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## Witch-Hunting against Dalit women: A Grave case of Superstitious violence and Social Injustice

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*Forty-Seven years after independence and tremendous economic progress later, the caste system remains a societal reality in India; despite the various constitutional protections (Article 14, Article 15, Article 16, and Article 17) and other legal protections for discrimination against the scheduled castes and tribes. In rural areas, Dalit women, face even greater discrimination within and outside the caste as compared to men and are subjected to gender violence, mostly sexual in nature. One of such horrific acts of violence against Dalit women is declaring them witches and accusing them of witchcraft, followed by a 'witch-hunt', at times resulting in the death of the woman by burning her alive. Traditionally, it was done to ward off evil, but with the development of scientific temper, it is nowadays done with ulterior motives, with the desire of a socio-political gain like land-grabbing, personal rivalries, sexual favours, vigilantism, political agenda et al. It is also seen as a way to maintain caste dominance in the society and control resources. Those who dare to hold forth or question the male domination over them and the resources are incarcerated by powerful men, who label her as a 'Dayan' or a witch. Most of the victims are Dalit widowed or single women, who face social exclusion once, they are accused of being a witch and are further, deprived economically and socially. Politicians so far are apathetic to this issue, and there is minimal media coverage. This paper seeks to analyse the atrocious crime of witch-hunting against women in rural areas- with special reference to Dalit women. The motives behind witch-hunting and the role of caste hierarchies in supplementing these crimes are discussed. It also examines the relevant laws at present that deal with this crime. The paper concludes that the current legal mechanism and the judicial institutions have failed to suppress the crime of witch-hunting, as the far-reaching violation of human rights continues in broad daylight.*

**Keywords:** *witch-hunting, witch-craft, caste hierarchy, patriarchy, vigilantism.*

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## INTRODUCTION

“On January 26, 1950, (founding day of the Indian Republic) we are going to enter into a life of contradictions. In politics, we will have equality, and in social and economic life, we will have inequality.”<sup>1</sup>- Dr. Bhim Rao Ambedkar Years after independence, Babasaheb’s statement remains veracious. The caste system in India is a social reality, despite the various constitutional protections provided to the lower castes. In the caste and gender hierarchy, Dalit women are even more vulnerable, as they have to face discrimination outside as well as within their caste. Gender violence is a wide-ranging crime that spans from domestic violence to rape or gang rape to cultural and societal evils; such as the 'purdah' system, child marriage, genital mutilation, dowry death, trafficking, and other forms of gender-based violence. Although gender violence affects all Indian women, socio-cultural and economic dimensions influence the kind of violence perpetrated against women. It is unfair to presume that modern, more advanced, cosmopolitan metropolitan cities are subjected to any less gender violence than in traditional rural setups- it exists everywhere, from public places, and workplaces to closely-knit families. Studies show, that the “context and nature of gender violence differ not only from geographically local to regional societies but also socially structured norms.”<sup>2</sup> However, the most recurring similarity between these cases is that "women suffer silently"<sup>3</sup> and those who pluck the courage to stand up are only made to suffer more. The women carry the burden of physical and mental trauma which has an adverse effect on her dignity and self-esteem.

Witchcraft was not developed in India and was a social evil “practice out of ignorance and aboriginal belief systems”<sup>4</sup>. However, with scientific progress what should have been discontinued, still exists in the twenty-first century- where a woman faces the wrath of an

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<sup>1</sup> Rodrigues Valerian, *The essential writings of BR Ambedkar* (Oxford University Press 2002) 572

<sup>2</sup> M. Iqbal, 'Witch Hunting: A Case of Gender Violence in the Garb of Vigilantism in India' (2015) 4 (11) International Journal of Advanced Research in Management and Social Sciences, 109-120

<sup>3</sup> Dr. Shalu Nigam, *Domestic Violence in India: What One Should Know?: A Resource Book* (We the People Trust 2008)

<sup>4</sup> M. Iqbal (n 2)

entire community and is penalized on the basis of a malicious accusation of being a witch. This heinous crime deprives women of their basic right to life and in certain unfortunate cases, this superstition, coupled with malicious intent, also results in the demise of a woman. Many times, these atrocities are committed in broad daylight- in the presence of amused onlookers, who turn her misery into a spectacle<sup>5</sup>. This paper discusses the ruthless crime of witch-hunting against women in India, and how it has to be seen not only from a gender lens but also as a caste atrocity. It elaborates upon the motives behind accusing women of witchcraft. The failure of the institutional machinery to stop such harassment is also highlighted. It concludes with certain socio-legal policy recommendations to prevent this dehumanizing practice.

