



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2023 – ISSN 2582-7820  
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

---

## Exploring the Barbaric Practice of targeted witch hunt of Dalit women: Is India in dire need of Special laws?

Antara Mandal<sup>a</sup>

<sup>a</sup>CHRIST University, Bangalore, India

Received 07 August 2023; Accepted 26 August 2023; Published 29 August 2023

---

*The Cambridge Dictionary defines witchcraft as an art wherein an individual practices magic to help or harm a third person. India is a secular country with a large variety of religions co-existing peacefully. A country with such a rich culture of religious tolerance also has its dark sides. Sometimes these religious and cultural beliefs drag the innocent into the dark world of superstitious beliefs, being prey to witchcraft, tantra, and other types of black magic practices. Women belonging to the backward classes or from the EWS (Economic Weaker Section) category bear the unimaginable toils of this practice i.e., the problem of double discrimination and generalization of being witches. The generalization becomes so toxic that just the speculation of a woman being a witch by the community, makes them murder her. This procedure of mass murder of a woman by a community, just by mere speculation of her being a witch, who is said to be practicing witchcraft for harming a third person is called witch hunting. The problem of witch hunting has been duly identified and addressed by the Indian States like Odisha, Bihar, West Bengal, Jharkhand, Maharashtra, and Karnataka. This paper will answer the question as to why only women are prey to this problem by going through the history of witchcraft and witch hunting in India and it will also provide a victimogenesis of both the victim and the accused of the crime. Furthermore, it would also analyze the available laws at the State, National, and International levels regarding this problem and would put forth relevant case laws that would help the reader understand how deep-rooted the problem is in India.*

**Keywords:** *witch hunting, discrimination, backward classes.*

## INTRODUCTION

Witch hunting, also known as witch branding, is a societal scourge. The term witch can be defined as a woman who is said to have evil powers and generally uses them either to do good or to harm someone. Witchcraft is an obscure and niche subject. In developed countries and today's high-tech countries, witchcraft is one of the major taboos and hence people around the globe show little or no interest in this subject matter. But what problem lies behind this taboo requires special legislative and judicial attention, especially in a country like India, where people believe more in Gods rather than the leaders of the nation.

Since ancient times, several illegal practices have been practiced in India, including Sati Pratha and sharing framework. We do have the option to remove many of these barriers, though, as time goes on and the community becomes better off financially and educationally. Witch hunts are still a common occurrence in many areas of India, particularly in ancestral lands where it is impossible to escape the superstitious beliefs of the populace. Because they thought they were connected to magic, many people have been slaughtered and subjected to torture in the past. Even the legendary Joan of the Arc, who led France to victory over Britain, was burnt alive at the age of 14 after the monks accused her of being a witch. The National Crimes Record Bureau (NCRB) reported in 2015 that between 2001 and 2014, 2290 women who were labeled as witches were hunted down.<sup>1</sup>

Witchcraft and the pursuit of witches are superstitious activities and ideas. where it is claimed that someone has magical talents. It has been practiced since the beginning of time by those who think of supernatural forces. Due to traditions and superstitions, this terrible practice was developed to get rid of the supposed witches who were living in the community. Witch-hunting is spreading to newer areas like an infectious disease, hence plans should be made to put an end to this cunning practice.

---

<sup>1</sup> Ministry of Home Affairs, *Crime in India 2012 Statistics* NCRB (2013)

## **HISTORICAL BACKGROUND OF WITCHCRAFT AND WITCH HUNT**

**Historical Background of Witchcraft:** The words witchcraft and witch both come from the Old English word *witchcraft*, which means 'craft' or 'skill' and can be pronounced either 'witchah' or 'witchuh' depending on whether it refers to a man or a woman who practices sorcery. Other European languages' somewhat equivalent terms, such as *sorcellerie* (French), *Hexerei* (German), *stregoneria* (Italian) and *Brujeria* (Spanish) have various meanings and none of them is an exact translation of one another. With the appropriate terms in African, Asian, and other languages, the issue is considerably higher. The concept underpinning these phrases also varies depending on time and place, sometimes significantly, which makes it more difficult to define witchcraft. The beliefs about witchcraft, which frequently incorporate other ideas like magic, sorcery, religion, folklore, theology, technology, and diabolism, are also inconsistent among cultures. In some cultures, a witch is seen as someone with innate supernatural abilities, while in the West, witchcraft is more often seen as a person's free decision to learn and practice magic with the aid of the supernatural. Since there is no universal definition of a witch, the answer to the age-old question "Are there such things as witches?" relies on personal belief and definition. The focus on the witch in literature, theatre, and film has little to do with the outside world, that much is certain.

