
UNACKNOWLEDGED ATROCITIES: A WITCH-HUNTING PRACTICE IN INDIA

Deepti Sankratyayan, Research Scholar, Pursuing PhD,
Faculty of Law, University of Delhi.

ABSTRACT

Misogynistic nexus of Indian Society finds a way to inculcate females for any misfortune that happens in someone's life or in the society. Witchcraft is a practice and belief in magical abilities to cast spell on someone while witch-hunting is an act by which women is branded as a witch locally named as "daiin, dakan, chudail, etc. and is severally punished by the whole community. The Bhopa's i.e. witch doctors have cardinal role to play in identifying and branding a women as a witch. Our Constitution guarantees right to equality under Article 14, right to life and personal liberty under Article 21 and right to have dignified life to all the citizens under Article 21 of the Constitution but women in several parts of of India still continue to face severe Human Right violations on the name of superstition. Thus, the research paper tries to examine complex constitutional and legal issues surrounding it.

The research paper aims to delve into the historical origin of witch-hunting and the causal factors which facilitate it to prosper. It endeavour to reflect upon the challenges and difficulties which victims of witch-hunting face and the stigma they have to carry throughout generations.

The research paper argues that witch-hunting practice is a manifestation of structural and intersectional violence intertwined with gender, caste, patriarchy, cultural belief and financial hardship. Rather, than a mere superstition it is a mechanism to control and regulate women especially widows, single, elderly, Dalit and tribal women who lacks male protection and punishes them. In the garb of superstition they are deprived of land ownership rights. They assert to discipline women who are progressive, modern, vigilant and vocal about their rights and refuse unreasonable compliance. They are denied social status in the society and material resources meant for decent living.

The research paper critically analyses the effectiveness of the existing legal framework in tackling witch-hunting and it highlights the inefficacy of the piece meal approach of the states in the light of NCRB data. It highlight the

need for central legislation on witch-hunting as it is dealt under combination of criminal laws under Bhartiya Nyaya Sanhita, 2023 or under state specific legislations like Prevention of Witch (Daain) Practices Act, 1999 of Bihar, Prevention of Witch (Daain) Practices Act, 2001 of Jharkhand, and Rajasthan Prevention of Witch-hunting Act (2015) of Rajasthan and to suggest policy reforms for effective implementation of laws. The comprehensive and multidisciplinary approach is required which brings not only socio-cultural transformation but ensures legal accountability, transparent and effective policy implementation, thus protecting human rights and upholding rule of law in true spirit and sense.

In India there is wide disparity between the existing legal system and the problems which actually the people face. Consequently, it fails to provide protection to victims of witch-hinting. Therefore, Women's perspective must be included in the discussion for change in the existing social system which is oppressive and unequal for women.

The research paper delve deeper and tries to explore the reasons behind witch-hunting practice. It is the superstition intertwined with patriarchy and financial hardship which keeps witch-hunting practice alive. The National Crime Record Bureau data 2023 shows that total 74 cases were reported across India related to witch-hunting, which shows a considerable decline from previous year i.e. year 2022 when total 88 cases were reported related to witch-hunting. Jharkhand is the state where witch-hunting cases leaped doubled from previous year i.e 2022 and registered highest number of cases i.e. 22, followed by Chhattisgarh and Madhya Pradesh where 19 and 14 cases were reported respectively. However, NCRB recorded 663 murders in year between 2015-16 which were motivated by witch-hunting¹.

Keywords: Witchcraft, witch-hunting, violence, superstition, gender & caste.

¹ Sanjay Sahay, *Jharkhand reports highest witch-hunting killings in India: 2023 NCRB Data reveals*, TOI, October 4, 2025.

