



Institute of Social Studies

Graduate School of Development Studies

**Witch-hunting: A study of cultural violence against
women with reference to Nepal and India**

A Research Paper presented by:

RACHANA SHRESTHA

(NEPAL)

In Partial Fulfillment of the Requirements for Obtaining the Degree of:

Master of Arts in Development Studies

Specialisation:

Women, Gender and Development

Members of the Examining Committee:

Dr. Amrita Chhachhi

Prof. Dr. Jane Parpart

The Hague, The Netherlands
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This document represents part of the author's study programme while at the Institute of Social Studies; the views stated herein are those of the author and not necessarily those of the Institute.

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Table of Contents

Acknowledgements	i
Table of Contents	ii
Acronyms	iv
Abstract	vi
<i>Chapter 1 Introduction</i>	1
1.1 Background and statement of the problem	1
1.2 Rationale of the study	2
1.3 Research objectives	3
1.4 Research questions	4
1.5 Methodology and sources of data	4
1.6 Limitations of the study	4
1.7 Organization of the paper	5
<i>Chapter 2 Conceptual Framework</i>	6
2.1 Violence against women	6
2.2 Patriarchies	7
2.3 Operational framework to analyze violence against women	9
2.4 Conclusion	13
<i>Chapter 3 Witch-hunting: Direct Violence and its Immediate Causes</i>	14
3.1 Witch-hunting in Nepal	14
3.2 Witch-hunting in India	16
3.3 Details from a few cases highlighting the nature of the issue	16
3.4 Immediate causes behind witch-hunting	21
3.5 Conclusion	23

<i>Chapter 4</i>	<i>Witch-hunting: Analysis of Causes</i>	24
4.1	Introduction	24
4.2	Structural level	24
	4.2.1 Level and Process of development	24
	4.2.2 Patriarchal Control	26
4.3	Cultural level	34
4.4	Individual level	37
	4.4.1 Political participation and reprisals against women activists	37
	4.4.2 Widows: a threat to the gender order	38
4.5	Conclusion	40
<i>Chapter 5</i>	<i>Conclusion: Responses, Strategies and Recommendations</i>	41
5.1	Existing laws on violence against women in Nepal and India and gaps	41
5.2	Civil society involvement in prevention of witch-hunting in Nepal and India	45
5.3	What needs to be done?	46
5.4	Conclusion	47
5.5	Recommendations	48
<i>References</i>		51

List of figures and tables

Figure 1: Classification of Galtung's cultural violence	10
Figure 2: Interplay of factors contributing to violence against women	12
Table 1: Incidents of witchcraft accusation in Nepal	14
Table 2: Caste system in the Terai	15

Acronyms

ABC/Nepal	Agro-forestry, Basic health, Co-operatives
ADB	Asian Development Bank
AIDWA	All India Democratic Women's Association
CAT	Convention Against Torture
CBOs	Community Based Organizations
CBS	Central Bureau of Statistics
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CeLRRd	Center for Legal Research and Development
CVICT	Centre for Victims of Torture
CRC	Convention on the Rights of the Child
CWIN	Child Workers in Nepal Concerned Centre
FLAC	Free Legal Aid Centre
FWLD	Forum for Women, Law and Development
GOI	Government of India
HMG	His Majesty's Government (of Nepal)
HUMAN	Humanist Association of Nepal
ICCPR	International Covenant on Civil and Political Rights
ICERD	International Convention on the Elimination of all forms of Racial Discrimination
ICESCR	International Covenants on Economic, Social and Cultural Rights
IMR	Infant Mortality Rate
INGOs	International Non-Government Organizations
INSEC	Informal Sector Service Centre
LACC	Legal Aid and Consultancy Centre
LDC	Less Developed Country
MMR	Maternal Mortality Rate
MWCSW	Ministry of Women, Children and Social Welfare
NGOs	Non-Government Organizations

NHDR	Nepal Human Development Report
NLSS	Nepal Living Standards Survey
PAC	People's Awareness Campaign
RHDP	Rural Health Development Project
SC&ST	Scheduled Castes and Scheduled Tribes
UN	United Nations
UDHR	Universal Declaration of Human Rights
UNDP	United Nation Development Programme
UNFPA	United Nations Population Fund
UNIFEM	United Nation Development Fund for Women
UNSRVW	UN Special Rapporteur on Violence against Women
VDC	Village Development Committee
WOREC	Women's Rehabilitation Centre

Abstract

The research paper analyzes the phenomena of witch-hunting in Nepal and India within the broader context of violence against women. Considering the case studies, in Nepal, it is found most of the incidents have occurred in the Terai region and the victims of witchcraft allegations have been mostly women from the marginalized, poor and ethnic communities. In India, women from tribal communities and widows have been targeted. It is generally seen that the causes behind this specific type of violence are superstition and belief in witchcraft reinforced by the presence of people like shamans and witch-doctors and their influence on illiterate (and often fatalistic) communities. However, these are only the visible causes so the research paper attempts to discover the other invisible (root) causes of witch-hunting in these countries.

This paper considers violence against women originating from different levels such as structural, cultural and individual. In patriarchal societies, women are subjected to a subordinate role in relation to men and such subordination is reflected in patriarchal control over resources, discrimination and exploitation in the family, society and the state. It has been generally found that women in both countries have unequal access to all productive resources, unequal treatment in food and less access to health care and education, which act as a handicap for them from “enhancing their capabilities”. Discriminatory practices like female infanticide, dowry, child marriage, polygamy and mistreatment of widows are widespread. Women who attempt to challenge patriarchal norms have become victims to alleged witchcraft practices. Those women who are actively engaged in community service or active members at local tiers government have also become victims of such allegations. Although both the countries are the member of United Nations and have ratified most global human rights instruments, in practice, human rights violations occur at an alarming scale. There is a rise in the number of incidents of witch-hunting, in which communities are killing women. Hitherto, there is no specific law to address the issue. Although legal instruments are necessary to address this type of violence, the larger issue of violence against women needs to be addressed at structural, cultural and individual levels.

CHAPTER 1: INTRODUCTION

This paper will analyze the phenomena of 'witch-hunting' in Nepal and India within the broader context of violence against women.

1.1. Background and statement of the problem

Violence against women has been seen in many forms across countries and over the centuries (Penn and Nardos, 2003). Gender-based violence is a serious problem that women are facing, irrespective of their nationality, race, religion and economic status. According to Amnesty International (2004): "Women from different countries and continents, from diverse religions, cultures and social backgrounds, educated or illiterate, rich or poor, whether living in the midst of war or in times of peace, are bound by a common thread of violence- often at the hands of the state or armed groups, the community or their own family"(www.amnesty.org/web/web.nsf) In the words of UNIFEM (2003:8) "at least one of every three women around the world has been beaten, coerced into sex, or otherwise abused in her life-time with the abuser usually someone known to her. Women are at the receiving end of domestic violence, sexual assaults, and harmful traditional practices like genital mutilation, dowry murder, honor killings, early marriage and human trafficking."

It is difficult to estimate the exact number of incidents of gender-based violence but it is estimated that the number is very high. In South Asia, violence against women is a particularly relevant issue, which is also known to be "the most gender insensitive region in the world" (UNFPA, 2003:1). Women in countries like Nepal and India suffer from and are exploited in various ways: domestic violence, battering, rape, marital rape, incest, dowry-related violence, female infanticide, sexual harassment, human trafficking for prostitution and, last but not the least, witch-hunting. In recent years, the media has reported many cases of witch-hunting incidents in these two countries.

"Witch craft is seen as a manifestation of evil believed to come from a human source" (Kgatla et. al. 2003:5). Hence, accusations of being a 'witch' refers to the alleged possession by an evil spirit in a women (or much less often, a man) giving her supernatural powers to alter the course of nature. Likewise, witch-hunting is a 'search'

for suspected witches, who are believed to use witchcraft to harm people. After being accused, they are tortured and treated inhumanly by their communities and often by relatives. 'Witch-hunting' could be seen as one of the worst forms of cultural violence against women. Although the world has made tremendous scientific and technological progress, women in many suffer due to the prevalence of this practice. Although the gruesome practice of witch-hunting, which was once prevalent in Europe had ended in the 18th century, it still exists in some regions of the 'developing world' (like South Asia and Sub-Saharan Africa). It is difficult to conclude when this kind of violence actually started in Nepal and India but even today, witch-hunting incidents come to light largely due to media reports.

The practice of 'witch-hunting' in parts of both Nepal and India appears to be prevalent among certain castes, tribes and places. For instance, in Nepal, it is mostly prevalent among the so called low caste Hindus and indigenous communities who live in the Terai plain that shares its border with Indian states like Uttar Pradesh and Bihar, as well as among the Dalit population in Nepal. In the eastern Nepalese district of Mahottari alone, there were 13 cases of violence against women in the name of witches, which have been brought to light during the last eight years. There may be a large number of unreported cases in other districts also (FWLD, 2003).

1.2. Rationale of the study

The prime aim of the paper is to analyze the phenomenon of 'witch hunting' in Nepal and India as a manifestation of violence against women. The justification is that this is an on going and damaging practice, which needs to be understood and challenged.

Although the world's only Hindu kingdom, Nepal is a multiethnic and multicultural country. In terms of human development indicators, Nepal ranks 140 out of 177 countries (UNDP, 2004). Women constitute more than half of Nepal's 23 million populations (CBS, 2001). Similarly, India ranks 127 out of 177 countries (UNDP, 2004). However, patriarchal norms are also deeply embedded and women still face discrimination at many levels in both countries.

The constitutions of both Nepal and India state that no citizen shall be discriminated or deprived of the right of equality and equal protection of law. However, the fact remains

that this is a mirage for the many women who are victimized by society. Incidents of violence against women are a normal feature of life. In 1997, SAATHI, an NGO in Nepal, conducted national-wide research on violence against women and children and discovered that violence against women is highly prevalent in the Nepalese society (SAATHI, 1997). In India, more women are victims of dowry murder. Rape incidents have also increased and witch killing in indigenous communities are also another form of violence against women in India (Kelkar, 1992: 79-81). The Indian government has reported that from dowry harassment nearly 6,000 women a year die and many more are maimed and injured in India (Reddy, 2002).

Some empirical studies conducted in Nepal have highlighted the incidents of witch-hunting as a violation of women's rights and gender disparity (HUMAN, 1998 and 2001; FWLD, 2003). These studies show that women are vulnerable; especially widows, single, poor and low caste women. The absence of specific laws to address this social evil has made it impossible to bring to justice the perpetrators and to help the victims of such abuses. However, there is a need to have a more theoretically informed analysis of this phenomenon as well. This research paper will analyze the situation with special reference to Nepal and India. This study seeks to contribute to a deeper understanding of the phenomena of witch-hunting by studying cases and information from the two neighboring countries sharing similar cultures, religious beliefs and practices. The study would allow investigation of the significance of culture vis-à-vis other factors, which may be causes for the prevalence/recurrence/spread of 'witch hunting' in both countries. The study seeks to investigate this issue through a gender-based framework.

1.3. Research objectives

The main objectives of the study are to:

- Understand and conceptualize 'witch-hunting' as a form of violence against women in the contemporary era.
- Explore the immediate factors/causes and structural factors behind women, much more than men, being branded as 'witches'.

- Explore the current domestic laws in both countries aimed at preventing witch-hunting and also to explore other international laws and conventions targeted at preventing women from such forms of violence and infringement of their rights.
- Suggest possible ways to prevent/end such violence against women.

1.4. Research questions

These are:

- What are the causes/factors behind witch-hunting?
- Who are targeted and why does violence against women take this particular form in the contemporary era?
- What is the role of culture in this form of gender-based violence?
- How does this form of direct violence relate to structural violence against women in India and Nepal?
- What legal mechanisms exist at the national and international levels to address this form of violence against women?
- What strategies have governments/NGOs/concerned organizations adopted to deal with this issue and what is the status of implementation, if any? Are there new strategies that need to be considered and implemented?