**Historical Background of Witch Hunting:** Even though in modern cultures charges of witchcraft are a technique of expressing or resolving social tensions, in premodern Western society the confluence of irrational fear and a persecuting mentality resulted in the beginning of the witch hunts. Witchcraft and sorcery received a drastic transformation in the 11th century when attitudes towards them started to shift. As a result, witchcraft came to be associated with heresy and the Devil in Western culture. By the 14th century, accusations of diabolism had been added to the standard accusation of witches, *maleficium* (malevolent sorcery), due to the dread of heresy and Satan. Western witchcraft was distinct due to its use of sorcery and links to the Devil. From the 14th to the 18th centuries, witches were thought to reject Jesus Christ, worship the Devil and enter into pacts with him (selling one's soul for Satan's help), use demons to perform magic tricks and desecrate the crucifix and the consecrated bread and wine of the Eucharist (Holy Communion). From the 14th to the 18th centuries, witches were thought to reject

Jesus Christ, worship the Devil and enter into pacts with him (selling their souls in exchange for Satan's help), use demons to perform magic tricks and desecrate the crucifix and the consecrated bread and wine of the Eucharist (Holy Communion). Additionally, it was thought that they transformed into different human or animal forms, frequently had 'familiar spirits' that took the form of animals and kidnapped and killed children to consume them or use their fat to make magical ointments. They were also said to have sex with Satan and ride through the air at night to 'sabbats' (secret meetings).

This conceptual tapestry was a fantasy. Even though some individuals probably engaged in harmful sorcery and some may have even worshipped the Devil, no one has ever truly embodied the definition of a 'witch'. However, the witch's crimes were laid out in writing. The witch hunts varied greatly in terms of setting and duration, but they were all based on a single, consistent religious and legal philosophy. Local priests and judges were part of a culture that believed in the reality of witches in the same way that contemporary society believes in molecules, even though they were rarely professionals in either theology or law.

Since 1970, thorough research has shed light on legal statutes and theological writings from the time of the witch hunts and uncovered a wealth of knowledge about how fear, accusations, and prosecutions took place in Western European villages, local courts, and courts of appeal. A wide range of suspicions led to accusations of maleficium. It might have been as straightforward as one individual blaming another for his bad luck.

Along with this ancient custom, the church has a long history of prosecuting heretics by theological and legal means, which contributed to attitudes against witches and the witch hunts of the 14th through the 18th century. In the Middle Ages, accusations that echoed those made by the early Christians and ancient Syrians reappeared. A group of heretics at Orléans, France, were charged with an orgy, infanticide, calling upon demons, and using the ashes of the deceased infants in a blasphemous parody of the Eucharist in 1022. Because these accusations were part of a larger pattern of prejudice against and persecution of marginalized communities, they would have significant long-term effects. The period between 1050 and 1300 saw significant reform, reorganization, and centralization in both the ecclesiastical and secular facets of society, with the suppression of dissent playing a significant role. The stereotype of the witch as a

woman may have been influenced by the prominent role that women played in several heresies around this time.

Due to a failure to comprehend the pervasive terror of Satan, some modern researchers have mistakenly believed that witchcraft is a 'cover' for political or gender conspiracies. The Devil, whose central role in witchcraft beliefs made the Western tradition unique, was an absolute reality in both elite and popular culture. As the greatest enemy of Christ, the Devil was deeply and universally dreaded. He was fervently committed to destroying the soul, life, family, community, church and state. Witches were viewed as Satan's adherents, members of an antichurch and an antistate, sworn enemy of Christian society during the Middle Ages and a 'counter-state' during the early modern era. It was essential to eradicate witchcraft before it obliterated the earth if it existed as was widely thought.