“The whole concept of witches was that women were speaking up for themselves and fighting for their rights. The whole concept of witchcraft came into play to hold down women and women’s empowerment.”²

-Madchen Amick

I. INTRODUCTION

Often the Historical background involving various factors like cultural, financial, environmental, geographical, political influences and reinforces the witch-hunting practice. It is not limited to one nation or a continent but is a cross border phenomenon since beginning. The vulnerable group of society is targeted and oppressed in multiple ways and forms. In late middle age, Europe had witnessed a period of superstition and dogmatic belief which led to devastating witch trials. These worries regarding femininity and social control are shared world over. The conservative and traditional belief system of India intertwined with systematic injustice prompted gender-based violence against women. The oppression is supported by cultural and political forces. The historical accounts demonstrate that there is a relation between supernatural, religion, witch-hunting and law. It is observed that where traditional customary belief system has strong roots, cultural stories have profound role in keeping superstition and witch-hunting alive. Witchcraft accusations are deep embedded into unresolved conflicts, economic competition and patriarchal ethos. It is the women who are targeted and has to bear the brunt of witchcraft accusation and witch-hunting. They have to face a severe violence, harassment, torture and discrimination in the hands of their community members. Despite several legal reforms which aims to protect women’s rights harmful practice and violence against women continues to exist. The complex family relations and social competition have profound role in facilitating the torture that women face on the name of such practice. Therefore, it is important to address both social norms and weaknesses in the institution which are responsible for witch-hunts. In order to handle the complexities associated with witch-hunt we need to look carefully how culture, gender and systematic failures interact dramatically. As this brutal practice still continues to thrive in today’s world there is urgent need to raise questions on the legal framework which state provides for women protection. It is practiced worldwide in several countries like Ghana, Romania, Europe, and India. Thus, witch-hunting is also a worldwide phenomenon. However, in some countries like Romania, witches who

²“Siddhant Asthana” & “Vanya Chaturvedi”, Witchcraft in India: An alarming reality, 4 ROSTRUM L.J. (2017).

perform witchcraft like black magic enjoys social status and are well recognised whereas on the other hand country like Ghana, witches are hunted down and are kept in a secluded camps. However, due to sociocultural and socio religious activities, witch craft still prevails in India, even in the age of science & technology.

II. OVERVIEW OF WITCH-HUNTING PRACTICE

When we look back into the past, we find witch-hunting have been a curse entailing cultural myths, a means of social control and gender oriented. They mainly target marginalized section of society to suppress their voice and dissent and enforce social norms which are discriminatory. The witch trials are not random but they are driven by societal fears which are accelerated by economic and political troubles. Scholars opines that it is the socio-economic and cultural forces which shapes witch-hunting. It is a complex and multifaceted problem. In colonial and post-colonial period, the conflict was more apparent where accusations were made on individuals for community problems. The witch-hunting practice identifies social hierarchy as a major role player in violence related with women. It further reinforces male dominated power structure. It is often seen that women are economically independent and refuse to conform to the cultural norms and challenge them are targeted more. The false accusations against them are means to control them and to keep the patriarchal mindset alive through violence and fear. When witch-hunting cases were studied in the state of Assam, it was observed that accusations arise from local disputes which perpetuate gender and social inequalities. This ongoing continuous struggle need to be addressed urgently with systematic approach. The legal framework has to become active to curb witch-hunting where violence is justified by superstition. The enigma of witch-hunting is global and it shows historical trends and raises innumerable questions about their future. The nations which are facing witch-hunting brunt have made laws to tackle that but weak implementation often made them ineffective. The social acceptance of this practice and the superstition associated with cultural identities makes it difficult to handle. In the era of globalisation where world is interconnected and where different belief system prevails in different nations which might clash, understanding the problem of witch-hunting which is more of local nature becomes more insightful. The witch trials and witch hunts of the past are reminder of social fears. Thus, in order to address an issue, we need a paradigm shift in legal system as well as social attitude and perspective towards superstition and gender-oriented violence. Consequently, efforts are required to create an atmosphere where resilience prevails over persecution.