## WITCH-HUNTING

The term, 'witch' is usually used to define a woman who has supernatural powers and can perform black magic. In Hindi, 'witches' are usually referred as to, "*daayan, tohni, chudail*"<sup>6</sup> et cetera. Although all over the world, mostly women have been subjected to witch-hunting, in certain areas of Chhattisgarh, one could find male 'witches' as well and they were referred to as "tohna"<sup>7</sup>. However, in present-day, witch-hunting is a gender-based crime as the majority of the killings are committed on women. The precise definition of 'witch' varies from state to state, and country to country, but their common attribute is the acquisition of supernatural power to perform sorcery. The term has negative connotations and instills fear and hatred in the minds of the bystanders. As per Dalit activists<sup>8</sup>, witch-hunting is a run-of-the-mill rationale for the murder of Dalit women and perpetuates caste hierarchies in a violent form. There are three stages<sup>9</sup> involved in the process of witch-hunting.

<sup>5</sup> Shamsher Alam & Aditya Raj, 'Witchcraft and Witch Hunting in India: An Assessment' (*SSRN E-Journal*, 17 March 2018) <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3130547](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3130547)> accessed 28 April 2022

<sup>6</sup> Dr. Praveen Mishra & Priyanka Shukla, 'Targeting the Vulnerable: Witch hunting and Violation of Women's Right in North East India' (2018) 14 (4) *Parisheelan* <<http://crm.skspvns.com/wp-content/uploads/2020/09/69-Dr.-Praveen-Mishra-Priyanka-Shukla-417-428.pdf>> accessed 28 April 2022

<sup>7</sup> Samar Bosu Mullick, 'Gender relations and witches among the indigenous communities of Jharkhand, India' (2000) 4 (3) *Gender, Technology and Development*, 333-358

<sup>8</sup> Vinay Lal, 'Witch hunts in the academy' (2005) 40 (19) *Economic and Political Weekly*, 1932-1934

<sup>9</sup> Tanvi Yadav, 'Witch Hunting: A Form of violence against Dalit women in India' (2002) 1 (2) *CASTE / A Global Journal on Social Exclusion*, 169-182 <<https://journals.library.brandeis.edu/index.php/caste/article/view/203>> accessed 28 April 2022

In the first stage, the woman is accused of being a witch. The accusation occurs usually after "harm occurred in the community or to the individual, such as the death of any person, child or animal, any disease in the village, natural disaster, or crop loss"<sup>10</sup>. The second stage is declaring to the community that the woman is a witch and has acquired supernatural power that she will exercise evilly. The process of ostracisation and social exclusion commences at this stage. Rituals are performed by "traditional witch-finders or witch doctors, who are popularly known as the khonses, sokha, janguru, or ojha"<sup>11</sup> due to their 'expertise' acquired through experience in identifying witches. Based on the circumstances, these 'witch doctors', prosecuted them. The third stage, that is persecution, is the most horrendous of all stages and leads to death in extreme cases. This stage can include physical and mental harassment, torture, burning, and other forms of violent acts. Persecution is explained as "strategic attempts encouraged by dominant and influential groups in society, directed at groups that threaten them"<sup>12</sup>.

Vulnerable women like "widows, single, older women, and social-economic marginalized women without any support"<sup>13</sup> are more prone to become the victims of such persecution. Dalit women have been historically made to suffer in rural areas by using such tactics. In some parts of the world, women come forward and self-identify as witches in public. However, in India, this is not the case and it is mostly the socially and culturally dominant groups like upper caste men in a village that accuse, declare, and persecute women as witches, for their personal and community gains.

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<sup>10</sup> Debarshi Prasad Nath, 'Assam's Tale of Witch-hunting and Indigeneity' (2014) 49 (37) Economic and Political Weekly, 54-60 <<https://www.epw.in/journal/2014/37/special-articles/assams-tale-witch-hunting-and-indigeneity.html>> accessed 28 April 2022

<sup>11</sup> Shashank Sinha, 'Witch-hunts, Adivasis, and the Uprising in Chhotanagpur' (2007) 42 (19) Economic and Political Weekly, 1672-1676 <<https://www.epw.in/journal/2007/19/commentary/1857-witch-hunts-adivasis-and-uprising-chhotanagpur.html#:~:text=During%201857%2D58%2C%20even%20as,banned%20for%20its%20obvious%20barbarity>> accessed 28 April 2022

<sup>12</sup> Gary Jensen, *The path of the devil: Early modern witch hunts* (Rowman & Littlefield Publishers 2007)

