elderly-land-grabbing> [↑](#footnote-ref-36)
37. See <https://nation.africa/kenya/counties/kilifi/return-of-kilifi-witch-killings-worries-authorities-3779456> [↑](#footnote-ref-37)
38. See <https://www.kenyanews.go.ke/elungata-orders-kilifi-chiefs-to-protect-elders-from-killings/> [↑](#footnote-ref-38)
39. See <https://www.researchgate.net/publication/329070523_HOW_YOUNG_KENYANS_ARE_MURDERING_ELDERLY_RELATIVES_CLAIMING_THEY_ARE_WITCHES_BUT_IT_IS_BECAUSE_OF_WEALTH> and <https://www.newframe.com/bloody-land-grab-strategy-targets-older-kenyan-women/> [↑](#footnote-ref-39)
40. Visit to Kenya: Report of the Independent Expert on the enjoyment of human rights by persons with albinism, accessible at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/013/58/PDF/G1901358.pdf?OpenElement> par 48. [↑](#footnote-ref-40)
41. Kenya National Commission on Human Rights, “Press Statement: Lynching of Elderly and Poor women in Gusiiland.” Available for download at <https://www.knchr.org/Articles/PgrID/2432/PageID/2> [↑](#footnote-ref-41)
42. Visit to Kenya: Report of the Independent Expert on the enjoyment of human rights by persons with albinism, accessible at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/013/58/PDF/G1901358.pdf?OpenElement> par 83 [↑](#footnote-ref-42)
43. HelpAge International, “Using the Law to tackle accusations of witchcraft: HelpAge International’s position,” available at <https://www.a4id.org/wp-content/uploads/2016/03/Using-the-law-to-tackle-accusations-of-witchcraft-HelpAge-Internationals-position-1.pdf> page 19 [↑](#footnote-ref-43)
44. Visit to Kenya: Report of the Independent Expert on the enjoyment of human rights by persons with albinism, accessible at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/013/58/PDF/G1901358.pdf?OpenElement> par 84 [↑](#footnote-ref-44)