INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

 ISSN: 2582-6433

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 ISSN: 2582-6433

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Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship.He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi.Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi.He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

 ISSN: 2582-6433

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ISSN: 2582-6433

BRANDED WITCH, BROKEN RIGHTS: A STUDY ON GENDERED WITCH - HUNTING, PROPERTY INJUSTICE AND LEGAL POLICY IN TRIBAL JHARKHAND

AUTHORED BY - TIYAS MONDAL & VISHAL DANG
National University of Study and Research In Law, Ranchi
Course: B.A, LLB

ABSTRACT

In Jharkhand tribal regions, witch-hunting is not superstition; it is an instrument of gendered violence and dispossession. The research paper "*Branded Witch, Broken Rights: A Study on Gendered Witch-Hunting, Property Injustice and Legal Policy in Tribal Jharkhand* " examines how women, especially widows and women with no male protectors, are accused of witchcraft, and this often leads to the seizure of their property, dignity, and legal rights. Even after the enactment of the *Jharkhand Prevention of Witch (Daain) Practices Act, 2001*, access to justice is still an issue due to the presence of unofficial village councils and weak legal enforcement. This paper examines the intersection of customary traditions and legal systems, showing how these factors continue to exclude women. Drawing on this paper, using case studies, legal analysis, and human rights evaluation, the study examines the historical roots of witch-hunting, the role of traditional panchayats in perpetuating the practice, and the challenges of women in acquiring property under tribal law. The research identifies the need for stronger legal enforcement, greater community legal education, and the creation of a more inclusive justice system reaffirming women's rights. The research is new in linking witch-hunting to exclusion on the basis of property and legal marginalization, suggesting reforms addressing short-term and structural gender inequalities.

Keywords*: Witch-Hunting, Gendered Violence, Women's Rights, Legal Marginalization, Customary law, Tribal Jharkhand, Property Dispossession.*

 ISSN: 2582-6433

INTRODUCTION

The story of ***Gandhari*** in the Mahabharata is one of silent strength and unspoken resistance. When she chose to blindfold herself for life after learning her husband Dhritarashtra was blind, it was more than just an act of loyalty. It was a powerful, quiet rebellion against a world that never asked for her consent[1]. Some interpretations even suggest that her blindfold wasn't just symbolic, but necessary, because her eyes, never used and filled with years of restrained spiritual energy, were said to develop a ***divine eye*** which is capable of unleashing immense force. This mystical ability sometimes called ***divya drishti*** was feared, and became part of the mythic imagination around the "***female gaze***" as something dangerous.[2]

Over time, this notion fed into larger cultural beliefs, including the superstition of the ***evil eye*** (***nazar***), which continues to shape perceptions of powerful or transgressive women even today.

Nowhere is this more painfully visible than in the tribal communities of Jharkhand. Here, myth bends with fear, and superstition is often weaponized against women, widows, older women, or simply women who speak too much or own too little are branded as ***daayans,*** a witch believed to carry evil eyes and demonic power.[3] It's rarely just about belief, more often, it's about land, power and control. Accusations come fast and brutally, often with the blessing of the ***Ojha***, a village healer who plays the dual role of spiritual guide and community enforcer.[4] The violence that follows ostracism, beating, even murder is hidden behind a thin veil of tradition.[5]

This paper dives into that veil, peeling it back to understand how ancient stories like Gandhari's, combined with some individual local belief and structural inequalities, give rise to gendered violence through witch-hunting. It traces the journey from myth to marginalization and questions how legal systems, both formal and informal respond to such deeply entrenched practices. In doing so, it hopes to shed light on the lives of women who are punished not for what they do, but for what others believe they are.

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[1] Aditi Banerjee, *The Curse of Gandhari | Aditi Banerjee | #SangamTalks*, YOUTUBE (Oct. 10, 2022), https://www.youtube.com/watch?v=J9EMKIZ8J14.

[2] Sreenivasa Rao, *Gandhari's Vision*, SREENIVASARAO'S BLOG (Mar. 15, 2023), https://sreenivasaraos.com/tag/gandharis-vision/

[3] Sashank S. Sinha, Adivasis, Gender and the "Evil Eye": The Construction(s) of Witches in Colonial Chotanagpur, 33 *INDIAN HIST. REV.* 127, 133 (2006).

[4] Archana Mishra, *Casting the Evil Eye: Witch Trials in Tribal India* (Goli Books 2003)

[5] Jagriti Pandit, *Casting the Evil Eye: Witch Trials in Tribal India*, THE DAAK (Jan. 15, 2023), https://thedaak.in/2023/01/15/casting-the-evil-eye-witch-trials-in-tribal-india/.

