



THE AGED, ON EDGE

Witchcraft and abuse of the elderly
in Kilifi and Kwale County.

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Table of Contents

Acknowledgement	i
Abbreviations	iii
Foreword	iv
CHAPTER ONE: INTRODUCTION	1
1.1 Introduction	1
1.2 The concept of witchcraft at the Coast	4
1.2.1 The potency of accusations	6
1.2.2 Oath taking and cleansing rituals	7
CHAPTER TWO: WITCHCRAFT RELATED RIGHTS VIOLATIONS	10
2.1 Introduction	10
2.2 Witchcraft related Homicide	11
2.2.1 Murder trends in Kilifi	13
2.2.2 Murder trends in Kwale	14
2.3 Emerging Trends	16
2.3.1 ‘Bebabeba’ and Rise of the killings	16
2.3.2 ‘Waombezi’ – the prophets of doom	16
2.3.3 Access to Justice for Victims and Survivors	18
CHAPTER THREE: CONTRIBUTORY FACTORS	20
3.1 Land Ownership Disputes	20
3.2 Administrative Inaction and Corruption	23
3.3 Weak Legislations and Enforcement Pathways	25
3.4 Ignorance/Misinformation/Lack of Awareness	28
CHAPTER FOUR: LEGISLATIVE FRAMEWORK	31
4.1 The Constitution of Kenya, 2010	32
4.2 The Witchcraft Act, CAP 67 Laws of Kenya	33
4.3 Witness Protection Act, CAP 79	36
4.4 The AU Protocol to the ACHPR on the Rights of Older Persons in Africa	37
CHAPTER FIVE: MVI SI UCHAWI CAMPAIGN	40
5.1 Haki Yetu’s interventions	40
5.2 Impact of Haki Yetu’s Interventions	45
5.3 Lessons learned challenges and good practices	46
CHAPTER SIX: CONCLUSION AND RECOMMENDATIONS	47
6.1 Recommendations	47
6.2 Conclusion	52

Abbreviations

ACHPR	African Charter on Human and People's Rights
ADR	Alternative Dispute Resolution
AU	African Union
CPS	Civil Peace Service
CSO	Civil Society Organization
CUCs	Court User Committees
DCI	Directorate of Criminal Investigations
FAO	The Food and Agriculture Organization of the United Nations
KNCHR	Kenya National Commission on Human Rights
MADICA	Malindi District Cultural Association
NCRC	National Crime Research Centre
NGAO	National Government Administrative Officers
NGO	Non- Governmental Organization
NPS	National Police Service
ODPP	Office of the Director of Public Prosecution

Foreword

The recent massacre of hundreds of innocent worshippers in Shakahola, Malindi has become a huge wake-up call for the government and the general public. Not a single administrator or security officer raised the alarm as dozens upon dozens of Kenyans were misled to starve themselves to death over a long period of time. This slaughter has brought shame on the country all over the globe. It must not be allowed to happen again.

Yet, in the very same coastal region another slaughter of innocent citizens, this time the elderly, is taking place on a daily basis and no one has raised an alarm. Indeed, as this research illustrates, an even larger number of our elders have been killed in the past few years than those whose deaths have been recorded in Shakahola. This is a scandal that is ignored because the victims are old and no one in a position of responsibility has the courage to call these deaths by their proper name – murders - and respond accordingly. They stand idly and cowardly by and say that they cannot handle matters of witchcraft, as it is a cultural matter.

Haki Yetu has investigated these grotesque and illegal acts for almost a decade. We have also engaged the affected families and communities and we now are sharing our findings and experiences with the general public. Our hope is that just as the Kenya Kwanza government has acted with speed, professionalism and resources to respond to the Shakahola disaster, they will regard the killing of older Kenyans as a similar national crisis. In doing so we wish to make the killing of older people on accusations of being witches an issue that is discussed and dealt with as a national concern, and not just a Coastal matter. The killing of older people is also found in many other regions in Kenya.

We believe that every Kenyan has a God given right to life and that the nation's institutions and laws must enhance and protect every citizen, especially the most vulnerable, the elderly. We offer analysis and also a way forward with strong recommendations that can go a long way to address the crisis. We have walked this journey since 2014 we are now inviting others to join us in making the lives of our elders safer and happier.

Fr Gabriel Dolan, ED Haki Yetu, July 2023.

CHAPTER ONE: INTRODUCTION

1.1 Introduction

In adopting a new constitution in 2010, Kenya gifted itself one of the most progressive bills of rights. Chapter four of the constitution outlines various rights and freedoms ranging from civil and political rights and freedoms; to economic, cultural and social rights. Thirteen years since the promulgation of the constitution, the country's human rights record remains grim.¹ Cases of sexual and gender-based violations, forced disappearances, use of brutal force and torture by law enforcement agencies, murder, forced evictions etc are some of the common rights violations in Kenya. In the last one year alone, over 300 bodies have been exhumed from a forest in Kilifi,² and over 40 bodies retrieved from River Yala³, all suspected to be victims of vicious murders. Law enforcement agencies have violently dispersed political events and demonstrations in total disregard of the bill of rights. In some unfortunate instances, the police have used live bullets to disperse political gatherings, killing people in the process.⁴ There are other violations still, that often fly under the radar, yet they are just as severe.

Kilifi County is one of the six coastal counties with a population of 1.55 million people as at the end of 2022(CIDP 2023-2027), comprised majorly of the Mijikenda tribe. The county boasts of vast natural resources including a lengthy shoreline, rivers, mountains, woodland forests, minerals among others. The county has a vibrant tourism and hospitality industry as a result of its access to the Indian Ocean shoreline and Tsavo National Park. Despite these resources, the county remains one of the poorest, with high illiteracy levels according to county and national statistics.⁵

At the beginning of 2023, Kilifi County captured global headlines over what is likely to be one of the worst massacres in history. Mass graves were discovered in Shakahola forest in Kilifi where over 350 bodies have since been exhumed, with more graves yet

¹ <https://www.hrw.org/world-report/2022/country-chapters/kenya>

² Shakahola massacre

³ <https://www.the-star.co.ke/news/2023-03-24-40-bodies-have-been-retrieved-from-river-yala-report/>

⁴ <https://www.ohchr.org/en/press-briefing-notes/2023/07/comment-un-human-rights-office-spokesperson-jeremy-laurence-kenya>

⁵ KNBS Poverty Report 2021

to be dug up.⁶ It is alleged that a spiritual leader, turned cult leader convinced his followers to fast to death promising them that they would meet their creator upon their death. In the process, the cult leader is alleged to have inherited their earthly belongings. Yet this is not the only massacre going on in the county.

The Mijikenda community in Kilifi, is one of a few other Kenyan communities that still hold a strong belief in the existence and power of witchcraft. This belief and fear of the practice has been the source of tribulations for many old people in the county. The elderly in the county often have to constantly repulse accusations of witchcraft, which, many a times are accompanied by threats to physical harm and death. The county records high numbers of murders and attempted murders compared to other counties, most of which are witchcraft related. The NCRC⁷ in a 2020 National Crime Mapping Report (Crime Patterns and Trends), indicates that 58.2% of Kilifi residents were aware of or had murder cases reported within their localities. 2.7% of the residents had perceived attempted murder cases in their locality. These figures, compared to the national average of 24.8 and 0.4 respectively, gives a sneak peek of what is happening in a county, that is largely rural. But, this is not an anomaly, Kilifi has led national murder statistics for a while, with witchcraft related crimes accounting for a majority of the cases.⁸

Haki Yetu is a human rights organization with offices in Kilifi County. The organization works for and with marginalized, excluded and vulnerable coastal communities to enhance enjoyment of their human rights, access to justice, inclusion and peaceful co-existence. For Haki Yetu, the need to amplify the plight of older persons in the Coast region became apparent in 2014 during a community outreach on peace and cohesion conducted in Ganda, Kilifi County. During the outreach, organized in partnership with the Malindi District Cultural Association (MADICA)⁹, the killing of older persons over witchcraft allegations was raised by the locals as one of the key hinderances to cohesion in Kilifi County. Further probing revealed that the practice of witch-hunting is

⁶ Statistics as at July 10th 2023.

⁷ A State Corporation under the Ministry of Interior charged with carrying out research into the causes of crime, its prevention and dissemination of findings and recommendations.

⁸ <https://nation.africa/kenya/newsplex/kilifi-leads-in-murders-while-nairobi-has-most-crimes-police-report-says-1181916>

⁹ A local organization based in Malindi, Kilifi County.

widespread across the county but also in the neighbouring county of Kwale, and in most instances ends with the murder of the suspected witch.

Since then, Haki Yetu has run a campaign dubbed ***“MVI SI UCHAWI, UZEE NI HEKIMA”*** loosely translating to ***“Gray hair is not witchcraft, age signifies wisdom”***. The campaign aimed at creating awareness on the plight of older persons accused of witchcraft, but also at finding peaceful alternative ways to resolve disputes in the community that often escalated to witchcraft related crimes. The campaign has consisted of regular public awareness meetings; capacity building of community leadership and local administrators to resolve community disputes, rescuing and supporting survivors of witchcraft related attacks to access justice and mental health support.

While these interventions have had considerable success in contributing to the reduction in the frequency of attacks on persons suspected to be witches, these reductions are often localised and temporary. Waves of attacks on older persons are still common in both Kilifi and Kwale, often instigated by other underlying issues including disputes over property. Government agencies charged with protecting the public including the National Police Service (NPS) have often seemed to be at a loss explaining the continued perennial attacks on older persons in Kilifi and Kwale.

It is against this backdrop that Haki Yetu commissioned this study to understand the witchcraft phenomenon; to investigate the causes and trends in witchcraft related crimes and violations in Kilifi and Kwale Counties; and to make recommendations that can contribute to the reduction of witchcraft related violations.



Figure 1: Fresh grave of Kesi Kenga, killed by a mob on suspicion of being a witch at Kavunyalalo village, Malindi Subcounty, in December 2021

1.2 The concept of witchcraft at the Coast

Witchcraft is defined as the use of magical powers, especially evil ones, to make things happen; or the practice of magic, especially the use of spells and invocation of evil spirits.¹⁰ According to the elders of the Giriama sub-tribe of the Mijikenda Community - the most populous sub-tribe in Kilifi County - witchcraft is harmful actions carried out by persons presumed to have access to supernatural powers. It is the same definition that is provided by the Digo and Duruma Communities in Kwale County during the study.

Josephine Mutuku Sesi, a scholar in her publication '*Understanding Witchcraft among the Digo Muslims on the Coast of Kenya: Implications for Mission*;' states that the Digo see witchcraft (Utsai) as an act beyond human explanation. It is so real and potentially dangerous that no one can take a chance of leaving themselves and their properties unprotected against witches. She notes that in Digo, witches use spiritual forces or special medicine with different designs from special stores or from different herbs. The different sources of powers determine their strength; some are more powerful than others. In Digo worldview, the spirits behind witchcraft are so powerful that only witchdoctors have the powers and remedies over witches and witchcraft. Not all witchdoctors can deal with every kind of witchcraft. This is because each kind of witchcraft is assigned to a certain witchdoctor depending on its intensity and the position of the witchdoctor in the hierarchy of witchdoctors.¹¹

There are divergent views on whether witchcraft exists or not. Traditionally, among the Mijikenda – the tribes populating the research area - witchcraft is seen as the explanation for anything unusual, be it good or bad. If for instance someone has bad luck, it is presumed they are victims of witchcraft (bewitched); if they have good luck, it is presumed they have made use of witchcraft to bestow upon themselves good luck charms, at the expense of others. However, among the same community is a significant population that does not believe in the existence of witchcraft, that witchcraft tales are myths meant to spread fear among the population.