Country	Year	Number_of_Incidents	Victims_Reported	Source
India	2021	100	120	National Crime Records Bureau
Tanzania	2021	80	60	United Nations Entity for Gender Equality and the Empowerment of Women
Papua New Guinea	2020	45	50	Amnesty International
Brazil	2020	30	35	Human Rights Watch
United States	2019	5	6	Pew Research Center

Witch-Hunting Incidents Worldwide (Recent Years)³

III. HISTORICAL OVERVIEW OF WITCH-HUNTING WORLDWIDE AND IN INDIA

History shows that witch-hunting practice is shaped by mix of cultural, religious and political factors. It is these factors which shapes societal view about witches and the treatment they are offered. When the modern Europe was going through socio-political turmoil witch-hunting coincided with the process of formation and reformation of nation states. The authorities in order to distract masses from the bigger and relevant issues targeted vulnerable people especially women and tried to establish male dominated governance more firmly and deeply.

The European witch-trials are the reflection of how fear turns into violence against weaker section and the pattern that is still followed worldwide to establish power in different arena. In 13th century witch-hunting was very common under the reign of Queen Elizabeth. During that era three acts were passed in order to punish witches. In the landmark trial of “The Chelmsford

³ Dr. Srinivasan Gopal chari, *Chasing shadows: witch-hunting as a mirror of cultural horror and patriarchy*, LONDON JOURNAL OF RESEARCH IN HUMANITIES & SOCIAL SCIENCE, 37 (2025).

witches” women named Waterhouse Agnes was the first person who was executed for practicing witchcraft. It was supported by King James I of the England which further prompted the famous trial of the “the Pendle witch trial”. It was one of the largest witch trials. It led to the execution of over 368 people which in a period between 1581-1593. While in 1690’s America witnessed famous Salem Witch trial in Salem village of the Massachusetts which marks the beginning of witch trials and witch-hunting.⁴ Even in the modern era where societies are advanced the witch-hunting practice still prevails widely in countries where traditional mindset and belief system coincide with modern governance like Africa and South Asia. The witch-hunting flourishes due to economic hardships combined with patriarchy which makes environment feasible to perpetuate violence against women. They face physical and mental abuse and every sort of harassment and torture and are often socially excluded, while laws fail remains silent and dormant. In fact, those who are in power they mould societal views on witchcraft so as to create a social divide which help them sustain the cycle of violence.

HISTORICAL WITCH-HUNTING STATISTICS

	Year	Estimated Deaths	Source
Europe	1400-1700	200,000	European Witch Trials, 2019
United States (Salem Witch Trials)	1692	20	Historical Society of Salem, MA, 2020
India	2000-2021	2,600	National Crime Records Bureau, 2021
Africa	2000-2020	1,000	United Nations, 2021
Japan	1600-1800	500	Witch Hunts in History, 2019
South America	16th-17th Century	150,000	Colonial Legacy Studies, 2020

Historical Witch-Hunting Statistics⁵

⁴ Mohd Aqib Aslam, *A doctrinal study on witchcraft and role of anti-superstition laws in modern India*, INTERNATIONAL JOURNAL OF APPLIED RESEARCH, 164-165 (2021).

⁵ Gopal chari, *Supra* note at 1.

When we examine various elements that contribute to witch-hunting practice in Indian Society we are compelled to reflect upon the relation of past actions and present consequences that makes witch-hunting thrive present time. The cultural and social origin of problem highlight a systematic failure of legal system. We need to hammer and dismantle the ideas that fuel witch-hunting through community participation, educational and legal reforms.⁶

IV. WITCHCRAFT AND WITCH-HUNTING

The word witchcraft is an English term derived from the Anglo-Saxon term *wicca*, which means feminine form and craft means skill or ability. Witchcraft is a practice and belief in magical abilities. In order to understand the theme of the research paper it is important to define the term “witch”. Who is witch? Witch is a women especially of female gender who is believed to possess supernatural powers and is proficient in performing black magic, sorcery and is purported to harm human health and wellbeing. They are branded as witches and called with local names *chudail*, *dayan*, *dakan*, *tohni*, etc. In Chhattisgarh the word “*tohna*” is used for men witches.