#### **INTERNATIONAL PROVISIONS ON WITCHCRAFT AND WITCH HUNT**

In July 2020 the OHCHR released a report on Witchcraft and human rights and the concept note focused on the impacts of Covid-19 on the wise of harmful practices such as witchcraft and human sacrifice. In 2021, the Member States recognized the HPAWR (Harmful Practices: Accusations of Witchcraft and Ritual Attacks), in the 47<sup>th</sup> session of the Human Rights Council. Though it mainly focuses on the relationship between Witchcraft and Persons with Albinism, it is one of the first international provisions that address the issue of harmful practices. It was created as a result of years of persistent advocacy from a variety of civil society organizations, particularly the Witchcraft and Human Rights Information Network (WHRIN), which in 2017 hosted a UN expert workshop on the subject. In a written submission to the Human Rights Council in 2020, Humanists International joined the appeal for a resolution on human rights abuses associated with witchcraft.

The UN resolution calls on States to denounce the pervasive prejudice, shame, social isolation, and forced relocation suffered by persons accused of practicing witchcraft. It also calls for accountability and effective protection for all those accused of practicing witchcraft. In many nations around the world, harmful practices brought on by allegations of witchcraft and ritual

attacks result in grave abuses of human rights. Although numbers are hard to find, throughout ten years, at least 22,000 victims in 50 nations and 6 regions have been documented.<sup>2</sup>

Many scholars and researchers have pointed out that mainly the female population is subjected to witch-hunt trials. In an article by Jef Thompson<sup>3</sup>, it was stated that in the Salem witch trials more than the total number of victims i.e., 14 of the 19 people were women. Further, when in England, around the 16th century witch trials were common, it involved mainly women. Carol F. Karlsen in his book 'The Devil in the Shape of a Woman' alleged that 78 percent of 344 accused of being witches were females in New England.<sup>4</sup> Women have been victims of systematic oppression and have been facing discrimination in various forms and hence subjected to such heinous acts since time immemorial. To compare it with this globalized world not much has changed and hence for social security and the upliftment of women United Nations has taken considerable steps to protect women through various provisions like CEDAW, ICCPR and UDHR.

### NATIONAL PROVISIONS ON WITCHCRAFT AND WITCH HUNT

The states of Jharkhand, Bihar, West Bengal, Odisha, Haryana, Gujarat, Rajasthan, Madhya Pradesh, Uttar Pradesh, Assam, Chhattisgarh, and Maharashtra have the highest rates of witch-hunting, according to data that is currently available. According to a Down to Earth report, around 24% of witch hunts were brought on by land grabbing. At this point, we might make a comparison between witch hunting and sati, two equally cruel and patriarchal practices. While India may have outlawed sati, a barbaric custom in which a widow was coerced into jumping into her husband's funeral pyre to commit suicide, the cruel and baseless practice of witch-hunting is regrettably still common.

---

<sup>2</sup> 'The COVID-19 Pandemic and Harmful Practices Impacting Persons with Albinism: Accusations of Witchcraft and Ritual Attacks (HPAWRY)' (*United Nations Human Rights Special Procedures*, July 2020) <[https://www.ohchr.org/sites/default/files/Documents/Issues/Albinism/COVID-19\\_and\\_Harmful\\_Practices.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Albinism/COVID-19_and_Harmful_Practices.pdf)> accessed 25 July 2023

<sup>3</sup> 'Most witches are women because witch hunts were all about persecuting the powerless' (*The Conversation*, 23 October 2019) <<https://theconversation.com/most-witches-are-women-because-witch-hunts-were-all-about-persecuting-the-powerless-125427>> accessed 25 July 2023

<sup>4</sup> Carol F. Karlsen, *The devil in the shape of a woman: witchcraft in colonial New England* (Vintage Books 1987)

To start, women in Odisha are held accountable for agricultural failure or health problems. The state of Odisha only passed legislation outlawing witch hunts in 2013. Case histories of 102 victims of witch-hunting and witch-branding in the state were gathered for a groundbreaking report by the Odisha State Commission for Women and the international non-governmental organization Action Aid. According to the research, witch hunts are ‘common in communities with unequal socioeconomic systems and gender inequality, inadequate healthcare, and pervasive illiteracy’. The brunt of oppression and abuse fell on women, particularly Dalits and tribal people. According to the Action Aid research, these witch hunts have a gender component, and the women who dared to stand up for themselves became victims of these heinous crimes. According to the survey, the main factors that contribute to someone being called a witch are: ‘the health of children and other villagers, land grabbing, mental health issues and crop failure’. More than 30% of the time, the victim died and 70% of the time, the victim or their family left the area. The most vulnerable demographics to crimes associated with witch-branding were found to be single women who were bereaved or separated. The stigma against the victims’ children persisted and they were denied their basic rights. Police were involved, conducted investigations and made arrests in only 69% of the incidents.<sup>5</sup>