¹⁰ Derived from Longman Dictionary of Contemporary English; The Living Dictionary and Concise Oxford English Dictionary TWELFTH EDITION

¹¹ Josephine Mutuku Sesi, Page 4: <https://www.eajournals.org/wp-content/uploads/Understanding-Witchcraft-among-the-Digo-Muslims-on-the-Coast-of-Kenya-Implications-for-Mission.pdf>

To appreciate the divergency of opinions on the subject of witchcraft, we talked to residents of Kilifi and Kwale, drawn from different sectors and backgrounds. We sought to understand whether they believed in the existence of witchcraft. For each category, 10 people were interviewed, and their responses are captured below:

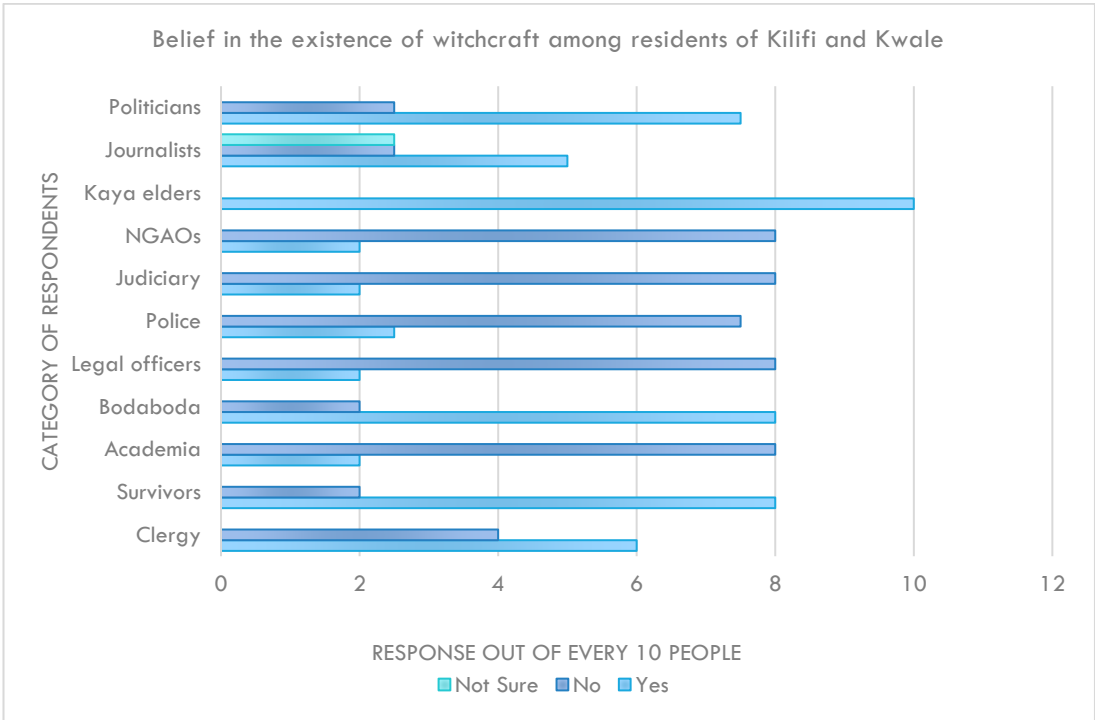


Figure 2: Belief in the existence of witchcraft among residents of Kilifi and Kwale

The results show that 52% of those interviewed believe in the existence of witchcraft. The percentage is higher among residents considered indigenous to the region including Kaya Elders, victims/survivors of violent attacks as well as bodaboda operators. The findings also suggest that the prevalence of belief in witchcraft is lower among professionals including NGAOs, Judiciary, Legal Practioners, Police, and those in Academia.

Further, the results show that those mandated to enforce the law such as the police and the members of the judiciary neither believe in its existence nor its potency. A reasonable inference in this regard is that combating this menace has proven difficult as there is a high imbalance of conviction between the likely perpetrators of witchcraft; who are drawn from the community, and the enforcement and justice fraternity who are meant to arrest the situation. For any long-term impact, the latter should be in the forefront yet in this case they seem to be outsiders looking in.

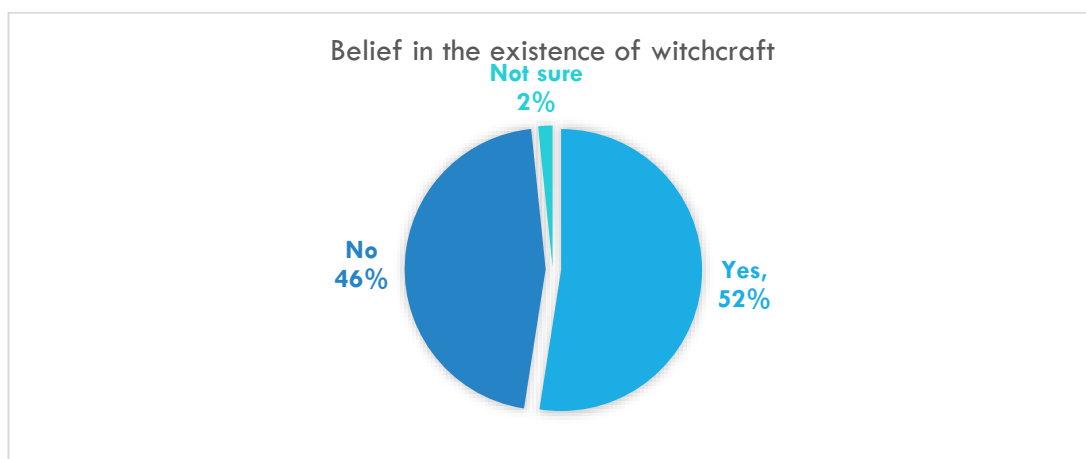


Figure 3: Percentage of people who believe in the existence of witchcraft

1.2.1 The potency of accusations

The fashioning of allegations that one is a practising witch is a fundamental, often lethal step in the practice of witchcraft. This is essentially because, such accusations once made, snowball quite rapidly into threats and serious violation of rights of the accused if not properly managed. Law enforcement and security agencies are ideally expected to swoop in at the point of accusations being made to avert potential violation of rights, and to protect the vulnerable.

Claims that one is a practicing witch are in most instances made by people known to the suspect. Accusations are common among members of the same family, clan or community. The belief among the Mijikenda community is that, it is people with access to you who may have the ill will and opportunity to bring harm and misfortune to you. **It is quite rare for such allegations therefore, to be made against someone unknown to the accuser.**

A peculiar tendency among the Mijikenda is the fronting of accusations against the vulnerable, poor and old members of the community, members who lack the means to front a spirited defence of their reputation and life. Accusations are rarely made against those with means and resources to protect themselves, and when they are made, they fizzle out after a while.

Among older persons in Kilifi and Kwale counties, **we have observed that 7 out of 10 accusations of practicing witchcraft made are against men.** From interviews conducted, we concluded that elderly men are most likely to be accused by virtue of their position as head of their families.¹² Where an accusation is made against a woman, it is often made where the woman is a widow and head of her family, or accused together with the husband.

1.2.2 Oath taking and cleansing rituals

When a man or woman is suspected of being a witch, culturally, the Mijikenda take the suspect to a medicine man/woman or witchdoctor to administer an oath meant to establish their culpability. This oath is known as *kiraho cha kuvuka madzi* (the oath across the waters). As the name suggests, it means suspects in Kilifi are ferried across the Likoni Channel, (Mombasa) to Lungalunga (Kwale) or Tanzania where it is believed the powerful witchdoctors reside.

The witchdoctor would then administer the oath. The ritual often involves chewing of a piece of green pawpaw fruit. The accuser and the accused both partake in the ritual by picking and chewing a piece of the fruit. It is expected that there would be no reaction if the accused is innocent. However, if one is guilty of practising witchcraft, it is expected that the chewing of the fruit will elicit a reaction, akin to allergic reaction, with the tongue swelling, drooling, and unable to swallow the piece of fruit.

If one were to be found innocent, they would be allowed to leave and re-join their family and community. However, those found guilty are detained for a cleansing ceremony conducted by the witchdoctor and other trusted elders. It is believed after the cleansing, which includes prayers and shaving the head bald, those considered witches are relieved of the supernatural powers and can be integrated back into the family.¹³

While these rituals were ancient, unconventional and sometimes even violated rights of the accused, they were highly revered among the Mijikenda community. They brought about a sense of justice for those who felt offended by the alleged practice of witchcraft. In recent years however, the effectiveness of these rituals has been doubted,

¹² Haki Yetu monitoring reports

¹³ Feedback from Malindi District Cultural Association officials interviewed.

especially by the younger generation. There are no guarantees that a cleansed 'witch' will automatically be reintegrated into the society. According to the youths interviewed, they felt that the cleansing ceremonies were exclusive clubs of the elders by the elders to protect their fellow elders. Still, there are those who believe that the oath taking has been corrupted and commercialised, with some witchdoctors deliberately administering lethal concoctions in a bid to arrive at a predetermined verdict.

Following public outcry that some elders were misusing their roles as community mediators to extort money from the vulnerable suspects, the government banned the practice of oath taking among the Mijikenda as way of resolving witchcraft related disputes. Prior to the ban on oath taking, people found guilty of witchcraft-related practices were slapped with hefty fines, forcing some to sell their parcels of land or flee their homes because failure to comply was met with fatal attacks as captured in the excerpt below reported in the *Daily Nation* of Wednesday, 11th June 2014.¹⁴

Dilemma for couple linked to witchcraft

"An elderly couple are living in fear at Mrima Wa Ndege Village in Kilifi after undergoing cleansing over witchcraft claims.

Mr. Yaa Mangi, 75, and his wife Pola Charo Kirao Charo 71, are now under pressure to pay a fine of Ksh50,000 (425.86 Dollars) or a bull and three cows or face the wrath of the villagers.

They told the Nation yesterday that they decided to perform the ritual at the traditional Giriama Shrine after community branded them witches.

Out of fear, man and his wife were forced to go to the shrine in an attempt to assuage their accusers. Among the rituals they went through was taking an oath, binding them not to "engage in witchcraft again,"

The suspects said they were unable to pay the customary fee, known as kore in Giriama, as it was heavy. They said the matter was not negotiable, and if they failed to comply, they would be put to death. "We decided to go for the traditional ritual because the locals blamed us for lack of development,"

¹⁴ Page 22 of the Daily Nation Dated 11th June 2014

The Kaya Elders interviewed feel the blanket ban imposed on these ceremonies was rushed. They are better placed to address cases of witchcraft before they morph into grievances that result into the death of the suspects. With the elders no longer in control, much younger and lethal witch hunters popularly known as *bebabebas* have taken over.

CHAPTER TWO: WITCHCRAFT RELATED RIGHTS VIOLATIONS

2.1 Introduction

Accusing someone of practising witchcraft at the Coast of Kenya exposes them to a wide range of human rights violations. There is little evidence of the harmful nature of the practice of witchcraft (apart from a long-held belief). However, labelling one a witch places them in an abhorred group that exposes them to hate and violent attacks, with little protection from the community.

