

WOMEN THE VICTIM OF WITCH HUNTING IN INDIA: PRACTICES, SOCIAL TRENDS AND LAW

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Abstract: Witch hunting is a superstitious practice which has led to the persecution and death of hundreds of women in India every year. This practice is prevalent in various parts of the country in various degrees and mostly single women and widows become targets of this least talked violence against women. It has aggravated the life of the women (sometimes men) targeted as a witch. It not only harmed the women's psyche but also impact the status of women. Women who are branded as witches go through a life of stigma, isolated from society and families including dis-figuration and even brutal murder.

The present paper reflects the social trend of targeting women as witch and different form of violence that is perpetuated in the name of witch hunting. It also highlights the relevance of structural contexts in which witch hunting occurs and gaps and loopholes in the legal system in addressing the issue.

Issues of reparative/rehabilitation components of justice remain missing in the current legal responses including the special laws. Thus, the study provides the present patterns in law and policy-making with regard to the incidences of witch-hunting.

Keywords: Witches, Witch Hunting, Structural Context, Law and Policy.

Introduction: The Practice of 'Witch Hunting' has been prevalent in most parts of India, especially in the remotes part of the country. It is a practice of alleging an individual of practicing witchcraft and also include of labelling or branding him/her as 'witch and then causing harm through various means such as dispossession, isolation, brutalization and murder¹.

Witchcraft is most often connected with the infliction of damage on individuals or property through the exercise of mystical powers. It is, however, difficult to define witch-craft with precision as the meaning of it varies with locations, cultures and traditions. In spite of the fact that there are contrasts in its structures, however people over the world would consider that a witch is supposed to possess some dangerous power by the spell of which she dispenses hurt on the people and the society as well.

Witch craft in the sociological and anthropological terms can be depicted as a phenomenon that is invoked to explain misfortune by attributing it to the evil influence of someone, either from within or outside the community.²

Ronald Hutton has identified five characteristics generally shared by those who believe in witches and witchcraft across different cultures and time periods:

- a) witches use non-physical means to cause misfortune or injury to others;
- b) harm is usually caused to neighbours or kin rather than strangers;
- c) strong social disapproval follows, in part because of the element of secrecy and in part because their motives are not wealth or prestige but malice and spite;
- d) witches work within long-standing traditions, rather than in one-time-only contexts; and
- e) other humans can resist witches through persuasion, non-physical means(countermagic), or deterrence including through corporal punishment, exile, fines or execution³.

Various terms such as *dayan, tohni, chudail, diani etc.* depending upon different region and parts of the country are used to label a woman as a witch. The term *tohna* is used for males who are labeled as a witch. Despite the diversity, it have been observed that whatever the different practices and understandings of the term 'witch' may be, it involves one common feature – the attribution of certain 'supernatural' powers to a person by others. An attribution of a person as a witch is nearly always negative, fearful and destructive and once a person is labelled a complex set of reactions and fear is

invoked, making it very difficult for the women (sometimes men) targeted as a witch to defend themselves.⁴

Thus the practice of witch hunting has always been heart-breaking. Its remedial measures are perhaps rarer than any incredible thing that can ensure a healthy society. There is still inadequacy in mitigating this challenge. As traditional beliefs are deep-rooted in the minds of people have proved to be the major hurdle in removing and the problem seems to persist as never-ending problem in the society

Social Trends Targeting Women As 'Witch': Witch hunting at present context cannot be restricted to class, caste or religion nor can be seen in terms superstition or outcome of illiteracy and lack of education. The practice is prevalent among the educated as well and has to be seen through a gender lens and a manifestation of patriarchy.

The victims of witch hunts are usually women and the target are often single women or widows with productive resources also includes married women who are in leadership within the family. The reason for accusing women as witches have economic angles, with cases like land of property disputes, envy of economic and political progress say leadership role, higher position in family, group or community.⁵

The trend also highlights women who are exceptional in terms of looks, strong minded, educated have greater chance of being branded as a witch. The main instigator is called the *Bhagat*- a term of *ojha*, or spirit healer or witch doctor who may sometime take bribe to name a woman as witch.

The impact of branding and stigma is believed to be across generation. For instance, a daughter inherits the level and the stigma attached to her mother, as it is believed that mother transmit the knowledge of witchcraft to her daughter, or in case she does not have daughter, to the daughter in law.⁶ This taint and isolation as a consequence of branding haunt women across generation affecting their marriage, social and economic progress.

The National Crime Records Bureau reveals that 2,097 murders were committed between 2000 and 2012 where witch hunting was the motive. Out of these, 363 were reported from Jharkhand and this figure does not include the murders in 2000 when Jharkhand was a part of Bihar. The Jharkhand Central Bureau of Investigation (CBI) office puts the total number of such murders from 2001 to October 2013 at 414 and cases registered for witchcraft at 2,854⁷. Apart from Jharkhand, at least 11 other states - Haryana, Chhattisgarh, Orissa, West Bengal, Madhya Pradesh, Rajasthan, Andhra Pradesh, Gujarat, Maharashtra, Assam and Bihar - still report cases of witch hunting.

