

SOCIO LEGAL DIMENSIONS OF WITCH-HUNTING

YEAR - 2020

ABSTRACT: This research focuses on the concept of witchcraft and witch-hunting that is prevalent all across the world. This research tries to look into the depths of witchcraft and its origin. It tries to make us understand that such beliefs and practices are based on superstitious belief, and lack the logic behind such acts. It tries to draw our attention toward the victimization of women through such practices, and its intrinsic relation to the patriarchal mindset. This research, at first analyses the concept of witch-hunting prevalent in the villages of India and establishes its connection with Blackmagic. The research further focuses on the gender targets of witchcraft, and finally, the prevalent legislations with respect to witch-hunting have been brought into light.

I. INTRODUCTION

Witchcraft, an age-old practice, carried out all around the world, by branding as witches, of mostly women, and causing harm to the society. Generally associated with black magic, these people branded as witches are believed to cast spells of black magic over the people of their family or society for some inherent malicious purpose. The belief into the witchcraft is deep rooted in the cultural beliefs of the society. The traces of such a belief can be seen in Old Testament, New Testament, Protestant Culture, Babylonian societies, Hebrew Bible, Jewish culture, Islam, Hinduism and almost all the documented indigenous communities.

Witchcraft, contextualized negatively, is associated to all the harm and loss that happens in the society such as failed crops, or a still born baby, or deaths, or any unnatural stances in any society. It is regarded as something which is profane, or something which is heinous and which needs to be corrected. Women practicing this craft are believed to be wicked looking women, and doing unusual chores. They are believed to be worshiping the devil and gaining supernatural powers provided by the devil to influence the mind, body and property of human beings and animals. This faith in witchcraft, is not only limited to the uneducated society, but also extends to the well-educated upper-class society.

The faith in the concept of witchcraft and Blackmagic is not new to the world. It has been a predominant cultural belief since the ancient times. There are many events which demonstrate the branding of witches in almost every society, and then going through the process of witch hunting to get rid of the evil effects of the cast of the witch. The most famous of such events has been the Salem Witch Trials, in which thousands of people, including women and men,

both, were branded as witches, were tried and executed. These kind of execution of witches mostly included rape, bashing, beating, forcing to eat excreta, burning alive and murders. It would have been great if such old practices would have stayed in the past. But unfortunately, these practices still prevail in the modern era.

II. A GLANCE AT BLACKMAGIC-

Blackmagic is a cultural practice prevalent since ages in our society. When something unusual happens in the society, people tend to believe that it happened because someone must have casted a spell of Blackmagic over them. This practice consists of a “baba” or “ojha” who is well-versed with the techniques and mantras to carry out the process of black magic, and a believer or seeker, who seeks the help of such baba or ojha to get his/her issues of life resolved through black magic. The baba or ojha demands some offerings, and some ingredients which include a lemon, rice, bangles, sindoor, etc. The baba then chants his mantras and tries to find out through his vision the wrong which is causing the damage or loss in the life of the believer. When he discovers such cause, he proceeds with the process to remove the cause, that is the negative energy from the life of the seeker. The belief in the black magic is so embedded in the minds of people that they almost deny to consider the scientific reason which may have caused such loss or damage. Such practices can be commonly seen on the days of full moon, or no moon, or on the days of any festival. Related items like sindoor, bangle, a decorated sieve, etc. can be seen kept below a peepal tree or a banyan tree, or intersection of roads.

III. CONNECTING THE STRINGS OF WITCH-HUNTING AND BLACKMAGIC

If we try to look at the core of both the practices of witch-hunting and blackmagic, we can easily arrive at the conclusion that both are interlinked to each other. The traditions followed by the people in villages give us clear idea of this thing. A documentary on the witch-hunting process of a village in Jharkhand helps us better to understand the situation.

In the villages of Jharkhand, if anything wrong or unusual happens, then mostly a woman is held responsible for such happening. She may be from the family of the victim or the sufferer, or any other woman from the same village. The attacks for witch-hunting take place by the villagers in two different ways. This process is a group activity, as the whole village is involved in a single witch-hunt. The attack can be a *surprise attack*, or a *calculated attack*. A *surprise attack* is when the women who is branded as a witch herself don't know about such branding, and come to know about the same when other people of the village go for the hunt. The

calculated attack is to brand a woman as witch, and give her a warning either to leave the village overnight or she will be killed on the forthcoming days. If the women don't leave the village, then either she is burned alive, or is tortured and beaten to death. Although, it is not always the women who is branded as witch, but sometimes men are also branded as witches.

Now the question arises that how these witches do something wrong to any person or his family. It is believed that these witches possess some magical power and have the knowledge of blackmagic which they have gained by worshipping the devil. It is believed that these witches use such power of blackmagic to do wrong to the person, property or family in a village. In the language of Jharkhand, they are referred to as '*dayan*'. These are regarded as the worshipers of the devil and a threat to the society as a whole. Such threat that needs to be curbed out to prevent any other wrong which may happen in the future. It is believed that throwing the witch out of the village or killing her will bring peace and prosperity to the village, and the village will be free from all the negativity.