Persons suspected of practicing witchcraft among the Mijikenda are often banished from their communities. They are forcefully evicted from their homes, and their property destroyed. Many a times, homes of suspected witches are razed to the ground in arson attacks. If they are unfortunate, they get killed in the process. Some have their limbs forcefully amputated. In other instances, they get frogmarched by blood thirsty mobs, stripped naked, and whipped before they are killed. Where the law enforcement agencies or their families are able to protect them from the wrath of the community, they have to live with the mental torture and stigma associated with the practice. No amount of cleansing seems sufficient to restore their lives back to normal.

In Kilifi County, there are two informal rescue centres/homes of banished elders: Kaya Godoma, and the MADICA run centre in Malindi. These homes receive little to no support from government agencies despite the very important role they play in protecting older persons. At any given time, the two centres have at least 30 elders within their compounds.

The constitution of Kenya 2010 contains one of the most progressive Bills of Rights that ought to protect victims of witchcraft accusations from these violations. The bill recognizes human rights as inherent to every human being. Article 25 of the constitution is specific on the rights and freedoms that shall not be limited including freedom from torture and cruel, inhumane or degrading treatment or punishment. Article 26 protects the right to life for all except to the extent authorised by law, while 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 constitution further expressly guarantees the right to human dignity (Article 28) and the right to the freedom and security of the person (Article 29). The right to property is protected under article

40 of the constitution. Article 57 secures the rights of older members of the society including the right to fully participate in the affairs of society; to pursue their personal development; to live in dignity and respect and be free from abuse; and to receive reasonable care and assistance from their family and the State”. To buttress this, 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.

Despite these robust provisions, persons accused of practising witch craft face some of the most heinous violations. The state and society to a certain extent has failed to guarantee these basic rights for older persons at the Coast region, especially those facing witchcraft accusations.



Figure 4: Traditional dancers performing a cleansing dance, at the Kaya Godoma, during a visit to the centre in September 2020.

2.2 Witchcraft related Homicide

Persons accused of practising witchcraft often find themselves in a race against time to clear their names. In the absence of a recognized and universally agreeable procedure of proving ‘their innocence’, most end up facing death. The law enforcement agencies have not been able to protect a majority of those accused of practising witchcraft. When such accusations are made and are reported to investigative agencies, the reports are

not taken seriously, with agents only springing into action when life has already been lost.

The National Crime Research Centre in a 2020 National Crime Mapping Report, listed Kilifi County as being one of the counties with the highest incidences of murder, with 58.2% of respondents interviewed saying they knew or had experienced a murder in their locality. This is against a national average of 24.8%. While the report does not categorise the causes of these murders, one can reasonably infer that witchcraft related deaths in the county make a significant contribution to these statistics. It is the only peculiar phenomenon that can explain these high death rates compared to other counties.¹⁵

Collecting data on the number of persons killed as a result of witchcraft allegations can be challenging. There is some level of resistance in sharing data by law enforcement agencies, presumably because higher figures would imply a failure on their part to protect lives. In most cases, when these crimes are reported to the relevant investigative agencies, they are recorded according to findings of the investigations i.e., cause of death. Reports about witchcraft accusations are considered anecdotal with no probative value is placed on them. It becomes tricky therefore to categorise with absolute certainty that a murder is witchcraft related, from police records.

Local administrators, especially chiefs and assistant chiefs, who as a matter of practice live within the communities, become privy to these practices by virtue of their placement in the community. They are therefore a very good source of data on witchcraft related killings. Infact, most of these disputes and accusations are often reported to them before they escalate to severe crimes. In a training session with Chiefs from Rabai in February 2020 for instance,¹⁶ Chiefs in the area reported that in the previous 2 years, they had recorded 22 deaths related to witchcraft in Rabai Sub-County. Through the same channels, Haki Yetu documented upto 15 Deaths in Kilifi County in 2022, including six between October and December in Mariakani Sub-County alone.¹⁷

¹⁵ <https://nation.africa/kenya/newsplex/kilifi-leads-in-murders-while-nairobi-has-most-crimes-police-report-says-1181916>

¹⁶ Haki Yetu Capacity Building Session with Rabai Chiefs on Mediation and use of ADR in Dispute Resolution, February 2020

¹⁷ <https://www.the-star.co.ke/counties/coast/2023-01-20-elderly-mans-murder-reignites-fears-of-witchcraft-killings-in-kilifi/>

2.2.1 Murder trends in Kilifi

Data collected during this study indicate that Kilifi County lost up to 138 lives to witchcraft related murders between 2020 and May 2022. This is according data gathered from local chiefs and verified with police records. The figures are however quite conservative. There are more deaths related to witchcraft accusations that may not have been captured.

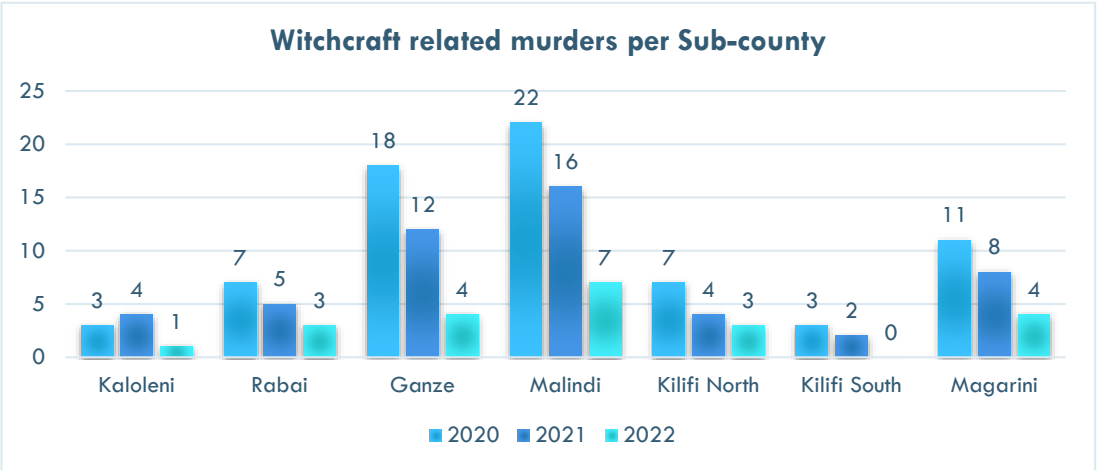


Figure 5: Witch craft related murders in Kilifi County

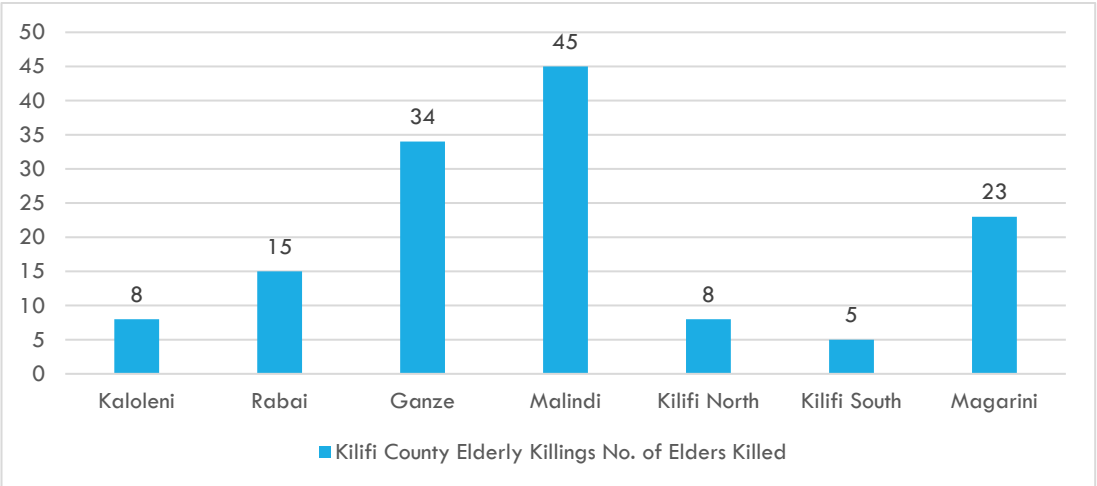


Figure 6: Kilifi County witchcraft related murder cases per sub-county between 2020-2022

From the data presented, Malindi Sub-county registered the highest number of deaths in the period under review at 45 followed closely by Ganze (34) and Magarini at 23. Kilifi south registered the lowest numbers. It is worth noting that the Shakahola forest

where the mass graves of victims of a religious cult were recently discovered is in Magarini Subcounty, at the border with Malindi Sub County.

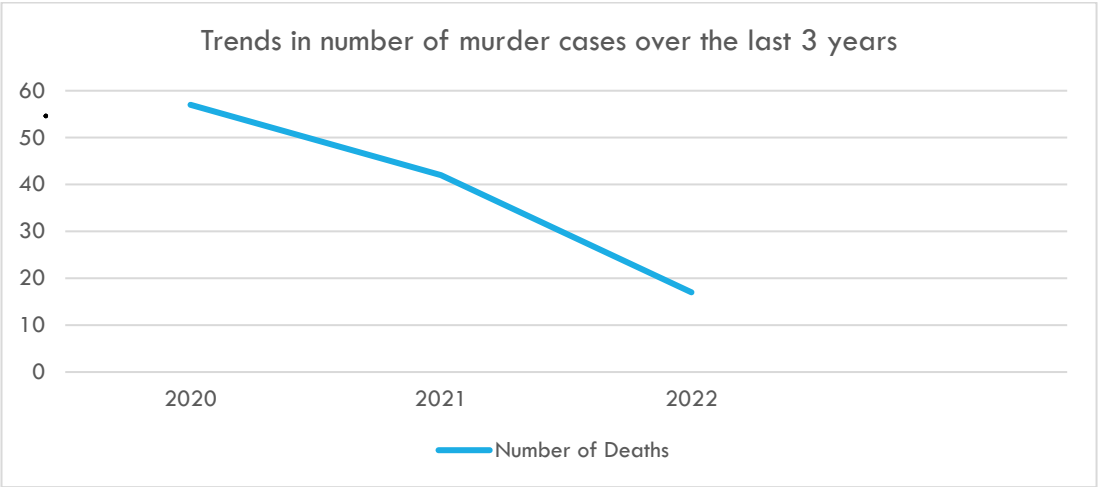


Figure 7: Trends in number of witchcraft related murder cases in Kilifi over the last 3 years

Further analysis of the data reveals a declining trend in the killings, a reflection of the interventions implemented by Haki Yetu and other partners in the county. The community sensitization and capacity building of law enforcement agencies conducted over the years has contributed to the decline from 57 cases reported in 2020 to the 17 reported in the first half of 2022.

2.2.2 Murder trends in Kwale

Table 1: Recorded cases of elderly killings in Kwale counties during the research.

SUB COUNTY	YEAR			
	2020	2021	2022 (May)	Total
Msambweni	Not available	Not available	Not available	N/A
Lungalunga	8	5	2	15
Matuga	Not available	Not available	0	0
Kinango	3	2	2	7
				22

The numbers registered in Kwale are significantly lower compared to Kilifi County with 22 cases recorded over a similar period. The cases are reported from Lungalunga and Kinango sub-counties, Lungalunga leading with 15 cases. A closer look at the two sub-counties reporting killings reveals they are also the poorest and under developed of the 4 sub-counties of Kwale.

