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WITCH HUNTING – A GENDERED VIOLENCE AGAINST WOMEN

AUTHORED BY - B THILLAI NAYAGE

ABSTRACT

The terrible practise of “witch-hunting” involves torturing women who are thought to have witchcraft or other dark magical abilities in an effort to save mankind. Although India has evolved into a contemporary nation that guarantees various fundamental rights such as right to personal dignity, privacy, but still the country's cultural practises and beliefs are still traditional and archaic. The majority of people, particularly those living in rural regions, have become so enmeshed in superstitions that they are contributing to the oppressive structures of their culture and religion. As a result, there has been a rise in intolerance and the number of crimes motivated by superstitions throughout time. Witch-hunting is one such atrocity that stemmed from this inflexible religious system. Despite the fact that several State laws have been passed to combat this problem, our society is nevertheless plagued by the horrible reality of witchcraft and human sacrifice. This practise violates women's fundamental human rights to a decent life by agonizing them. The purpose of this research paper is to shed attention on the ineffectiveness of the existing laws that are already poor place to combat witch hunting and highlights the urgent need for a comprehensive legislation to halt the practise.

Keywords: Women, Witch hunt, Violence, Superstition, Patriarchy.

INRODUCTION

Witch hunting is a major issue in India, which often leads to mob lynching's owing to the superstitions. The term “witch-hunting” denotes the branding of a woman, often accompanied by confirmation by an Ojha, as a witch. Post the branding, the women are mostly subjected to assaults and murder which often includes mass attacks and lynching. The true description of witch-hunting is the molestation and execution of a woman who is thought to possess wicked magical abilities. For a variety of causes, mob participation in torture and hunting down human

beings is portrayed as taking over the world and putting an end to education, family turmoil, property, oppression, submission, sexual advancements, and human traits.¹ Unfortunately, this practise still exists, especially in rural India, even though many people view it as harsh. It stigmatises certain groups of people, including old couples, childless women, bereaved moms, and women from lower castes. Men who identify as "witch-hunters" murder and rape these defenceless women, taking their land and perhaps using it as a means of retaliation.

BACKGROUND OF WITCH HUNTING IN INDIA

According to India's yearly reports of the Union Home Ministry's National Crimes Record Bureau (NCRB), there were 663 killings there between 2015 and 2021 that were said to be the result of witchcraft or witch hunts. This amounts to 95 witch-hunting fatalities on average per year.² In recent years, there have been numerous instances of witch hunting in the country, as reported by the media. According to the 2021 report published by the National Crime Records Bureau (NCRB), there were six fatalities associated with human sacrifices, whereas witchcraft served as the underlying motivation for 68 homicides. Chhattisgarh reported the highest number of witchcraft cases, following which Madhya Pradesh and Telangana have the highest cases as per the available data. Investigators claim that women are specifically targeted and included in other people's witch hunts in order to rule the world and achieve their own objectives under the cover of superstition. It is occasionally applied to punish women who defy societal norms. Women from Scheduled Castes and Scheduled tribes are the most frequently targeted groups in witch hunts.³ In one incident, An Adivasi lady was brutally murdered by a group of people in July 2015 after a priest from the neighbourhood allegedly labelled her to be a witch and said that that she was "bringing in evils" to the community by carrying out witchcraft. The woman was lured out of her home and murdered by the mob. She was assaulted to consume human urine and stool.

The phenomenon commonly referred to as "witch-hunting" has been a longstanding practise

¹ Aditi Pandey, *Practice of Witch hunt in India: fallacies in statutes and exigency for a central legislation (gender-based violence)*, CRIMINALLAWSTUDIESNLUJ, (November 2, 2023, 10.00 AM), <https://criminallawstudiesnluj.wordpress.com/2022/04/04/practice-of-witch-hunt-in-india-fallacies-in-statutes-and-exigency-for-a-central-legislation-gender-based-violence%EF%BF%BC%EF%BF%BC/>.

² Rahul Jha and Aishwarya Tripathi, *It is 2023. Branded as witches, women are still being tortured and killed in Bihar*, GAONCONNECTION (November 2, 2023 3.00 PM), <https://www.ganonconnection.com/lead-stories/crime-gender-ncrb-witch-craft-bihar-anti-dayan-law-women-52116>.

