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SUPERSTITIONS IN INDIA AND THE REQUISITE FOR A CENTRALISED LEGISLATION TO COMBAT IT

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ABSTRACT:

The epithet "superstition" refers to various practices and dispositions. However, many of them are unified by the wrong establishment of cause and effect.: a belief or practice resulting from ignorance, fear of the unknown, trust in magic or chance, or a false conception of causation¹. Superstitions in India are no anomaly; since before the British era, owing to India's cultural diversity, pluralistic believes, religion and tradition, it has been part and parcel of Indian life. However, under the guise of religious and expressional freedom, the crimes associated with such belief systems and practices are escalating. The NCRB, since 2013, has already reported over 50 deaths due to ritual sacrifices and more than 700 deaths performed through witchcraft². Reports have also suggested that cases of fraud and cheating have been registered owing to influence by Godmen, tantriks and the likes in the realm of superstition³. Such crimes have no scientific explanation other than delving deeper into the innate belief system intrinsic to each individual based on his/ her environment and social learning. The research paper probes into the various crimes influenced predominantly by superstition, its history, the impacting criminological theory and the adequate measures/ roles taken by the State, including its legal implications.

KEYWORDS: Superstition, crime, ritual killing, witch hunting, tantric, legislation

¹ Mariam- Webster Online Dictionary

² India Today <https://www.indiatoday.in/india/story/beyond-burari-deaths-occult-practices-are-still-a-killer-in-india-1279217-2018-07-06> (Oct 12, 2022)

³ Indian Express <https://www.newindianexpress.com/cities/bengaluru/2009/jun/28/they-preyed-on-superstition-and-greed-62763.html> (Oct 12, 2022)

INTRODUCTION:

Superstition is a menace rampant in many cultures, especially in South Asian countries. However, for the scope of the study, the research is pertinent only to India. India hosts a diversity of cultures, religions, and historical traditions, with which comes the vices of superstition. It is an overbearing, unreasonable and unscientific analysis of cause and effect that, to date, influences the daily habits of individuals. From unharmful beliefs of stopping the car when a black cat is spotted, hanging lemon and chilli outside the house to ward off evil eyes, to gorily sacrificing a human for ritual benefits, India has a potent series of practices. The question lies in analysing the criminality of such offences. The crimes involved owing to superstitions, among many, include ritual killings, witchcraft, cheating, fraud and the like. Statistics have shown that in Uttar Pradesh alone, 200- 300 cases of human sacrifice were filed between 1996- 2006, most of which have been reported as children. From 2001 -2006 in Northeast India, 300 people were killed due to the performance of Kaala jadu or black magic. In 2014, the National Crime Records Bureau (NCRB), a division of the Indian Ministry of Home Affairs, began compiling information on human sacrifices. Between 2014 and 2016, 51 such murders were reported in 14 of the 29 Indian states. Nine and eight, respectively, were the highest recorded numbers from Uttar Pradesh and Jharkhand, while two were reported from Maharashtra during the same period. The National Crime Records Bureau's most recent statistics show that as of 2016, there were 55,625 minors missing in India, 34,814 of whom were female. Many of the missing children were subsequently discovered to have been killed and decapitated. Additionally, there are gaps in crime that transcend urban-rural, wealthy-poor, and literate-illiterate boundaries.⁴ There seems to be an urban-rural divide, but the practice of blindly believing in the unscientific hypothesis is known to be prevalent in all sections of society.

The Constitution of India gives us the freedom to practise and propagate our religion under articles 25 -26. However, like every other fundamental right, it also comes under the gamut of reasonable restrictions, and the State can bring in laws to reasonably restrict any act that is in contravention to constitutional values. Owing to this vice, various state governments, including

⁴ Puja Changoiwala, India's Killer 'Godmen' And Their Sacrificial Children, SCMP, (Oct 13, 2022, last visited at 6:30 pm) <https://www.scmp.com/week-asia/society/article/2141250/indias-killer-godmen-and-their-sacrificial-children>

Bihar, Jharkhand, Assam, Maharashtra and Karnataka, have enacted laws to prevent crimes under their jurisdictions, but there has been some dilution regarding the provisions, and ambiguity still prevails. Judgements and case laws have also had no precedential impact on the jurisprudence of superstition-borne crimes. The paper contends that the existing legislations in the various states are ununiform, with no beneficial enforcement and uniformity in deciding the culpability and punishments prescribed. As a remedy, centralised legislation is important to be enacted to bring about some uniformity in how the offences arising due to superstitions are procedurally and substantively dealt with.

STATEMENT OF PROBLEM:

The research paper contends that the existing legislation by the State Governments with respect to combating superstition and witch-hunting varies in different criteria in each state. Centralised legislation shall help in bridging such gaps and uphold human rights by criminalising witchcraft.