According to Section 2(b) of Rajasthan Prevention of Witch-hunting Act, 2015 Witchcraft means use of supernatural or magical power with evil intention to call up spirit or cast spell or discover whereabouts of stolen goods and includes “*Tohna-Totka and Tantra-Mantra*” While witch-hunting has been defined as any act on the part of any person, 1) identifying, accusing or defaming a women as witch (2) harassing or harming a women whether mentally, or physically or damaging her property.⁷ Witch is a woman who is considered to have supernatural powers and practices black magic or sorcery in order to harm human health and wellbeing.

The word witch is popularly used for women. It is attributed to specific gender i.e female therefore witchcraft is seen from the gender perspective, which makes women the obvious targets. History reveals witchcraft was a social evil practiced out of aboriginal belief system and ignorance. The black magic and sorcery was performed to invoke evil forces or impure souls as known from religious scriptures. Despite our significant advancement in every arena like space, science and technology our superstitious belief system makes women life so trivial and insignificant that we as a community punish her for our irrational reasons. Our Constitution safeguards our life and personal liberty under Article 21 of the Constitution but that is taken

⁶ Gopal chari, Supra note at 1.

⁷ The Rajasthan Prevention of Witch-hunting Act, 2015, No. 14, Acts of Parliament, 2015 (India).

away in witch-hunting. The witch-hunting is a serious and systematic crime against women where the community as whole commit organised violence against a women who is declared as witch.

V. PRIMARY ATTRIBUTES OF THE VICTIM

The social profile of the women who are hunted as witches are mostly single, widowed, elderly or socially isolated who lacks male protection and kinship ties. Their vulnerability exposes them to easily get identifiable by the public to ritualize violence.

VI. DEMYSTIFYING THE CATALYST OF WITCH-HUNTING

The research paper critically examines the witch-hunting practice in the light of social matrix of gender, structural violence and caste. The witch-hunting practice which is seen deep embedded in superstition is actually far beyond that deep rooted in economic and political factors. The accusations of witchcraft are not random but strategically crafted to coerce them and to control their land, property and body. The underlining theme remains caste, Brahminical patriarchy, Poverty and politics. They assert to discipline and restrain Dalit, tribal and downtrodden women who tries to rebel and resist oppression and refuse to accept the authority of higher caste in a rigid caste system. It is seen as a social punishment expressed in terms of sexual coercion, violence and harassment which includes both physical and mental. Not only physical violence is inflicted upon them but they experience a social death. They lose social recognition and community belongingness. Their basic rights are denied. They are denied access to community resources and government welfare programmes. They become living corpses for both community and state. They suffer not only through cumulative community attack but through community exclusion. This sort of brutality remains invisible and unacknowledged. It reveals how a women marked by various vulnerabilities of gender, poverty and caste can be easily set aside from the social and moral fabric of communal life.

Dalit and tribal activist considers witch-hunting practice as a caste based structural and sexual violence. Though, it is seen as manifestation of irrational belief but actually a means to control and discipline Dalit downtrodden women. Sometimes, accusations emerge from sexual transgressions when lower caste women rejects and refuse to lay down herself to the demands and sexual advances of upper caste man. Then through punishment and violence, they reassert themselves re-establishing masculine honour and notion of purity and pollution by degrading

resistant women. Rege, an Indian feminist scholar have opined that control over Dalit women body has always remain a central theme of reproduction of caste and gender hierarchies. The NCRB data of year 2022 reveals the role of caste in witchcraft accusation cases. It is mostly people of the schedule caste which are accused followed by people of schedule tribe.