<sup>13</sup> Mita Barman, *Persecution of women: Widows and witches* (Indian Anthropological Society 2002)

## HISTORICAL PERSPECTIVE

In early day America and Europe, when scientific discernment of natural disasters like floods, drought, and pandemics et al, which led to the destruction of human life was lacking, witches were blamed for causing these calamities. The state indulged in torturing these women accused of being 'witches' to coerce them into confessing that they caused these catastrophes by using black magic<sup>14</sup>. After the confession, they were subjected to a trial and were punished accordingly, mostly with death penalties. Joan of Arc's trial<sup>15</sup> is one of the most noted episodes of witch-hunting in the world, where a teenage girl who fought for her home country was later burnt alive when captured. With scientific progress and social-economic development, the crime of witch-hunting started diminishing. Unfortunately, in developing countries like India, and other oriental countries, this problem persists.

Witches are tried publicly<sup>16</sup>, unlike in America and Europe where proper judicial proceedings took place. Studies of ancient folk literature and society show that the term 'witch or dayan' is in use since the very beginning of civilization. Witchcraft was a customary practice in the rural parts of India as well as in the dense forests. According to the National Archive Records, *"thousands of women had been killed as witches in central India's plains alone in the early 19th century. During this period, the number of women killed as witches far exceeded those who died as sati (widow-immolation on husbands' funeral pyres), but the killings were neither reported nor given importance."* Both sati and witch-craft were used to justify killing women, but sati was a customary practice and witch-hunting was used to crush 'low status' women in the society, with vindictive motives. No value was attached to the lives of Dalit women.

In colonial India, an estimate from Rajasthan shows<sup>17</sup>, how widespread the practice of witch-killing was. The British had confiscated the lands of upper-caste men and in retaliation; they started witch-hunting Dalit women, known as the "Devi movement" to protect their land. Self-appointed experts, commonly known as 'witch doctors' were called to perform a test on

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<sup>14</sup> Diane Purkiss, *The witch in history: early modern and twentieth-century representations* (Routledge Taylor & Francis Group 1996)

<sup>15</sup> W.S. Scott, *Trial of Joan of Arc* (Courier Dover Publications 2018)

<sup>16</sup> Shashank Sinha (n 11)

<sup>17</sup> Ajay Skaria, 'Women, witchcraft and gratuitous violence in colonial western India' (1997) 155 (1) *Past & present*, 109-141 <<https://academic.oup.com/past/article-abstract/155/1/109/1448558>> accessed 28 April 2022

women, to identify and declare them as witches. There are also records of the victims, near and dear ones trying to seek guidance and help from the British administration to save these women<sup>18</sup>. Any event that led to widespread losses and death was associated with witches, and vulnerable women were hunted as a solution.

### THE ROLE OF CASTE-HIERARCHIES

The Varna system in India divides the population into four main castes, that is "Brahmins; priests and scholars, Kshatriyas; rulers and warriors, Vaishyas; agriculturalists and merchants, and Shudras; labourers and service providers"<sup>19</sup>. The members of the lowest caste, that is the Shudras, are also known as "savarnas or Caste Hindus". Some groups don't fall within any of the above-mentioned castes, and they are called "avarna or antyaja i.e., outside the Varna system."<sup>20</sup> These are India's 'untouchables', as they are considered "impure and polluting" and are engaged in "occupations such as sweeping, scavenging, tanning, etc"<sup>21</sup>. These communities perform integral functions in society, even if they are considered plebeian. Hence, they are often referred to as the "fifth Varna"<sup>22</sup>. These groups have been exploited and suppressed, both socially and economically. They have been cut out from the mainstream which resulted in their "lower participation in societal argumentations, education, and employment, which lowered their standard of life."<sup>23</sup>

Even in the Manusmriti, there is mention of witchcraft and black magic, for which Manu suggests<sup>24</sup> that "a fine of two hundred (panas) should be imposed". In all societies and social structures, women have been subjected to discrimination. Women's subordination has to be "understood to be a structural condition". The "structural subordination of women"<sup>25</sup> is referred to as patriarchy. Gender, caste, and class are the three main factors that determine an individual's place in the social hierarchy. Historian UmaChakravarti gave birth to the concept

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<sup>18</sup> Edward G. Man, *Sonthalia and the Sonthals* (Mittal Publications 1989)

<sup>19</sup> M.N. Srinivas, *Social change in modern India* (Orient Blackswan 1995)

<sup>20</sup> S.C. Dube, *Indian society* (National Book Trust 2005)

<sup>21</sup> M.N. Srinivas (n 19)

<sup>22</sup> *Ibid*

<sup>23</sup> Tanvi Yadav (n 8)

<sup>24</sup> Patrick Olivelle, *The law code of Manu* (Oxford University Press 2004)

<sup>25</sup> Chris Barker, *Cultural studies: Theory and practice* (Sage Publications Ltd. 2011)

of "Brahmanical patriarchy"<sup>26</sup> and argues that "its crucial aspect was linkage to the caste order and the differential impacts it had on women at different levels in the caste hierarchy." It's not like patriarchy does not impact upper-caste women. However, the patriarchy is limited to their family circle, whereas, in the case of Dalit women, it was state patriarchy that dominated them for "maintaining them as exploited labourers"<sup>27</sup>.