RESEARCH METHODOLOGY:

The researcher gathered information from a variety of primary and secondary sources, including law books, journals, and other original materials, including case laws, court rulings, and organisation reports. This work is entirely interpretive and analytical.

The study is doctrinal in nature. Only judicial precedents and journal reports have been referred to since the legal research required substantiates a need for a law owing to the insufficiencies of the existing legislation.

HISTORY OF SUPERSTITION IN INDIA

The Indian subcontinent is vibrant with different cultures, religions, traditions, folklore and, more importantly, belief systems. These belief systems can either stem from a scientific understanding that can be viewed in consonance with the modern scientific temperament or be so bizarre that the very practise of such beliefs is harmful to public order and morale.

The Indian society has believed in a plethora of supernatural interventions for the ultimate good or destruction of humankind. Superstitions vary from contrasting aspects such as omens, spirits, the evil eye, black magic, marriage to attributing supernatural powers to trees, birds, animals, reptiles, and insects.

The Indian society might have considered spotting rice, a cow, a blot of ink, a pot of toddy, a marriage procession, a flower or fruit, a peacock and so on as a good omen maybe because of the prime status that one brings to the society if possessed such consumerist goods. It was probably psychological to help the rich Indian society to motivate themselves in finding good omens and correlating it to the good happening of the sighter in the future. However, bad omens include hearing a dog howl at night, a chandelier breaking or a wife's bangle breaking. The bad omen of a wife's bangle breaking is probably correlated to the ill health of the husband, since women have traditionally broken their bangles, after his death⁵.

Evil spirits are another forte in which Indians of all cultural backgrounds believe in. Depending upon the religion, one either believes in Djinns (Indian Muslims) and Bhoots (Hindus). While there are many legends regarding bhoots and Djinns, who some call them astral projections, the Indian society does not shy away from observing absurd practices to rid the human body off of supernatural forces using a technique called black magic. It is documented that the sorcerers in the Hindu faith obtain a gift for himself and the demon, then he recites incantations, at the same time passing his hands over the patient and rubbing him with a mixture of oil and dust or water and dust. If this does not suffice, he however the patient with a slipper or a broom, frequently with satisfactory results. It is claimed that other diseases besides hysteria can be cured by incantations and external applications, but another method is to transfer the diseases from the patient to someone else. Another method that the sorcerer implements is by prescribing that the patient take bath in the middle of a plantation of sugar cane, undress, and swallow a piece of paper with a magic formula written in Sanskrit for Hindus and taken directly from the Koran for Mohammedans. The patient's ailments or possessed soul will leave the human body⁶.

Superstitions can help in being optimistic such as omens. However, the legal and societal implications with respect to the evil eye, black magic and spirits seem to make people think irrationally. The irrationality is to the extent wherein a reasonable man with ordinary prudence would not indulge in.

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⁵ Leslie Moore, Indian Superstition 59 Journal of the Royal Society of Arts 367, 369 (1911).

⁶ Leslie Moore, Indian Superstition 59 Journal of the Royal Society of Arts 367, 370- 371 (1911).

SUPERSTITIONS IN MODERN DAY INDIA AND ITS IMPLICATIONS

In a recent horrific incident in Kerala dated October 12, 2022; two women were murdered in Kerala. Their corpses had been dismembered, their breasts had been saved for "safety," and a knife had been put in their nether regions. Because a couple was taught that doing this would make them wealthy⁷.

"They did not stop for the whole night. Around midnight, they forced me to eat raw rice and pulses. They put kumkum on me and then forced me to swallow a two-rupee coin." She started vomiting after swallowing the coin, "but they made me drink much water, because of which the coin was stuck in my throat. I could not speak." This is another incident of ritual killing or an offence bolstered by a superstition. This is the story of Seema, the wife of the victim who was murdered. Seema was tortured as a part of a witchcraft ritual performed by her sister-in-law in the state of Rajasthan⁸.

In 1958, A tantrik in Odisha, lured three adolescents to the shrine of Maa Durga that was on a hill. All the three boys were found to be brutally murdered with their blood splattered over and presented to the Goddess⁹. This incident generated such shockwaves that the then Prime Minister Rajiv Gandhi himself sought a report on the said gruesome incident.

In order to end the Corona virus pandemic, a priest from Odisha sacrificed a human to a Goddess in the temple to appease her. The victim's head was brutally chopped on the temple premises¹⁰.

⁷ Pallavi, Kerala Human Sacrifice And The Horror Of Killing In God's Name, India Today (Oct. 13, 2022, 9:33 PM), <https://www.indiatoday.in/crime/story/kerala-human-sacrifice-and-the-horror-of-killing-in-gods-name-2284585-2022-10-12>.