1.5. Methodology and sources of data

The research paper is based primarily on secondary data. It is an explorative and analytical study. Various articles, journal, publications (including the internet) from concerned actors and agencies, newspaper reports, reports by NGOs/INGOs have been analyzed. The research and fact finding reports of a few NGOs working in Nepal on this issue like Forum for Women, Law and Development (FWLD) and Humanist Association of Nepal (HUMAN) as well as studies done in India, have been used.

1.6. Limitations of the study

The subject of the research is relatively new and is exclusively based on secondary sources. Few studies have been done in Nepal and in India on this issue. It is also difficult

to surmise whether witch-hunting incidents have increased now or whether it existed a long time ago and is simply a cultural survival, albeit one that has been altered to fit current situations. This research paper will not look the historical background of practice of witch-hunting in societies in the above countries.

1.7. Organization of the paper

The paper is divided into five chapters as follows:

Chapter 1: Introduction (background and statement of the problem; rationale of the study; research objectives; research questions; methodology and limitations)

Chapter 2: Conceptual framework (patriarchies and violence against women)

Chapter 3: Witch-hunting: direct violence and its immediate causes

Chapter 4: Witch-hunting: analysis of causes

Chapter 5: Conclusions: responses, strategies and recommendations

CHAPTER 2: CONCEPTUAL FRAMEWORK

This chapter elaborates some key concepts to develop a framework to analyze the issue of witch-hunting as a form of violence against women. Various frameworks for the analysis of violence against women are discussed in this chapter with a focus on the concept of 'patriarchies' and its different forms in South Asia.

2.1 Violence against women

Violence against women, like all other historical phenomena of violence, is embedded in the socioeconomic and political context of power relations. It is produced within class, caste and patriarchal social relations in which male power dominates. It may be defined as violation of women's personhood, mental or physical integrity, or freedom of movement. It is the result of unequal power relations between women and men. There are many definitions of violence against women both broad and narrow. Dobhas and Dobhas (1998) define it broadly: "the inclusive manner to encompass verbal abuse, intimidation, physical harassment, homicide, sexual assault and rape; a long list of orientations, acts, and behaviors has been referred to as violence against women" (Dobhas and Dobhas, 1998: 4). Hayward (2000) offers an operational definition: "any act of commission or omission by individuals or the state, in private or public life, which brings harm, suffering or threat to girls and women and reflects systematic discrimination, including harmful traditional practices and denial of human rights because of gender" (Hayward, 2000 cited in Naved, 2003: 1).

Kelkar (1992: 76) defines violence against women not only as physical violence towards women but also exploitation, discrimination, unequal economic and social structures, the creation of an atmosphere of terror (threats and reprisals), and other forms of religious-cultural and political violence. According to Kelkar, women-specific violence functions to keep women where they are; that is in the house and powerless. Violence against women is violence directed specifically against a woman because she is a woman.

According to Article 1 of the UN Declaration on the Elimination of Violence against Women (1993), violence against women is defined as "any act of gender-based violence

that results, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life". Article 2 of the Declaration presents what the international community recognizes as generic forms of violence against women. The definition encompasses (but is not limited to): physical, sexual, and psychological violence occurring in the family and in the community, including battering, sexual abuse of female children, dowry-related violence, marital rape; female genital mutilation and other traditional practices harmful to women; non-spousal violence; violence related to exploitation, sexual harassment, and intimidation at work and in educational institutions; forced pregnancy, forced abortion, and forced sterilization; trafficking in women and forced prostitution; and violence perpetrated or condoned by the state. The declaration is concerned with violence directed against women and the definition underlines both physical and psychological harm and threats of such harm in the private, as well as in the public sphere, since society has conditioned both men and women to accept violence against women as a 'natural' course in a women's life.

The crucial distinction is between private and public violence. Witch-hunting is a case of public violence against women, often carried out by family members or people the victim knows in a community. Although there are multiple definitions of violence against women, to understand the idea of witch-hunting, this paper explore this specific form of violence as a reflection of asymmetry in power relations that exists between the sexes and which perpetuates the subordination and discrimination of women.

2.2 Patriarchies

Patriarchy may be regarded as a social norm, which relegates women to subordinate and oppressive situations as opposed to men. Patriarchy usually refers to male domination; to the power relationships by which men dominate women and to characterize a system whereby women are kept subordinate in a number of ways. There has been a debate in feminist literature on the concept of patriarchy and many theorists reject the concept because it is a historical, implies a universal and unchanging system of domination (Chhachhi, 1988). However, the concept is useful since it conveys the notion of systemic subordination of women and it can be used to analyze cultural specificities and historical

changes as well. Thus, subordination can take different forms — discrimination, disregard, insult, control, exploitation, oppression, violence within family, at the place of work, in society and domination too can take different forms such as direct control by male counterparts and indirect control through social institutions etc.

According to Walby (1990: 20), “patriarchy is a system of social structures and practices in which men dominate, oppress and exploit women”. The term ‘social structure’ is important because it clearly implies rejection both of the biological determinism and the notion that every man is in a dominant position and every woman in a subordinate one. Patriarchy is both a social structure and an ideology or a belief system according to which men are superior and in dominant position. She distinguishes between two different main forms of patriarchy: private and public. The former is based upon household production as the main site of women’s oppression. The latter is based principally in public sites such as employment and the state (Walby, 1990). Under patriarchy, different kinds of violence may be used to control and subjugate women and such violence may even be considered culturally legitimate.

Societies in both Nepal and India are embedded in deep-rooted conservative patriarchal values and attitudes. However, as patriarchy is not universal, it is different from one group to another in and between countries. South Asian feminists therefore use the concept of ‘patriarchies’ to distinguish the variations in different forms of control and subordination (Sangari, 1995). The socio-economic status of women and their access to resources vary widely depending on the different ethnic groups. For example, women in Nepal belonging to Tibeto-Burman women have historically enjoyed gender equality as compared to their Indo-Aryan counterparts in terms of mobility, marriage, remarriage options and income earning opportunities. They have relative freedom in their choice of life partners and child marriages were less common (Acharya and Bennett, 1981). In Indo-Aryan communities, ritual purity of women is extremely important. Thus, child marriage, arranged marriage and restrictions on widows remarrying were widespread and women were expected to restrict their activities to the household and religious activities.

In India, it is difficult to generalize about the position of women and patriarchal norms. There are differences between South India and North India; the South having a long

history of more 'women-friendly' cultural norms. There are also differences in gender norms between the so-called 'untouchable castes' (the Dalits) and the so-called upper Hindu castes like 'Brahmins' and 'Kshatriyas.' 'Dalit' women in India are more independent and often equal the family breadwinner and enjoy far greater social respects within their own caste-communities (Kapadia, 2002: 146-147). Kapadia (2002) also concludes that in recent decades, there has been a strengthening of male-biased (patriarchal) norms and values across all caste and classes in India. It is common for conservative families to discourage unmarried daughters from entering the labour markets, except in household occupations. Female infanticide and dowry are other features of a patriarchal society.

2.3 Operational framework to analyze violence against women

Different scholars define violence against women in various ways although there is agreement on its underlying nature. The framework used here to analyze violence against women is based on the works of Moser (2001) and Galtung (1990).

Moser mainly talks about sites of violence whereas Galtung focuses on linkages between direct, structural and cultural violence. In her operational framework, Moser (2001) identifies a gendered continuum of violence categorizing violence in terms of a three-fold continuum of political, economic and social violence, which are interrelated. She also examines the casual factors causing motivations for committing violence from different levels viz. individual, interpersonal, institutional and structural levels. This allows for the identification of underlying structural factors for violent acts. She also examines the cost and consequence of the violence, which affect human, natural and social capital; and of their associated assets.

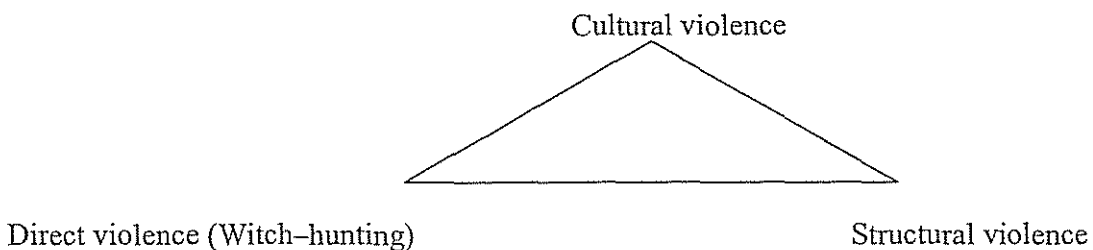
Although Moser's framework will be used in this paper, Galtung's cultural violence will also be incorporated. Galtung's definition of cultural violence might be useful in bringing a better understanding of the notion of witch-hunting and women. For him, the structural level is something similar to Moser's structural level but he proposes a broader notion of violence. Galtung takes ideological and symbolic violence – including dimensions like language, knowledge and science – into consideration too.

According to Galtung, cultural violence occurs when culture can be used to legitimize violence in its direct or structural form. Symbolic cultural violence is an abstract notion and does not in reality kill or maim. It legitimizes actual physical acts of direct violence and allows for the perpetuation of structural violence within the structural frameworks (Galtung, 1990: 293). Galtung, in his framework, establishes a casual relationship between the three categories forms of violence – structural, direct and cultural. Violence always works in a triangular relationship but the image produced is different. Direct violence is an event; structural violence is a process with ups and downs (*conjuncture and longue duree*); cultural violence is an invariant, a ‘permanence’ remaining essentially the same for long periods, given the slow transformations of culture (Galtung, 1990: 294).

Moser (2001) explains that violence is complex not only in its different categories but also because of the multitude of causal factors. People act differently in society so the levels of people being violent and violence tolerance levels differ across societies. Circumstances relating to the individual, the family, the community and the broader national context all play a role in violence and victimization. There is no single causal level in itself determining violence but that each, when combined with one or more additional casual variables, may yield a situation where violence occurs.

In this research paper, the combination of the structural level and institutional level extracted from Moser framework as well as the linkages between structural violence and cultural violence from Galtung’s framework is used. Schematically, this could be represented as is given in figure 1:

Figure 1: Classification of Galtung’s cultural violence



Structural level

The structural level refers to the main institutions of society — family, political, educational and economic institutions, which are responsible for creating and maintaining structures and ideologies that subordinate women (Kelkar, 1992). Therefore, it would be said that violence against women is linked to unequal access to resources, discriminatory laws, less opportunities to education, health and employment.

Different institutions are governed by discriminatory gender ideologies. For instance, legal systems are also discriminatory to women and law enforcing agencies, like police, attorney and the judiciary have a discriminatory attitude towards women. Cultural attitudes and lack of trust towards the justice system tends to discourage women from coming forward for redressing their grievances. The law-enforcing authorities (legislature, court and police) are predominantly staffed by men and operate along male-centered norms whereas principles and values are insensitive to women's realities.