Ambedkar in his writing "Castes in India" highlighted the fact that "Brahmanism has gathered desperate myths like witchcraft and black magic together. Making unified cycles, developed a social fragment and used in holding back the Indian society and bogged down in a swamp of superstitions"<sup>28</sup>. As per the studies conducted by the National Campaign for Dalit Human Rights (NCDHR), "every hour two Dalits face assaults, every day three women of Dalit community are raped, two Dalits are murdered, and homes of two Dalits are torched". Dalit women are the most helpless as they have been excluded and exploited, socially and economically, both within and outside their castes. Dalit women are characterized as being "poor landless wage labourers who lack access to basic amenities and entitlements"<sup>29</sup>. Their suffering doubles as they are exploited by patriarchal structures both within their families and by the outside world. Witch-hunting is another mode of suppression of Dalit women and reinforcing their "inferior status". Perpetual fear and apprehension envelop the life of a Dalit woman in a village as she faces the constant risk of being targeted by the upper caste men for various reasons.

## ULTERIOR MOTIVES BEHIND WITCH-HUNTING

Witch-hunting was earlier understood as a superstitious crime due to a lack of education and scientific temper, but in present-day that is far from reality. In most cases, these crimes are induced by ulterior motives, and women are eliminated to grab their land and property, and as a way to safeguard caste dominance and patriarchy. The perpetrators are known to the

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<sup>26</sup> Uma Chakravarti, 'Conceptualising Brahmanical patriarchy in early India: Gender, caste, class and state' (1993) 28 (14) *Economic and Political Weekly*, 579-585 <<https://www.epw.in/journal/1993/14/special-articles/conceptualising-brahmanical-patriarchy-early-india-gender-caste>> accessed 28 April 2022

<sup>27</sup> Anand Chakravarti, 'Caste and agrarian class: A view from Bihar' (2001) 36 (17) *Economic and political weekly*, 1449-1462 <<https://www.epw.in/journal/2001/17/special-articles/caste-and-agrarian-class.html>> accessed 28 April 2022

<sup>28</sup> B.R. Ambedkar, *Castes in India* (Gaurav Book Center 2021)

<sup>29</sup> Tanvi Yadav (n 8)

woman and sometimes belong to their own families. There is no fear of law and order and women who are considered to be a burden are broadcasted as witches to take them out of the picture. Landowners attempt to seize a woman's land by luring the men in her family with money, to outcast her as a witch. In rural parts of India, Ojha is described as an "important public figure that in the absence of efficient government healthcare infrastructure greatly influences public health matters"<sup>30</sup>.

These Ojhas accept bribes from the greedy men to pronounce a woman as a 'witch'. Hence, Dalit women are witch-hunted to maintain gender and upper-caste hegemony. Vigilantes are usually upper-caste men, vowing to deliver justice when the people lose their faith in the state machinery for the same. These vigilante groups "operate in an organized group in order to protect their life, property, community, etc. from atrocious and corrupt state or gangsters. Literally, vigilantism means taking the law into one's own hands."<sup>31</sup> They give judgments based on their own personal and moral beliefs. This vigilantism has resulted in mob justice on various occasions, where a woman is persecuted for being a witch in front of a cheering audience, and the murderers of the woman go scot-free. Reports show that under the pretext of vigilantism, "The mob targets the alleged witch, hunts her out, strips her naked, parades her, beats her inflict bodily and mental injuries on her, lynches her, buries her alive or kills her and in rare cases- lets her escape from the village or community to a forest or desolate place."<sup>32</sup>

To preserve their position of privilege in society, upper-caste men have often employed witch-hunting to "terrorize women and reinforce the patriarchal mindset"<sup>33</sup>. Studies reveal that most victims of witch-killing are lower caste Savarna women, whose killing is justified by holding them accountable for natural disasters and other strokes of bad luck falling upon the

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<sup>30</sup> Joya Chakraborty & Anjuman Borah, 'Witch hunting in Assam: Strategising Alternative Media for Women Empowerment and Overcoming Superstition' (2013) 3 (2) Journal of North East India Studies, 15-24 <<https://jneis.webs.com/pdf/vol.3/3.2.2.pdf>> accessed 28 April 2022

<sup>31</sup> M. Iqbal (n 2)

<sup>32</sup> *Ibid*

<sup>33</sup> Tanvi Yadav (n 8)



villagers.<sup>34</sup> These women are subjected to physical torture and violence in order to put the frighteners on the entire community so that no one takes the liberty of standing up for justice.