⁸ Srishti Jaiswal, Ritual Killings: How Crimes of Superstition Thrive in the New India, Pulitzer Centre (Oct. 17, 2022, 5:40 PM), <https://pulitzercenter.org/stories/ritual-killings-how-crimes-superstition-thrive-new-india>.

⁹ Farzand Ahmed, Human Sacrifice In Orissa Sends Shock Waves Across The State, Throughout India, India Today (Oct. 18, 2022, 10:04 PM), <https://www.indiatoday.in/magazine/crime-stories/story/19850715-human-sacrifice-in-orissa-sends-shock-waves-across-the-state-throughout-india-770203-2013-12-22>.

¹⁰ Mohammad Suffian, Odisha priest chops off man's head inside temple to appease gods, ward off coronavirus, India Today (Oct. 18, 2022, 10:30 PM), <https://www.indiatoday.in/crime/story/odisha-priest-kills-man-to-offer-human-sacrifice-for-coronavirus-1682830-2020-05-28>.

These were only a few cases that have been recognised by the mainstream media. Ritual killings, witchcraft, deceit, fraud, and other offences of a similar nature are among the crimes involving superstitions. According to statistics, 200 to 300 instances of human sacrifice were reported in Uttar Pradesh alone between 1996 and 2006, with children making up the majority of the victims. Between 2001 and 2006, black magic, also known as kala jadu, was employed in Northeast India to murder 300 persons. In 2014, the National Crime Records Bureau (NCRB), a branch of the Indian Ministry of Home Affairs, began gathering data on human sacrifices. In 14 of the 29 Indian states, 51 similar murders were reported between 2014 and 2016. Nine and eight, respectively, were the highest recorded figures from Uttar Pradesh and Jharkhand¹¹.

LEGISLATIONS IN THE VARIOUS STATES RELATING TO ANTI-SUPERSTITION

In *Jitu Murumu alias Sukul Murmu & Anr. v. State of Odisha*, the High Court has opined that the existing laws are not enough to combat the offences arising due to superstitions among the Indian society. A centralised legislation is needed to address the issue.

The Constitution of India under Article 51A (h), suggests that it shall be the duty of the citizens to develop the scientific temper, humanism and the spirit of inquiry and reform.

Section 302 of the Indian Penal Code takes cognisance of murder. The criminal jurisprudence suggests that an overt act, or the tangible result of human behaviour, is referred to as an actus reus. It is an event that may be dissociated from the choices made that produced the result. As an illustration, the death of the victim in a murder case serves as the actus reus. The firing of a gun was most likely the action that brought about the consequence, the death or the actus reus. In other words, the crime is the incident itself, not the actions that led to it¹². This section due to this only recognises human sacrifice after the murder has taken place but not the act of human sacrifice itself.

¹¹ Supra

¹² P S A Pillai, Criminal Law 19 (12th ed. 2014).

*The Prevention of Witch Practices Act, 1999*¹³ was first implemented in Bihar. However, the provisions under Sec 2 provides only a small exhaustive list of only black magic, evil eye and mantras. The arising offences through superstitions have not been clearly defined. A person committing this offence under the Act shall be punished with imprisonment for a term which may extend to 6 months or fine of Rs. 2,000 or with both. An eight-year-old girl was allegedly killed as part of a ritual for human sacrifice developed by a local mystic when her mangled body was discovered on the banks of the Ganga in Bihar's Munger district on in August 2021.¹⁴ According to *The Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013*, it aims, is to bring social awakening and awareness to the society, create a healthy and safe social environment with a view to protect the common people in the society against the evil and sinister practises thriving on ignorance, and eradicate practises propagated in the name of so-called supernatural or magical powers or evil spirits commonly known as "black magic." The law, however, is unable even to define what superstition is. The person guilty of such offence shall, on conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine which shall not be less than five thousand rupees but which may extend to fifty thousand rupees.

In 2015, the *Tonahi Pratadna Nivaran Act* was passed in Chhattisgarh. The law makes it illegal to refer to anyone, man or woman, as "tonahi," a term that is used to describe "Anyone who will harm, has the ability to harm, plans to harm another person or people, or who has the means to do so.

If it is determined that someone who has been designated as tonahi has been subjected to physical or psychological harassment has done so, the legislation allows for a maximum sentence of five years in jail. Additionally, it makes certain behaviours illegal, including "against any individual identified as a tonahi or any other person, animal, or living thing said to have been impacted by such a tonahi. This includes jhar-phook, totka, the usage of tantra-mantras, or anything else as Ojha.

¹³ Prevention of Witch Practices Act, 1999, § 3, No. 9, Acts of State of Odisha, 1999 (India)

¹⁴ Avinash Kumar, Munger girl killed in human sacrifice ritual, 4 held: Police, Hindustan Times (Oct. 18, 2022, 9:45 PM), <https://www.hindustantimes.com/india-news/munger-girl-killed-in-human-sacrifice-ritual-4-held-police-101628534480774.html>.