Cultural level

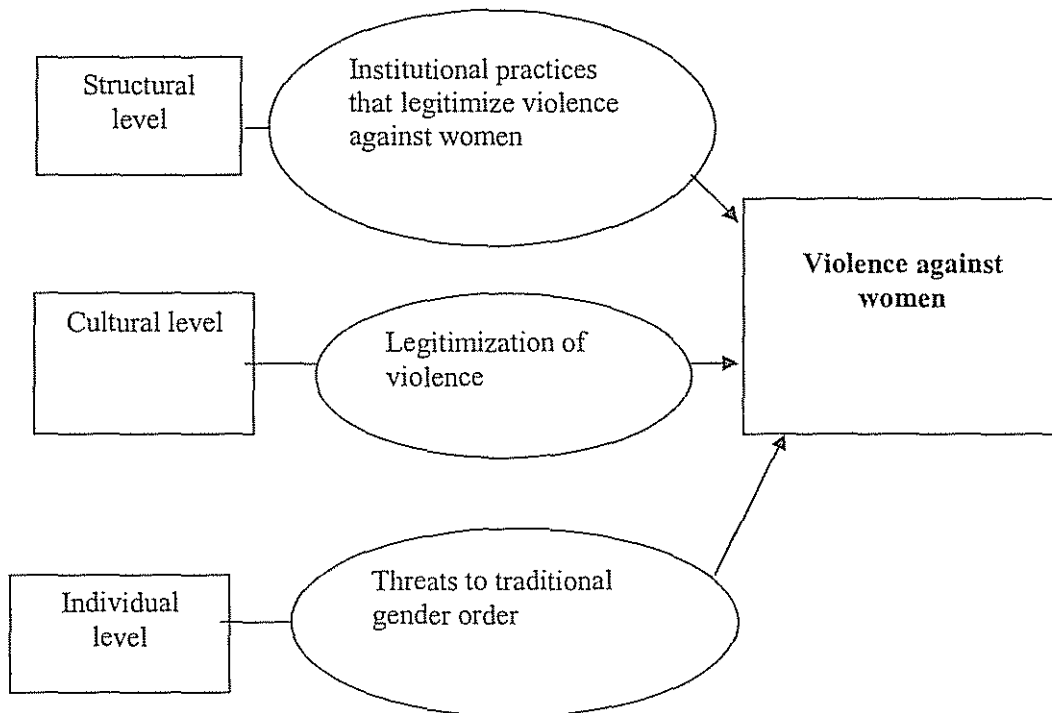
Cultural violence implies those aspects of culture such as religion and ideology, language and art, empirical science and formal science that can be used to justify or legitimize direct or structural violence (Galtung, 1990: 291). Cultural violence is the acceptance and legitimization of direct and structural violence as a necessary or inevitable aspect of human society. Thus, cultural violence is the legitimization of structural or direct violence through culture and it makes direct and structural violence look or even feel right or at least not wrong (Galtung, 1990: 291). Society's attitude and behavior construct violence against women as normal and acceptable. A wide range of cultural beliefs, ideologies and religious beliefs and practices in both India and Nepal provide justification for different kinds of violence against women.

Individual level

The individual level is also important since specific instances of violence relate to positions and actions of particular women. On the one hand; women, who are dependent, lack a sense of freedom and self-confidence and feel trapped both emotionally and financially; are found to be mostly victims of violence. Powerlessness is a common

characteristic of violence against women (Schuler, 1992). In some societies, widowhood is considered to be a curse and is often blamed for any misfortune that befalls a family and/or household. Both in Nepal and India, women falling into any of the categories — widowed, single, childless, disabled and low caste — are easy targets for discrimination and exploitation. The social structure and ideology give these women low self-esteem, making them easy targets as victims of violence. In addition, assertive single women are regarded as a threat to the traditional gender order. Violence is also resorted to when individual women challenge social structures directly. This level becomes important in identifying why particular women are targeted as witches. Therefore, the interplay of structural, cultural and individual factors contributed to violence against women (figure 2).

Figure 2: Interplay of factors contributing to violence against women



2.4 Conclusion

This chapter built a conceptual framework based on the works of various scholars like Galtung (1990) and Moser (2001). The concept of violence against women and patriarchy has been used because witch-hunting is mostly targeted against women. In the Nepalese context, women have been accused of being witches by their communities and also face torture and death. The same is true in India as well. The concept of patriarchy helps improve our understanding of some facets of societies in Nepal and India. However, patriarchy is not universal. In Nepal, the Tibeto–Burman ethnic groups and South Indian women of Dravidian ethnicity have better positions than women of North India of Aryan ethnicity. Thus, the concept of patriarchy is useful to analyze why certain women face violence whereas others do not.

For the operational framework to analyze violence against women, this paper is based on Moser's framework regarding the causal factors for the motivations for committing violence from different levels — structural, interpersonal, individual and institutional. Witch-hunting is a form of cultural violence so to understand it, it may be useful to consider Galtung's notion of cultural violence. In the chapter for the analytical framework, this paper combines structural and institutional levels extracted from Moser's framework, as well as the linkages between structural violence and cultural violence from Galtung's framework. Structural level, cultural level and individual level are useful for the analysis. Within the above-discussed analytical framework, this paper attempts to explore and analyze the immediate and structural causes of witch-hunting occurring in Nepal and India.

CHAPTER 3: WITCH-HUNTING: DIRECT VIOLENCE AND ITS IMMEDIATE CAUSES

The previous chapter presented the conceptual framework viz. violence against women and patriarchies in order to analyze the witch-hunting situation in Nepal and India. The first section of this chapter presents case studies of witch-hunting in both countries, based on secondary sources and obtained from newspapers, articles and reports. The second section discusses the immediate causes for these and other case studies, identified by the media and NGOs.

3.1 Witch-hunting in Nepal

In recent years, in Nepal, many incidents have been reported regarding the violence meted out to women due to allegations of witchcraft. The trend indicates a rise in such incidents as shown in the Table 1. These are only some cases that have come to light; no doubt, many cases go unreported. What is revealing is that most of the incidents have occurred in the Terai districts (adjoining India) and among particular ethnic groups.¹

Table 1: Incidents of witchcraft accusation in Nepal

Years	Number of alleged witchcraft cases according to survey by INSEC	Number of allegations of witch killing cases in the media
1999	70	-
2000	71	20
2001	83	25
2002	68	29
2003	-	33

Source: INSEC (Informal Sector Service Center, Kathmandu cited in Silwal, 2004), and Nepalese national English dailies viz. *The Himalayan Times* and *The Kathmandu Post*

In the Terai, the Hindus caste system classified as the following (Table 2):

¹ The 'Terai' comprises 23 percent of the land area of Nepal and accommodates 48.4 percent of population (CBS, 2001). People of Terai are in proximity to India in terms of language, culture, customs and religion.

Table 2: Caste system in the Terai

Brahmin (Priest): Upper caste	Brahmin, Bhuimar
Chettri (Warrior): Upper caste	Rajput (Gautam, Raghubanshi, Chauhan,) Kayastha (Shrivastava, Bhatnagar, Mathur etc)
Vaishya (Traders and business): Middle-upper caste	Nuniyar, Dhanuk, Kurmi etc
Sudra (Menial workers): So-called low caste	Gwala (Ahir, Yadav), Hajam, Mali, Teli (Shah), Dhobi
Dalit: Untouchable	Halkhors, Mester, Dom, Chamar, Mushar

Source: Bista, 1981

In the Terai, apart from the most recent migrations, the majority of the people are indigenous. Danuwars, Dhangars, Meches, Dhimals, Satars, and Tharus. Among them, the Tharus are the most numerous (Bista, 1981).

Among the various forms of gender-based violence, incidents of witch-hunting are prevalent within every caste but mostly within indigenous communities, so-called low castes and Dalit (so-called untouchable caste) community in Nepal. A high number of Dalit women have been victimized due to accusations of witchcraft (Bishwakarma, 2004). Indigenous communities are scattered all along the Nepalese lowland, near the forest areas, which is less developed in the Terai belt. They stay relatively isolated, preserving their separateness and way of life. They constitute around 40 percent of the total population in the Nepalese Terai and have their own culture, and language (Guneratne, 2002). In 2001, out of 25 cases of alleged witchcraft allegations, 14 women were from indigenous and so called low-caste groups and 4 from the Dalit group. The targeted women belonged to all age groups (from 16 to 76 years). The women faced inhumane forms of torture like physical assaults (beating) and were even fed human faeces. Other forms of violence included banishment from their villages, being paraded naked, forceful shaving of hair and burning with hot appliances. Within a span of 4 months in 2002, there were 9 incidents of witch-hunting and 5 incidents took place in the Terai region alone (Annapurna Post, 2003).² From the various newspapers reports, it is

² The 'Terai' refers to the strip of the Indo-Gangetic plain that abuts from the foothills of the Himalayas and stretches over two thousand kilometers from the district of Nainital in northwestern Uttar Pradesh to

found that most of the women who were victimized by witch-allegations belonged to the Terai belt in districts like Morang, Sunsari, Saptari, Dhanusha, Mahottari, Sarlahi, Sindhuli, Ramechhap, Rautahat, Bara, Makwanpur, Nawalparasi and Bardiya. Other victimized women were from hill areas. Thus, it may be concluded that most of the violence is concentrated in the Terai region. In 2003, there were 33 incidents and 47 victims, out of whom 4 were males and 43 were females.

3.2 Witch hunting in India

Allegations against women for practicing witchcraft practices and witch-hunting cases are also occurring with alarming frequency in many regions in India but it is difficult to make accurate estimates since cases of witch killing are not registered under a separate category (FLAC, nd., Rajalaskmi, 2000). In Bihar, West Bengal, Andhra Pradesh and in parts of northeastern India; a growing number of women are being ostracized, tortured or even murdered by neighbours and relatives after being labeled as 'witches' or *dains* and their children are also be hunted and killed (Rajalaskmi, 2000).

3.3 Details from a few cases highlighting the nature of the issue

Case 1:

In Simardahi VDC of Mahottari district (Eastern Nepal), more than 2,000 women were accused of being witches and some of them were subjected to organized barbaric torture (The Kathmandu Post 2001; HUMAN, 2001; FWLD, 2003; Spacetime, 2003(a)). The main victim was Marani Devi Shah, a middle-aged rural based health worker who was accused of being a witch. In 14 August 2001, Marani had organized a religious ritual at her home and had invited her close relatives but the children of the village including a 16 year-old boy, Sanjay Shah, son of Jogendra Shah, was also present during the *pooja* (although not invited). Whilst the ceremony was underway, Sanjay Shah was caught with hysteria and became unconscious and he died suddenly. Some of the villagers backed up the Sanjay's father claim that Marani had killed his son by using black magic. Jogendra Shah and his accomplices started scolding, abusing, torturing and humiliating Marani

Arunchal Pradesh in India's far-east corner. It was heavily forested until modern times (Guneratne, 2002: 20).

Devi and her family members. A few days later, the chairman of the VDC hired a witch hunter from India with handsome payment to pick up local 'witches'. Over 10,000 villagers attended the witch hunting ritual, with the local women had forced to attend. They were forced to eat *parsadi*, a food given by the witch-hunter. After distributing the food to all the women, the Indian witch hunter declared 13 among them to be 'witches'. However, things took a new turn when the VDC chairman singled out one Marani as the sole woman practicing witchcraft in the village. She was forced to eat human excreta and then beaten mercilessly in front of hundreds of locals and had to be hospitalized in a critical condition (The Kathmandu Post, 2001)

Case 2:

In May 2002, Sudhama Devi, a 60-year-old widow, who belonged to the same district (Mahottari) was labelled a witch by her neighbor Ram Babu Safi, whose one-month-old son had died of some disease. On the basis of that accusation, Ram and other villagers blamed Sudhama for the infant's death. As Sudhama's own son, too, had died a year ago, the hapless widow was accused of having cast an evil spell on her husband, her son and Ram's child. The neighbors believed that Sudama practiced 'black magic.' Ram also lost their pigeon and their goats also died during the same time. They believe that it all happened because Sudhama used black magic. After his son's death, Ram along with his wife, mother and brother came to her home and started to physically assault her. They also beat her daughter-in-law who was present to save her mother-in-law. They were, however, not successful in forcing to feed human waste to the victim as Sudhama ran away from her village on hearing about the imminent danger (FWLD, 2003).