CASTE AND WITCH ACCUSATION DATA

Caste	Accusations	Year	Source
Scheduled Castes	150	2022	National Crime Records Bureau
Scheduled Tribes	120	2022	National Crime Records Bureau
Other Backward Classes	80	2022	National Crime Records Bureau
Upper Castes	20	2022	National Crime Records Bureau
Total Accusations	370	2022	National Crime Records Bureau

Caste and Witch Accusations Data⁸

VII. CASE STUDIES

- A. The horrific story of elderly widow Gulabi kumawat brings chills to the spine, she was branded as witch by the fellow villagers, beaten and set alight in fire to die but somehow she managed to escape and save her life. But her land and property were taken away from her by the perpetrators of crime.

She said in interview that *“They tried to grab my land and sell it without my consent. When I confronted them, they called me a “dayan” (witch), blamed me for many bad things in the village and nearly killed me. They have known me all their life. How did I suddenly become a*

⁸ Gopal chari, Supra note at 1.

daiin?”

- B. We have similar case of Bholi who belonged to Dariba, Rajasthan she was branded as witch with the malicious intention of grabbing her three acres of land. The harassers belonged to vishnoi community (OBC) they were asking for access through their field to reach their field since many years, Bholi was refusing to do so. One fine day heated argument led bholi being branded as witch to fulfil their ulterior motive.⁹

Kelkar and Nathan opines that there is no substantive evidence in witch-hunting but it is committed on the basis of suspicion, hearsay, unusual conduct and imaginary rituals. The women is ostracised and abandoned. The social sentence awarded by the society to the accused of witchcraft exceeds much beyond the judicial one.

VIII. HOW WITCH-HUNTING PHENOMENON UNFOLDS

The phenomenon of witch-hunting unfolds systematically in three stages i.e. accusation, declaration and persecution. It is a socio-cultural mechanism by which women are identified, targeted and branded as witches by their community members.

First stage begins with accusation where women is held responsible for various misfortunes that affects individual or community. It can range from anything miniscule to myriad including death, illness of an individual or a livestock, natural calamity, crop failure, famine, disease, etc. Allegation are made on the women for all the misfortune which happens in the village or with an individual this further ignites and take it forward to the next stage i.e. declaration. Women is now formally branded as witch and boycotted by the community. Traditional witch doctors locally known as ojha have vital role to play in declaration of women as witch. They perform various rituals and accused women of possessing malevolent evil powers thus labelling and declaring them as witch. Last stage, involves persecution accused women is ill-treated, beaten, faces sexual violence and harassment. Perpetrators grab this opportunity to rationalise their inhumane act of cruelty. The victims not only suffer from physical violence but also bear imprints of psychological trauma which remains there with them lifelong. The tripartite progression of witch-hunting marked by accusation, declaration and persecution highlights starkly an injustice and superstition related violence and atrocities against women. The

⁹ Witches Beaten, Buried, Burned for Land in Princely Indian State(Apr. 20, 2026, 7:45 pm), <https://pldindia.org/advocacy/pld-in-the-news/witches-beaten-buried-burned-for-land-in-princely-indian-state>.

community structures such as Panchayats rather than challenging such gender and caste based norms institutionalise them thus, plays important role in legitimising them. It is a cyclical phenomenon where women is first branded, then she is presumed to be guilty and then she is made responsible for all misfortune.

IX. VIOLATION OF LEGAL RIGHTS AND LEGAL INTERVENTION

Our Constitution provides safeguards under Article 14 to provide equality before law and equal protection of law to all citizens but women's right of equality is clearly violated. As witch-hunting is gender specific violence, where women are specifically targeted. Their right under Article 15 of the constitution is violated.