³ James H. Chadbourn, *Lynching and the Law*, JSTOR (November 2, 2023, 11:15PM) <https://www.jstor.org/stable/25710303?seq=1>.

within the tribal society of India, spanning several centuries. The precise chronology of the genesis of witch-hunting in the Indian context remains elusive. The historical origins of the practise in question are purportedly traced back to several centuries ago within the Morigaon district of Assam, a region renowned for its designation as the black magic capital of India. The phenomenon commonly referred to as witch-hunting has garnered significant attention within the Indian society, where it is commonly referred to as “Dayan Pratha” in the local dialect. The inception of witch-hunting in the Indian subcontinent can be traced back to the notorious occurrence known as the Santhal witch trials which transpired in the year 1792. This event unfolded within the confines of the Singhbhum district, situated in the Chotonagpur of India. The prevailing notion of patriarchy within societies has been widely acknowledged as the underlying catalyst for the pervasive and widespread occurrence of witch hunting across the globe. In the historical era of colonialism, a convergence of efforts emerged between the missionaries and administrators of colonies in their pursuit to document and explore the intricate realms of witch hunting and ‘witchcraft’ within the confines of colonial India. This shared objective was driven by a desire to exert authority and establish a system of governance over the subjugated populace inhabiting the territorial expanse of colonial India. In the subsequent period, a collection of fragments of data was procured pertaining to the historical event commonly referred to as the First War of Independence which transpired in the year 1857. The comprehensive examination of this particular conflict has been the subject of extensive scholarly investigation by historians. However, this particular occurrence, commonly referred to as the first mass witch hunting within the tribal communities in Chotonagpur, regrettably did not garner significant attention.⁴

➤ INFLUENCE OF SUPERSTITION

The foundation upon which the institution of witchcraft and the subsequent fervour of witch hunts were constructed can be traced back to the pervasive influence of superstition. The prevailing conviction among rural communities is that malevolent entities, commonly referred to as evil spirits, are intrinsically ensnared within the female populace, manifesting as dains. Consequently, these afflicted women endure persecution and marginalisation, often labelled as tohnis. The aforementioned practise can be interpreted as a manifestation of rebellion, serving as a means to

⁴ Aditi Pandey, *Practice of Witch hunt in India: fallacies in statutes and exigency for a central legislation (gender-based violence)*, CRIMINALLAWSTUDIESNLUJ, (November 2, 2023, 10.00 AM), <https://criminallawstudiesnluj.wordpress.com/2022/04/04/practice-of-witch-hunt-in-india-fallacies-in-statutes-and-exigency-for-a-central-legislation-gender-based-violence%EF%BF%BC%EF%BF%BC/>.

challenge and resist the prevailing social order within society. Specifically, it represents a response to the male-dominated societal structure, which exhibits a notable lack of tolerance towards acts of defiance initiated by women.

➤ MARGINALIZATION AND PATRIARCHAL AUTHORITY

The exclusion of women from the acquisition of ritual knowledge and their participation in ritualistic practises represents a significant form of deprivation. This deprivation manifests in the denial of women's access to the sacred and the consequential marginalisation of their presence within ritualistic contexts. The absence of women from the realm of ritual knowledge not only perpetuates gender inequality but also hinders the development of a more inclusive and egalitarian society. Consequently, it becomes imperative to critically examine and address this issue in order to foster a more equitable and just social order. The acquisition of such knowledge possesses the potential to impede the prevailing social structure, while concurrently posing a formidable challenge to the control of the dominated by men ruling class. In this particular context, a distinct segment of society is actively engaged in a concerted effort to effectuate transformation within another segment of society, primarily through the implementation of novel cultural practises. Such endeavours are aimed at challenging and ultimately altering the prevailing social order that currently governs the collective fabric of the community.⁵

The role of established patriarchy in the practise of witch hunts in India is of utmost significance. The inherent struggle and conflict that arises from the dichotomy between male-dominated and female-dominated systems imparts it with a rebellious essence, thereby rendering it an act of defiance in its own right. The act of rebellion can manifest itself in various forms, encompassing both defiance towards an established authority and resistance during the era of independence, symbolising a refusal to comply with the rules and regulations imposed by the British colonial regime.⁶ It is also imperative to comprehend the phenomenon of gender-specific control, wherein women belonging to specific categories are targeted as witches and subjected to further control through acts of violence such as rape and domestic abuse. However, it is important to note that

5 Vidya Kakra , 'Witch Hunting in India – Need for a Central Legislation', Vol.I ,Issue-I, CALR JAL & J, <https://calr.in/wp-content/uploads/2021/09/Witch-Hunting-in-India-%E2%80%93-Need-for-a-Central-Legislation-Vidya-Kakra-.pdf> .