Case 3:

Samariya Devi Mahoto, a 50 year-old woman living in Sarlahi district in Nepal (situated in eastern Terai) was suspected of witchcraft practices. In June 1995, the son of an influential person of the village — Raghav Goit — became ill. As the patient did not respond to traditional treatment, fingers were pointed at witchcraft. Samariya was thought to be the reason behind the boy's lingering disease and was hence deemed fit for punishment. Her head was shaved, followed by beating and smeared with black ink, power and ashes. Subsequently, human faces and animal excreta were forced into her

mouth, because of the belief among certain rural communities that by doing so, the supernatural powers alleged to be possessed by women who are considered 'witches' by their communities, are disabled. She was left unconscious (HUMAN, 1998).

Case 4:

In August 2004, in Rauthat district (eastern Terai district), a 55 year-old Dalit woman, Sunarpatiya Devi Chamar and her daughter-in-law Sumitra, were severely beaten by neighbors for allegedly practicing witchcraft. The neighbors accused the women of inflicting diseases on children and animals of the neighborhood using black magic. The villagers said the women had been beaten up after their shamans told them they (the shamans) were incapable of treating the villagers because of the Chamar women's black magic. The attackers had even tried to force these women to eat human excreta and later fled from the scene when the women fainted from the severe beating. The local men said that the women were accused of using their black magic to make her neighbours Bigan Ram's daughter and Ramkrits wife ill and to kill one of their bullocks. The victims' family did not report the incident to the police for fear that the attackers would carry out the death threats that they had issued. The victim's husband said he had not filed a complaint because there was not even a single person in his village who was brave enough to support him and his family also feared reprisals from the perpetrators (The Himalayan Times, 2004 (a)).

Some cases that occurred in India are also briefly highlighted.

Case 1:

Subhadra Bassumatarey, a 45-year-old woman, was declared a witch by the local witch doctor (*ojha*) in August 2000 and she still has not returned to her village in the Goalpara district in Assam. Subhadra, a member of the All India Democratic Women's Association (AIDWA), had challenged the obscurantist practices of *ojhas* for which she had incurred their wrath. Further, she had demanded a share in her late father's property, challenging her step-brother's claim to the whole property. The stepbrother and the local *ojha* in the area developed a common interest in eliminating her, so she was declared a witch and accused of casting a spell on three children in the village who had fallen sick. One night, a group of men, accompanied by a female *ojha*, abducted Subhadra, took her to a lonely

spot and asked her to sign a confession that she was a witch. She refused to sign; they then proceeded to break her right arm saying that this was the punishment for not signing. When she still refused, they assaulted her and broke her ribs and she was left for dead. Her husband later found her and rushed her to the district hospital. Later, women organizations provided shelter to the victim (Karat, 2001).

Case 2:

Laxmi Dev Burman, from Tripura, was a communist member and also an active worker of the AIDWA. She was also a tea-garden worker and a popular woman in her village. In September 2000, her colleague had high fever. Laxmi had taken her to the local hospital for treatment, but she died. The following night, a group of men known to be involved with the NLFT, a terrorist group in Tripura, came to Laxmi's house and they dragged her out, hacked her to death and put up notices in the village that she had to be killed because she was a 'witch' (Rajalakshmi, 2000).

Case 3:

In August 2004, a middle-aged woman, Dituben Shinghod in Vadodara, Gujarat — branded as a witch — was hacked to death by villagers in Dahod. The police did not find any motive except that the victim was suspected to be a witch. Two brothers, Raman Makwana and Savshingh Makwana of Zari Bujarg village in Garbada Taluka, accused her of casting a spell on their niece who had been sick. When the girl died, they ran into Dituben's house shouting that she had killed the girl. Dituben tried to run but was hit with a scythe and an axe, killing her on the spot. Savshingh was arrested but Raman is still absconding (The Times of India, 2004).

Case 4:

A man beheaded his sister-in-law in a Jharkhand village in September 2004, because he claimed she was a witch. He later calmly walked into a police station with the severed head. The shocking incident took place on Sunday in Japkakona village of Simdega district, about 190 km from Ranchi. According to the police, Gansu Singh beheaded his sister-in-law with a sharp-edged weapon, and then got her head tonsured and went to police station. The stunned policemen promptly arrested him on charges of murder and

sent him to jail. Police officers said Singh had no regrets over the murder because he held her responsible for the death of his three children. The children had died due to a diseases and Singh suspected that the victim had used black magic to kill them (The Hindustan Times, 2004).

The above eight cases highlight the brutal, humiliating and violent nature of the problem in both Nepal and India.

HUMAN, an NGO in Nepal, undertook several field visits to areas where witch-hunting incidents occurred. The team visited 30 districts of the country and studied 54 cases. It was found that the accused women were subjected to dehumanizing treatment and physical abuses. The report notes that these practices have not only dehumanized the people at large and their communities, but have also taken the lives of many innocent women. Individual women who are generally poor, weak and single have become the victims of this practice (HUMAN, 1998).

The cases also highlight the scale and severity of witch-hunting incidents in India. The murders of individual women and entire families accused of witchcraft appears to be common in states such as Andhra Pradesh, Bihar, Jharkhand, Assam, Madhya Pradesh and Maharastra (FLAC, nd. Religion News, 2004). In Bihar, 5 cases of witch killing were reported in September 2001 alone. There were also 167 such murders reported in the last two years in Andhra Pradesh and over 50 in 2000 in Assam. In India, the main victims of witchcraft allegations have been mostly tribal women and women belonging to the various Dalit communities. 8.2 percent of the population is from tribal group and these groups live in forests and have somewhat maintained isolation from the general population (Census of India 2001). The witch-killing incidents are increasing particularly among a number of tribal communities in Bihar such as Santhal, Ho and Munda (Kelkar and Nathan, 1991). These communities have lived for centuries in deep forests, surviving on its produce and taking little from the outside world. Most of the cases of witch killing are within tribal groups in India. A tribal activist is quoted as saying “the rate at which cases of witch-hunting are being reported from the tribal belt over the past few months is certainly alarming. These incidents should be treated as indicators of poverty amongst tribal communities” (The Times of India, 2004). Women accused of witchcraft are

dragged into the forest and hacked, hanged or burned to death. Women suffer smashed teeth, shaved heads or chopped off breasts. Others have been forced to eat excrement or to strip and walk naked through villages (Karat, 2001). From 1991 to 2000, over 522 cases of witch-hunting have been registered in Bihar alone. Unofficially, it is estimated that around 200 women were killed each year across India (FLAC (nd)). Allegation of witches can be either women or men, although they are usually women. Many cases go unreported in remote areas in Bihar and other states. According to a study by FLAC, the victims of witch-hunting are chiefly women and that too those who are either old, widows and unprotected.

3.4 Immediate causes behind witch-hunting

According to the studies by different NGOs and the reports by the media, the following factors have been identified in Nepal and India as the prime causes behind witch-hunting:

Sickness and fatalities

When someone falls sick or dies suddenly, then the blame tends to be laid at the witches viz. woman/women in the community. HUMAN had conducted a study on Mahottari district. It found that most of the people strongly believed in witchcraft and the general perception is that it is the witchcraft practices that cause all kinds of suffering, sickness and deaths in the village. From these different case studies like Marani, Sudhama and Samriya Devi case in Nepal and the Dituben case in India reveal that these women are accused when someone fell sick or someone died in the village. Gansu Singh beheaded his sister-in-law because he held her responsible for the death of his three children.

Beliefs, illiteracy and lack of awareness

Incidents of witchcraft have been reported primarily from rural parts of the country where opportunities for education are most lacking. In Mohattari district, an overwhelming majority (90 percent) of the people had faith in witchcraft practices. Their belief arises from both fatalistic and superstitious attitudes. According to the local people, a woman who is a witch not only kills fellow human beings but also can spread her powers of witchcraft (HUMAN, 2001). Ignorance leads to irrational beliefs and a perception that natural occurrences like sickness and death in the village are caused by supernatural powers. The belief that unless the witches are not eliminated, such suffering and sickness

will continue is not uncommon. It, therefore, becomes necessary to identify the witch with the help of healers followed by severe punishment to the 'accused'.

In tribal communities in eastern and northeastern India, superstitious beliefs and black magic are integral to tribal custom. Thus, whenever people associate any untoward incident due to bad omens and evil intentions of others, they accept witchcraft practices without any hesitation.

Loss of property (living or non living)

Even in routine occurrences like loss of property due to natural causes (for e.g., death of livestock or damage to a house by fire), superstition leads to suspicion and blame is laid on women. In extreme cases, even when cows stop giving milk for natural reasons, witchcraft is suspected. In the cases of Sudama and Sunarpati Devi in Nepal, they were accused not only because someone fell sick but also their neighbours lost their cattle and livestock.

Personal disputes

In the event of personal disputes involving a woman (in cases where they belong to the so called low castes or are widows), then it becomes easier to get leverage by harassment and witchcraft allegations. In the case of Marani, the fact-finding mission of HUMAN later discovered found that Jogendra Shah had a long-standing dispute with her concerning land ownership. The VDC chairperson also wanted Marani to be dismissed from the job given by CARE Nepal (an INGO working in the village) so that he could recommend his own supporters for the job.

In the case of Subhadra, she has a dispute with her stepbrother and local *ojhas*, who wishing to exact revenge, accused her to be a witch. Thus, allegation of witchcraft was the most effective weapon they could use for destroying her social prestige. Some cases have depicted a scenario in which even when a dispute occurs between two families or different in political beliefs, witchcraft accusations are made against women to extract concessions.

3.5 Conclusion

In Nepal, most of the incidents of witchcraft accusations against women occurred in the Terai region and among the indigenous communities and so called low-caste (like Dalits) women. In India, witchcraft accusations are prevalent among tribal communities. In both countries, beliefs in shamanic practices, traditional healers and witchcraft practices are quite commonplace, particularly in rural areas. These traditional beliefs contribute in cultural legitimization of witch-hunting. The case studies of Nepal and India depict that women were accused of being witches simply on the basis of unfounded beliefs that illness and death befell members of the community; as well as due to personal disputes. The victims have been mostly low-caste, illiterate and powerless women (many of them widows).

What is behind this? Attempting to find answers to this question requires a deeper analysis of these incidents point to other structural factors than simply irrational religious beliefs or even illiteracy and lack of awareness, which is debated thoroughly in the following chapter.

CHAPTER 4: WITCH-HUNTING: ANALYSIS OF CAUSES

4.1 Introduction

This chapter will assess the broader context and causes behind witch-hunting wherein women are the prime victims and the perpetrators usually member of the family or the immediate community. To find out the causes of witch-hunting, we have to investigate structural, cultural and individual levels, which cause the motivations for committing violence against women. It is argued that witch-hunting arises due to broader issues such as:

- Level and process of development in both countries and broader structural violence against women in Nepal and India.
- Legitimizing through cultural violence.
- Reprisals against women who challenge patriarchal and caste/class norms.

4.2 Structural level

4.2.1 Level and process of development

As a less developed country (LDC), acute economic dualism and high levels of poverty characterize the Nepalese economy. Around 86 percent people live in the rural areas and 42 percent of the population lives below the income poverty line, especially in rural areas (Nepal Human Development Report, 2001; CBS, 2001). Social services are also out of reach for most sections of the population. Development efforts have lagged behind in the vast rural hinterland. Economic development in Nepal displays a spatial dimension too because of its landlocked nature and terrain characterized by mountains, hills, valleys and river plains. Thus, the mountain belt is even behind the hills and the Terai belt, and the mid-western and far-western regions are amongst the most deprived regions in terms of various development indicators. The Nepal Human Development Report (NHDR) highlights the nature of unbalanced regional development existing in the country. Large parts lack even the most elementary infrastructure. Almost all economic activity is concentrated in the capital, Kathmandu. Development efforts have failed to make foster rapid and balanced growth with equity and justice. They have also not heralded

significant changes in the lives of most people belonging to marginalized groups (NHDR, 2001).³ The Nepal Living Standards Survey (NLSS) data suggest that the rural poor suffer from insufficient and sub-standard health services and the relatively high cost of medical treatment (CBS, 1997: 33). People living in a remote society, are far from the modern medicine, science and technology. A large number of people have to depend on the traditional system of medicine and have no option other than to accept what is locally available to them.