IV. WHY MOSTLY WOMEN ARE WITCHES –

If we ponder over the facts and theories of witch-hunting, a question may arise that why mostly women are branded as witches and not men. Even if we consider the 2% of men branded as witches, it is almost negligible in front of the number of women who are labelled as witches.

The answer to this question lies in the gender inequalities and gender discrimination. Women are an inferior section of the society who are mostly dependent on males for their living. They are regarded as less powerful and subordinate to males in the society. Most of the cases of witch-hunting consist of an ulterior motive, mostly related to the property that such women possess. Branding her as a witch gives the people having an interest in her property a clear-cut way to succeed over such property. Also, witchcraft is a way to impose male domination over the females, and to keep them at the lower levels of society. Women who are educated, and are courageous enough stand up for their rights are more prone to be labelled as witches, as they refuse to be subjugated by the male domination. Along with these, the widows are among the common victims of witchcraft as they own the property of their deceased husband, and deny any sexual favours. The other family members, in order to succeed over such property, brand her as a witch, and when she is thrown out of the village or killed, they can acquire the property left behind.

V. ANALYSING THE EVENTS –

Witch-hunting is believed to be a common practice in the Adivasi communities. The victims cut across castes and communities, largely from the weaker socio-economic strata, among Scheduled Castes, Scheduled Tribes as well as Other Backward Classes. Witch-hunting is prominent in the states of Jharkhand, Chhattisgarh, Odisha, Gujarat, West Bengal Assam, Bihar, Maharashtra and Rajasthan. Among these states, Jharkhand has been on the top of the list for the number of killing in the name of witch-hunting.

A data from the National Crime Records Bureau (NCRB) shows that around 2,097 women were assassinated on charges of witchcraft during 2000-2012. Among this data, about 50% of the killing were solely from the state of Jharkhand.

The data provided by the NCRB, unfortunately, only comprises of the cases which were reported. There may be many more cases which were never reported to the police, and were encouraged by the society or the community in which such incident occurred.

In the state of Chhattisgarh, a 51-year-old woman – Dadai Bai was stripped naked and beaten to death a few months ago. She was accused of practicing witchcraft and making a boy ill of her village.

In October, 2020, in the Karbi Anglong district of Assam, 2 people were killed after being accused of witchcraft. The villagers alleged that the woman killed, was responsible for the death of a women who died of being ill, and was practicing witchcraft.

VI. THE PREVAILING LEGISLATIONS REGARDING WITCH-HUNTING-

Witch-hunting is a discriminatory practise against one gender by the other gender which superimposes its dominance over the other through violent and cruel ways. It is the patriarchal system to keep the male gander at the top of the hierarchy, preventing the women to come up by keeping them property-less, power-less, and pushing down their rights and voices.

There have been many legislations which have been passed by the centre and the states, to eradicate and prevent the practices of witch-hunting.

6.1 The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989-

This Act was formulated, “to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for

the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto". The punishment under this Act provides for imprisonment ranging from six months up to life imprisonment. It has been suggested that the perpetrators of different witch-hunting cases in Andhra Pradesh, can be booked under this act, since majority of the victims belong to SC and ST communities.

6.2 The Prevention of Witch-Hunting Bill, 2016-

This Bill was introduced in the Lok Sabha as Bill No. 66 of 2016 by Raghav Lakhnupal, M.P. on 11 February, 2016. The need for a coherent national legislation at the national level has been long-felt, since although there are existing laws in different States like Bihar, Jharkhand, Chhattisgarh, Odissa, Maharashtra, Karnataka, Rajasthan and Assam, these contain a range of different provisions at different levels. This Bill looks forward to provide for measures to prevent and protect women from the practices of witch-hunting and to provide punishment for such offence. The norms for punishment as provided in the Bill is segmented into eleven categories, that includes imprisonment in the range of three months up to life imprisonment, and/or a fine amount ranging from one thousand rupees to fifty thousand rupees. Several provisions of the Indian Penal Code, 1860 have also been sought to be invoked in certain cases. The aggrieved victims have been provided the right to free legal aid under the Legal Services Authorities Act, 1987.

6.3 The Prevention of Witch (Daain) Practices Act, 1999 [Bihar]-

The State of Bihar, although being a backward state in many respects, was the first state in India to frame laws for curbing the menace of witch-hunting. In 1991, the Supreme Court had directed the Bihar Government to form special cells to deal with witch-hunting. The Apex Court also directed the State Government to carry out a census of all widows who own properties within the State, since it was felt that such women are particularly vulnerable to being branded as witches. This Act provides for measures to prevent practices of witchcraft and identification of a woman as a witch and their oppression, torture and killing prevalent in tribal areas and elsewhere in the State of Bihar. Act prescribes imprisonment from three months to one year and a fine extending up to two thousand under different sections.