 ISSN: 2582-6433

I. CONCEPT OF WITCH- HUNTING: HISTORICAL AND SOCIAL ROOTS

Across human history, societies grappling with fear, misfortune, and uncertainty have often turned towards identifying scapegoats from within their own communities. The phenomenon of witch- hunting, where individuals, particularly women are accused of welding supernatural harm, represents a deeply rooted societal response to anxiety, misfortune, and social changes. In tribal regions of Jharkhand, witch- hunting today continues not merely as superstition, but as a violent method of reinforcing gender hierarchies, controlling property, and maintaining social cohesion through exclusion.

This article examines the conceptual framework of witch- hunting through both sociological and legal lenses. It traces its historical evolution from a crisis management strategy to a human rights violation, situating it within the broader narratives of colonial disruption and post-colonial marginalization.

1.1 Witch- Hunting as a Social Technology of Blame

Witch- hunting, as a social phenomenon, operates as a "technology of blame," a mechanism through which societies externalize fear and resolve collective anxieties during times of crises. The term "technology" here refers to the systematic way in which witch- hunting becomes a societal tool to address confusion, misfortune, and social disorder. Witch - hunting is not merely a belief in witchcraft but a culturally constructed social practice rooted in deep seated fears, such as illness, death or economic deprivation.

Early anthropological theories, especially those proposed by E. B. Tylor, argue that pre-modern societies, which lacked the scientific understanding we have today, turned to supernatural explanations for life's misfortunes. In his seminal work *Primitive Culture (1871)*[6], Tylor suggested that in early societies, *"primitive"* beliefs in animism and magic helped to explain the randomness of suffering. The existence of supernatural forces was seen as a means of attributing blame for illness, death, or disaster. In this context, witchcraft accusations serve as a way for the community to bring order to chaos. By identifying a person to be a witch who is held responsible for misfortune, the community annihilates the person to preserve the way of good.

[6] Edward Burnett Tylor, *Primitive Culture* (1871) (chosen to explain how early societies used supernatural explanations to make sense of misfortune).

 ISSN: 2582-6433

Sociologist Mary Douglas, in her influential work *Purity and Danger: An Analysis of Concepts of Pollution and Taboo (1966),* expanded on this idea by emphasizing the concept of "pollution" and societal view of danger. According to Douglas, human societies define boundaries between what is considered *"pure" and "impure",* often to preserve social cohesion. Any deviance from these norms, especially behaviour that disrupts social or gender roles, is seen as a "danger" or "pollution" that must be eliminated. In the case of witch-hunting, individuals accused of witchcraft are seen as embodying this societal *"danger"*. They are considered threats to the community's moral or social order, especially when their behaviour or status violates norms of conformity. For example, women who were perceived as outsiders such as those without male protectors, the elderly, widows, or women who had strong independent identities were particularly vulnerable to accusation of witchcraft. That social "pollution" needs to be cleansed, and thus witch hunting became a ritual for addressing these transgressions.[7]

In many cultures, including India, the fear of the **evil eye** — the belief that envy or jealousy could harm another person through a malevolent glance or thought — further perpetuates the witch-hunting phenomenon. The evil eye is not merely a superstition but a mechanism to explain inexplicable events such as sudden illnesses, crop failures, or family misfortune. The accusation of witchcraft was often a way to channel this pervasive fear and assign responsibility for such misfortunes. In this framework, the **witch** becomes a symbol of envy, malevolence, and uncontrollable power. **Witch-hunting** then becomes a method of redirecting societal anxieties outward, blaming the most vulnerable members of the community.

In the Indian context, the *daayan* (witch) has become a cultural archetype, particularly in tribal areas. The term *"daayan"* typically refers to an older, often widow, woman who is blamed for unexplained misfortunes. These women, often living alone or outside the protection of a male relative, represent an easily identifiable target in societies that view patriarchal control as essential for social stability. According to studies, women who are socially marginalized — such as those who possess land or property, or who do not conform to traditional gender norms — are often labeled as witches. These women are accused of using their supposed supernatural powers to harm others, whether through causing illness, death, or crop failures.[8]

[7] **Mary Douglas**, *Purity and Danger: An Analysis of Concepts of Pollution and Taboo* (1966)
[8] J.A. Hernández, *The Dayan of Indian Folklore*, https://www.jahernandez.com/posts/dayan-of-indian-folklore

 ISSN: 2582-6433

This dynamic represents a larger social pattern in which women are disproportionately blamed for the ills of society. Witch-hunting, in this sense, is not simply a belief in magic, but a **social tool** used to control, marginalize, and eliminate women who pose a perceived threat to traditional social structures. By accusing these women of witchcraft, the community not only purges itself of supposed danger but also reinforces traditional gender roles, marking those who transgress as scapegoats to restore social harmony.