In Indian states such as Orissa, Madhya Pradesh, Bihar and Uttar Pradesh, women have limited access to health, employment and education and have a low status with respect to overall development (Devi, 1993). Tribes are amongst the poorest social group. In 1987-88, 52.6 percent of tribals in India were living below the income poverty line. The tribal groups are engaged in various occupations: hunting, shifting cultivation to settled agriculture and rural crafts. A very negligible percent are engaged in non-agricultural activities (Singh and Rajyalakshmi, 1993).

In tribal areas of India, government medical service is inadequate and private health care is simply unaffordable (Karat, 2001). Due to the dismal state of the health sector in these countries (especially in the rural areas), people have no choice other than to go to the traditional healer or witch doctor for treatment. Although such sources cannot be ignored to some extent, the emergence of new forms of disease requires professional medical help. Besides, shamans tend to assert their knowledge (or rather lack of it) by laying blame on supernatural factors misleading the innocent people.

Tribal groups and nature share a close link as the forests, which provide a source of fodder and medicines for them. When illness befalls anyone, recourse is taken to the forest to provide 'medicines'. Tribal communities live in the vicinity of forests on which they depend for their livelihood. Deforestation has affected tribal society adversely. The depletion of forest resources has led to disappearance of the large number of medical plants, which is used for curing human and animal diseases. Valuable pasture land is also

³ Nepal has been giving increasing priority to the social sector (especially in social services) since 1991 and social indicators such as life expectancy, literacy, net primary school enrollment and access to drinking water and sanitation, have recently shown marked improvements. However, access to these services still lies beyond the reach of much of the Nepalese population in geographically isolated regions.

lost on which people were dependent with their source of income disappearing. With rapid deforestation, tribal women have little choice but to seek the help of traditional healers for treatment. It is believed that the efficacy of the healer has been reduced with deforestation because most of the traditionally used herbs are difficult to find and have decreased their use. Now there are many diseases and they don't know how the cure (Munshi, 2001: 190-191). Land holdings also have shrunk because of the alienation and deforestation in the forest area; in many cases people bribe witch doctors to target widows or single women who own land. So women are used as scapegoats.

4.2.2 Patriarchal control

Unequal access to resource

A key issue emerging from the case studies relates to property rights. The lack of access to and control over productive resources is one of the major factors that hamper women's equal participation in the development process. In the patriarchal societies in both Nepal and India, land and property is normally inherited from father to son. Preference for male offspring is also strengthened by the social norm that prevails among both upper caste Hindu and among upwardly oriented middle caste Hindus with the belief that only sons are able to care for aged parents. The son has the sole right to ancestral property by birth and women are denied inheritance property rights. Women, traditionally do not have the right to possess, acquire, or inherit property in their own name. Land has been the most significant form of property and an indicator of wealth. As Agarwal (1994) remarks: "people's economic well-being, social status and political power are determined by land. Thus, independent land is of crucial importance in promoting the well-being and empowerment of women". The Constitution of the Kingdom of Nepal, 1990 states that the state shall not discriminate amongst citizens on grounds of race, caste, and sex and 'right to equality' is a fundamental right of the citizens. It also states that the Constitution is the fundamental law of Nepal and all laws inconsistent with it shall be void (HMG, 1990). However, discriminatory laws against women in relation to property rights still prevail. According to recent amendments, daughters are given rights to parental property but they have to return it when they marry (Subedi, 2003: 261).

In India, the Hindu Succession Act of 1956 — applicable to all states and covering about 82 percent of the population — governs property rights in India. The Act purportedly lays down a law of succession whereby sons and daughters would enjoy equal inheritance rights, as would brothers and sisters but in fact, there is a vast gender gap between law and practice and this right is seldom exercised (Agarwal, 1999: 13-14). A few urban, educated, better-off women sometimes exercise it but it is strongly disapproved of in rural communities, which are more conservative (Kapadia, 2002: 146). There is no uniform law in India governing the rights of widows to inherit property — movable or immovable. This is because India has followed the practice of allowing each community to be governed by their personal law, which is based on their religion (Misra and Thukral, 1998: 242). All the four major communities viz. Hindus, Muslims, Parsees and Christians, recognize a widow as heir; the difference lies in how much of the property she can inherit and whether she can inherit it as full owner. The Indian Constitution has also recognized personal or customary law to be as binding as statutory laws. Article 13 of the Constitution of India clearly recognizes the place of customary law as it lays down that 'law includes customs or usage having in the territory of India the force of law' thereby recognizing family customs, community customs, tribal customs or even customs of a particular area (Agarwal, 1994).

This is a severe limitation on women's access to all productive assets. However, the situation is different within matrilineal communities in Nepal, especially among the Tibeto-Burman group where the position of women is slightly better as they have access to all productive resources. There are also enormous socioeconomic differences between south India and north India; south Indian women are in good position than their counterparts in north India.

It is generally accepted that ownership and control of property confers status and gives women the confidence to take independent decisions. Women's access to credit is limited because both formal and informal credit institutions are geared to funding property owners. All formal credit institutions want collateral for loans and women are effectively sidelined from institutional credit, since women have little access to inherited property.

In some agricultural communities, a woman is not only excluded from ownership of land, but is also prohibited from ploughing, which is a crucial productive activity. Kelkar and Nathan (1991) point out that the key taboos such as ploughing is only justified in terms of religious beliefs, do play an important role in establishing and maintaining women's subordinate position. They ensure that women remain dependent on men for crucial activities.

Although women in Nepal, in general, lack resources; Dalit women are even further behind of the access to resources. Dalits do not belong to a particular ethnic group but are composed of various groups of people engaged in jobs, which the upper castes of society consider menial and therefore avoid them. They are characterized as being illiterate, unemployed, landless, poor, ignorant, exploited, docile, unhygienic, dirty, sick and ignored by the rest of society. As a result of centuries of social discrimination, oppression, exploitation and suppression, the Dalit communities are said to be lagging behind in every respect. They live a life of pain, agony, sorrow, misconduct, maltreatment and suffering. Women suffer an additional layer of discrimination and violence on the basis of gender both from people of higher castes and within their own communities. They are not only the victims of gender discrimination but also the victims of casteism. In comparison to other high caste women, the Dalit women have been forced to live in most vulnerable conditions besides having to face violence (Bishwakarma, 2004).

In India, the tribal and other 'low castes' continue to be more socially and economically vulnerable as a result of lack of access to land ownership. The colonial land policy firmly establishes men's ownership and inheritance of land through legislation in tribal communities in India. Women are excluded from ownership of private property and in most indigenous communities; a young girl has right to maintenance till she marries. Widows have the right to manage and control their husbands' land if they do not remarry or leave the village. Due to scarcity of land, childless widows are often accused of being a witch or pursuing illegitimate affairs and chased out of the village in order to secure control over the land (Munshi, 2001). Despite women not possessing inheritance rights to land under customary law, among most settled tribes, various social arrangements have existed to ensure adequate care of women in situations of widowhood, breakdown of

marriage, single women and for families where there are only daughters. Thus, widowed women acquired rights to their husband's property for maintenance for life. In the event of their death, the property passes into the hands of the husband's nearest male relatives. Both unmarried daughters and daughters who returned to their paternal homes due to breakdown of marriage, similarly acquired use rights in their paternal property for life maintenance (Kelkar and Nathan, 1991). Many studies shows that witch-hunting in many tribal communities in India is linked to contested land rights. Witch hunting constitutes a very high proportion (44 percent) of Santhal women killed over a 30 year period (Kelkar, 1992). The rising value and scarcity of land are leading to a breakdown in women's maintenance rights. Several incidents have occurred wherein women who inherit land have been labelled witches and were hounded out (occasionally even killed) by male relatives in order to grab the land. Such incidents have been reported from Indian state of Jharkhand (Kelkar, 1992).⁴

Unequal access to food and health care

Kapadia (2002) opines that gender discrimination excludes women from equal access to food, education, health care and jobs. The influence of patriarchal norms and values tend to promote unequal treatment between men and women. Although women contribute significantly to productive work (in the household) and also make a significant contribution to household learning, it does not ensure women a greater or even equal access to crucial needs such as food or health care (Agarwal, 1988).

The preference for sons in both countries is apparent in the relative neglect of female children, who are weaned earlier than male children and also receive smaller quantities and less nutritious food and less medical care. In Nepal, women are deprived both in

⁴ In Jharkhand, it has been found that among some tribal communities (such as Santhal, Ho and Munda), witch-hunting is related to attempts by male members to deprive hapless women (for instance, old women, single and widows) of their right to inheritance land following the death of their husbands. Recent evidence suggests that the incidents of 'witch-killing' have become a means whereby women in these communities are prevented from exercising their customary claims in land (Kelkar and Nathan, 1991; Kishwar, 1987 and Standing, 1987 cited in Agarwal, 1994: 275). As Kelkar and Nathan (1991) emphasize, the accusation was not fear of her evil influence but willful intent to deprive her of her usufruct rights in land. The victims are usually closely related to the accuser/s; they are of the same tribe accuser (and often the same lineage); or the suspected witch is often in a vulnerable position, e.g. a widow or an old woman or women with little family support (Sundar, 2001: 429-430).

nutritional inputs and food intake. Food distribution within the household is not on equal terms between the male and female members. Nutritious food is denied to girls as compared to boys. The differences in mortality and morbidity for girls and boys are explained partly by discrimination in nutrition and health care (Dube, 1997: 137).⁵

Nepal is one of the two countries in the world where the average life expectancy of women is lower than that of men. In 2001, the figure is 62.2 years for men and 61.8 years for women (CBS, 2001). Despite the expansion and development of the health system, the vast majority of the Nepalese, especially those living in rural and remote areas, do not have access to adequate health and sanitation services. The number of doctors is abysmally low and women complain of shyness as a prime reason preventing them from visiting health posts where the doctors and health assistant are male. Moreover, women cannot make decisions even when it concerns their health, especially reproductive health (Rana, 2004). They do not have access to adequate medical care in case of pregnancy complications, malnutrition, anemia and many other diseases related to their reproductive functions. A hospital survey has estimated that more than 50 percent of women in the 15-49 age group are anemic (more than 60 percent among pregnant women). Risks related to pregnancy and child delivery are the largest killers for women. Although the maternal mortality rate (MMR) has fallen to 539 per 100,000 live births today from the figure of 850 reported during the 1980s, this is still high even by South Asian standards (ADB, 1999; FWLD, 2004).

The nutritional status of women and girls is compromised by many factors: unequal access to food, heavy work demands and special nutritional needs (such as iron). Females are particularly susceptible to illness, particularly anemia. Three out of four pregnant women are anemic (HMG, 2001). A high proportion of Nepalese women receive inadequate treatment for illness; their workload may leave them with little time to

⁵ The different rates of mortality and morbidity for girls and boys are explained in part by discrimination in nutrition and health care in India also (Dube, 1997: 137). Women not only last to receive food, they also get less of it and of a lower quality (Kapadia, 2002). In most societies, nourishment like milk is a boy's privilege, for they must grow tall and strong. Girls, on the contrary, should not grow much or fast; their growth needs to be controlled. When resources are scarce, this discrimination can be acute and girls may remain underfed and undernourished. This inequality in food is much in the village level and poor family. A comparison of north and south India reveals that girls are better cared for in the southern states than in the northern states. (Dube, 1997).

actively seek medical assistance. They may need the permission of their husbands or senior members of the household before seeking services. Thus, many women use home made remedies or traditional healers while men are more likely to receive modern medical and institutional care. Restriction in physical mobility outside of the home is another factor that affects women's access to health services.