6 Shamsheer Alam and Aditya Raj, 'The Academic Journey of Witch Craft studies in India', MAN IN INDIA, 97 (21) , 123-138 The Academic, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3108724 .

the individuals who were persecuted as witches were predominantly widows, elderly individuals, those from lower castes, and children. This signifies the selective targeting of the lower socioeconomic class, while the practitioners of witchcraft, commonly referred to as ojhas, predominantly consist of males.

Within the discourse surrounding witchcraft, it is important to acknowledge the existence of an assumption positing that witchcraft is not solely a response to the rebellion of women, but rather a phenomenon that emerges in conjunction with the peasant rebellion, specifically pertaining to the impoverished segment of society. The vast tracts of land are possessed and diligently cultivated by the female members of tribal and rural communities, only to be subsequently subjected to appropriation by those who level accusations against them. It implies that the presence of land disputes served as an additional impetus for the establishment and perpetuation of the witch-hunting system.

LAWS AGAINST WITCH HUNTING IN INDIA

The various cases presently revolve around the Indian Penal Code of 1860, which has come under scrutiny in light of numerous instances of unnatural deaths of women throughout the nation. This critical examination stems from the absence of legislative provisions specifically addressing the pernicious phenomenon of witch hunts, which are inherently characterised as acts of violence. In the realm of legal jurisprudence, it is noteworthy that cases are not invariably addressed through the eyes of a singular statute, but rather, they are encompassed within the purview of various offences. This is particularly evident in instances where the gravity of the transgression necessitates a comprehensive analysis of the law. In the Indian Penal Code, for instance, the offences of Murder under section 302, Attempt to Murder under section 307, and Rape under section 376 serve as illustrative examples of this multifaceted approach. The dismissal of numerous cases at their nascent stage can be attributed to a lack of individuals who can provide first-hand accounts or the presence of testimonies that are deemed untrustworthy.⁷

⁷ Aditi Pandey, *Practice of Witch hunt in India: fallacies in statutes and exigency for a central legislation (gender-based violence)*, CRIMINALLAWSTUDIESNLUJ, (November 3, 2023, 10.00 AM), <https://criminallawstudiesnluj.wordpress.com/2022/04/04/practice-of-witch-hunt-in-india-fallacies-in-statutes-and-exigency-for-a-central-legislation-gender-based-violence%EF%BF%BC%EF%BF%BC/>.

➤ **THE PREVENTION OF WITCH HUNTING BIL, 2016**

Section 2(j) of the Prevention of Witch Hunting Bill, 2016 defines Witch hunting to include Persecution and the murder of a woman, which frequently involves widespread frenzies and lynching, followed a ojha's confirmation that the woman is a witch. The bill proposes for a maximum imprisonment of 3 years and maximum fine of five thousand rupees for identifying a woman as witch⁸ and provides for maximum imprisonment of 3 years and maximum fine of ten thousand rupees for labelling a woman as witch.⁹ the said bill classifies the offences under the bill as cognizable, non bailable, and non-compoundable. The bill also obligates the police officers on reception of commission of offence to immediately take measures to prevent and protect the women from witch hunt , and to file FIR immediately and arrest the accused in accordance with the powers guaranteed under section 151 of The Criminal Procedure Code.¹⁰it also imposes duties on the government to frame appropriate guidelines in accordance with act, to train police officers, to maintain confidentiality of the victim and to provide relief, rehabilitation, counselling services to the victims and to raise public awareness regarding the same.¹¹