6.4 The Prevention of Witch-Hunting Practices Act, 2001 [Jharkhand]-

Jharkhand was the second state in India to pass another act, two years after Bihar. The Section 3 of the Act says that whoever identifies any person as witch and does any act towards identification, shall be punished with maximum three months imprisonment or with one thousand rupees as fine or both. Section 4 says that any person who causes any kind of physical or mental torture to any person by identifying her as a witch shall be punished with an imprisonment term of maximum six months or two thousand rupees as fine or both. Section 6 is meant for the traditional healers, which says that whoever does any act of healing allegedly or purportedly a of curing any woman said to be a witch, thereby causing physical and mental harm, may have to undergo a maximum imprisonment term of one year and a fine of two thousand rupees or both.

6.5 The Chattisgarh Tonahi Pratadna Nivaran Act, 2005 [Chhattisgarh]-

The State of Chhattisgarh was the third in the line to frame legislations against witch-hunting. Every offence committed under this Act is triable by the Judicial Magistrate First Class. Offences under this Act are cognizable in nature and non-bailable offences. The Act provides for imprisonment five years as punishment, along with fine, for alleged curing of witches by the traditional healers. There is no mention of the fine amount; however, when fixing the amount of fine, the court shall take into consideration the physical and mental damage caused to victim, including any cost of treatment. There is also no provision to prosecute any government official, in connection with the discharge of functions under this Act. Implementation of this law had led to a reduction in the number of witch-hunting cases in the State. However, the glaring lacuna in this law is that the punishments are not strict and the police officers do not investigate properly. Moreover, the women victims are required to go to the police station to register a case and a charge-sheet is framed ninety days later. On the other hand, the community does not allow the women to lodge complaints with the police.

6.6 The Assam Witch-Hunting (Prohibition, Prevention and Protection) Act, 2018 [Assam]-

Way back in September 2011, the Assam State Commission for Women (ASCW) had submitted a draft on formation of a bill conferring protection against witch-hunting to the then Chief Minister of Assam. Later in December 2013, a legislator raised the issue of enacting a separate law for tackling witch-hunting during the Assembly session and opined that introduction of a separate law would create a sense of fear amongst communities where such social evils are prevalent. In the same month, a PIL (No. 98/2013) was also filed in the Gauhati

High Court seeking action from the Assam Government to end the witch-hunting practice. Subsequently, in November 2014, the Gauhati High Court directed the State Government to enact a special Act to deal with the menace of witch-hunting at the earliest. The State of Assam became the sixth Indian state to adopt a witch-hunting bill. It was passed by the State Legislative Assembly on 13th August 2015. This Act provides for, “effective measures to prevent and protect persons from witch hunt practices and to eliminate their torture, oppression, humiliation and killing by a section of the society; by trial of offences related to witch hunt practices and providing for punishment and, for the relief and rehabilitation or victims of such offences and for any other matters connected therewith or incidental thereto”. The Act provides for a maximum imprisonment term of three years to life imprisonment and a fine amount in the range of five thousand to five lakh rupees. It also provides to set up special courts for the trial of witch-hunting offences, in the same lines as of The Rajasthan Prevention of Witch-hunting Act, 2015. The significance of the Act is that Sec. 438 of Cr.P.C. will not apply and no accused person can seek anticipatory bail in connection with any case. Every offence will be cognizable, nonbailable and non-compoundable and all fines realized from the accused would be paid to the victim as compensation. A noteworthy provision in this Act relates to rehabilitation of the victims and provision of free counselling, medical and legal aid. Moreover, as opposed to the provisions of The Chhattisgarh Tonahi Pratadna Nivaran Act, 2005, this act prescribes punishment for public servants who wilfully displays negligence in dealing with the cases.

6.7 Indian Penal Code, 1860-

‘Dayan Pratha’ or ‘Witch-hunting’ in India is not just an archaic concept but a sad reality. Till date, there is no national legislation governing crimes relating to witch-hunting reasoned on the fact that the Indian Penal Code, 1860 (“IPC”) is equipped to deal with such offences.

Section 323 of the IPC deals with “voluntarily causing hurt” prescribing a punishment upto 1 year imprisonment and/or fine up to Rs. 1,000. Unfortunately, the punishment under this section is same for hitting a person as it is for brutalizing a “witch”.

Further, under *Sections 300 and 302* offence of murder is punishable with life imprisonment or even death.

Section 354 prescribes upto two years imprisonment for outraging the modesty of women.

Other similar provisions are *Section 376* that penalizes rape, *Sections 499-501* dealing with defamation, *Sections 399- 348* for wrongful restraint and confinement and *Sections 359-369* for kidnapping and abduction.

VII. CONCLUSION-

Witch-hunting, based on a superstitious belief, is a gendered practice prevalent all over the world. It extends from the poor to high class, and from the Adivasis to the well-educated and sophisticated society. It can be traced in the hidden streets of well-developed cities as well. It develops through the patriarchal mindsets, and ends up with the sacrifice of life of human, mostly women. Though there have been many legislations and initiatives by the government and the non-governmental organizations, but still such practices take place and another such killing can be seen making the headline of the newspaper one or the other day. However, there is hope that one day, such practices will come to an end with education and empowerment of women and socially backward people. Educating such people will make them realize how inhumane these practices are, and will eventually lead to a better society.

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