1.2 Legal Silences and the Birth of Witch- Hunting as a Crime

Witch- hunting, though widely regarded as a form of social scapegoating, has also evolved into a serious human rights issue over time. From a legal perspective, witch- hunting was initially neglected or justified by the law of many societies, which allowed violence against accused witches to be legitimized under the guise of judicial systems. Witch- hunting did not emerge as an explicit legal category of crime in its early form, yet it was deeply entwined with both legal frameworks and cultural norms that facilitate violence against marginalized individuals, especially women.

The concept of witchcraft as a criminal offense can be traced back to medieval Europe, where legal texts such as the *Malleus Maleficarum* (1487)[9] played a pivotal role in shaping the legal persecution of alleged witches.This notorious book, written by Heinrich Kramer and Jacob Sprenger, was employed as a guide for detecting, prosecuting, and punishing suspected witches. The *Malleus Maleficarum* not only demonized witchcraft as an explicit evil threatening Christian morals but also justified violence. In this paradigm, accused witches were enemies of the state, the church, and society, and legal systems were used to authorize torture and killing. The legality of such acts became a foundation of witch-hunting, where legal procedures, instead of protecting individual rights, were used to perpetuate violence. During this time, legal systems were dominated by religious and superstitious beliefs, with little or no concern for the legal rights of the accused, particularly the basic right to a fair trial and protection against torture.

Later, under British colonial rule, witch-hunting was viewed as a tribal superstition, and the Indian Penal Code (IPC), 1860, did not explicitly state it as a crime. This left the women victims of witchcraft accusations without protection under the law. On the other hand, *the Jharkhand*

[9] Heinrich Kramer & Jacob Sprenger, *Malleus Maleficarum* (1487) (used to illustrate how witch-hunting practices were formalized through religious and legal systems).

 ISSN: 2582-6433

Prevention of Witch (Daain) Practices Act, 2001, was a path-breaking law that criminalized witch-hunting as an offense against human dignity and right to property. Yet, the law is tried in practice, especially in rural and tribal areas where witchcraft beliefs run deep. Social stigma, retaliations, and gender inequality are hindrances to its success, and the law needs further reform.

2. GENDERED VICTIMIZATION IN WITCH- HUNTING: WHY WOMEN BECOME THE TARGETS

Witch- Hunting is not just about superstition; it is a serious form of violence mainly targeted at women. In many tribal and rural areas, women are blamed, attacked, and killed under the excuse of practicing witchcraft. This happens because society often fears or wants to control women who are independent, widowed, or powerless. From a sociological view, witch hunting helps communities blame women during times of fear or crisis. From a legal view, the failure to protect these women had made the problem worse.

Who are the victims?

The victims of witch hunting are mostly women. These women include widows, elderly women, divorced women, unmarried women and dalit women. They are often targeted because of their physical characteristics, such as being hunchbacked or having a different skin tone. In some cases, men have also been accused of having supernatural powers, and as a result, they too face consequences.

When a person is accused of witchcraft, it is not only the individual who suffers but also their family and children. The family members of the accused are often socially isolated and driven away from their communities. In the worst cases, witch hunting can lead to death. These victims are often vulnerable members of society who are already marginalized, making them easy targets for these kinds of accusations.

Why Women are more likely to be accused?

Witch - Hunting, particularly in rural and tribal communities, has disproportionately targeted women for a variety of reasons rooted in society's perception of gender, economic power and cultural beliefs. women, often considered vulnerable and powerless, are more likely to be blamed for things that go wrong within their communities. To understand why women are the main victims, there are certain key points that make them targets.

 ISSN: 2582-6433

1. **Brahmanical Patriarchy:** Brahmanical patriarchy is a system that combines caste hierarchy with patriarchal control, placing Brahmins at the top while subjugating lower castes, particularly Dalits, and reinforcing gender discrimination. Dalit women experience a dual form of oppression due to their caste and gender, making them particularly vulnerable to violence, including witch hunting. Legal protections are often insufficient, and enforcement of law is weak, failing to address the root causes of witch hunting. Accusations of witchcraft often arise from personal disputes or desireness, and these led to maintain power imbalance within the community.[10]
2. **Deviation from Societal Norms and Witchcraft Accusations:** There have been historical roots where tribal communities (Gonds, Santhals, and Mundas) adopted certain principles that align with Chanakya's teachings on social control, hierarchy, and the regulation of gender roles. Although tribal communities may not follow Chanakya's Niti directly, the underlying values of order, patriarchy, and obedience within social structures resonate with many of his ideas. Women are expected to be submissive, faithful, and adhere to prescribed gender roles to maintain social harmony[11]. If it is found that a woman has deviated from these social roles, witchcraft accusations are imposed on her and she is punished for challenging patriarchal norms.
3. **Property Ownership and Economic Independence:** Post- Independence legal reforms, such as Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, legally recognized tribal women's right to reclaim lands and access resources that were often usurped due to colonial policies, which favored non-tribal settlers and commercialization of forests. Women who hold land or possess economic independence, especially those who challenge patriarchal norms by asserting property rights, are often seen as threats to the established social order[12]. As a result, they fall under the accusation of witchcraft, which are frequently used as a tool to exert control over them and strip them of their land and resources.
4. **Cultural belief:** In many societies, women are seen as being more connected to the spiritual world due to their roles in childbirth and nurturing. While this connection can be positive, it also makes them targets. For example, elderly women who are knowledgeable about traditional medicines and healing are often accused of witchcraft