Thus, it is need of the hour to enact a comprehensive legislation by enforcing the bill, as the general provisions in Indian Penal Code penalizes only the effect and not the offence of witch hunting per se. Also, the Hon'ble court has opined about the lack of evidence in the case of *Tula Devi & Ors. v. State of Jharkhand*¹² that, though the affirmation of the defendants conviction aligns with the offences delineated in the Indian Penal Code, however, the recognition of the charges under the Prevention of Witch (Dayan) Practise Act of 1999 has been nullified. The rationale proffered for this decision was predicated upon the provisions set forth in the aforementioned Act, wherein it was incumbent upon the aggrieved party to substantiate, through evidentiary means, the veracity of her claims pertaining to the infliction of torment upon her person on the grounds of being perceived as a practitioner of witchcraft. Regrettably, the victim in question was unable to discharge this onus of proof in the present litigation. In light of the established evidence, it has been determined that the accused individuals persistently referred to the subject in question as a witch for a duration spanning two years. This derogatory label was

⁸ Section 3 of the Prevention of Witch Hunting Bill, 2016 Bill No. 66 of 2016

⁹ Section 4 of the Prevention of Witch Hunting Bill, 2016 Bill No. 66 of 2016

¹⁰ Section 18 of the Prevention of Witch Hunting Bill, 2016 Bill No. 66 of 2016

¹¹ Section 19 of the Prevention of Witch Hunting Bill, 2016 Bill No. 66 of 2016

¹² Tula Devi and Ors. v. State of Jharkhand, 2006 (3) JCR 222 Jhr.

attributed to the alleged illness suffered by the son of one of the aforementioned accused parties. However, it is imperative to note that subsequent to the recovery of said son from his ailment, it is unsustainable to assert that the subject in question was subjected to any form of torture. The veracity of the evidence came under scrutiny due to its failure to establish the culpability of the accused. This deficiency stemmed from the absence of an ocular witness during the crucial moments of the identification and persecution of the woman in question, who was being accused of practising witchcraft. One additional contributing factor that exacerbates the aforementioned issue is the temporal lag in the reporting of criminal incidents, primarily attributable to the geographical positioning of the crime scene, which predominantly manifests in the periphery of urban locations, thereby impeding prompt access to law enforcement agencies. The occurrence of significant temporal prolongation has been duly noted in a multitude of instances, as exemplified by the notable case of *Madhu Munda v. State of Bihar*¹³, wherein the consequential outcome was the deterioration of the witness's credibility, rendering their statement devoid of reliability. Thus it becomes essential to provide protection to witness to enable to provide justice in witch hunting cases as effectively as possible.

CONCLUSION

Thus, the consequences of such heinous acts are devastating and far-reaching. The branding of women as witches perpetuates a cycle of violence and fear, leaving them vulnerable to unimaginable horrors. These atrocities manifest in the form of assaults, murders, and even mass attacks, where innocent lives are brutally taken away. Lynching becomes a chilling display of mob mentality, as communities join forces to execute these women based on nothing more than suspicions of possessing wicked magical abilities. This twisted perception of witch-hunting distorts reality and allows for the molestation and execution of countless innocent lives. It is a dark reflection of society's deep-rooted prejudices and ignorance. Sadly, these acts not only rob women of their lives but also contribute to the erosion of education, tearing families apart, and destroying any semblance of peace or stability. The very fabric of society is torn apart by the oppressive forces that fuel these acts. The unimpeded perpetuation of such practises constitutes a breach of an individual's inherent entitlement to equal treatment and preservation of life, as guaranteed by Articles 14 and 21 of the Indian Constitution, correspondingly. To date, witch-hunting legislations have been enacted in merely eight states within India. The aforementioned

¹³ *Madhu Munda and Ors. v. State of Bihar*, 2003 (3) JCR 156 Jhr.

states encompass Assam, Bihar, Chhattisgarh, Jharkhand, Karnataka, Maharashtra, Odisha and Rajasthan. The lack of interventions to address superstitions can contribute to the proliferation of unscientific and irrational behaviours, including spiritual healing, fraud, and dissemination of misinformation related to medical care. These practises can have significant adverse consequences on both public order and the health of individuals within a society, which necessitates a comprehensive law to deal with the issue in hand.¹⁴



¹⁴ Shamsher Alam and Aditya Raj, 'The Academic Journey of Witch Craft studies in India', MAN IN INDIA, 97 (21), 123-138 The Academic, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3108724.