Kwale County killings per Sub-County

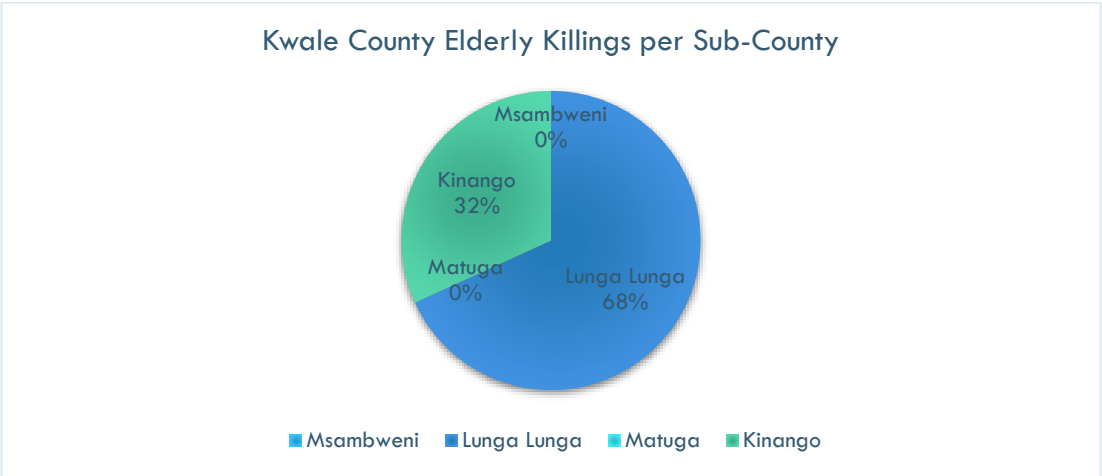


Figure 8: Kwale County witchcraft related killings per sub-county

Similar to the trends observed in Kilifi County, Kwale county has registered a decline in the number of those killed during the period under review. This is an acknowledgement of the work done by partners in the recent past to bring to light this vice.

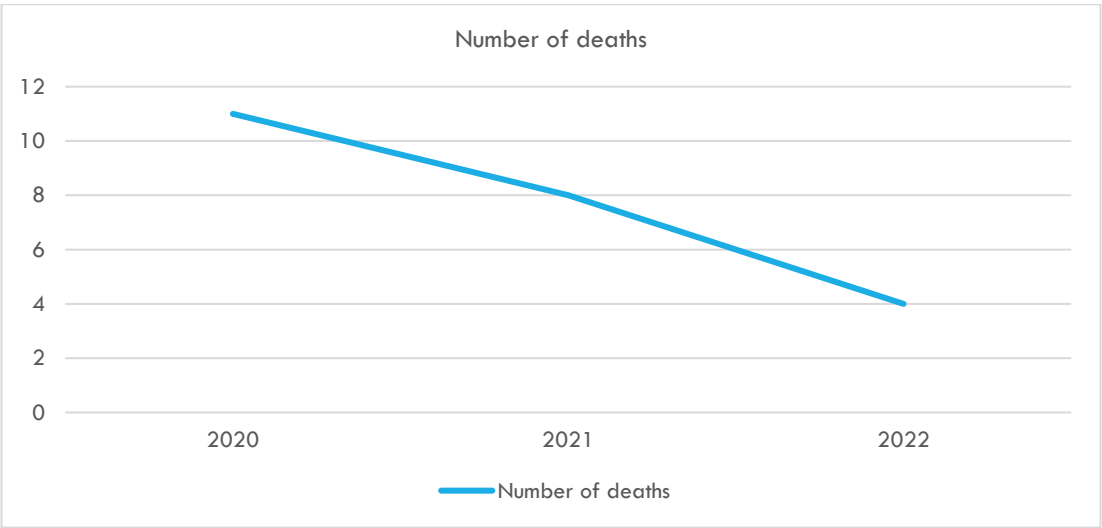


Figure 9: Trend of witchcraft related murders observed in Kwale over the last 3 years

2.3 Emerging Trends

2.3.1 ‘Bebabeba’ and Rise of the killings

Bebabeba was a witchdoctor based in Watamu, Kilifi, and became popular from his unconventional methods of detecting alleged witches. Upon invitation to a village to identify a suspected witch, he would conduct outrageous, circus like rituals. He would carry suspected witches on his back and run from one corner of the village to another. Loud drums, singing and summersaulting characterized his ceremonies. Goats and chicken would be slaughtered as a sacrifice to the *mizimu* or ancestors. Suspects are tortured in various ways including being swung from side to side, and forced to ingest some bitter concoction. Victims are not expected to react to the test of the bitter concoction, even though it would make anyone squirm. This practice continues with more *bebabebas* mushrooming in the region.

Unlike the witchdoctors, who administered a cleansing ritual to suspected witches, the *bebabebas* do not apply a similar approach. Instead, they leave the community and the suspects to their own devices. This in most instances leads to lynching of suspects, sometimes, in broad daylight. The emergence of many other *bebabebas* in Mombasa, Kwale and Kilifi, among other causes, have contributed to the continued killing of the aged.¹⁸

2.3.2 ‘Waombezi’ – the prophets of doom

The Kenyan coastal community are deeply religious. While 85% of the Kenyan population is made up of Christians, the Coast region and especially along the coastal strip has a huge population of Muslims. Witchcraft and religion are often intertwined, but are not the same thing. Witchcraft is a practice or belief system that involves the use of magic, spells, and rituals to influence or control events or people. Religion, on the other hand is a set of beliefs, practices and values, related to the worship of one or more deities or a higher power. When we asked members of the clergy at the Coast whether or not they believed in the existence of witch craft, 60% responded in the affirmative.

¹⁸ Additional comments from Bebabeba neighbours in Watamu, Kilifi County

In the past decade or so, the region and indeed the entire country has seen the rise of self-proclaimed prophets. These are mostly evangelical Christians who claim to have powers to command demons, cast spells, heal the sick, and to influence or control events or people. They however, unlike the witch, draw their powers from 'God'. They use what can only be described as staged miracles to gain popularity and exploit vulnerable and desperate communities. In March 2023,¹⁹ mass graves were discovered in Shakahola, Kilifi County where it is believed hundreds of followers of one such prophet, Paul Mackenzie, are believed to have been brainwashed into fasting to their death in a bid to meet God. While investigations were still on going at the time of publishing, the massacre speaks to the influence these self-proclaimed prophets have on communities.

The Shakahola massacre where hundreds of lives have been lost brings to light how these self-proclaimed prophets have used their influence to perpetuate violation of rights unabated in the last decade. These prophets, often called 'waombezi' claim to have powers to cast away witchcraft spells that may be behind family misfortunes. They prey off vulnerable families facing challenges, with the promise of identifying the person behind the misfortune (witch) and casting away their spells. So, while those who do not subscribe to mainstream religions would ordinarily engage a 'bebabeba' to identify the source of their misfortunes, many Christians along the Coast rely on the Waombezi to do the same. For an agreed fee, these prophets will invade the home of a perceived witch, praying and speaking in tongues, claiming to be possessed by the spirit, and dramatically identify the source of the misfortune/witch.

This form of witch-hunting, led by prophets has the same effect as that of Bababebas. The life of the person suspected of being a witch is at risk as soon as the identification is done. The identification is akin to a death sentence, as anyone facing a misfortune in the community starts blaming the suspected witch, leading to harassment, and eventually murder.

¹⁹ <https://nation.africa/kenya/news/shakahola-deaths-blunders-and-how-cult-was-discovered-4214110>



Figure 10: A survivor of violent attacks, who lost his hands in the attack shares his predicament to the Haki Yetu team in June 2023

2.3.3 Access to Justice for Victims and Survivors

The constitution of Kenya demands of the state to ensure access to justice for all persons, and if any fee is required, it shall be reasonable. Victims and survivors of witchcraft accusations are entitled to access justice expeditiously and at a reasonable cost. This right however is rarely realised by persons accused of witchcraft. For a long time, the practice by the access to justice chain has been to dismiss such cases, and ask of the persons making the reports to go back to their families to find an amicable solution. Police officers, who often are the first recipients of these cases, probably out of deficiency in cultural intelligence, dismiss such cases as being ‘backward, unbelievable, and a waste of their precious time’²⁰ We recorded two separate cases in 2022, where the victims after being accused of practicing witchcraft reported the threats at their nearest police stations and obtained OB numbers. However, their cases were not investigated, no action was taken, only to be killed a few weeks later.²¹

²⁰ Quoted from a narration by a survivor.

²¹ We cannot name the police stations as these two cases are under investigation.

However, when homicides are reported, the law enforcement agencies are prompt and keen in their investigations. Sometimes they are too eager to make arrests, perhaps out of guilt for not doing enough to prevent the murder. In the process, they alienate possible witnesses who could help in the case.

The Witchcraft Act, enacted in 1925 criminalises accusing someone of practicing witchcraft. However, the fine provided for such an offence is KES 500. With such a minimal fine, it is no wonder law enforcement agencies do not take reports of accusations seriously, and prefer advising victims to go find solutions through dialogue.

Communities and especially members of victims' families have also been obstacles to access to justice. They often feign ignorance, in what has come to be known as '*simanya syndrome*' coined from the Mijikenda word for 'I do not know'. The murders are often executed within victims' homesteads, where other family members reside, yet when asked what happened, they claim not to have seen the perpetrator.

These factors, combined with a case backlog at the judiciary have contributed to the challenges faced by victims, families of victims and survivors, in accessing justice.



Figure 11: Football players and match officials endorsing a Mvi si Uchawi message before a football match to create awareness on the harmful practice in Magarini, December 2022

CHAPTER THREE: CONTRIBUTORY FACTORS

There is a story behind every witchcraft accusation. The Mijikenda have often associate witchcraft with unfortunate and tragic events. **Ill health or death** in a family especially sudden death has been a leading cause for families to witch hunt. The belief among the Mijikenda is that illnesses that cannot be easily managed by traditional herbalists or local hospitals is an indication of the involvement of someone with supernatural powers i.e., a witch. The emergency of illnesses such as cancer or stroke leading to paralysis that are difficult to reverse has contributed to a rise in the accusations of witchcraft. Tragic deaths from short illnesses, and/or accidents are also associated with the practice of witchcraft. Basically, when a family faces a tragic event, it will seek to find an explanation for such an event. The simpler explanation then becomes that it's the work of a witch.

The other common reason accusations of practicing witchcraft are made among the coastal community is to find a **scapegoat for a misfortune**. For instance, loss of livelihood, poor performance in school, a series of unfortunate events befalling a family etc have often been associated with the work of a witch, and can push a family to witch-hunt. **Fear of the unknown**, often exploited by prophets of doom has also contributed to witchcraft accusations being made.

Despite the foregoing, this research found that there are deeper issues that have contributed to the continued harassment and killing of older people in the two counties. The research explores four fundamental factors behind the perpetual persecution and murder of older persons on witch craft related accusations.

3.1 Land Ownership Disputes

Land, oftentimes together with poverty, tops the contributory factors for witchcraft related human rights violations. Across all data and all interviews, the issue of land came up the most frequently. Officials from the Offices of the County Commissioner, the Police and the Judiciary among other respondents outrightly said that, in their opinion, any dispute filed under “witchcraft”, was actually a clash over land and resources.

Respondents interviewed indicated that it had become the practice, where people in dispute over property would use witchcraft allegations to gain undue advantage over

their adversaries. They do so, knowing such allegations will drive the accused party into exile or will get them killed, due to the stigma attached to the practice. Accounts from victims and survivors of witchcraft allegations clearly show that they are very aware and know that most disputes arise from extended family members fighting over land inheritance and land usage. Poverty creates pressure on younger family members to make a living and when they are not allowed to sell or inherit a share of family land, they instigate these accusations.