[10] Tanvi Yadav, Witch Hunting: A Form of Violence Against Dalit Women in India, 1 CASTE: A Global J. on Soc. Exclusion 169 (2020).
[11] Soni, A. (2021). Tribal spirituality in India: A review of the literature. *Religions*, 11(11), 549
[12] Ramesh K. Pillai, *The Legal Struggle for Tribal Women's Property Rights*, **Journal of Indian Law** 11, no. 3 (2016): 115-130.

 ISSN: 2582-6433

when they cannot explain why people fall ill. Also, women who struggle with fertility issues or miscarriages are often blamed for these misfortunes, reinforcing the idea that their problems are caused by witchcraft.[13]

3. THE ROLE OF PANCHAYATS AND CUSTOMARY PRACTICES IN PERPETUATING WITCH HUNTING IN TRIBAL JHARKHAND

Panchaysts are the brick of Indian Democracy. Panchayats are accessible institutions for the rural population who help to implement the welfare policies and uplift the marginalized groups such as women and children. These Panchayats sometimes don't uplift womens but annialite them in the accusation of witch. The local government sometimes deviates from their responsibility to work for development which also includes social upliftment. Various news articles come into light where panchayats are directly involved in the violence against women in accusation of witchcraft. This chapter delves and would evaluate the role of local Panchayats in India who are involved in the witch hunting and analyze the responsibility and accountability of Panchayats.

3.1 THE CASE OF CHANDWA PO IN LATEHAR DISTRICT OF JHARKHAND

Pahan which also means 'The Religious Leader' of the tribal communities of Jharkhand and is an integral part of the local ruling system of tribals. On 3rd May 2023 we come to the news that two Elderly couple named Shibal Ganjhu and Bhavani Devi, both in their early 60's were mob lynched in area of Chandwa Police Station in Latehar District of Jharkhand[14]. The couple were labelled as witch and *Nazom* by the Pahans, and a panchayat assembly was organized and it allegedly tied the couple to a pole and the couple were beaten to death. This was one of the incidents out of many where the whole Panchayat had been involved in victimization and labeling individuals a witch[15].

3.2 SYSTEM'S SILENCE AND COMPLICATION OF PANCHAYATS

In many tribal areas of Jharkhand, the traditional system of governance works such as *Munda, Parha, Majhi pargana* etc. play a dominant role in the life of an individual living in a village.

[13] M. D. Srinivas, *Witchcraft and Women: The Social and Psychological Dynamics of Accusations*, 4 Soc. & Pol. Stud. 56, 58 (2012)
[14] Singh, S. (2023, May 12). The plague of witch hunting in Jharkhand. *Youth Ki Awaaz*. Retrieved from https://www.youthkiawaaz.com/2023/05/the-plague-of-witch-hunting-in-jharkhand/
[15] Bisoee, A. (2023, May 4). Two lynched on witchcraft hunch. *The Telegraph India*. Retrieved from https://www.telegraphindia.com/jharkhand/2-lynched-on-witchcraft-hunch/cid/1934179witchcraft

 ISSN: 2582-6433

These institutions are made to provide social and economical justice to the people and are responsible to provide a good village level governance under Panchayati Raj system or say JPRA, 2001[16]. It is unfortunate that these systems of governance are deep rooted to the superstitious values that are victimizing women to the accusation of witchcraft. These institutions have autonomy in tribal areas and after the implication of PESA[17] in Jharkhand, the autonomy of the local government system would increase and subsequently there is a risk that witch hunt cases could increase. PESA and Witchunting are the topics which could be debated for tribal rights and women rights respectively.

Many times the head of Panchayat takes decisions due to the pressure of the other villagers regarding the declaration of woman as a witch. These all incidents have presented and raised a question to rule of law.