The UNHRC independent expert report on witch-hunting highlighted that State need to readdress the issues of victim and fulfil their positive obligations toward them. There is a need to enact laws which captures range of issues associated with witch-hunting and provide adequate punishment to deal with the issue sternly. Along with that an appropriate measures should be taken to establish mechanism for proper investigation and prosecution of the offences related to witch-hunting. We don't have any national level law which penalises witch-hunting practice in India therefore FIR is registered in various sections of Bhartiya Nyaya Sanhita, 2023. Various sections of BNS are invoked such as section 114 for hurt, section 116 for grievous hurt, section 101 for murder, section 63 for rape, section 74 for outraging the modesty of the women. Though, the witch-hunting practice is widespread in several states of India but few states have enacted laws to address an issue. The Bihar became the first state to enact the law on witch-hunting named "Prevention of witch (Daain) practices Act, 1999"¹⁰, followed by Jharkhand which enacted "Anti-witchcraft Act, 2001"¹¹. While Chhattisgarh enacted "Chhattisgarh Tonahi Pratadna Nivaran Act, 2005"¹² to protect women against the atrocities on the name of 'tohni'. An Odisha enacted "Odisha Prevention of Witch-Hunting Act, 2013"¹³. Further, Maharashtra enacted Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013"¹⁴. The Assam Witch-Hunting (Prohibition, Prevention and Protection) Act, 2015"¹⁵ and Karnataka enacted

¹⁰ The Prevention of witch (Daain) practices Act, 1999, No. 9, Acts of Parliament, 1992 (India).

¹¹ The Anti-witchcraft Act, 2001, No. 04, Acts of Parliament, 2001 (India).

¹² The Chhattisgarh Tonahi Pratadna Nivaran Act, 2005, No. 17, Acts of Parliament, 2005 (India).

¹³ The Odisha Prevention of Witch-Hunting Act, 2013, No. 3, Acts of Parliament, 2013 (India).

¹⁴ The Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013, No. 30, Acts of Parliament, 2013 (India).

¹⁵ The Assam Witch-Hunting (Prohibition, Prevention and Protection) Act, 2015, No. 21, Acts of Parliament

‘Prevention and Eradication of Inhuman Evil Practices and Black Magic Act, 2017’¹⁶.

On similar lines yet improvised version Rajasthan enacted Rajasthan Prevention of witch-hunting Act, 2015. For practising witch-hunting act provides imprisonment up to five years and fine. Interestingly, the 60 percent of fine is diverted for the treatment and rehabilitation of the victim. It provides life imprisonment in cases of death of victim of witch-hunt and imposes collective fine on the community where the offence is committed. The net proceeds of fine has to be utilised for the rehabilitation and resettlement of the victim. Moreover, it proposes that State should roll out scheme for raising awareness regarding superstition and witch-hunting. It also prohibits derogatory acts which causes dents on human dignity such as parading women naked or with scanty clothes and painted face, forceful eating and drinking of inedible and obnoxious substance. It also penalises ojhas, the witch doctors for branding a woman as witch or practising witch-hunting. But the question arises do the people get substantial accessibility to the legal framework? Are these laws able to move beyond a penal paradigm of papers to engaging meaningfully with structural and intersectional roots of witch-hunting? When the law remains limited to carceral remedies and adheres to abstract notion of equality it fails to protect the most needy and vulnerable section and reinscribe the social hierarchies which it intend to dismantle.

X. JUDICIAL RESPONSE TO CONDEMN WITCH-HUNTING

It attempts to analyse the judicial response to witch-hunting and criticises such incidents as aberrant individual crimes rather than structural gender-based crimes. It also interrogates the social, legal and institutional conditions where witch-hunting thrives. Judicial pronouncements recognise witch-hunting as a grave violation of constitutional rights creating dent on human dignity and making survival often difficult. Courts have repeatedly emphasized unequivocally that no amount of superstition can justify violence associated with witch-hunting.