There is a window of opportunity to address these conflicts before they escalate, such as mediation by respected parties. Traditionally, according to Kaya Rabai elder, Mzee Garero, when there was a land dispute, the elders would bring the disputing parties together and discuss the matter. After resolving the dispute, they would make peace by sharing a meal. However, distrust and greed among the elders, who at times slapped hefty fines to the parties that brought the matter before them, means this is no longer a viable means of addressing land disputes.

There has also been a long-standing problem of land inheritance in Kilifi and Kwale Counties. Most of these killings are instigated by land inheritance conflicts. There are young people who out of pressures of life also want to own land, yet their elderly parents refuse to grant them their inheritance. The elders feel when they allocate their land to the younger generation, they will sell it off immediately and invest in get-rich-quick-money schemes such as the *bodaboda* business. The below case study is an account narrated by a daughter of a deceased victim:

Narrator: Josephine Kitsao, 48.

Ward: Kakuyuni.

Village: Kavunyalalo

Sub-County: Malindi

Date: December 2020

“My 72-year-old mother, Kadzo Baya, was hacked to death in July 2019. The excuse was witchcraft. My father is polygamous and we highly believe my brother from the second wife committed this heinous act in the middle of the night. Even with a Chief in our family; my father’s elder brother, my brother was determined to take her life.

The conflict started when the second wife, with two children sired by my father, left him for another man. She had two other children from the second marriage. But all her four children demanded a share of my

father's 12-acre piece of land. My father did not want to share the land but he finally yielded to the pressure. He gave six acres to each of his two wives. The four children from the second wife were up in arms that the land had been shared equally yet the first wife had only two children. They therefore concocted some lies that my mother practiced witchcraft to eliminate her.

On the day of her death, the suspect came home from Matsangoni where he had been living, and asked his sister-in-law to cook a lot of Ugali (maize meal) for an unnamed celebration. He carried the ugali and a live goat to the forest. That is the same night my mother was killed. Apparently, he had hired a group of friends and were going to have a heavy meal as preparations to kill her.

The police arrested him during a market day at Matsangoni. However, it has been more than three years, the suspect is still in remand but a judgement is yet to be delivered. The witnesses, including the sister-in-law who cooked the ugali have testified. We hear that it is only the doctor who performed the autopsy that is yet to testify. But being a family dispute, we are under pressure to withdraw the case. The fact that this case has not been closed is also haunting us. We also continuously receive death threats from some of the gang members that were not arrested. Our prayer is a speedy and judicious end to this matter.

As shown in some of the interviewees' responses, this pressure stemming from poverty leads to disputes on land that – if left unaddressed – sometimes results in witchcraft allegations and ultimately into violations of human rights based on these allegations. But poverty and land conflicts, albeit not that common, also exist in other parts of Kenya. So why is the witchcraft phenomenon seemingly limited to the coastal region? To understand this, it is worth looking at the other contributory factors.



Figure 12: A distraught Mzee Kitsao Ngoa of Kavunyalalo Village, Malindi Sub-County in Kilifi in a pensive mood. His wife Kadzo Baya was hacked to death by unknown people in July 2019. A suspect was arrested and is facing a murder charge at the Malindi High

3.2 Administrative Inaction and Corruption

Jana Tsuma Chigumba, 54, is a marked man. He is accused of bewitching his neighbours in Buni, Rabai Constituency and has been calling for protection from the police. This follows the recent murder of his neighbour Mwakombo Kamungo Chitai, 65, following similar accusations. When he reported the matter to the police, Chigumba was only given an OB Number 07/13/11/21 and was told to go back home. There is no shelter, no protection and nothing to make him feel safe.

Chigumba frequented the police stations because the attempts to eliminate him were increasing by the day. The police requested him to pay Kshs. 10,000 as protection fee which he obliged. After the payment, the police visited his house about three times then stopped. They told him to install more security lights to scare away his would-be attackers. For now, he is counting days, hoping the extra lighting, and not the police, will add a few years into his life already on edge. There is a sense of

*complacency and desperation in dealing with these cases because most of murders usually happen after complaints are raised with the police.*²²

The narrative illustrates how cases are being reported, but the victims are being denied help or told to resolve the issue within their family at home. Other victims reported that the police would tell them to go and see their area chief about this, who then referred them back to the police.

For the purpose of this research, we call this phenomenon “**administrative inaction**”. One reason for this is lack of knowledge on the part of the first responders. Security personnel oftentimes are on rotational basis that see officers born in other counties serving in areas they are not familiar with. The concept of witchcraft allegations is therefore unknown to them hence the belief that these are not serious matters and can easily be dealt with at home or by local chiefs.

This leads to a lack of urgency from law enforcement agencies who don’t handle witchcraft cases with the seriousness they deserve. Their common response to witchcraft accusation reports is, “*this is a very archaic phenomenon and why should people still believe in it*”. There have been spirited efforts to work with these law enforcement officers in building their capacities on the impact of witchcraft in the Coastal region. These efforts are however short lived as security officers get transferred after two to three years and a fresh crop of officers replace them who generally continue with the same negative attitudes to complaints.

Some respondents cite corruption as another reason why they are unable to get the appropriate administrative action. Others speak of fear from the side of chiefs and police. They say that some of them also believe in witchcraft and are afraid of the consequences of interfering. The response from Kaya Elders speaks to a lot of these aspects.

According to the Kaya Elders, the police have failed because of corruption while the chiefs are unable to effectively discharge their duties because of little community

²² <https://www.the-star.co.ke/counties/coast/2022-03-13-elderly-man-hacked-to-death-over-witchcraft-allegations//> The Star, dated 24th October 2021-Report by Brian Otieno and additional comments by Julius Wanyama, Haki Yetu.

acceptance. Community members view them as government employees, and not their chosen leadership, who do not have their best interests at heart. It is often evident that the chiefs and even the village elders know the identity of the killers but fear for their lives and therefore don't point them out. One respondent spoke of a case where even a chief in his locality lost his mother to the killings.

3.3 Weak Legislations and Enforcement Pathways

A good number of respondents felt that allegations of practicing witchcraft or being a witch escalate into human rights violations because the perpetrators either go unpunished or the punishment they face is incredibly lenient. The latter is mainly because the legislation regulating witchcraft is a colonial legislation that is hopelessly outdated.

It is important to point out that the current legislation on witchcraft provides for a Kenya Shillings five hundred (KES 500) fine; which is less than USD 5 for accusing someone of being a witch or practicing witchcraft. This figure is too negligible to act as a deterrent and has contributed to impunity among perpetrators. If those found guilty can be punished appropriately to serve as an example then the killings are more likely to reduce.

Another factor that contributes to the continuation of this vice is that some suspects are apprehended then released on cash bail and or bonds and go back to the community to threaten and intimidate witnesses and the families of the victims. There is, therefore, a need for some corrective measures within the justice system to regain the confidence of the community. In addition, the cases should not drag on in court as it discourages people and leads to mistrust of the court processes. The killings are still happening because the killers are not seeing anybody jailed as a result of their crime.

Furthermore, police do not make arrests in most cases and this discourages families of victims who often give up on getting justice and decide to move on. This is particularly the case when most suspects are relatives of the victims. Besides, many victims receive threats which are reported to the police but no action is taken. Those who issued the threats are however known and even in police records and should therefore be the prime suspects when murders are eventually committed. This is sadly not the case and further entrenches the lost confidence in the justice system.

Case Study: Malindi High Court

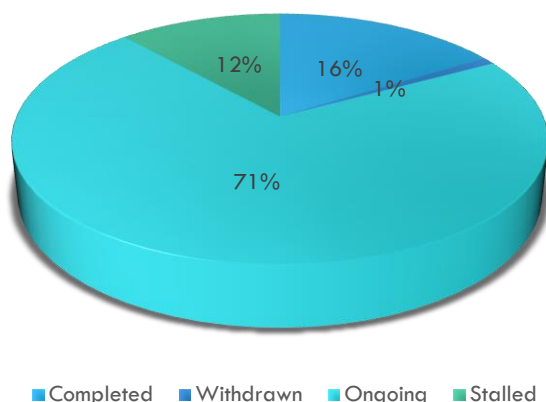
A look at statistics gathered from the Malindi High Court since 2019 to 2022 with regard to witchcraft related murder cases shows that the court has handled 111 cases in the 3 years. Out of these, 18 have been heard and completed, while 1 was withdrawn. 93 of the cases are still in court but only 79 seem to be ongoing, with the rest stalled. The major reason provided for the stalled cases was a lack of witnesses willing to testify, and in some instances, inadequate evidence. Interestingly, none of the cases in court were heard during the first half of 2022, due to a backlog of cases at the Malindi High Court.

Table 2: The Malindi High Court Murder Cases Data: Source: High Court of Kenya (Malindi). Criminal/ Murder Register. 2022 July 13.

YEAR	STATE OF CASES				
	Total no. of cases	Completed	Withdrawn	Ongoing	Consolidated
2019	25	8	1	15	0
2020	42	4	0	38	2 into 1
2021	31	6	0	26	6 into 3
2022	13	0	0	0	0
Total	111	18	1	79	

Another observation that can be made from the statistics is the gradual decrease in cases except in 2020 when there was a spike. The spike in 2020 can be attributed to the lockdowns, curfews and job losses as a result of the COVID-19 pandemic which brought about a general increase in violent crimes and domestic violence across the country. This decrease in the number of cases lodged at the Malindi High Court is in tandem with the trend of the number of murders related to witchcraft that were reported in Kilifi County during the same period.

State of Cases at Malindi High Court



Probation officers and the Judiciary stated that one of the biggest challenges they face is that victims of witchcraft murders, especially Muslims, are buried before a post-mortem is conducted, further weakening cases for lack of adequate evidence. This is particularly the case in Kwale County where a majority of the population is Muslim²³. Witnesses are also unwilling to testify for various reasons including fear and familial relations amongst the parties involved. All these circumstances compiled lead to weak cases being brought before courts that cannot secure a fair verdict.

The response from the communities however differs significantly with that of the courts and the Directorate of Criminal Investigation. Many respondents feel that government agencies do not do enough to get justice for victims. They claimed that suspects are rarely arrested, and when they do, they are soon released. The lethargy with which the investigators handle cases, demoralize potential witnesses from coming out of fear of being victimised or even harmed by the suspects. There is definitely a trust deficit in the access to justice agencies among community members interviewed. This significantly increases the chances of alleged witches being attacked or even killed, leading to decreased trust in the ability of the executive and the judiciary to resolve disputes around witchcraft allegations. If somebody who is accused of being a witch does not even report the allegations due to lack of trust in the system or fear of being further endangered or exploited via corruption, then the window of opportunity to resolve a

²³ As per the 2019 Population Census, 520,160 (60.6%) people out of a population of 857, 925 professed the Islamic faith.

dispute early closes for good. This leads us to the other aspect we are looking at in this chapter: “***The protection vacuum***”.

We are speaking of a vacuum here because we found that victims get to a point where they are uncertain about who to turn to for help to deal with the allegations. This role was previously served by the Kaya elders, but since the government’s ban on handling cases, most community members do not trust them anymore. This mistrust has been further fuelled by allegations of corruption and unjust rulings. This leaves the chiefs and police as the viable and legal options to seek protection. But if the same people are now turned down by the police or they do not even go there to begin with, due to lack of trust in their abilities to resolve these cases, people in need of protection run out of options. Some of them run away to other towns, others search for the protection in houses of worship, the media, NGOs or even to witchdoctors, but those establishments usually lack the means to offer permanent solutions.