3.3 THE POLICE AND VIOLATION OF RULE OF LAW

Jharkhand passed the Witchcraft Prevention Act[18] in the year 2001, to take strict actions against the persons who are involved in the violence of witch hunt. Section 3 of this Act prescribes 3 months of imprisonment and a fine of Rs. 1000 for a individual who identifies any person as a witch and for any physical and mental torture a fine of Rs. 2000 and 6 months of imprisonment is prescribed. The Jharkhand director general of police Ajay Kumar Singh stated that " *It is not only the GRP but we have instructed the police across all districts, especially those witnessing large numbers of witchcraft-related incidents to create awareness from June. We have not fixed any deadline and would continue to spread awareness and see the outcome in the form of behavioural changes among people in rural areas"*[19], this statement has presented a will of Jharkhand police to abolish the practice of witch hunt in the region.

Despite all these actions we still see cases of witch hunt, according to National Crime Bureau (NCRB) 407 victims of witch hunt were from Jharkhand. Women are still unprotected due to the mass percentage of illiteracy, belief and practices on false myth and superstition. The major concern here is that when the activity of witch hunting occurs the whole community take that

[16] Jharkhand panchayat raj act, 2001
[17] Panchayats (Extension to Scheduled Areas) Act, 1996
[18] Witchcraft Prevention Act, 2001
[19] Bisoee, A. (2023, July 23). Jharkhand police to start awareness campaigns to restrict witchcraft-related killings. *The Telegraph India*. Retrieved from https://www.telegraphindia.com/india/jharkhand-police-to-start-awareness-campaigns-to-restrict-witchcraft-killings/cid/1953905

 ISSN: 2582-6433

as a pride[20]. Therefore it is very evident that the problem lies in the mind of the people and that brings to a wrong community efforts.

4. LEGAL STUDIES: TRIBAL WOMEN'S LAND INHERITANCE IN JHARKHAND

For centuries, the Adivasi communities in Jharkhand viewed land as a shared resource, integral to their culture and survival, with no concept of individual ownership. This symbiotic relationship with land was disrupted with the arrival of British Colonial rule in the 18th century. Under British governance, the Zamindari system was introduced, which shifted land ownership to zamindars. Landlords who collected taxes from peasants. This marked the beginning of land dispossession for Adivasi communities, reducing them to tenants on land they once governed. The colonial policies not only alienated the Adivasis from their land but also introduced individual land ownership, which was granted mainly to male heads of households, excluding women from land rights. This transformation deepened patriarchal control and marginalized Adivasi women, stripping them of their customary rights to land.

In response to the widespread unrest and uprisings, laws like the Chota Nagpur Tenancy Act 1908 and Santhal Pargana Tenancy Act 1949 were enacted to protect tribal lands from non-tribal encroachment. However, the exclusion of women from land ownership has persisted, and their economic vulnerability has grown. These historical changes, initiated during colonial rule, continue to affect the land rights of tribal women in Jharkhand today.

4.1 Tenurial Laws and their gendered Implications

Despite policy- level discussion on gender equality, tribal women in Jharkhand continue to be sidelined when it comes to land rights. A World Bank report that in 40% of global economics, women still face legal barriers to owning land. India, unfortunately, is no exception.[21] Land laws here, often adapted from colonial frameworks, continue to privilege men as the default legal holders of land.

In Jharkhand, *the Chota Nagpur Tenancy Act (1908)*[22] and the S*anthal Pargana tenancy Act (*

[20] Gramin Samaj Kalyan Vikas Manch. (n.d.). *Action research on witchcraft and witch hunting project*. Retrieved from https://1ngo.in/media/gskvm/Action%20Rsearch%20on%20Witchcraft%20witch%20hunting%20Project.pdf
[21] World Bank. (2020). *Women, Business and the Law*
[22] Government of Jharkhand. (1908). *The Chota Nagpur Tenancy Act, 1908 (Act No. 6 of 1908)*. Department of

 ISSN: 2582-6433

1949)[23] form the backbone of tribal land governance. These laws were originally intended to protect tribal land from exploitation by outsiders, but they inadvertently entrenched patriarchal traditions that deny women equal rights. For example, under *CNTA*, special tenures like *Mundari Khuntkatti and Bhuinhari* recognize only male descent for landholding, leaving tribal women landless in their own ancestral village.

The *SPTA*, covering Santhal regions, also follows male preference norms in succession. While there is technically no bar against female headship of villages, a woman can only inherit the office of *Mulraiyat(village Head)* if she is married to a *ghar jamai*- a man who lives with his wife's family and renounces ties with his own. This conditional recognition underscores how women's role in land and leadership are still seen as secondary.

In the Kolkhan region, governed by *Wilkinson's Rule (1837)*[24] Traditional systems like the Manki- Munda continue to shape land governance. These rules were meant to preserve tribal autonomy, but like other tenurial systems, they are silent on women's land ownership, reinforcing a male centric interpretation of customary law.

Together, these legal frameworks while preserving tribal identity and autonomy fail to recognize women as equal custodial of land and culture. Without meaningful reform, tribal women in Jharkhand remain at the margins of the very law meant to protect them.