In 2010, a Dalit woman, named KamlaBairwa<sup>35</sup>, was proclaimed to be a witch by her neighbors and was subjected to a high degree of torture. She was whipped mercilessly against a tree, till she bled. In another case from Raipur, Madhya Pradesh, in 2008, a Dalit woman named LataSahu<sup>36</sup>, was stripped naked and caned in public as she stood up as a candidate in an election, to which the upper caste men of that village objected. In the state of Jharkhand, four Dalit women<sup>37</sup> were publically lynched, after painting their faces black, shaving off their heads, laying them bare, and parading them around the village, with a crowd of villagers beating them with iron rods, to the extent that the roads pierced through their organs and they died of internal bleeding. Sinha cites another case, in which a lower caste woman was declared a witch by the village doctor for demanding justice. When other women backed her, as a counterattack, the witch doctor fed them some solutions which played with their psych and changed their behavior, as a result of which, the four women were also declared witches.

The Indian state, to protect the lower castes has provided various constitutional protections to Dalits by way of positive discrimination and banning untouchability. Attempts have been made to include them in the mainstream by providing them with reservations in educational intuitions, government jobs, and the legislature. In spite of these affirmative actions taken by the state, the lower castes are still treated as subordinates to the upper caste in villages and Dalit women come across as easy targets to sustain the caste and gender hierarchies. At times superstition sways not just upper caste villagers, but also Dalits, which makes them cross women from their community. These men are "blinded by illogical reasoning leading them to believe that women are the reason for their destruction"<sup>38</sup>. Witch doctors also provoke and

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<sup>34</sup> Kanchan Mathur, *Countering gender violence: Initiatives towards collective action in Rajasthan* (Sage Publications India Private Limited 2018)

<sup>35</sup> Tonk, 'Dalit woman branded as witch, thrashed in Rajasthan' (Deccan Herald, 29 August 2010) <<https://www.deccanherald.com/content/92320/dalit-woman-branded-witch-thrashed.html>> accessed 02 May 2022

<sup>36</sup> T.K. Rajalakshmi, 'In the name of the witch' (*Frontline*, 11 November 2000) <<https://frontline.thehindu.com/social-issues/article30255377.ece>> accessed 05 May 2022

<sup>37</sup> Shashank Sinha (n 11)

<sup>38</sup> Tanvi Yadav (n 8)

influence Dalit men against the women in their communities. The absence of education and the dearth of scientific knowledge intensify these beliefs. Faith plays a significant role here as it makes these men and women turn blind eye to all logic. In India, religion plays a paramount role in the social setup. The number of places of worship in India exceeds the number of schools, colleges, and hospitals, which is evidence of this fact.

According to Damodar DharmanandKosambi, "Ideas (including superstition) become a force once they have gripped the masses. There is less scope for scientific experimentation or proof by other means in the context of spirituality and society."<sup>39</sup> Superstitions are often proliferated by powerful men to withhold responsibility and dupe innocent villagers. In 2008, a man in a village employed a local girl as a caretaker for his ailing wife. As his wife's health deteriorated day by day, he held the girl liable for it, whom he believed to be a witch. To control the witch's actions, she was thrashed dreadfully and her hair was cut. A Dalit couple, SaheediBhuiyan and SamantiBhuiyan<sup>40</sup> was picked up from their hut in the middle of the night and taken to a faraway forest as the villagers had suspected them of witchcraft. Their bodies were found days later. In Jharkhand, a woman was attributed with demolishing the crops of the village by fire. She was hit with rods and was put in solitary confinement for four days.