In *Hulikal v state of Karnataka* case, Hon’ble Supreme Court acknowledged the socially and corrosive impact of superstition related to witch-hunting and human sacrifice and warned that such irrational superstitious belief system camouflages the systematic failure of caste, poverty,

2015 (India).

discrimination and gender-based hierarchies.¹⁷

Further, in *Bhim Turi v State of Assam* case, Guwahati High Court termed “Witch-hunting” as gross human rights violation which is rooted in social custom.¹⁸ Though, normatively significant they provide deeper insight and scrutinise when they are seen terms of Kelly’s theoretical framework of continuum violence. Kelly’s foundational concept of the continuum violence forces re-evaluation of witch-hunting as a part of wide spectrum of gender control that pervades women’s daily lives rather than episodic brutality.¹⁹ The existing penal provisions and judicial interpretations doesn’t address the problem of social exclusion, symbolic degradation, psychological coercion and control over women’s autonomy with which victims suffers. It treats it as a discrete punishable event through assault, hurt, grievous hurt, murder or abduction rather than considering it as a structural socially sanctioned mechanism of patriarchy and caste.

Moreover, *Tula Devi v State of Jharkhand*, case exposes the limitation of legal system which is based on evidentiary thresholds rather than the harm the victims suffered due to physical abuse and harassment. It failed to convict perpetrators²⁰. The case was dismissed due to lack of eyewitness testimony, despite suffering systematic intimidation and Ostracism.

Similarly, in *Madhu Munda v State of Bihar*, case women who was accused of witchcraft gone through near death experience then also accused got acquittal due to unreliable witness testimony which reveals law’s blind spots which fails to recognize non-visible, collective harm that community inflicts.

XI. INTERNATIONAL LAW ON WITCH-HUNTING

We have International Human Rights which continuously strive for gender equality but still structurally and culturally embedded gender based violence continue to flourish. Witch-hunting is one such phenomenon, which remains prevalent throughout though dismissed as archaic and culturally peripheral. It particularly targets women that too of marginalized community. Witch-hunting practice violates basic human rights under International law. It is evident in extrajudicial killings, torture, forced displacement, property dispossession, social

¹⁷ *Hulikal Nataraju v. the State of Karnataka*, 2010 (4) AIR KAR R 508 (India).

¹⁸ *Bhim Turi v State of Assam* AIR ONLINE 2018 GAU 210 (India).

¹⁹ LIZ KELLY, *SURVIVING SEXUAL VIOLENCE* (Polity Press, 1988).

²⁰ *Tula Devi v. State of Jharkhand* (2006) 3 JCR 222 (India).

ostracisation and multi-generational trauma affecting mostly women, children of marginalized section of society including SC and ST. It results in violation of Human rights enshrined in International Human Rights including ICCPR, CEDAW, the Convention against Torture and Convention on the Rights of Child. The right to life is protected under Article 6 of the ICCPR which imposes positive obligation on the State to prevent arbitrary deprivation of life. In India, when State authorities fails to provide legal protection against witch-hunting it results in violation of India's binding obligation under International Human Rights law. The Human Rights Committee discussion revolves around obligations which includes duty to investigate, prosecute and punish perpetrators and to provide remedial measures to victim and her family.²¹ Following witchcraft allegations women and children are being tortured and killed while authorities fails to act which results in breach of State's core obligations. The Article 7 of the ICCPR prohibits cruelty, torture, inhuman and degrading treatment with the individuals and provides punishment to the people who subject accused individuals to violence, degraded treatment and forced eviction. The CAT in its interpretation of State obligations under Article 2 has elucidated that States are required to investigate and punish acts of ill-treatment and torture by both State as well as non-state actors.²² In India, Witch-hunting cases involves violence which includes assault, branding women with red hot irons, parading women naked and expelling them out of the village. It is prohibited in instruments of Human Rights Committee, General Comment no. 20 (1992) on Article 7 of the ICCPR²³. As the witchcraft allegations mainly targets women and that too often of lower caste women raises several concerns regarding Article 26 of the ICCPR, which guarantees equality before law and protection against discrimination.²⁴ The CEDAW Convention requires State to eliminate discrimination against women in all fields and to take appropriate steps to modify social and cultural patterns that perpetuate stereotypes.²⁵ The CEDAW Committee recognizes the harmful traditional practices such as witch-hunting which constitute gender-based violence and discrimination. It has associated witch-hunting with patriarchy, social status, land and resources.²⁶ Moreover, witch-hunting unarguably infringes various rights of a victim including right against security of the person and right to freedom from arbitrary and unlawful

²¹ International Covenant on Civil and Political Rights. art. 6, Dec. 16, 1966, 999 U.N.T.S. 171.