A careful reading of Jharkhand's land laws- Chotanagpur Tenancy Act (CNTA 1908), the Santhal Pargana Tenancy Act (SPTA 1949), and the older Wilkinson's rule (1837) , laws that govern land rights in these regions do not see women as independent landholders. These laws, rooted in colonial legacies and patriarchal norms, were written by men, for men.

1. **The law Speaks Only to Men**

   The CNTA uses " he" 177 times and "his" 276 times. "She" doesn't appear at all. "Her" is used only once. This language isn't just grammatical, it shapes how people think. It creates a legal world where women don't exist as landowners, reinforcing the belief

Revenue, Registration and Land Reforms. Retrieved from https://www.indiacode.nic.in/handle/123456789/7796?locale=en

[23] Government of Jharkhand. (1949). *The Santhal Parganas Tenancy (Supplementary Provisions) Act, 1949 (Bihar Act XIV of 1949)*. Department of Revenue, Registration and Land Reforms. Retrieved from https://www.indiacode.nic.in/handle/123456789/8120?locale=en

[24] JPSC Online Tutorial. (2016, November 8). *Wilkinson rule 1837 – Jharkhand land law*. JPSC Prep Blogspot. Retrieved from https://jpscprep.blogspot.com/2016/11/wilkinson-rule-1837-jharkhand-land-law.html

 ISSN: 2582-6433

that land belongs to men. This bias seeps into land records, courtrooms, and local governance.

2. **Ownership Through Male Bloodlines**

   In tribal culture, women have long helped clear forests, cultivate crops and sustain their families. But the law doesn't acknowledge their contribution. Under Section 6,7 and 8 of CNTA, land passes only from father to son. A *Khunt- Kattidar*, for instance, a person with ancestral rights over reclaimed land can only be a man , or a male descendant in the male line. Daughters are completely left out. Their work, memory and presence in the land vanish in the legal paper trail.

3. **Right Given as Favours, Not as Entitlements**

   Under Section 20 of SPTA, a man may with permission from the Deputy Commissioner gift land to his daughter or sister. He may also set aside a small portion of his land for the upkeep of his widow, wife and mother but only after his death. These are not rights. They are discretionary favours that a man may or may not choose to grant. Women remain dependent on the decision of male relatives, not the protection of the law.

4. **Hidden Behind the Curtain**

   In a final irony, Section 160 of CNTA allows certain women to avoid court appearance if they belong to a class where public presence is " improper", this may sound like a protective clause- but in effect, it reinforces the idea that women should stay out of public life, even when fighting for their own land.

In most tribal communities of Jharkhand, customs passed down by ancestors strictly forbid women from inheriting land. Two core belief shapes this tradition:

- Land must never leave the family lineage
- Women, under no condition, should inherit land.

These customs are deeply tied to spiritual beliefs. Many tribes like Oraons, believe that ancestral spirits stay connected to the family land even after death. If a married daughter takes any land from her parents, it's feared that these spirits will bring harm to her in-laws' home. To avoid such spiritual consequences, inheritance is strictly kept within the male line.

Despite this,tribal customs do ensure basic support for women. Though women can't own land, widows and daughters are entitled to maintenance —food shelter, and clothing for as long as they live. Nearly all tribes groups, with minor differences, follow this practice.

 ISSN: 2582-6433

Discussed below are the general rules of inheritance for women in two major tribes: Munda and Santhal[25].

Munda Tribes

1. **Rights of sons and widows :** When a man dies, his widow is given a small portion of land for her maintenance, but only as a life interest. If she lives independently, this land is later divided among her sons. If she lives with one son, he inherits that land after her death, especially if he covers her funeral expenses. The remaining property is divided equally among all sons, with the eldest usually receiving a slightly larger share. Sons who marry outside the tribe may be excluded from inheritance unless they renounce the marriage and are readmitted to the community by the Panchayat.
2. **Widow's maintenance when there is no son:** If a tribal man dies leaving behind only a widow (with no sons or only daughters), she is given life interest in his hand meaning she can use it but she does not own it. She may lease it temporarily but cannot sell it without the consent of her late husband's male relatives (agnates). If she remarries or moves away permanently to live with her parents or brother, she loses all rights to the land, which then goes to her husband's male relatives. Upon remarriage, she is allowed to take only the clothes and jewellery she's wearing.
3. **Inheritance rights of daughters:** If a Munda man dies without a son or a widow, his unmarried daughters may keep his personal belongings and stay on the land until she marries. But she doesn't inherit it permanently once she marries, the property passes to the father's father or brothers, never to the daughter's husband or children. If the deceased's father is already dead, the land goes to his brothers or their sons.
4. **Ghardijoa:** A Ghardijoa is a son-in-law who lives with his wife's family and helps his father-in-law with farming and household work. When the father-in-law dies, the Ghardijoa may receive moveable property and sometimes a small share of land, as decided by the village Panchayat. However, he can use land only while his wife is alive. After her death, the land reverts to the nearest male relatives, since a daughter's son does not inherit.