Property disputes are also a considerable root cause behind witch-hunting. Property can be both movable and immovable property and includes land crops animals et cetera. Barman<sup>41</sup> explains "that witch-hunt in India is the outcome of property disputes. He further stated that victims of witch-hunts are mostly childless widows who have property rights, which will pass on to their nearest male relative after their death. By accusing them of witchcraft, these men inherit land immediately."In property disputes, land mafias appoint witch-hunting to garb land and work it to their advantage behind the notion of superstitious beliefs. Proclaiming the woman as witches and compelling them to get out of their own homes or getting them expelled from the village itself becomes an easy way to secure the victim's surrendered

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<sup>39</sup> D.D. Kosambi, *The culture and civilisation of ancient India in historical outline* (Vol. 358, Routledge Taylor & Francis Group 2022)

<sup>40</sup> Rahul Karmakar, 'Rape behind witch-hunt murders in assam, 6 held' (Hindustan Times 24 June 2011) <<https://www.hindustantimes.com/india/rape-behind-witch-hunt-murders-in-assam-6-held/story-AfL7FNmWeRrLxE2IZxIimL.html>> accessed 05 May 2022

<sup>41</sup> Mita Barman (n 13)

property. Single women are earmarked to take over their property.<sup>42</sup> In certain regions, widows are denied a right on their property if their relatives can demonstrate that she is a witch.<sup>43</sup>

In August 2017, a Dalit woman<sup>44</sup> during her 40s was coerced into eating human faeces, after being lashed inhumanly in Ajmer, Rajasthan. She was also forced to drink gutter water and was beaten with iron rods, and she died as a result of these wounds. The village Panchayat tried to bury the matter without much controversy and public scrutiny and asked the murders to take a dip in the holy Pushkar Lake to "wash their sins". Later when NGO workers and social activists probed the case, they figured out that the victim was attacked so that her property could be seized. She was a widow whose spouse had just passed away, leaving a few acres of land and a teenage son. Witch-hunting was just a ploy to grab the land.

In a similar case of witch-killing, referred to as the "Chandmoni Tea Estate Case of 2002", a man succumbed to death because he did not receive proper medical treatment on time. His neighbors and distant family members were resolute to secure something out of his untimely demise and declared five women to be witches, responsible for the death. A land conflict was going on between these women and them. Soma Choudhary, in his writings, elaborates upon this issue and said that "there are usually some prior conflicts, such as a property dispute between the accuser and the accused. The local beliefs in the 'casting evil eyes superstition' and power were manipulated to launch a witch-hunt against the accused woman." Men also resort to such vicious schemes, when women don't pay heed to their sexual advances. They seek to take revenge to soothe their inflated male egos by accusing the woman of witchcraft. Just like other victims of gender-based violence, these women are punished for no fault of their own and are caught in a web of lies and deceit, simply for exercising the right to autonomy and consent. Rape and gang rape are oftentimes used to punish the witches. Both, upper caste

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<sup>42</sup> Madhu Mehra & Anuja Agrawal, 'Witch-hunting in India? Do We Need Special Laws?' (2016) 51 (13) *Economic and Political Weekly*, 51-57 <<https://www.epw.in/journal/2016/13/special-articles/witch-hunting-india.html>> accessed 28 April 2022

<sup>43</sup> Govind Kelkar & Dev Nathan, 'Gender relations in forest societies in Asia' (2001) 5 (1) *Gender, Technology and Development*, 1-31 <<https://journals.sagepub.com/doi/abs/10.1177/097185240100500101>> accessed 28 April 2022

<sup>44</sup> Dev Ankur Wadhawan, 'Rajasthan: Dalit woman branded witch, beaten up, stripped, made to eat faeces in Ajmer' (*India Today*, 14 August 2017) <<https://www.indiatoday.in/india/story/rajasthan-ajmer-dalit-woman-tortured-beaten-to-death-faeces-1029585-2017-08-14>> accessed 28 April 2022

and Dalit men employ this as an opportunity to take sexual advantage of these women in the name of persecution<sup>45</sup>.

Witchcraft is not a personal issue but is a social problem- that often leads to mob justice. It concerns the entire community, and many 'moral guardians of the society' have used this time and again as an excuse to exploit helpless women. The woman is character-shamed in front of the entire community and is ostracized from society. Examples are set so that terror lingers around the community. Politicians have also fully utilized this chance of maneuvering witch-hunting for their electoral gains. If it benefits them, they actively spread superstitions and encourage these hunts. A Union Minister in his speech in Patna, Bihar exclaimed<sup>46</sup>, "I strongly believe that whatever they (witch doctors are) doing is pure science, and they protect villages from evil spirits", therefore fully recognizing and sanctifying the role of these "witch-doctors". Politicians wield these superstitions to shed the responsibility of actual development and divert the public eye from demands of basic amenities like schools, hospitals, roads et cetera which they have failed to fulfill- and witch-hunting is one such eye-catching and bogus issue. India has a huge population with limited resources. The fight for these resources often leads to such misdemeanors and Dalit women just take the major burden as they are easy prey.