Therefore, scholars, legal practitioners and the staff of Haki Yetu agree that the current Witchcraft Act is not able to deal with allegations of witchcraft and their consequences. They say that its language is ambiguous, which makes it hard for judicial staff to define an offense or dismiss a case based on the unclear language of the Act, giving room for defence lawyers to dispute any unfavourable verdicts. The Act is further viewed as an obsolete legislation that isn’t aligned to the current inflation rates meaning that the jail terms and fines are too lenient and therefore don’t deter those engaging in the menace.

The Witness Protection Act, should ideally facilitate the protection of victims and witnesses of these crimes, yet for some reason, these options are rarely exploited when dealing with witchcraft related cases in Kilifi and Kwale. Witnesses fear exposing themselves to risk of attacks if they were to volunteer information that could facilitate access to justice. The lack of guarantee from the government agencies of their safety, has contributed to the ‘*simanya syndrome*’ alluded to earlier, where witnesses claim not to have seen, heard or know anything about the crime.

3.4 Ignorance/Misinformation/Lack of Awareness

One of the observations made during the study was that, the belief in witchcraft is highest among those with low levels of education. Kilifi County’s adult literacy rate

stands at 68% against a national rate of 82.6%.²⁴ Low literacy levels among indigenous coastal communities render them gullible and susceptible to being misled. Witchdoctors and some religious groups capitalize on this gullibility to instill fear in the name of the existence of evil beings manifested through witchcraft. Any event or happening that is beyond their awareness and understanding is categorized as the work of witches. In some instances, the belief in witchcraft, it seems, becomes the easiest of options when one does not want to take responsibility for failure.

One of the clearest manifestations of this tendency was captured in 2020 at the height of the Covid19 pandemic. It occurred at village of one of the Haki Yetu staff in Ganze, Kilifi, and unfolded as captured below.

A patient is diagnosed with terminal cancer at a hospital in Mombasa. Her family at her rural home, Ganze, Kilifi County, is notified of the same, and that she does not have much longer to live. After about three months, the patient unfortunately dies and the preparations for burial begin. The burial will take place at her rural home.

Behind the scenes however, some family members feel cancer is a lifestyle disease for the rich; a woman from such poor rural family cannot die of cancer. Rumours that she was bewitched start spreading around. The somber mood is also filled with anger as the rumour that she was bewitched pick up steam. Whoever bewitched her, they say, will have to follow her to the grave.

A decision to call Bebabeba, the fierce witchdoctor from Watamu is made. Bebabeba arrives at the family to perform the rituals that will identify the witch. Fortunately, this village neighbours one of the Haki Yetu staff's rural home, who receives a call from a relative that the drums have started to roll, and once bebabeba delivers the verdict, as usual, someone will be killed.

The Haki Yetu staff calls the area chief who immediately sends his team to stop the ceremony.²⁵

²⁴ <https://www.macrotrends.net/countries/KEN/kenya/literacy-rate>

²⁵ Narrated by a Haki Yetu Staff

Lack of effort is blamed on non-existent forces so that one's conscience remains clear. As Father Wilybard Lago, of the Malindi Diocese put it during a Haki Yetu function at Magarini, "some people are imprisoned by the belief in witchcraft that they base their successes or failures in life on witchcraft."²⁶

²⁶ Comments captured by Citizen TV:

<https://twitter.com/citizentvkenya/status/1602606322452615168?s=20&t=tmJPA33mjvlckgAYeJvt1A>

CHAPTER FOUR: LEGISLATIVE FRAMEWORK

The legislative framework governing witch craft and witch craft related violations in Kenya is made up of the following statutes and conventions:

- The Constitution of Kenya
- The Witchcraft Act, Cap 67 of the Laws of Kenya
- Witness Protection Act, Cap 79 of the Laws of Kenya
- The African Union (AU) Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa



Figure 13: Football players donning branded shirts bearing the message 'Mvi si Uchawi' during a football tournament in Magarini in December 2022.

4.1 The Constitution of Kenya, 2010

This is the supreme law of the Republic of Kenya and binds all persons and all State organs at both levels of government.²⁷ In some corners, witchcraft is considered a traditional cultural practice. The customary laws that are developed to regulate these practices form part of the laws of Kenya in as far as they are not contrary to the provisions of the Constitution of Kenya.²⁸

Relatedly, the Constitutional national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized which are used in interpreting the Bill of Rights.²⁹ These national principles informed the inclusion of a whole Chapter on the Bill of Rights within the Constitution aimed at recognizing and protecting human rights³⁰ and fundamental freedoms to preserve the dignity of individuals and communities and to promote social justice and the realization of the potential of all human beings.³¹

Contextually, there are a number of human right violations that the victims in cases of being suspected of being witches or practicing witchcraft suffer and some fundamental freedoms that they are entitled to. First and foremost, the Constitution provides for special protection of the older members of society through requiring the State³² to take measures to ensure the rights of older persons to fully participate in the affairs of society and to live in dignity and respect, be free from abuse and to receive reasonable care and assistance from their family and the State.³³

Additionally, everyone's right to life is protected through prohibiting the intentional deprivation of life except to the extent authorized by law. This goes hand in hand with the protection of the inherent dignity of every person and the right to have that dignity

²⁷ Article 2 (1).

²⁸ Article 2 (4).

²⁹ Articles 10 (2) and 20 (4).

³⁰ These universal rights are inherent to us all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status. These are rights we have simply because we exist as human beings and they are not granted by any state (OHCHR).

³¹ Article 19 (2).

³² This means the collectivity of offices, organs and other entities comprising the government of the Republic under the Constitution of Kenya.

³³ Article 57.

respected and protected.³⁴ Article 27 further recognizes everyone's right to equal protection and equal benefit of the law, including the full and equal enjoyment of all rights and fundamental freedoms. This right is to be protected through legislative and other measures, including affirmative action programmes and policies designed to redress any disadvantage suffered by individuals or groups because of past discrimination.

Further, Article 29 provides for the right to freedom and security of the person, which includes the right not to be subjected to any form of violence by public or private persons or to physical or psychological torture or to be treated or punished in a cruel, inhuman or degrading manner.

Finally, the Constitution protects the right of every person to individually or collectively acquire and own property of any description in any part of Kenya with the only restriction being on foreigners who can only acquire property on leasehold tenure.³⁵ The Constitution further nullifies any law that purports to arbitrarily deprive a person of property and limits or restricts the enjoyment of this right save for cases of compulsory acquisition by the State.³⁶

4.2 The Witchcraft Act, CAP 67 Laws of Kenya

The Witchcraft Act, Chapter 67 of the Laws of Kenya, was enacted in 1925 to consolidate and amend the law relating to witchcraft. Contextually, this legislation criminalizes accusations or threats of accusations of being a witch or of practicing witchcraft by prescribing a fine not exceeding Kenya Shillings five hundred (Kes. 500) or to a prison term not exceeding five years.³⁷ Albeit attempting to offer some form of deterrence through criminalizing such acts, the penalties prescribed are not commensurate to the fate suffered by those accused of being a witch or practicing witchcraft. This is primarily because the Act is archaic and the value of Kenya Shillings five hundred (Kes. 500) has since greatly diminished while the drafters didn't

³⁴ Articles 26 & 28.

³⁵ Articles 40 & 65.

³⁶ Article 40.

³⁷ Section 6.

contemplate the dire consequences suffered by those accused of being witches or practicing witchcraft to include banishment from their ancestral homes and even death.

Furthermore, the practice in this instance has been to employ some occult methods to identify the witch within a family or a particular locality; akin to employing the services of a thief to catch a thief. The Witchcraft Act in section 7 criminalizes this practice but has similarly prescribed a negligible fine not exceeding Kenya Shillings five hundred (Kes. 500) or to a prison term not exceeding five years.

The Witchcraft Act in section 8 also makes attempts to hold those in authority accountable for ensuring that the provisions of this Act are adhered to. This section prohibits chiefs from directly or indirectly permitting, promoting, encouraging or facilitating the practice of witchcraft or contradicting the provisions of the Act. Chiefs' responsibilities also extend to reporting these acts to the respective District Commissioner (now known as County Commissioner). The penalties prescribed here are similarly lenient as those previously prescribed. Besides, at the time of drafting, the provided reporting structure was relevant and adequate but presently needs to be expanded to include the Kenya Police Service and the Department of Criminal Investigation.

Finally, the Act in section 9 permits District Commissioners to order those suspected of practicing witchcraft to reside in a specified areas and report to him/ her at specified intervals. The spirit of this section was to protect the peace of mind of the accused, prevent physical injury and protect the property of those perceived to be victims of witchcraft and those thought to be witches or practicing witchcraft. However, the use of the phrase 'pretended witchcraft' in this section suggests that the drafters of this legislation did not believe that witchcraft was real and that this Act was simply the Colonial government's way of tolerating an African practice but in a regulated environment. It is therefore likely that this mentality has been propagated over time among those in authority making them complacent in addressing any complaints relating to witchcraft. It is noteworthy that the word 'pretend' in the context of witchcraft has been used six times in the Act that has only 9 sections.

In concluding the discussion on the Witchcraft Act, there is a school of thought from Cicero who said that 'The more the laws, the less the justice.' Meaning that if we have more laws their applicability shall lead to travesty of justice and that the Witchcraft Act is not necessary as its provisions can be incorporated into the Kenyan Penal Laws. The Act has further been criticized for not defining what witchcraft is and no one can therefore purport to charge another for an offence that isn't defined or known. These are all valid schools of thoughts that may lead to a more holistic approach in addressing this menace.

It is important to first and foremost be cognizant of the context and period that the Witchcraft Act was drafted. It was drafted by a colonial government that considered African cultural practices outdated and unchristian and that this Act was enacted to purely regulate some of the practices that Kenyan Communities held dear without necessarily providing a solution. Further, and most importantly, the severity and prevalence of the acts of violence meted out against those suspected of being witches or practicing witchcraft requires to be addressed in a specialized manner especially because it mostly targets a specific demographic group, namely the elderly.

The Kenya Law Reform Commission (KLRC) in December 2014, published an article detailing reasons why a review of the Witchcraft Act was required. The reasons included the need for the Act to be aligned to the Constitution of Kenya, the need to eradicate contradictions in the Act on whether witchcraft exists or not and a need to define the term 'witchcraft'.

It would be prudent to review the Witchcraft Act but with the aim of addressing the human right abuses involved (especially among the elderly in society) and creating a clear path in accessing justice but not necessarily in regulating practices that are thought to be witchcraft. This shall go a long way in addressing the targeted injustices suffered by people in the name of punishing them for being witches or practicing witchcraft yet the real motives behind these attacks are often for personal gain by the perpetrators.



Figure 14: Elderly men and women, banished from their homes, have found refuge at the MADICA Centre in Malindi, share their experiences with Haki Yetu team in June 2023

4.3 Witness Protection Act, CAP 79

The Witness Protection Act, which came into law in 2008, is an Act of Parliament to provide for the protection of witnesses in criminal cases. It also established a Witness Protection Agency to provide for its powers, functions, management and administration, and for connected purposes. The police and the Judiciary in their interviews for this research cited the failure of witnesses to appear in court as the reason for the low conviction rate for murder cases surrounding witchcraft accusations. Threats to the lives of witnesses who are known to the accused usually keep them off from testifying in the courts.