One of the first states to pass legislation against witch-hunting and criminalize it was Bihar. The plan’s goal was to ‘provide for the effective measures to prevent the witch practices and identification of a woman as a witch and their oppression, which are mostly common in Tribal areas and elsewhere in the State of Bihar, and to eliminate the woman's torture, humiliation and killing by the society, as well as for any other matter connected with or which are incidental thereto’. The law makes it a crime to torment someone physically or mentally, as well as to accuse a lady of being a witch. The Act describes a witch as someone who may damage another person ‘through the art of black magic, evil eyes or mantras’ according to people in the neighbourhood. It is important to note that the Act's charging section only levies a \$1,000 fine or a three-month prison sentence. The majority of state laws against witch-hunting are gender-

---

<sup>5</sup> Susan Sreema et al., *Witch-Hunting in Odisha* (ActionAid Association, 20 December 2021) <[276](https://www.actionaidindia.org/publications/witch-hunting-in-odisha/#:~:text=The%20present%20study%20%E2%80%9CWitch%2DHunting,across%20seven%20districts%20of%20Odisha.> accessed 29 July 2023</a></p>
</div>
<div data-bbox=)

specific. That is, the statute includes a built-in presumption that the victim is a female, and those accused of an offense under the act have been kept purposefully gender-neutral by listing both males and women as the perpetrators of the crime. However, a study of the law reveals that the sanction imposed is insufficient to condemn the evil that the crime upholds.<sup>6</sup>

**The state legislation in India has shown considerable concerns about witch hunts. Some of the acts passed by state legislation are as follows:**

**Bihar** - Prevention of Witch Practices Act 1999

**Jharkhand** - Anti Witchcraft Act 2001

**Chhattisgarh** - Chhattisgarh Toni Pratama Bill 2005

**Rajasthan** - Rajasthan Women (Prevention and Protection from Atrocities) 2006

**Odisha** - Prevention of Witch Hunting Act 2013

**Assam** - The Assam Witch Hunting (Prohibition, Prevention and Protection) Act 2015

So far Maharashtra and Karnataka have not introduced a bill that specifically talks about witch hunts but Karnataka has 'The Karnataka Prevention of Superstitious Practices Bill 2013' that attempts to suppress the practice of witchcraft and similar practices.<sup>7</sup> In 2013 Maharashtra became the first state to ban black magic, witchcraft, and other superstitious practices by an ordinance ratified by the then-governor of the state, K Sankaranarayanan.<sup>8</sup>

There are no specific provisions regarding witch hunts at the national level, but in 2016 The Prevention of Witch-hunting Bill was introduced in the Lok Sabha. It provided solutions to the problem by way of rehabilitation and awareness programs by the government.<sup>9</sup> Since there are no specific laws that address Witch Hunts, other legal provisions could be used instead, like

---

<sup>6</sup> Prevention of Witch Practices Act 1999

<sup>7</sup> The Karnataka Prevention of Superstitious Practices Bill 2013

<sup>8</sup> 'Dabholkar murder: Maharashtra first state to ban black magic' (*Hindustan Times*, 25 August 2013) <<https://www.hindustantimes.com/mumbai/dabholkar-murder-maharashtra-first-state-to-ban-black-magic/story-e699ViH0X5HDWN7Org4BUP.html>> accessed 29 July 2023

<sup>9</sup> The Prevention of Witch-Hunting Bill 2016



Sections 302<sup>10</sup>, 307<sup>11</sup>, 323<sup>12</sup>, 376<sup>13</sup> and 354 outraging a woman's modesty<sup>14</sup>. Apart from these legal provisions, some bodies take note of the prevention of witch-hunts and they are generally government-run bodies like Partner for Law in Development (PLD) 1998, Rural Litigation and Entitlement Kendra etc.

India is a member of the United Nations and has ratified to Universal Declaration of Human Rights (UDHR) 1948 which provides basic human rights such as the right to life and liberty.<sup>15</sup> The International Covenant on Civil and Political Rights (ICCPR) ensures equality and equal rights to be granted to every human being irrespective of an individual's race, ethnicity, gender etc. Article 7 of the above-mentioned act prohibits cruelty, inhuman and degrading treatment. India has also ratified ICCPR and hence it must implement these rules.<sup>16</sup> Further, there is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1993 which focuses elimination of social cruelty and discrimination against women.