   If there are no close male relatives, land is passed to clan members of the deceased, especially those known as bhuinhars. If no such person exists, the land is taken over by the state,

[25] To discuss the customary practices of inheritance in Munda and Santhal community, we have referred mainly to the Handbook of Law prepared by Jharkhand Judicial Academy and have used the resources cited in it.

 ISSN: 2582-6433

Santhal Tribe

1. **Widow's maintenance when there is no son:** If a man dies without children, his property goes to his father, or if the father is deceased, to the brothers (from the same father), then their sons, and next to paternal uncles or their sons.

   A widow with minor sons keeps the property but is supervised by the male relatives. If she remarries before her son is settled, she loses all rights, receiving only a token gift(like a calf) out of kindness.

   A childless widow is usually sent to her parental home with minimal items unless she marries her husband's younger brother, who does not get any extra share for marrying her.
2. **Inheritance rights of a daughter:** daughters do not inherit property. Instead, grandfathers and uncles take care of the daughters and widows. These male relatives are expected to arrange the daughters' marriage and give gifts on the father's behalf.

   Once all daughters are married, the widow receives the minimal entitlement of a childless widow.
3. **Taben Jom system:** this system provided unmarried daughters with a small piece of land for maintenance. The land remained the property of her father or brothers, although she could use it while alive.

   This system is now mostly defunct due to land scarcity. In some cases, unmarried women over 35 end up doing unpaid household work in their brother's home, often treated like servants.
4. **Ghar Jamai and Ghar di jamai[26]:** If a son-in-law lives with his wife's family and supports his father-in-law until death, he can inherit all immovable property and half the movable assets.

   If there is more than one such son-in-law, they share the property, even the sons of a predeceased ghar jamai have sometimes been granted inheritance.[27]

5. POLICY IMPLEMENTATION AND WOMEN'S LEGAL RIGHT

5.1 Women's land rights in formal laws

The tribal succession laws of Jharkhand illustrate the stark contrast between the principles of

[26] Ghardi jamai is a temporary household husband who serves a fixed term of years (say five) and goes away at the end, whereas Ghar jamai is a permanent household husband. He goes to his father-in-law for life and is the catalyst by which his wife inherits her father's land.

[27] See Jharkhand High Court. Sogen Murmu vs State of Jharkhand and Ors. (10 October,2011) available at https://www.casemine.com/judgement/in/5ac5e4bc4a93261aa794ec5a

 ISSN: 2582-6433

equality embedded in the Constitution and the harsh discrimination which undermines women's lives. It is quite alarming to see how deeply rooted these discriminatory realities are within the legal structure of the nation. As indicated above, SDG indicator 5.a.2 seeks to achieve women's entitlements to land in law and considers six proxy areas as measures for it. In this box below, we highlight the status of Jharkhand concerning some of these parameters. Clearly, the state performs dismally on all these indicators, which tells us that land rights of tribal women in Jharkhand are far from being 'lawful' and 'secure.'

Legal status of women's rights to land in Jharkhand	
Legal and Policy Question	**Situation in Jharkhand**
Is the joint registration of land compulsory Or encouraged through economic incentives?	State does not have any policy to encourage joint registration of land. Distribution of ceiling surplus land and allocation of titles at the time of rehabilitation are all done in the name of men. Although the Forest Rights Act has the policy of joint titling of Individual Forest Rights, in practice it is rare to see joint titles of forest land.
Does the legal and policy framework require Spousal consent for land transactions?	The State has no policy
Does the legal and policy framework support women's and girls' equal inheritance rights?	The customary laws that govern land rights of tribal women are explicitly patrilineal and forbid women to inherit land.
Does the legal and policy framework provide for the allocation of financial resources to increase women's ownership and control over land?	The State has no such priority. A policy for reduction in stamp duty, in case of land registered in the name of a woman, was introduced in 2017, but was withdrawn early in 2020.

 ISSN: 2582-6433

In legal systems that recognise customary land tenure, does the legal and policy framework explicitly protect the land rights of women?	Tenurial laws governing tribal land explicitly disfavour women. Nor do customary land laws provide land rights to women. To the contrary, they act to ensure that land does not go to women and provide women and girls with maintenance rights only.
Does the legal and policy framework mandate women's participation in land management and administration institutions?	Key positions in traditional systems of governance are held by men. Women generally do not participate in traditional village assemblies. The State mandates that 50% of elected leaders within the Panchayati Raj system must be women, but elected leaders have a limited role in land management in tribal areas.