This Act, however, created the Witness Protection Agency whose object and purpose is to provide the framework and procedures for giving special protection, on behalf of the State, to persons in possession of important information and who are facing potential risk or intimidation due to their co-operation with prosecution and other law enforcement agencies.³⁸

³⁸ Section 3A and 3B

Among others, the functions of the agency include establishing and maintaining a witness protection programme; determining the criteria for admission to and removal from the witness protection programme; determining the type of protection measures to be applied; and advising any Government Ministry, department, agency or any other person on the adoption of strategies and measures on witness protection.³⁹

The Act also establishes the Victims Compensation Fund which shall be paid as restitution to a victim, or to the family of a victim of a crime committed by any person during a period when such person is provided protection under this Act; and compensation for the death of a victim of a crime committed by any person during a period when such person is provided protection under this Act, to the family of such victim.ⁱ

Enforcement of this Act is therefore critical for effective prosecution murder cases. However, our research shows that while the law and structures for protection of witnesses are in place, there is a complete disconnect between it and the law enforcement agencies as well as community members who could potentially benefit from its services. The law and its agency as currently constituted are of little benefit and support to witnesses in these killings of older people.

4.4 The AU Protocol to the ACHPR on the Rights of Older Persons⁴⁰ in Africa

This Protocol was adopted by member States of the African Union on 31st January 2016 with the aim of binding all States Parties to recognize and adopt legislative or other measures that give effect to the rights and freedoms enshrined in this Protocol. It also directs States Parties to ensure that the 1991 United Nations Principles of Independence, Dignity, Self-fulfilment, Participation and Care of Older Persons are included in their national laws. This Protocol is relevant in this context as a majority of the victims who suffer injustices on the grounds that they are either witches or practice witchcraft are the elderly.

³⁹ Section 3C

⁴⁰ This means those persons aged sixty (60) years and above, as defined by the United Nations (1982) and the AU Policy Framework and Plan of Action on Ageing (2002).

The provisions of these Protocols are applicable in Kenya not only by virtue of Kenya being an AU State Party but also because of Articles 2 (5) & (6) of the Constitution of Kenya 2010 that the general rules of international law and any treaty or convention ratified by Kenya shall form part of the law of Kenya under the Constitution. The relevant provisions of the Protocol can therefore be used to guide the review of the Witchcraft Act to be aligned towards protecting the human rights of the elderly who are targeted in this regard. States Parties are required to ensure implementation of this Protocol, through indicating measures taken in their periodic reports submitted to the African Union Commission. The Protocol further empowers the African Court on Human and Peoples' Rights to hear disputes arising from the application or implementation of this Protocol.⁴¹

Most relevantly, the Protocol provides protection for older persons from abuse and harmful traditional practices by requiring State Parties to prohibit and criminalize harmful traditional practices targeted at older persons especially witchcraft accusations; which affect the welfare, health, life and dignity of older persons (particularly older women).⁴²

Secondly, the Protocol provides for the elimination of discrimination against older persons⁴³ through inter alia prohibiting all forms of discrimination against them and encouraging the elimination of social and cultural stereotypes which marginalize Older Persons. It further requires States Parties to take corrective measures in those areas where discrimination and all forms of stigmatization against older persons continue to exist in law and in fact. Both the elimination of discrimination and the corrective measures can be taken through local, national, regional, continental, and international customs, traditions and initiatives. The Protocol also provides for special protection of elderly women from violence, sexual abuse, discrimination based on gender and abuses related to property and land rights through legislative action. ⁴⁴

⁴¹ Article 22.

⁴² Article 8.

⁴³ Article 3.

⁴⁴ Article 9.

Finally, the Protocol calls for access to justice and equal protection before the law through legislative action and the provision of legal assistance to older persons.⁴⁵ This Protocol further directs that law enforcement organs at all levels be trained to effectively interpret and enforce policies and legislation that protect the rights of older persons. Contextually, this is a very progressive directive that shall not only ensure that the elderly have access to justice but also protection before the law so that law enforcement agencies are cognizant of the special needs of the elderly.

⁴⁵ Article 4.

CHAPTER FIVE: MVI SI UCHAWI CAMPAIGN

Back in 2014, during a community sensitization meeting on peace and cohesion, organized by Haki Yetu and MADICA, in Malindi, a report reached the organizers that an elderly man had been hacked to death in neighbouring Ganda village. It was suspected that he had been killed on suspicion of being a witch. The issue of witchcraft related killings and its impact on social cohesion dominated the session that day, with participants sharing that the practice was a great concern as even perceived innocent people were now being targeted. The true picture of what was happening in Kilifi became apparent when by the end of the meeting that day, two more reports of similar deaths had been reported.

There were organizations working on the wider theme of human rights advocacy, but the issue of elderly killings was not one of their core programmes. They did not have a clear structure, strategies and long-term approaches to addressing the problem. Additionally, the security actors who according to the law are mandated to protect life, investigate and help bring justice to the victims and victims' families had been using unhelpful approaches in handling these cases. In addition, capacity gaps, lack of skills, resources and enforcement mechanisms from the communities and security actors has exacerbated the killings of the elders. Consequently, it had led to more conflict and revenge attacks rather than solutions.

Haki Yetu in partnership with MADICA organized a series of meetings, the result of which was the clarion call '*Mvi si Uchawi, Uzee ni Hekima*'; a campaign to protect, respect and preserve the lives and dignity of the often-targeted older persons on allegations of practising witchcraft.

5.1 Haki Yetu's interventions

Since 2015, Haki Yetu has been implementing various interventions under the 'Mvi si Uchawi' banner in Kilifi and Kwale, in a bid to contribute to the reduction in violations against older persons accused of being witches. The interventions implemented include the following:

i. Awareness creation on Mvi si Uchawi

In recognition of the low awareness levels in the two counties especially on issues of social justice and human rights, the organization has worked closely with Chiefs and Assistant chiefs to raise awareness on harmful cultural practices, including witchcraft. This has been done through community outreaches, chiefs barazas, dissemination of materials, sports theatre as well as through radio talkshows. The target groups have been the most affected communities as well as the youth, who in most instances are used to perpetrate these violations.



Figure 15: Youth using theatre to sensitize a community in Kinango Subcounty, Kwale

The messaging has been around bursting myths around old age and witchcraft, raising awareness on dispute resolution, and emerging issues including nationwide rise in unemployment, global warming and its impact on rainfed agriculture, chronic diseases like Cancer, Diabetes etc. We have also raised awareness on land acquisition procedures including succession processes. These issues have often led to disputes and violence.

In 2019, the organization documented an audio visual of testimonies and experiences from chiefs, village elders as well as from families of victims of witchcraft murders. This

documentary was instrumental in raising awareness at community level, as people got to hear first-hand accounts of experiences and the impact of the practice on families.

ii. Capacity building community groups

To mitigate the escalation of family disputes into full blown conflicts and witch-hunting, we have worked with local administrators and village elders to identify respected and trusted members of the community for capacity building in simple mediation skills. Teams of about 20 people comprising of women leaders, youth, religious leaders, village elders and the area chief were trained as mediators in several villages across Kilifi and Kwale counties as shown in the table below.

Table 3: Stakeholders trained by Haki Yetu Organization on Alternative Dispute Resolution and Active Non-Violence in Kilifi and Kwale Counties

Area	Trained people	Target groups
Malindi sub county	160	Area Chiefs, Assistant Chiefs, Nyumba Kumi Ambassadors, Village elders, Youths, Women, Religious leaders
Rabai Sub-County	180	Assistant County Commissioners, DCI, Police, Area Chiefs, Assistant Chiefs village elders, women Bodaboda Operators, Kaya Elders
Ganze Sub-County	30	Assistant County Commissioner, Area Chiefs, Assistant Chiefs, Village elders, Land Committee
Kaloleni Sub-County	150	Women, Bodaboda Operators, Village Elders and Nyumba Kumi Ambassadors
Magarini Sub-County	80	Nyumba Kumi Ambassadors, Village Elders and Bodaboda Operators
Matuga Sub-County	30	Assistant County Commissioners, Area Chiefs and Assistant Chiefs
Lungalunga Sub-County	150	Village Elders, Women, Youth, Nyumba Kumi Ambassadors
Kinango Sub-County	120	Village Elders, Nyumba Kumi, Ambassadors, Assistant Chiefs and women

The goal was to equip the trainees, branded ‘Wapatanishi’ with conflict de-escalation and resolving skills to identify and attempt to resolve disputes at the community level. To ensure they received the backing and trust of the community, these trainees were identified by the communities in community outreaches. Upon completion of their trainings, they would again be handed back to the community in public outreaches which further acted as awareness creation platforms.



Figure 16: Former Kilifi County Commissioner, Magu Mutindika during an awareness creation community outreach at Rabai, Kilifi in March 2019. The session also acted as an introduction platform for recently trained Wapatanishi

iii. Sensitization of the national police service

One of the obstacles to the successful elimination of this practice has been the limited understanding of the practice among members of the police service. It is common practice in Kenya to have members of the police service serve in areas they do not come from. While this is perfectly in order, it poses a challenge when dealing with crimes that have a cultural background. In the case of Kilifi and Kwale, we have had officers who have failed to appreciate the potency of accusations made against another about witchcraft.

We have created platforms for sensitization of officers in areas that are most affected including Rabai, Malindi, and Kinango. The aim is to enhance their understanding of the cultural significance of certain occurrences. Despite the challenge of seeing sensitized officers transferred to other regions, and replaced by other officers, we have seen great improvement in the handling of cases and reports by officers. The chiefs and other local administrators who are permanently situated in the region have become an important resource in orienting new officers on these aspects.

iv. Rescue and humanitarian support

Threats to murder suspected witches are often made through leaflets. It is common in both Kilifi and Kwale to see leaflets dropped anonymously at the homes of suspected witches, warning them to leave the village or face murder. Whenever these threats are made, especially in places where we have sensitized, we receive distress calls from the victims. We work closely with local administrators and the managers of the MADICA centre in Malindi and Kaya Godoma in Ganze to organize for their rescue. In other instances, we support victims to seek refuge from distant relatives away from the village. We have also once in a while provided humanitarian support to the survivors in these two centres.

The most recent incident that required our attention was in November 2022 in Magarini, where leaflets with 15 names of people in the same village was circulated warning them to prepare for their death. Through our quick action and that of the local administrators, we were able to address the situation through a community baraza, with stern warnings to the entire village issued by the administrators and the national police. Heightened surveillance was placed on the village to ensure the safety of the elders. Despite this, some of the elders opted to go into hiding. This incident also exposed one of the biggest challenges that we have faced – the lack of a government run rescue centre or home for the elderly. We have appealed to the county, and the national assembly to make provision for the establishment of centres or homes where elders whose lives are at risk can find refuge. However, these appeals are yet to bear fruits.

v. Access to justice initiatives

Justice for victims and survivors of witchcraft related attacks has been difficult quite difficult to get. This has mostly been due to unwillingness of witnesses to testify, shoddy investigations, and the long duration taken to conclude a case. Towards access to justice, the organization has worked closely with access to justice actors through the Court Users Committees. Specifically, we have worked closely with Court in Malindi to explore avenues of expediting the judicial process when it comes to witchcraft related cases. We have also supported victims' families and survivors in following up cases at the DCI as well as at the courts, pushing the wheels of justice to move a little faster. We have also through awareness creation sessions at the community level encouraged witnesses to come forward to volunteer information, assuring them that they can get protection through the Witness Protection Agency.