A study conducted by HUMAN in Mahottari district where many of the witch-hunting incidents happened, discovered that 90 percent of the population was illiterate and were also not aware of elementary health and sanitation issues. They lived in unhealthy dwellings and both children and the women suffered from many contagious diseases and malnutrition. They were least interested to go to a nearby health post or hospital and if they became severely sick; they instead called for healers and paranormal doctors to get treatment (HUMAN, 1998). Dalits and other so-called low castes and indigenous people in Nepal, due to their illiteracy and poverty and also belief on traditional healers, tended to go to the traditional healer and witch doctor rather than take modern medicine.

The health status of the tribals in most of the 'adivasi' areas in India is quite poor, primarily owing to the inaccessibility of their villages and poor economic conditions. The state health care system is hardly present in remote areas. Thus, preventable deaths — particularly among children and pregnant women — are quite prevalent in most of the tribal areas where the benefits of modern medicines and research have not trickled down primarily because of the callous attitude of the health delivery system. Higher infant mortality rate (IMR), higher fertility rate and greater malnourishment show that the health status of women is low (Singh and Rajyalakshmi, 1993).

Unequal access to education and employment

Illiteracy is high among women, both in India and Nepal (although it is higher in Nepal). Out of a total literacy rate of 53.7 percent in Nepal, male literacy rate is 65.1 percent whereas only 42.5 percent of women are literate (CBS, 2001). In India, the total literacy rate is 64.8 percent; of which the literacy rate for males is 75 percent and female literacy rate is 53.7 percent (Census of India, 2001). In both countries, preference for primary and higher education is given to males rather than to females mainly because boys are considered positive economic assets to the family. As daughters leave their parents'

homes after marriage, sons are looked upon as a form of insurance for the future (Dube, 1997: 146). There is also disparity in school attendance of girls between urban and rural areas. This can be attributed to pervasive traditional patriarchal thinking, family workload and lack of female teachers in the local schools. Proverbs such as 'bringing up a girl is like planting a sapling in another's courtyard' and 'bringing up a daughter is like pouring water into sand' reflect deep-rooted patriarchal attitudes in both the countries (Dube, 1997: 148).

Although primary education is free, yet girls do not attend school in many rural areas due to poverty and patriarchal norms. Women are not allowed the same mobility as men (except among the very poorest classes) and this constraint is legitimized as being a rational protection for women in a 'dangerous' environment (Kapadia, 2002: 143). In the rural areas of both India and Nepal, schools are normally situated at a far distance, which places the girls at risk, as they have to walk to school. The purity concept is so embedded in society that if a daughter is sexually assaulted, then the honor of the family is tarnished making any prospect of marriage almost impossible. Another reason is that as mothers are overworked, daughters are bound to share this burden and drop out of school (Subedi, 2003).

It is found that 96 percent of females and 70 percent males from so-called low castes are illiterate in Nepal (Subedi, 2003: 259). Dalits and certain disadvantaged ethnic groups also lag in access to education in Nepal. Their access to education and their children's school enrollment is better in urban areas. Dalits, like women from all groups, remain marginal in the process of governance and development at the local level (NHDR, 2001). The low educational status of tribal women in India is reflected in their lower literacy rate, lower enrolment rate and higher dropouts in the schools. The literacy rate of tribal groups was 23.63 percent in 1991 and this is lower than that of general population (52.21 percent) and is even lower than that of scheduled castes population (30.6 percent). The literacy rate of female is 12.74 percent, which is lowest of all the social groups (Singh and Rajalakshmi, 1993).

The comparative lack of education handicaps women in their access to jobs (Kapadia, 2002: 143). Due to limited access to education, information and productive resources, women have limited access to income and paid employment.

Caste and ethnicity also play an important role in the economic activity pattern of Nepalese women. The Tibeto-Burman group tended to be more involved in the economic activity in the market than those from the Indo-Aryan group (Acharya, 2000). Women's household work and agricultural work is not recognized to be of any economic value. Their participation in overall economic remains extremely low and their contribution to the economy is seldom recognized or measured in the national accounting system. Nepalese women's participation in the agriculture sector is high in South Asia. Women's involvement in the formal sector is minimal, concentrated in low skill, low paying work. Women hold 19.5 percent of professional jobs and 10.65 percent of total administrative positions and 22.1 percent of teaching positions at both school and university. The vast majority of women involved in the unorganized sector are illiterate, unskilled, earn nominal wages and their working hours are longer than that prescribed by law (FWLD, 2004). The number of women working outside the country is from urban areas (Acharya, 2000: 74). Mostly women from the high castes and class are working in good positions and mostly rural women in Nepal and so called low caste and indigenous women are concentrated in wage employment. As women lag far behind men in terms of literacy, it is not surprising that they are involved in low-paid jobs.

In India, a small section of middle-class, higher caste, urban women have found well-paid jobs but it has been noted that the expectations and perceptions of their middle-class parents have not radically changed. Marriage is still seen as the main career for women (Banerjee cited in Kapadia, 2002: 3). Dalit women have traditionally been very active breadwinners but they work in certain spheres such as civic sanitation, scavenging and leather work, which are low-paid jobs and are considered menial. Their participation in the administrative service is very low. Indian women, in general, face also restriction on employment opportunities. Widows face specific difficulties in seeking gainful employment. These include lack of access to indivisible productive assets owned by deceased husband's family, weak bargaining power vis-à-vis male partners in economic transactions, frequent absence of a literate member in the households and limits on access

to institutional credit (Chen, 1998:23). 90 percent women in tribal areas are engaged in agriculture and other economic activities like food gathering from forests and fishing. Their participation in other occupations is less (Singh and Rajalakshmi, 1993).

Unequal access to judicial system

Many discriminatory laws against women are in place in Nepal. FWLD (2000) identified at least 118 legal provisions spread in 54 different laws, including the Constitution that consist of discriminatory provisions towards women on issues such as property, marriage and family, nationality, legal and court proceedings and many more. Although women constitute more than 50 percent of the population, they have marginal representation in all three organs of the state — legislative, executive and judiciary. As the majority of people in these institutions are male; it may not be ruled out that they display lack of seriousness and sensitivity in issues related to women. In Nepal, the legal procedures are also very lengthy and complicated making people not wanting to seek help from the police and the justice system. Illiteracy and poverty compound the problem.

In India too, gender biases and patriarchal attitudes of police personnel and authorities responsible for investigation and prosecution, as well as the judiciary deciding cases, ensure that criminal justice system is manipulated against women. The criminal justice system should be used to protect women from violence and give a strong message to family and community that these are grave criminal offences. The dowry and rape cases also dealt with by the criminal justice system have often resulted in cases not being investigated or prosecuted properly. Insensitivity and a gender bias prevalent among the judiciary also result in injustice to the complainants of victims of violence. A large section of society believes that the criminal justice system is biased in favor of those who are in position of power, belonging to higher castes and classes (Singh, 2004: 97-100).

4.3 Cultural level

Cultural violence provides the legitimatization of violence in its direct or structural form. Inhumane treatment of women is carried out in the name of cultural, religious and social

norms and practices and often goes unquestioned by a society that is resigned to a fatalistic attitude towards position and privilege (Rana, 2002).⁶

Besides witch-hunting, there are also many kinds of violence against women, which owe to customs and beliefs. *Deuki*⁷, *jhuma*⁸ and *kumari*⁹ are other age-old practices. Child marriage, polygamy, unmatched marriage, *badi pratha*¹⁰, dowry, practice of isolating women during menstruation and post-delivery, bonded labor, violation of reproductive rights (e.g., pressurizing women to reproduce a male offspring), discrimination of widows are also prevalent. Untouchability is also practiced widely and affects women from Dalit communities.¹¹

The Nepalese constitution (1990) regards the above-mentioned religious customs and rituals as forms of violence against women. On the rights related to religion, the Constitution states: "Every person shall have the freedom to profess and practice his/her own religion as coming down to him/her from perennial past having due regard to the traditional practices." In the same manner, the Constitution has given the right to every citizen and community to practice his/her own cultural customs and rituals (HMG, 1990). Although the Constitution has guaranteed such rights, the laws of Nepal have legally prohibited some customs and rituals considering them harmful practices. For instance, the

⁶ Within the Hindu castes in Nepal, social values have direct bearing on gender discrimination. There are many maxims that prove the point: '*dhilo paye, chora paye*' (let it be late, but let it be a son), '*chora paye swarga jane*' (the birth of a son paves the way of heaven) and '*chori ko janmma hareko karma*' (a daughter is born with a doomed fate). From these statements, it may be inferred that the status of women is low in Nepalese society.

⁷ A system wherein women of a certain group in far-western Nepal are offered to a deity for lifelong service in a temple.

⁸ The system of offering a woman to the monastery practiced in a Buddhist sect.

⁹ The practice of a young who has not yet attained puberty and is thus 'pure' in Kathmandu valley.

¹⁰ Traditional practice of prostitution in the Badi community.

¹¹ *Dalits* are not allowed to enter temples nor are they allowed entry into houses of upper caste people, are not allowed to drink from the same wells, wear shoes in the presence of an upper caste, or drink from the same cups in tea stalls.

laws prohibit the practice of *deuki*, child marriage, *badi*, polygamy, unmatched marriage and dowry.

In a culture where a strong preference for male offsprings exist, sex selective abortions have become a preferred solution. Cultural practices such as dowry tend to subordinate women in Indian society (as well as elsewhere). When the dowry amount is not considered sufficient or is not forthcoming, the bride is often harassed and abused. This abuse can escalate to the point where the husband or his family can attempt to or commit murder.

The extent of the problem can be viewed from the fact that in India alone, 50 million women would be alive but for sex selective abortion, infanticide or neglect. Data from India's 2001 census shows that the sex ratio for 0-6 year olds fell from 945 females per 1,000 males in 1991 to 927 in 2001 (Kapadia, 2002). The practice of female infanticide has long been recognized as a problem particularly in many north Indian states like Punjab, Haryana and Rajasthan where has the strong culture of son-preference and is often tied to the tradition of dowry. Girls are seen as an economic liability, which requires the family to pay out a great deal of money when they married. For a poor family, the birth of a girl child can signal the beginning of a family's financial ruin. Infanticide was confined to the higher and middle castes but after Independence (in 1947), almost non-special groups including scheduled castes had shown of such anti-female bias. Scheduled caste groups have not only begun the practice of female infanticide but also girls are now being made to bear a disproportionate part of the poverty and deprivation that their families undergo (Agnihotri cited in Banerjee, 2002).

The custom of dowry has for long been entrenched in India. The practice of harassing brides in the name of dowry is not specific to any caste/community or region. It is as much ingrained in the upper caste as in the intermediate or scheduled castes (Kumari, 1989). Dowry has assumed enormous proportions and has spread even to groups such as peasants, artisans and lower castes who earlier practiced bride-price but not dowry. Dowry practice has spread to all corners of the country and to almost all communities. According to Srinivas (1984), the custom of bride-price was prevalent even among the Brahmins in South India and gradually dowry has replaced bride-price in many groups.

The influence of the upper castes and their Sanskrit ways has been as an important factor in this change (Srinivas, 1984 in Dube, 1997). Only some tribal communities may be said to be the exceptions (Banerjee, 2002: 48-49).

4.4 Individual level

The case studies have depicted that women belonging to certain ethnic groups, widows and poor tribal groups and so-called low castes as well as those unaware of their rights were the victims of witchcraft accusations. The victims are not only poor and widowed women but also individual women who challenge patriarchal caste/class norms. Sometimes women's involvement in political participation is also the cause of victimization along with the way widows are seen as a threat to the traditional gender order.