5.2 Emerging issues and strategies

Project Suraksha: An Integrated Program Against Witch-Hunting in Jharkhand

Initiated in February 2025 by the Jharkhand State Legal Services Authority (JHALSA)[28], Project Suraksha is a specialized effort against the social menace of witch-hunting, which keeps taking lives and disturbing society even in light of available legislation. While Jharkhand passed the Prevention of Witch Practices Act in 2001, incidents of women—particularly those belonging to the marginalized groups—being accused of being witches still happen because of superstition and local quackery.

Project Suraksha has a multi-pronged strategy to tackle this problem. It aims to increase awareness in tribal and rural belts regarding the medical and psychological causes of most of the symptoms mistakenly diagnosed as witchcraft. District Legal Services Authorities (DLSAs) will lead campaigns in villages, work with health experts for counseling facilities, and coordinate with local governments to provide free legal assistance, medical treatment, and compensation to victims.

[28] Sahay, S. (2025, February 23). Jhalsa launches 'Project Suraksha' to curb witch hunting. *The Times of India*. Retrieved from https://timesofindia.indiatimes.com/city/ranchi/jhalsa-launches-project-suraksha-to-curb-witch-hunting/articleshow/118509138.cms

 ISSN: 2582-6433

The project further focuses on protecting the rights of survivors, which include protecting their properties and welfare of the impacted children. Integrating legal, medical, and educational interventions, Project Suraksha strives to eradicate the embedded superstitions on witch-hunting and aid the survivors in pursuing justice and rehabilitation**.**

Project 'Garima' in Jharkhand to restore dignity of women branded as 'witches'

Project Garima is a major initiative by the Jharkhand government to curtail the deep-seated practice of witch-hunting and bring back dignity to women who have been falsely accused of witchcraft. Rolled out in seven districts and 25 blocks, the Garima project has set up 'Garima Kendras' (Dignity Centers) where more than 2,600 victims have been successfully rescued and rehabilitated. The centers offer psychological counseling, livelihood training, and access to government schemes, which ensures a complete approach towards rehabilitation.

Jharkhand witch-hunting is usually driven by patriarchal values and beliefs, resulting in the persecution of women, particularly widows and unmarried women, who are blamed for bringing misfortunes to their societies. These accusations have traditionally ended in social exclusion, assault, and even death. Project Garima works towards solving these problems not only by assisting victims but also by attempting to alter social attitudes through awareness and community activities.[29]

The project reflects the state's continued resolve to prevent violence against women and eliminate harmful practices. By implementing a convergence of legal frameworks with community-based interventions, Project Garima is an exemplary model for responding to gender-based violence and engendering social justice in areas faced with similar threats.

Make land administration work for women's needs

Land governance technology serves as the primary tool for executing a nation's land policy, alongside its legal framework. Gender-aware and fair land governance is fundamental to benefit social equity as well as outcomes. Complete restructuring of the entire land governance system from planners to officers on ground level with need focused programming coupled with adequate policy will eliminate discrimination engineered by ignorance and lack of empathy

[29] ABP State Desk. (2024, September 26). Jharkhand government launched Garima project in 7 districts against witch hunting superstition practice. *ABP Live*. Retrieved from https://www.abplive.com/states/jharkhand/jharkhand-government-launched-garima-project-in-7-districts-against-witch-hunting-superstition-practice-2791492

 ISSN: 2582-6433

courtesy insensitivity towards women's concerns involving land. Such steps would assist in making policies more attuned towards women's necessities and their actual implementation on ground. Equally important is integrating greater numbers of female members into each tier of the revenue hierarchy.

CONCLUSION

The problem of women's rights, especially land rights, and the practice of witch-hunting among tribal societies in Jharkhand are closely interconnected. Even with constitutional assurances of equality, tribal women experience institutional discrimination, particularly regarding inheritance and ownership of land. Patriarchal norms and statutes such as CNTA and SPTA disempower women from inheriting equal land rights, thus rendering them economically insecure and socially excluded. In addition, traditions like witch-hunting, in which the women are labeled witches and punished through violence, contribute to their misery.

Initiatives such as Project Suraksha and Project Garima are crucial towards combating both witch-hunting and the wider gender disparity against tribal women. These projects aim to promote legal awareness, help victims of witch-hunting, and enhance gender justice through involving the community. Yet, there remains an urgent need for overall legal reform, particularly in land legislation, to provide equal inheritance and ownership rights to women.

Traditional laws need to be adapted to conform to constitutional values of equality, and women must be actively represented in decision-making forums such as the Tribal Advisory Committee. Ultimately, justice for tribal women cannot be achieved by legal reforms alone but also by a change in societal attitudes towards women's rights and protection from harmful practices such as witch-hunting.

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