As per data collected by the National Crime Record Bureau<sup>47</sup>, "Jharkhand accounts for 54 out of 160 cases of murders where women were killed in the name of witch-hunting in 2013 and a total of 400 women have been murdered with the same motive since the state was formed in 2001."

## PRESENT-DAY LEGAL FRAMEWORK

In India, many laws seek to shield women from gender-based violence and ensure their right to life and liberty, which includes living with dignity. However, the confidence of the public in the state machinery to implement these laws and safeguard women is shaky, as the rate of conviction is extremely low. Various constitutional provisions aim to ensure equality. Article

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<sup>45</sup> Madhu Mehra & Anuja Agrawal (n 42)

<sup>46</sup> Ranjit Sau, 'Recognition to Witchcraft' (2003) 38 (51-52), *Economic & Political Weekly*, 5325-5326  
<<https://www.epw.in/journal/2003/51-52/commentary/recognition-witchcraft.html>> accessed 2 May 2022

<sup>47</sup> Mohd Aqib Aslam, 'A doctrinal study on witchcraft and role of anti-superstition laws in modern India' (2021) 7 (1) *IJAR*, 156-165

21 of the Indian Constitution guarantees "protection of life and personal liberties"<sup>48</sup>. Article 14 guarantees "equality before the law"<sup>49</sup>. According to a UN report, researchers found that 25,000 cases of witch-hunting were committed in India between 1987 and 2003.

The National Crime Records Bureau shows that "approximately 2937 women were killed in India from 2001 to 2019 on alleged charges practicing witchcraft. Only in the year 2019, 102 killings took place". Although witch-hunting is practiced all over India, the majority of the cases come from the states of Bihar, Jharkhand, Chhattisgarh, Orissa, Rajasthan, Assam et cetera. In spite, of such a high number of incidents, which tear down the lives of so many women, there is no national law on witch-hunting which protects women and penalizes the perpetrators. This practice has been criminalized by some states in their capacity. India is a signatory to the "Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)" which seeks to "eliminate discrimination and social cruelty against women". It has recognized witch-hunting as a "form of violence against women" and has pleaded with various nations to take appropriate action to prevent this gruesome crime. A Special Rapporteur report appealed to the nation-states to "ensure that all killings of alleged witches are treated as murder and investigated, prosecuted, and punished accordingly...and to take all appropriate measures such as modifying or abolishing existing laws, regulations and customs and practices, which constitute discrimination against women."

The provisions of "The Universal Declaration of Human Rights (UDHR), 1948, International Covenant on Civil and Political Rights (ICCPR), 1966, and International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966"<sup>50</sup> are violated when a crime of witch-hunting takes place. These covenants aspire to prohibit discrimination based on any kind and instill rule of law. It guarantees the "right of life and liberty to every human being" irrespective of the gender, sex, caste, class, nationality et cetera. In India, the crime of witch-hunting is dealt with under the "Constitution of India, Indian Penal Code, The Drugs and Magic

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<sup>48</sup> Meduri Aparna, 'Article 21 of Indian Constitution-Mandate for Life Saving' (*SSRN E-Journal*, 12 March 2006) <[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=906704](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=906704)> accessed 28 April 2022

<sup>49</sup> Prabhat Shukla, 'An Approach to Indian Constitution' (2014) 1 (1) Scholedge International Journal of Business Policy & Governance, 8-16 <<https://www.thescholedge.org/index.php/sijbpg/article/view/67/0>> accessed 28 April 2022

<sup>50</sup> Tanvi Yadav (n 8)

Remedies (Objectionable Advertisement) Act 1954, Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989, and The Protection of Human Rights Act, 1993". Some states have successfully passed local legislation to prevent the crime of witch-hunting and other states aim to criminalize it soon. "Prevention and Eradication of Human Sacrifice and other Inhuman, Evil, and Aghori practices and the Black Magic Act 2013" was passed in the state of Maharashtra and is India's first anti-superstition law.

Under this Act, "evil power and black magic" are included in harmful superstitions, which can be related to witch-hunting. Inspired by Maharashtra, the Karnataka State legislation passed the "Karnataka Prevention and Eradication of Inhuman Evil Practices and Black Magic Bill, 2017"<sup>51</sup>, followed by the Kerala government passing the "Kerala Prevention and Eradication of Inhuman Evil Practices, Sorcery and Black Magic Bill, 2019"<sup>52</sup>, although both these bills are yet to be passed into acts. The intention of the legislature behind these bills is to encourage the scientific study and forgo these traditional superstitious practices that are blind to all logic and scientific advancement. Das<sup>53</sup> argues that India will not progress till the time superstitions persist and people are fooled by malicious actors.