### **RELEVANT CASE LAWS**

Elizabeth Parris and Abigail Williams, two young girls, began to display strange symptoms including contorting and shrieking at random in January 1692. Other Salem females began to exhibit these unusual behaviours. William Griggs, a local physician, identified these kids as bewitched victims. To find out who the devil worshippers were who had cursed his daughter, niece, and their friends, Reverend Samuel Parris put pressure on them. Sarah Good, Sarah Osborne, and Tituba were implicated by the girls. Salem and Danvers, two modern-day communities, had a lot to be afraid of in 1692. The Nine Years' War between the British and the French had just ended, yet there were still smallpox outbreaks and hostilities with nearby cities and Native American settlements. The residents of the town were dealing with challenging issues that would take a long time to resolve.

---

<sup>10</sup> Indian Penal Code 1860, s 302

<sup>11</sup> Indian Penal Code 1860, s 307

<sup>12</sup> Indian Penal Code 1860, s 323

<sup>13</sup> Indian Penal Code 1860, s 376

<sup>14</sup> Indian Penal Code 1860, s 354

<sup>15</sup> Universal Declaration of Human Rights 1948

<sup>16</sup> International Covenant on Civil and Political Rights 1976

Nobody opposed the weak charges against Good, Osborne, and Tituba because Salem needed a clear-cut issue to address. Additionally, individuals were predisposed to support the children. People often have an unfavourable perception of others who are not part of 'our group' due to outgroup prejudice. These women from Salem were undoubtedly outsiders. Before becoming a slave, Tituba most likely resided in the West Indies. Her ethnicity and culture were not typical of the community. Rich widow Sarah Osborne married again to a person of a lower social station. Due to her ill health, she occasionally skipped church and was embroiled in a court battle over property rights. Sarah Good was pregnant, homeless and depended on begging to get by.<sup>17</sup>

### **DOUBLE DISCRIMINATION AGAINST WOMEN**

India is a secular nation that believes in religious tolerance and acceptance of various cultures but this aspect of India can not negate the issue that India is a superstitious country. If we look beyond Indian secularism and superstitious beliefs, we would find India to be deeply submerged with male chauvinism and patriarchal customs and beliefs that focus on the subjugation of the female population and it has been noted that maximum discrimination is being faced by women belonging to the backward classes and women who are debarred from education and employment.

Double discrimination is systematic oppression that has two sides to it. It could be based on gender, race, physical disability, religion, or sexual orientation, coupled with one another. The problem of witch hunts highlights another problem of double discrimination, wherein, a woman is being targeted and is accused of being a witch and secondly, this happens mostly in the backward classes. More than 2,500 persons, largely women, were killed in India between 2000 and 2016 due to accusations of witchcraft, according to data from the National Crime Records Bureau (NCRB), which works out to more than 150 fatalities annually. That means 150 women are subjected to this level of madness and irrationality every year.

---

<sup>17</sup> Jess Blumberg, 'A Brief History of the Salem Witch Trials' (*Smithsonian Magazine*, 24 October 2022) <<https://www.smithsonianmag.com/history/a-brief-history-of-the-salem-witch-trials-175162489/>> accessed 27 July 2023

## CONCLUSION

Witch-hunting is still a common practice in India today. The lack of national legislation, the paucity of supporting data and reports, and the inefficient application of laws already in place are the causes. Therefore, the issue may be resolved by strong enforcement of the Anti-witchcraft Law, which will also stop witch-hunting practices, as well as by establishing NGOs that will work for sensitization purposes and educating the police and welfare department. As witch hunts are more common in underdeveloped places, it is important to modify how society views witchcraft and reject superstition to improve awareness. However, it is quite difficult to get rid of long-standing social beliefs.

The government as well as the public had been taken by surprise by the rebellion and while it lasted all kinds of drastic measures were suggested for crushing the rebellion of the Santals. But after the suppression of the rebellion, milder counsels prevailed. A special enquiry was made and it was realized that the Santals had genuine grievances and steps were taken to remedy them.<sup>98</sup> The system of new regulations worked well under the first Deputy Commissioner George Yule. But the situation began to change after his departure." Thus the great Santal insurrection (Hul) has greater importance in the history of Jharkhand.