National Crime Records Bureau Report 2010 states that Haryana contributed 32.0% of murders due to 'Witchcraft', and the bureau's 2012 report Crimes in India says Odisha accounted for 26.9% of murders due to 'witchcraft'. Under culpable homicide not amounting to murder Odisha accounted for 75.0% cases due to 'Witchcraft'. Sixteen of the 27 Assam districts have reported witch-hunt attacks, in which over 150 people have died since 2002 and still continuing.

Gaps and Loopholes: The practice of witch hunting in India includes violence and beliefs that have led to the torture and murder of alleged witches. Though governments of different states are trying to address the problem but the key issue is the implementation of the existing law which rest upon the law enforcement machinery that is embedded in the cultural value system, penal law alone cannot change the social realities.

There is a lack of adequate and immediate response by police. The Investigation is weak and partisan. An FIR is often not recorded and if it is, it pertains to a lesser offense than what has actually occurred due to which the accused are let off immediately or after a night in police custody. In addition, the environment and the community discourage or make it difficult for the police to register such cases.

Women who are being victimized are often reluctant to file or register a case with the police, and view legal system as ineffective. Most labelled women are poor, lacks social and economic resources or support mechanism to approach the police. The police also do not recognize that the targeted women are stigmatized, depressed and broken, lacking support or strength to pursue legal process on their own.

It has been observed that a common approach is adopted to settle such cases informally, is through the mediation of the community for victim pay fine. Payment of such fine settles the case, through admission of guilt of the victim and as an apology and promise that she will refrain herself from the practice of witchcraft and disturbing others.

The disturbing fact is that such compromises are not limited to community alone, but are also forged in the police station and during the course of the legal process. This is one of the reasons that stops victimized women to seek legal help in such case and the case gets compounded.

Furthermore, the punishment in the law is trivial, often no more than three years of imprisonment. Under special law, there is provision for compensation but non- implementation of the law, lack of convictions and compensation to the victim makes the law meaningless. This shows special law with special provisions fails to deliver justice because of lack of effective implementation, lack of will to implement, partisan, open to influence and loaded against the women.

Current Trend in Law and Policy Making: In India, there is no specific and particular national level legislation that penalises the perpetrators of witch hunting. However, there are provisions under the Indian Penal Code 1860 which can be used as an alternative for the victim. The different sections invoked in such cases are Sec.302 which charge for murder, Sec 307 attempt for murder, Sec 323 hurt, Sec 376 which penalises for rape and Sec. 354 which deals with outraging a woman's modesty.⁸

Apart from the provisions of Indian Penal Code, different states in recent years have come up with different legislation to tackle the problem of witch hunting.

Bihar though being most backward was the first state in India to pass a law against witch hunting in the year 1999, which was named "Prevention of Witch (Dayan) Practices Act."

Jharkhand followed it and established "Anti Witchcraft Act" in 2001 to protect women from inhuman treatment as well to provide victim legal recourse to abuse. Basically, Section 3, 4, 5 and 6 of the concerned Act provides punishment which will be granted if anyone identifies someone as witch, tries to cure the witch and any damages caused to them. Whereas, section 7 of the act, states the procedures for the trial.⁹

Chhattisgarh government passed a bill in 2005 named "Chhattisgarh Tonhi Pratama Bill", which was established to prevent atrocities on women in name of *Tonhi*.

Rajasthan government has also passed a bill "Rajasthan Women (Prevention and Protection from Atrocities)" 2006, which makes it illegal as well punishable for calling any woman as "*dayan*" or to accuse a woman of practicing witchcraft, which extends to three years of imprisonment and Rs 5000 fine.

The Assam Government have also passed the "Assam Witch Hunting (Prohibition, Prevention and Protection) Bill, 2015 making any offense under the Act as non-bailable, cognizable and non-compoundable to eliminate the superstition from society.

Conclusion: To conclude, despite all effort, the practice of witch-hunting is still continuing in India. This continued perpetration of witch hunting violates many international human rights that women possessed of, including their right to equality and non discrimination, right to life and liberty, right to be free from cruel and inhuman treatment, right to security, right to access national tribunals and the obligation to provide effective measures for relief. The reasons behind it are lack of national legislation,

lack of evidence and issuing of report, ineffective implementation of established rules. Hence the problem can be solved by strict enforcement as well as implementation of Anti-Witch Hunting law and also by sensitizing police and welfare department and NGO's who will work for sensitization purpose. As witch hunting is more prevalent in backward areas therefore step should be taken to raise awareness among the members of the community in order to change the perspective of society and believe over superstition.

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