4.4.1 Political participation and reprisals against women activists

It is argued that women in Nepal have not been able to participate on an equal footing with men because of social constraints, lack of mobility and access to resources (Acharya, 2001). Public life in Nepal is largely a male domain and women remain under-represented in all walks of public life. There has been an increase in the proportion of women voters and women candidates in successive election but still their representation is low at all tiers of government (UN, 1996). Article 114 of the Nepalese Constitution has provisions wherein for election to the House of Representatives, each political party is required to award at least 5 percent of their party tickets to women candidates (HMG, 1990). In reality, this has not happened; very few women were elected in Parliament. The majority of women who have been elected to Parliament belong to higher castes. Representation of women from the minority castes and indigenous groups is marginal.

In India, after independence, women's political participation has increased. However, political parties are still reluctant to field women candidates and consequently they are under-represented in the legislature at both the national and state levels (UN, 1997). In some states, women enjoy a better status within their own communities but there are inequalities in two areas viz. property rights and political participation. In Jharkhand, the traditional village assembly (*panchayat*) is virtually composed of men. Membership accrues to the male head of the household or someone else in his stead. Only in rare

circumstances are women allowed to acquire membership of the *panchayat* (Kelkar and Nathan, 1991). Apart from a few matrilineal communities, mostly tribal communities are patrilineal and patrilocal. Traditionally, women have not participated in decision-making bodies. But now the 73rd and 83rd amendment of the Indian Constitution have a provision for reservation to women and scheduled caste and scheduled tribes (SC&ST) and also provides women for a fixed percentage of seats (33 percent) in the *Lok Sabha* (the lower house of the Indian Parliament). Thus, the new visibility of women in the public sphere has been made possible through quotas in institutions of local governance. Women representatives are working in many areas like preventing child marriage, witch-hunting, female infanticide and other forms of violence. It is not surprising that these women representatives from the grassroots level have been physically targeted for the supposed threat they pose which also takes a caste/class characteristic if they belonging to Dalits (Mayaram, 2002; Srivastava, 2002). The murder of Laxmi Dev Burman is an instance (Karat, 2001). Marani Devi and Subhadra Basumatary are some of the women who were active in the society but accused of being witches and tortured by their communities. Marani Devi was a rural based health worker and actively involved in many projects in the village while Subhadra was a political activist who claimed her right against her family and challenged traditional healers in her village. Her assertion became the reason for her risk to death. Thus, challenges to patriarchy seem to be a reason for accusing as witches.

4.4.2 Widows: a threat to the gender order

It has been noted that most of the victims in the incidents of witch-killing in India were vulnerable people like widows and aged women who did not have adequate protection or coverage from powerful relations (Chaudhari cited in Kelkar and Nathan, 1991: 94). Although in certain tribes, women enjoy greater rights than others like land rights, intense internal struggles are evident and witch-hunting is more common.

In both countries, marriage is seen as the most socially acceptable option for women. A woman is only recognized as a person when she is incorporated into her husband. Only does she become a social entity and in that state she is auspicious, a *summangali* (auspicious woman) and a *saubhayavati* (fortunate woman). Both terms are used only for

a woman whose husband is alive. Together with her husband, she performs rituals and procreates children. Aside from her spouse, a wife has no recognized existence in brahmanical patriarchy. The death of a husband can bring tremendous changes to a woman's life in terms of her identity and relationship with society. "Widowhood among the upper castes is social death" (Chakravarti, 1998). Hence, the widow's social death steams from her alienation from reproduction and sexuality, following the loss of her husband and her exclusion from the functioning social unit of the family. She becomes an outsider in both her affinal and natal home; she no longer belongs and in this sense she shares the sense of being an outcast (Chakravarti, 1998).

Widowhood, especially if it should occur before menopause has been reached, poses a fearful threat to the status of men defined by references to the purity of their women. The presence of a widow, especially if still capable of sexual and reproductive activity, is considered a problem for their husband's surviving male kin. A young widow with or without children is considered a dangerous burden on account of her sexuality (Allen, 1982). As young widows are considered to be sexually threatening, a solution could lie in making them 'neutered' or unsexed. Thus, they are expected to lead an ascetic life by the society with restrictive codes of dress, diet and also social ostracism from the religious and social life of the community. They are expected to remain in perpetual mourning and to give up eating 'spicy food', in order to cool sexual energy and remain celibate, devout and loyal to her husband's memory until death (Chen, 1998: 24-26). All these social norms lead to low self-esteem for the widowed women. Worse, still, widows are also accused of being 'witches' because of the belief that to learn witchcraft, they have to sacrifice of husband or son, which enables them to have the power to cause illness or even death to a person in order to take vengeance (Sharma 1986).

In many tribal societies and low caste communities, widows have a better position than upper caste Hindus. The Hindu society is stratified into innumerable small groups, each of which tries to pass for a higher group and the best way is to adopt the customs and way of life of a higher caste. In order to enhance their status, lower castes have started imitating the habits of the high castes, which included customs, rituals, ideology and the way of life. This process has been described as 'Sanskritization' (Srinivas, 1962). It has been observed that post-puberty marriages, widow remarriage and a relatively liberal sex

code of the non-Brahmin caste were progressively given up and more patriarchal, reclusive and oppressive social habits were adopted by the lower castes (Thiruchandram, 1993). Brahminical customs and way of life did manage to spread not only among all Hindus but also among some outlying tribes. One of the many interesting contradictions of modern Hindu social life is that while the Brahmins are becoming more and more westernized, the other castes are becoming more and more Sanskritized (Srinivas, 1962). This Sanskritization process makes women more vulnerable leading to low status in the tribal societies. Therefore, witch-hunting may be regarded as an assault on the recently achieved high status of women and attempts to reduce this status in the case of tribal communities.

4.5 Conclusion

In patriarchal societies in India and Nepal women face different kinds of discrimination and exploitation. Violence against women, especially witch-hunting, occurs at different levels: structural, cultural and individual level. Women in both India and Nepal have unequal access to productive resources, food and health care, education and employment and also unequal access to the judicial system.

Nepalese women belonging to so-called low caste, indigenous communities and Dalits in the rural areas of the Terai have been found to be more vulnerable to witch-hunting. In India, tribal women have borne the brunt of injustice due to witchcraft allegations. Women belonging to tribal communities have also unequal access to all productive resources, which make them vulnerable. Although possessing maintenance rights, in the event their spouses die; the greed by their kith and kin to illegally acquire the land leads to accusations of women on witchcraft, resulting in torture and even death. In Jharkhand state, witch-hunting is related to attempts by male members within tribal communities' to deprive the women of their rights to inheritance land. Cultural violence legitimizes the direct and structural violence. Both in Nepal and India, there are many more incidences of violence that are practiced in the name of culture, religion and social norms and practices.

CHAPTER 5: CONCLUSION: RESPONSES, STRATEGIES AND RECOMMENDATIONS

The previous chapters have depicted how violence against women — in the form of witch hunting — continues unabated in India and Nepal. Given the situation, what has been the response and strategies from the concerned actors to stop or check this form of violence against women? This chapter deals with various strategies adopted by government and civil society vis-à-vis domestic laws and international human rights instruments. It will assess the role of community based organizations (CBOs) and NGOs in both countries too.

Last but not the least, the paper makes final conclusions and recommends measures to address the phenomena of witch-hunting by civil society and governmental efforts. It is proposed that the culture of violence against women from all levels viz. structure, culture and individual to be tackled and supplemented by efforts to usher socioeconomic change (including value systems) in these societies.

5.1 Existing laws on violence against women in Nepal and India and gaps

International conventions

As members of the United Nations (UN), both Nepal and India have ratified almost all human rights conventions. Nepal has ratified 16 international instruments/conventions concerning human rights. These include: Universal Declaration of Human Rights (UDHR), Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR) and Convention on the Rights of the Child (CRC) without any reservation. India has also ratified CEDAW, ICESCR, International Convention on the Elimination of all forms of Racial Discrimination (ICERD), Convention against Torture (CAT) and Convention on the Political Rights of Women etc. with some reservations of article of these conventions. The human rights instruments have provisions to protect human rights including women's rights, elimination of discrimination and protection of women from domestic

violence. However, these instruments do not directly provide for the prevention of witch-hunting *per se*. The UN Special Rapporteur on Violence against Women (UNSRVW) provides extensive empirical evidence of the various types of cultural practice in the family found in different parts of the world that encourage violence towards women. All cultures have certain practices that deny women their rights and dignity. The Rapporteur also found other witch-hunting and witch-burning practices mainly in Asia and African communities (UN, 2002). The Declaration on the Elimination of Violence against Women states clearly: “states should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women” (UN, 1993).

National laws

The Constitution of the Kingdom of Nepal, 1990; stipulates that no citizen shall be deprived of the right of equality and equal protection of law. Despite the legal provisions and obligations, there are many legal provisions, which are discriminatory to women and justice remains a mirage for many. According to the Section 9 of the Treaty Act of Nepal (1991), all the international instruments that are ratified by the state are applicable in Nepal as laws of the country. As stated by the section, any Nepalese law that is inconsistent with any convention or treaty adopted by Nepal is null and void (HMG, 1990).

The Constitution of India (1950) upholds the right to equality before the law and prohibits discrimination on the grounds of religion, race, sex or place of birth. Various laws reinforce safeguards against discrimination and provide for positive discrimination for certain groups identified as ‘vulnerable’ within society. These include scheduled castes and scheduled tribes (SC&ST) and women (Amnesty International, 2001)

Domestic violence: addressing the private sphere

Hitherto, in Nepal there was no specific legislation dealing with domestic violence, as it is viewed and treated as a private matter. The Nepalese government has taken an initiative by registering the Domestic Violence (Crime and Punishment) Bill in 2002 in the Parliament. The bill includes physical and mental abuse as domestic violence,

provision of interim relief, victim friendly provisions such as compensation, camera court etc. (Bill provided by FWLD, 2002). The bill was under consideration of the Upper House of Parliament (the National Assembly or *Rashtriya Sabha*) when Parliament (*Sansad*) was prematurely dissolved on May 21, 2002.¹²

This Domestic Violence Bill regards violence within the family like physical and mental torture against any member by other member (Article 2 (b)) but witch-hunting *per se* is not addressed. Until now, witch-hunting crime was dealt mainly under the Public Offence Act (1970) and the chapter related to murder of the civil code (1962) (FWLD, 2003)). If the victim died, a murder case could be lodged but this is often difficult to prove. The law enforcement agencies have been found to let off the perpetrators of such crimes after imposing hefty fines (HMG, 1970).

In India, violence against women has been placed on the state's agenda largely by the women's movement and its responses are the result of a combination of indigenous needs, international thinking on development practice and constant interaction with women's groups. Recently, the Government of India introduced "The Protection from Domestic Violence Bill 2002". The Bill (Section 4) defines domestic violence as a conduct whereby the abuser habitually assaults the person, makes his/her life miserable by his conduct, forces him/her to lead an immoral life and otherwise injures or harm the person (GOI, 2002). However, this law is only about the domestic violence and does not mention community violence as well as witch-hunting.

Specific laws on witch hunting

After tireless efforts by NGOs and civil society groups, the state government of Bihar outlawed the practice of labeling women as witches by passing the Anti-Witch Act (*Dain Pratha Pratisedh Vidheyak*) in 1999, the only state having done so (FLAC, nd. and Sau, 2003). The provision of the law takes a very serious view of anyone assisting in trying to identify or instigate others to identify a woman as a witch. If a person or party alleges a woman to be a witch, he/she/they face imprisonment for up to three months. If a person or party declares a woman as a witch or participate in torture, he/she/they will be imposed

¹² Prime Minister Sher Bahadur Deuba from Nepali Congress party to recommend dissolution of Parliament against the wishes of the party and his expulsion from the ruling party itself.

a fine up to US\$ 46 or imprisonment for up to a year without bail. Bihar is first state to introduce such a law although witch-hunting is also widespread in the tribal regions of states like Jharkhand, West Bengal and Madhya Pradesh. Those accused of murder in witch accusation related cases face the death penalty. Since large parts of the tribal districts are inaccessible by road, the district administration and NGOs have not been able to reach the villages lying in remote areas (Pagan Path, 2000).