²² Convention Against Torture And Other Cruel, Inhuman Or Degrading Treatment Or Punishment. art. 2, dec. 10, 1984, 1465 U.N.T.S. 85.

²³ *International Covenant on Civil and Political Rights*, Supra note 21, art. 7.

²⁴ Convention on the Elimination of All Forms of Discrimination against Women art. 5(a), Dec. 18, 1979, 1249 U.N.T.S. 13.

²⁵ *International Covenant on Civil and Political Rights*, supra note 21, art. 26.

²⁶ UN. Committee on the Elimination of Discrimination against Women (37th sess. : 2007 : New York) CEDAW, 'Concluding Observations: India'.

interference with one's privacy and home as they are expelled out not only from their own houses but from the community and thus, rendered destitute. They are denied inheritance rights and community membership. The local authorities failed to fulfil their duty of providing security and protection and therefore, pushing them into clutches of vulnerability and impunity. It is not just the women who are hunted as witches are the victims but her entire family suffers the brunt of violence including their children. In order to protect children, Article 6 of the CRC guarantees every child right to life and requires state to ensure their survival and development.²⁷ Where children are branded as witch or they are subjected to violence and authorities fails to protect them it amounts to breach of state obligations. Further, State is obliged to take proper measure to ensure protection of children from physical and mental abuse, maltreatment, exploitation and injury.

XII. WAY FORWARD AND CONCLUSION

The framework of substantive equality includes recognition, transformation, redistribution and participation which provides strong and meaningful foundation than the formalism which guides state and judicial response. Therefore, legal response must go beyond punishment and should endeavor to transform the underlining power structure of patriarchy, caste and feudalism which endures witch-hunting. We need to emphasize upon multi-pronged reform strategy which translates feminist legal theory into actionable state and civil society intervention. Rather, than addressing witch-hunting through patchwork approach, by enacting state level laws, India needs to enact national level statute which can cater to the problem in a wholistic manner harmonizing constitutional principles. It should define witch-hunting as a specific offence including gender and community dimensions. It should acknowledge the intersectionality of vulnerabilities of being a widow, rural, poor, which is compounded by being Dalit or tribal. Further, it should codify State obligations drawing on CEDAW'S GR 35 harmonising it with constitutional principles to ensure protection, prevention, investigation, prosecution and reparation. It should also make provision for providing legal aid, mental health, housing and economic restitution. Moreover, it should also provide mechanism for establishing independent monitoring and grievance redressal mechanism in lines of National Commission for Women or Schedule Caste and Schedule tribe. It is important to draft a law in consultation with the victims of witch-hunting, Dalit and tribal

²⁷ Convention on the Rights of the Child, art.6, Nov. 20, 1989, 1577 U.N.T.S.3.

communities which are being preyed and feminist legal scholars who are diving deeper to understand their problems in an empathetic manner to ensure law doesn't remain symbolic but can work at ground level successfully.

It explores measures to introduce reforms in State level laws in absence of national legislation.

Laws should be revised to expand the purview of witch-hunting definition which can include economic boycotts, social ostracism, displacement and public naming. The victim support should be institutionalised to provide them advanced medical care, psychological and emotional support in handling their trauma. The awareness programmes should be launched in rural and tribal areas to make people familiarise with laws. They should make adequate budgetary allocations and periodic evaluation of the laws so that they doesn't remain aspirational.

Further, mandatory training programmes should be conducted for enforcing laws and handling witch-hunting complaints and gender based or caste based complaints. It should introduce special units within police department with special cells trained in forensic investigation to tackle gender and culturally embedded violence, thus curbing witch-hunting practice in India.