CONCLUSION:

India is a signatory to the Universal Declaration of Human Rights, 1948, International Covenant on Civil and Political Rights, 1966 and The Convention on the Elimination of All Forms of Discrimination against Women, 1979. Yet, the state of affairs in India with respect to superstitious ritual killings remain heard of in every nook and corner of the country, the international legislations advocate for right to life and freedom of religion, both of which are necessary aspects to be cognizant about while dealing with a complex issue such as ritualistic killing.

There are laws that have been enacted in the states of Rajasthan, Jharkhand, Assam and Karnataka. All the legislation varies either in the punishments prescribed or do not recognise acts that are still detrimental to human society.

Moreover, superstitions are very innately related to religion. The Constitution of India envisages the right to freedom; to freely profess, practise and propagate one's religion. However, this fundamental right is subject to restrictions. The Anti- Superstition laws shall come under the ambit of restrictions.

Since the Indian Penal Code- a codified statute for all the offences committed in the Indian jurisdiction is governed by this Act, the unrecognition of human sacrifices, ritual killings and other gruesome activities undertaken under the garb of superstition, leading to someone's death must be rightly recognised and criminalised.

The Orissa High Court in *Ishwar Attaka v. State of Orissa*¹⁵ observed, "murders and other serious crimes are continuing unabated in the name of witchcraft, sorcery and superstitious practices. The horrendous and lurid scenarios of the obsolescent superstition of witch-hunting have taken many innocent lives."

In furtherance of the above mentioned, the Supreme Court in *State of U.P. v. Seherunnisa*¹⁶, opined that, the widespread domain of superstition in India, noted, "Superstition plays a very important role in the Indian society. It is not restricted to any religion or a particular section of society including the haves and the have-nots."

According to research titled "*Report on Awareness & Advocacy Campaign against Women's*

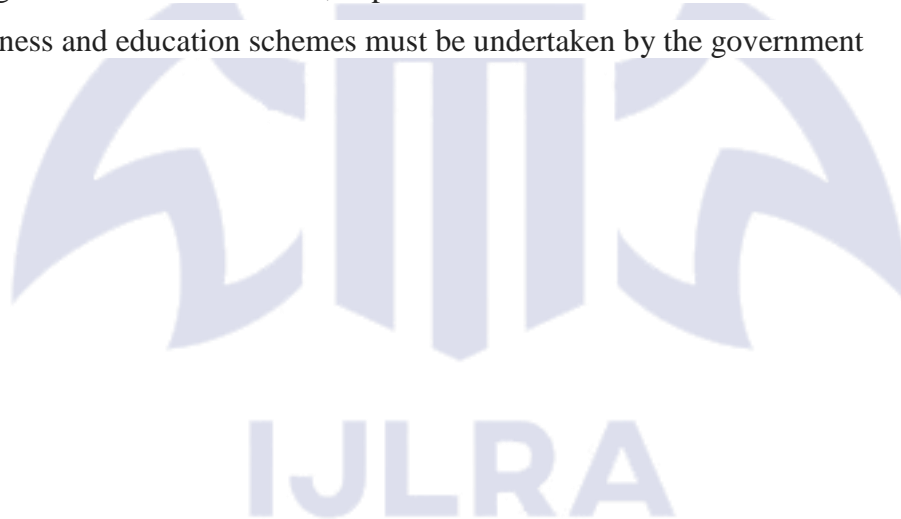
¹⁵ 2015 SCC OnLine Ori 346

¹⁶ (2009) 15 SCC 452

Exploitation in the Name of Witchcraft and Land Rights," a total of 452 women were allegedly brutally murdered in Jharkhand between 2001 and 2008 on the pretext of witchcraft. Association for Social and Human Activities, an NGO, prepared the report¹⁷.

There is a need for a centralised legislation. The legislations and instances mentioned above only prove the inadequacy of the existing laws. the NCRB reports containing records of homicide due to superstition is proof enough that primacy must be given to frame such laws. The laws must be redrafted in a manner which shall help in bridging the gaps mentioned.

While framing such laws, the legislators must be cognizant of the cultural and traditional practices of a certain region or religion. The Centralised legislation must answer criminal jurisprudential questions such as mens rea, actus reus, knowledge, and intention while considering evidences. Furthermore, superstition is a realm intrinsic to culture and tradition, thus awareness and education schemes must be undertaken by the government



¹⁷ Whole of India needs anti-superstition law, (Oct. 19, 2022, 7:20 PM), <https://www.downtoearth.org.in/news/whole-of-india-needs-antisuperstition-law--41977>.