5.2 Impact of Haki Yetu's Interventions

Through the interventions explained above, Haki Yetu has seen an increase awareness signified by the increased conversation on the subject at the grassroots level as well as in boardrooms. This has also contributed to increased action from state agencies. Unlike 5 years ago when the police would dismiss reports of threats to life over witchcraft, nowadays, the police seem to act with urgency, even though, their tactics can probably be improved.

There is significant reduction in the number of witchcraft related murders in Kilifi as indicated in Figure 7. Rabai Sub-County for instance, in 2015 when we began this campaign registered 30 deaths in a year. However, in the last three years, the subcounty has recorded 7 (2020), 5 (2021) and 3(2022). The decline in the number of killings was confirmed by the Sub-County Police Commander, Mr. Abuga who was among the security actors trained in 2018. In an interview with the *Star* Newspaper, he confirmed the reduction of killings due to Haki Yetu's interventions in collaboration with security actors.⁴⁶

⁴⁶ Info available at <https://www.the-star.co.ke/counties/coast/2023-01-20-elderly-mans-murder-reignites-fears-of-witchcraft-killings-in-kilifi/>. <accessed on 21st January 2023>

“The cases have been declining after starting several initiatives. Now, we are recording one incident a month. Before, we used to record three or four in a month,” 47

This is a significant drop by any measure, and the organization takes pride in having made a contribution to this.

5.3 Lessons learned challenges and good practices

- Communities very open to the idea of finding and developing alternative ways of addressing conflict and appreciated the input Haki Yetu provided (feedback collected after the trainings). In addition, there is open support from the administration in order to take the interventions further.
- With constant transfers of security personnel, the organization has capitalized on building the capacity of chiefs and assistant chiefs, who are often drawn from the community they serve, and rarely get transferred. That way, knowledge is not lost through the transfers.
- There is mistrust between communities and law enforcement officers. This has substantially hampered efforts at curbing the continued killing of older persons. Efforts must be invested in restoring that trust.
- The law enforcement officers can learn a lot from members of the NGAO especially on cultural awareness. These officers, particularly the chiefs and assistant chiefs are members of the community, interact regularly with respected elders of the community in the village elders committees, and thus possess a wealth of knowledge and appreciation of the local culture and especially the practice of witch craft.
- Taking time to constantly monitor changes and developments in context and conflict scenarios has proven to a) support focus of the intervention and b) increase trust and commitment from the communities, as issues tackled are relevant and methods and advice provided appropriate.
- There is intergenerational mistrust within the communities. Elders rarely trust the youth who in turn do not show respect to them. The generational divisions are then fuelled from both sides. Effort must be put in repairing the rift between the young and the old.

⁴⁷ Ibid

CHAPTER SIX: CONCLUSION AND RECOMMENDATIONS

6.1 Recommendations

1. Address access to land and finances for the youth

Limited access to land by youth at the Kenya Coastal region has been cited as one of the major drivers of the killings of the elderly on allegations of being witches or practicing witchcraft. The killings are therefore avenues to open up family land for inheritance. A report by FAO (2010) revealed that inheritance is still the most common system to obtain land in most developing countries. Cotula (2011) further observed that life expectancy is increasing in all regions. Consequently, rural youth often have to wait for many years before inheriting their share of the family land.⁴⁸

Tenure issues at the Coast are not the only challenges facing the communities. Overreliance on rain-fed agriculture, due to limited access of freshwater has limited farm production. Climate change has also altered the weather patterns and negatively affected the short-rains and long-rains seasons. Former agricultural land therefore has been converted into settlements. A case in point is the upcoming megacity project at Vipingo on the former sisal plantation land.

Interventions that will not only protect family land, but also enhance the productivity of land at the coast beyond the perceived boom in real estate are urgently needed. The state and state agencies including the NLC should move with speed to ensure access to land for the coastal youth, but also make capital available to enable them put the land to productive use.

2. Establish effective pathways from reporting to prosecution of witchcraft cases

Victims and survivors of violations related to the practice of witchcraft face a myriad of challenges in their pursuit for justice. One of the main obstacles relate to reporting and investigation of cases of accusations and murder of suspected witches. Most of the police officers and investigators who receive these reports from victims lack the cultural awareness to handle the cases, as they are drawn from other regions of the country

⁴⁸ Njeru K. Lucy and Gichimu M. Bernard; Influence of Access to Land and Finances on Kenyan Youth Participations in Agriculture: A Review. European Center for Research Training and Development UK, September 2014.

where the belief in witchcraft is very low. In most instances, these reports are dismissed, and victims ridiculed whenever the aspect of witchcraft comes up.

It is recommended that a special desk dedicated to documenting and investigating reports on witchcraft be established in police stations in rural parts of the region where such reports are made. Officers manning these desks should undergo a cultural orientation and receive periodical trainings on the protection of elders. The African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa could be a starting point for the officers. This shall not only ensure that the elderly who are the overwhelming majority of those targeted, have access to justice but also protection before the law because of being handled by law enforcement agencies that are cognizant of their special needs.

3. Address perennial land conflicts that continue to put vulnerable persons at risk

Disputes over property and especially land related disputes have emerged as one of the root causes for witchcraft accusations. Cases of older persons being harassed and disinherited of their property are rife in Kilifi and Kwale, two of the counties still reeling from long standing historical land injustices. Fraudulent acts with the intent on acquiring property at the coast, often target properties owned by vulnerable older persons. They capitalize on the lack of title documents for some of these properties to launch their devious plans to disinherit, including spreading allegations of practicing witchcraft.

It is recommended that agencies charged with land administration and land management including the National Land Commission, and respective county and national government departments of land address long standing historical and emerging land injustices in the region. This should include comprehensive awareness creation on land rights including registration and disposal of land and especially issues of succession.

Efforts to secure land tenure should be complemented with support to sustainable land use and focus to increase land productivity. An overreliance on rainfed agriculture has frustrated and condemned many into poverty. Consequently, some have turned to selling their only resource, land, at throw away price at the expense of the younger generation, impoverishing them in the process. The national Government, Counties, CSOs and the private sector therefore should support families practice climate-smart agriculture to

fully utilize family land. This will contribute immensely to reduction of poverty, and counter the need for formal employment.

4. Promote use of traditional dispute resolution structures to address family and community conflicts

Accusations of practicing witchcraft as has been explained are often levelled by family members. Family and community disputes, especially over resources when not carefully and justly adjudicated most times escalate to accusations and murder. Families shun away from formal judicial processes because of the cost and the time it takes to arrive at a decision. When a decision is eventually reached, due to the adversarial nature of the judicial system, the decision ends up driving families even further apart. Article 159 of the constitution demands of the judiciary to promote the use of traditional justice systems. The Mijikenda like with many other communities have functional traditional dispute resolution committees. These committees should be strengthened, and communities sensitized to refer cases to these committees for resolution. Decisions from these committees are balanced and normally attempt to restore family ties. Strengthened and functional traditional dispute resolution structures are likely to contribute to reduced accusations and ostracization of older persons.

5. Education, exposure and increased awareness to combat harmful practices

One of the contributing factors to the continued harassment and murder of persons suspected to be practicing witchcraft is the low literacy and awareness levels. The belief in witchcraft is rooted mostly among communities with low literacy levels. It is rife in the rural areas more than in urban areas. The government, both national and county, should capitalize on its extensive grassroot structures to sensitize communities on harmful practices including false witchcraft accusations. The national government through the NGAOs has in the past conducted extensive campaigns to curb other harmful practices including FGM and child marriages. A similar approach would have a significant impact in promoting positive practices and beliefs. This will amplify the work that non-state actors like Haki Yetu have been doing in the region.

6. Policy and legislative reforms to combat human rights violations related to the practice of witchcraft

The relevant legislative organs i.e., Parliament and County Assemblies should review existing laws to reflect current realities. The current Witchcraft Act was enacted in 1925. Its provisions are excruciatingly outdated, with its review long overdue. The Witchcraft Act should be amended to align it to the Bill of Rights as contained in the Constitution of Kenya. This shall aid in addressing the human right abuses involved (especially among the elderly in society) and create a clear path in accessing justice without necessarily regulating practices that are thought to be witchcraft. This shall go a long way towards addressing the targeted injustices suffered by people in the name of punishing them for being witches or practicing witchcraft especially when the real motives behind these attacks are for personal gain by the perpetrators. The amended act should eradicate contradictions in on whether witchcraft exists or not and to define the term ‘witchcraft’.

Other legislations including the Penal code, the Witness Protection Act, the Criminal Procedure code and the Evidence Act should also be reviewed to address emerging challenges in the prosecution of cases related to witchcraft.

7. Enhance protection of older persons in line with article 57 of the constitution

Article 57 of the constitution obligates the state to take measures to ensure older persons’ participation, personal development, dignity, respect and protection from abuse. It is recommended that the state takes measures to actualize this requirement. In particular, the state should ensure the elderly have access to basic needs including healthcare, food, and shelter. The county governments should facilitate the establishment of government run shelters where persons who in their old age no longer feel safe in their homes can find a safe haven. These shelters should be equipped the necessary amenities and supplies to facilitate comfortable living, including recreational facilities, access to medical care, psychosocial support etc.

8. Document and monitor government's compliance with human rights standards on the protection of older persons.

While there is acknowledgment by government entities on the attacks against elderly people on fictitious claims of being witches, the extent of this scourge has not been comprehensively documented. These cases are lumped together with other criminal acts even though these are part of a larger cultural problem. It is recommended therefore that the KNCHR documents the extent of these violations even as the commission monitors compliance with human rights standards. Non-state actors and especially human rights organization CSOs should conduct social audits on Kenya's level of compliance with the African Union (AU) Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa through reviewing the periodic reports submitted by Kenya to the African Union Commission and developing an advocacy and lobbying strategy to enhance compliance.

9. Regulate the licensing of religious and cultural practices to avert manipulation of the public

The role played by religious and cultural beliefs in propagating the continued harassment, torture and murder of suspected witches cannot be ignored. Some of these institutions use the cover of article 18 of the constitution on the right to freedom of thought, conscience and religion, to spread myths and falsehood and to manipulate the public. Previous attempts to streamline religious practices as proposed by former attorney general were thwarted by the political class keen on capitalizing on the good will of the faiths to win elections. It is however time to reconsider the proposal to regulate religious and cultural practices to avert any further tragedies like was experienced in Shakahola, or what continues to haunt older persons in Kilifi and Kwale counties. Any proposed regulations should be limited to practices that violate the rights of others, and should not hinder the enjoyment of the freedoms guaranteed under the constitution.

6.2 Conclusion

Human rights violations resulting in the killings of the elderly must be treated with the seriousness that other murder cases attract. Unless there are more arrests and successful convictions, these killings will only persist. The belief that witchcraft can be passed on from one family member to another, and one generation to the next, means even if all the elders are wiped off the face of the earth, the killers will find reasons to kill more. The elderly must live comfortably with their white hair; the fear that they are targeted because of their age has made them dye their hair. Finally, on land, this Cameroonian proverb suffices. **If you sell your father's land to buy a trumpet, where will you stand to blow it?**_ The elderly can live in peace as the youth access and utilize the land sustainably.





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'... act justly, love tenderly, and walk humbly with thy God.'

Micah 6:8