India is a secular country and the Supreme Court of India holds that it cannot interfere with a person's religion, as it is a matter of "personal faith"<sup>54</sup>. However, the court also acknowledges that certain religious practices, that are superstitious in nature, may be detrimental to certain sections of society, and one such practice is witch-hunting. The court acknowledges that killing a person cannot be justified in the name of religion, that too intentionally. In the case of "HulikalNataraju v State of Karnataka,"<sup>55</sup> the court highlights the extent to which superstition can be harmful to the country. The court held "The enormous damage done by these harmful

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<sup>51</sup> Nagesh Prabhu, 'Karnataka anti-superstition Bill: what is banned and what is not?' (*The Hindu*, 27 September 2017) <<https://www.thehindu.com/news/national/karnataka/karnataka-anti-superstition-bill-what-is-banned-and-what-is-not/article61469066.ece>> accessed 28 April 2022

<sup>52</sup> MS Vidyandandan, 'Kerala: Proposed anti-black magic law to make going tough for godmen' (*The New Indian Express*, 1 November 2021) <<https://www.newindianexpress.com/states/kerala/2021/nov/01/kerala-proposed-anti-black-magic-law-to-make-going-tough-for-godmen-sorcerers-2378124.html>> accessed 28 April 2022

<sup>53</sup> Anil Kumar Biswas, 'Witch-Hunts in the 21st Century: A Serious Challenge to the Empowerment of Rural Tribal Women in India' (2018) 1 (2) *Brolly, Journal of Social Science* <<https://www.journals.lapub.co.uk/index.php/brolly/article/view/68>> accessed 28 April 2022

<sup>54</sup> Ronojoy Sen, *Articles of faith: religion, secularism, and the Indian Supreme Court* (Oxford University Press 2018)

<sup>55</sup> *Hulikal Nataraju v State of Karnataka* (2010) Writ Petition No. 1750/2010

superstitions is that they redirect attention from the primary cause and lead to a defeatist attitude of helpless acceptance. These superstitions promote exploitation, untouchability, complexity, caste, creed, gender, and Varna-based inequalities. They became instruments in the hands of some to exploit, cheat, and deceive the ignorant people." The Rajasthan High Court, in another case, held that "The evil practice of declaring the woman a witch and killing her is an offense which should not be tolerated suppose efficient improvement in these matters is not reported. In that case, the state of Rajasthan will be considered as slow in taking measures and backward and ineffective in bringing out appropriate legislation."<sup>56</sup> In the case of *Gaurav Jain v State of Bihar*<sup>57</sup>, the Supreme Court judged that witch-hunting is a "gross violence of human rights." It also provided state governments with guidelines to eliminate superstitious practices such as witch-hunting. Keeping these guidelines in mind, the "Prevention of Witch-Hunting Bill, 2016"<sup>58</sup> was framed, 20 years later. It is still pending and hasn't been passed as an Act.

## CONCLUSION

Accusations of witchcraft and witch-hunting are a violation of human rights and fundamental freedoms, including the right to life and liberty. Cases of witch-hunting rupture the Constitutional framers' promise of establishing a democracy that ensures equality between the sexes, castes, races, religions et al. It demonstrates the state's inability to provide universal education and adequate healthcare, as well as the failure to cultivate respect for all genders, fostering of scientific aptitude, and to make equality the society's fundamental value. The legal and criminal justice institutions have struggled to comprehend the motivations behind witch-hunting; as a result, they are unable to deal with witch-hunting and the underlying causes behind it, appropriately and effectively.

Only the most heinous crimes are publicized, while the majority of witch-hunting tragedies go undetected and undocumented. It is now a pressing requirement for the nation to address legal loopholes and prevent women from losing their lives- as a witch-hunt is an

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<sup>56</sup> Tanvi Yadav (n 8).

<sup>57</sup> *Gaurav Jain v UOI & Ors.*, (1991) Writ Petition (Criminal) No. 745-754/1950

<sup>58</sup> Prevention of Witch-Hunting Bill, 2016

established tactic for carrying out such horrors against impoverished Dalit women. Educating the cops, and government departments, as well as the expansion of non-governmental organizations (NGOs) to deal with this menace, could be significant. The Indian Penal Code should be amended and stricter penalizing legislation should be enacted to give out harsher penalties. The legal system is regarded as a vehicle for bringing social transformations; nevertheless, witch-hunting needs an overall societal haul that includes the eradication of the caste system, gender inequality, and economic disparity.