Steps have been taken in other Indian states too. In Assam, the 'project prahari' was launched in a remote village called Thaikarguri in Kokrajhar district to eradicate social maladies through community policing and community development. The state police availed on people to educate the villagers on the issues with the belief that instead of the police, the persons earlier involved in 'witch-hunting' may properly explain that witch hunting is an irrational belief and crime. The villagers have finally admitted their mistake and promised not to repeat the crimes (The Assam Tribune, 2002).

The Indian government is reportedly considering a proposal to declare all forms of witch hunting illegal to prevent a practice that has killed more than 2,500 women in the last 16 years. The idea is to put in place a new law that would make witchcraft a social crime.

The Union Home Ministry is now drafting a law that would be sent to the Union Law Ministry for clearance and once cleared by the later, the draft would be sent to state governments for suggestions. The central government has moved to declare witch hunting illegal after the UN expressed concern at the number of murders ascribed to witch-hunting in India (Religion News, 2004). On the other hand, it is seen that politicians have even gone to the extent of propitiating and revering witch doctors, shamans and sorcerers by bowing to narrow interests. On September 2003, Sanjay Paswan, Union Minister of State for Human Resources Development, felicitated 51 witch doctors, shamans and sorcerers at a public function in Patna, Bihar; even going to the extent of suggesting using their 'knowledge' in mainstream health-care. The incident attracted condemnation from social activists and researchers who accuse the former minister of encouraging superstitious tendencies, thereby acting in contravention to and grossly violating Bihar's Prevention of Witch Practices Act, 1999 (Sau, 2003).

A new law specifically against witch-hunting is reported to be close to enactment in Nepal (Samay, 2004). Due to the initiative taken by Ministry of Women, Children and Social Welfare (MWCSW), the Ministry of Home is drafting the law to punish people guilty of witch allegations and engaged in various forms of related violence. There is also a provision in this law to address witch allegations against men. A few cases have been reported wherein men have also borne the brunt of accusations and torture. The penalties for people involved in physical and mental torture includes a fine of Rs. 40,000 and 2 years of imprisonment. It is expected that in the absence of the legislature, the law will be passed through an ordinance.

5.2 Civil society involvement in prevention of witch-hunting in Nepal and India

Besides the government, civil society representatives like NGOs (especially those dealing with gender and human rights activists) are active in asserting women's rights. ABC Nepal (Agro-forestry, Basic health, co-operatives); Center for Legal Research and Development (CeLRRd); Forum for Women, Law and Development (FWLD); Legal Aid and Consultancy Centre (LACC), Maiti Nepal; SAATHI; and Women's Rehabilitation Centre (WOREC) are some of the leading NGOs in Nepal working in the field of women's rights issues. A few NGOs are working mainly in witch allegation related issues but their programmes are limited to some districts only. FWLD and HUMAN have conducted fact-finding reports in the cases of Marani Devi's case in Mahottari district. In another instance, SAATHI (an NGO dealing with domestic violence) made a 37-minute film called 'Witch: Myth and Realities' based on a true story that occurred in the capital Kathmandu, to highlight the extent of the problem even in urban areas. Centre for Victims of Torture (CVICT) and INSEC (both dealing with human rights) are other organizations that have adopted advocacy and awareness raising strategies with regard to witchcraft allegations. It has been reported that Rural Health Development Project (RHDP) provided training regarding rural health (to combat diseases like malnourishment, diarrhea, tuberculosis and leprosy) to 43 shamans in Charikot district so as to change the attitudes of those very mediums that encourage the practice. These shamans are now encouraging people to visit health posts/hospitals instead of offering them unsolicited advice that could put the lives of the patients at jeopardy besides victimizing women on the pretext of witchcraft (The Himalayan Times, 2004(b)). Some

NGOs have also provided employment to women who were victims of witch hunting abuses while others are associated with the people's awareness campaign (PAC) run by Dalit awareness programme (The Himalayan Times, 2004 (c)). Due to extensive coverage of the incidents of witch-hunting, the media can be said to be playing a vital role in highlighting the issue.

In India; Free Legal Aid Centre (FLAC) — an NGO based in the new state of Jharkhand — runs a campaign against the practice of witch-hunting. It also provides supports to women accused of being witches and their children. FLAC's campaign against witch-hunting includes legal support to the victims, awareness and legal literacy through legal support to the victims, awareness and legal literacy through street plays and publications and raising the issue at legal and human rights for the formulation of laws and amendments. They have also produced two video films on the issue of witch-hunting. All these efforts could have aided in passing the Anti Witch-Hunting Act in Bihar. However, a weakness is that the punishment provision is very limited under the Act. A sentence of only three months imprisonment would not go a long way in preventing such abuses. Rather, sterner punishment would deter potential perpetrators.

5.3 What needs to be done?

Need for a specific law to prevent witch-hunting

“Laws are a major tool in promoting and protecting human rights and they play a vital role in the well being of any society” (Joshi cited in Goonesekere, 2004). Although laws alone cannot address the problem, legal norms and standard setting are essential dimensions to prevent or eliminate violence against women and protect and realize women's human rights to personal security, personal liberty and range of socio-economic rights (Goonesekere, 2004). Without effective legal measures, many perpetrators enjoy impunity and victims do not get justice. Enactment of strict laws would be necessary to prevent women being tortured and accused of witchcraft.

Witch-hunting incidents in both countries indicate a rising trend. The response from the governments has been slow and only recently is note being taken. For instance, it was only in 1999 that the Indian state of Bihar passed the bill making witch-hunting unlawful, with jurisdiction in that particular state only. Lately, both the governments of India and

Nepal are considering proposal to implement new laws to make witch-hunting a social crime. The passing of these laws will send a strong signal that the practice of witchcraft allegations will be considered a grave crime.

However, passage of laws alone would not suffice to prevent this kind of violence. To prevent such abuses and violence against women, the root cause of this kind of violence needs to be targeted. It was found that most of the incidents occur in the Terai region of Nepal and among tribal communities in India, which face underdevelopment, exclusion and vulnerability. On the one hand, legal action is essential against the perpetrators. On the other hand, changes in social attitudes towards women and cultural norms and values; need to be addressed. As stressed in chapter four, witch-hunting occurs due to violence at various levels: structural, cultural and individual thus problem of witch-hunting needs to be addressed at structural, cultural and individual levels and encompassing the individual, household, community and state.

5.4 Conclusion

Witch-hunting is one of the worst forms of cultural violence against women in both India and Nepal. The main objective of this paper was to find out the causes behind witch-hunting. This paper studied the case studies and looked at the immediate causes. For a deeper analysis of the causes, this paper considered witch-hunting occurs as a symptom of violence against women from different levels like structural, cultural and individual. Women in both India and Nepal have unequal access to productive resources, food and health care, education and employment and also unequal access to the judicial system. In patriarchal societies, women face different kinds of discrimination and exploitation. Nepalese women belonging to low-caste groups and indigenous communities in the rural areas of the Terai were found to be more vulnerable to witch-hunting.

In some states of India, patriarchal norms are reflected in female discrimination with regard to resource allocation (especially of food and opportunities to education) that has an inherent male bias (Baneerjee, 2002). Women who belong to tribal communities have also unequal access to all productive resources, which make them vulnerable. Although possessing maintenance rights, in the event of the death of their spouses; relatives and neighbors wishing to illegally acquire the land; accuse the women of witchcraft, leading

to torture and death. In Jharkhand state, witch-hunting among some tribal communities' is related to attempts by male members to deprive the women of their rights to inheritance land.

Cultural violence legitimizes direct and structural violence. In both the countries, violence against women is practiced in the name of culture, religion and social norms and practices, which often go unquestioned by society. Patriarchal values attempt to undermine women to a subordinate role in relation to men and in these communities; women tend to have less opportunities to education and employment. Women are not only discriminated and exploited by upper castes but also from their male counterparts as well. Limited access to education hampers their participation in formal employment, representation in government and the judiciary. In certain cases, their representation in local levels of government to challenge the patriarchal system leaves them vulnerable to possible abuses, including allegations of being witches. Furthermore, widowhood is perceived to be inauspicious in upper caste Hindu society. However, because of the Sanskritization process, other lower castes also started to adhere to strict Hindu practices. Thus, this process has also made women belonging to other castes vulnerable. From the cases, it is seen that many widows and single women were victims of witchcraft allegations.

5.5 Recommendations

After analyzing the causes of witch-hunting in India and Nepal, some recommendations have been proposed for the various actors and institutions (which are mainly the government and civil society).

- Government should develop a policy to prevent women from being accused as witches and other kinds of violence against women by making strong laws. Deep-rooted cultural and value systems that often encourage discrimination have to be altered in favour of non-discrimination and equal treatment and opportunities for both sexes.
- Government should aim to enforce free universal (at primary, secondary and tertiary levels) female education in line with the right of women and girls to education. State agencies should work in partnership with NGOs engaged in literacy/education

programs to expedite and expand non-formal education and also to create mass social awareness campaign in favour of women's education. Both government and civil society should stress on providing formal and informal education to girls and women from marginalized groups.

- Government should formulate employment policies to enable women to participate in the labour market for gainful occupation in all sectors, formal and informal. As only legal provisions for equal rights, treatments and opportunities is not sufficient for the participation of women; access is also vital. NGOs should provide different training to women who have no access to productive resources and education. Income generating activities need to be expanded to such women.
- Government should provide health facilities to every citizen whereas women's access to health services needs to be expanded and improved. In rural areas, where people are often dependent on traditional healers, government should make available and affordable health care to the citizens. Both government and NGOs should aid traditional healers learn about the benefits of modern healthcare and sensitize them in favour of modern means of diagnosis.
- Laws that prevent discrimination against women belonging so-called low castes, indigenous and tribal groups should be enforced. Government has to introduce affirmative action programmes in education, health and employment to them.
- There are many laws that are discriminatory and which limit women in obtaining equal rights in both India and Nepal. As a result, women are exposed to violence at home, in the community and also from the state. It is necessary to reverse such discriminatory laws.
- Government should formulate strategies that address the root causes of witch-hunting, which would help other non-political organizations working in this sector. In both countries, many non-state development actors (like CBOs and NGOs) conduct programmes to prevent violence against women. Furthermore, human rights actors (like the state and civil society) have to form a partnership in dealing with this specific type of abuse of women. If they work jointly, there is a prospect of the

programmes having greater effectiveness than when actors work individually and limit their work to particular groups and regions.

- The judicial system should be sensitive to the plight of women. Free legal aid should be provided to women who are poor and needy. NGOs can also provide such legal aid to those women who have fallen victims to abuses on charges of alleged witchcraft practices. In the event of filing case against the perpetrators and subsequent conviction of the guilty, it would serve as a victory for those vulnerable to this kind of violence and deter such crime from occurring within their communities.
- Government should raise the quota system for women in all tiers of government. As in India, in Nepal too, the government should increase reservations; women from marginalized groups have to be given the priority for their socioeconomic uplift.
- Both government and civil society have to work to prevent violence against women through awareness programmes to alter the deep-rooted value system of patriarchy that discriminate and subordinate women. As widows are considered as a gender threat, it is necessary to increase awareness of the defective value system, which is deeply rooted in society. NGOs and media have an important role to play in disseminating awareness and advocacy to change such defective value systems from society.

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