

'Witch-hunting' in India?

Do We Need Special Laws?

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This paper discusses the findings of a socio-legal study on witch-hunting conducted by the Partners for Law in Development in Jharkhand, Bihar and Chhattisgarh. It highlights the results of the study in order to offer a critical perspective on the increasing reliance on special laws to address the problem of witch-hunting. The socio-legal evidence from the states which already have such special laws on witch-hunting shows their inefficacy in dealing with witch-hunting and related forms of violence. Criminalisation of witch-hunting through special laws is an inadequate response to the problem which has much in common with other forms of violence. There is a need to focus on accountability and reform of the agencies that activate the criminal justice system and to plug the vacuum in relation to reparative justice.

This paper discusses a study on witch-hunting conducted by the Partners for Law in Development (PLD) in select districts and blocks of Jharkhand, Bihar and Chhattisgarh.¹ The objective of the study was to generate evidence regarding contemporary trends of violence and victimisation in which allegations of witchcraft are present (such violations being referred to in short as witch-hunting) and to identify the interface that such victimisation has with law within these three states as well as in the broader Indian context. The view that witch-hunting/witchcraft is a unique problem which requires interventions in the form of a special law already prevails in much of the debate on this issue and indeed has led to such laws being enacted in several Indian states while similar measures are increasingly being contemplated in other parts of the country.

The three states which are the focus of this study already had special laws dealing with “witchcraft” and “witch”-related offences prior to this study. The Prevention of Witch (Daain) Practices Act 1999 was enacted in Bihar and adopted subsequently by Jharkhand as the Prevention of Witch-hunting (Dayan Pratha) Act 2001 and by Chhattisgarh as the Tonahi Pratadna Nivaran Act 2005 (also called the Witchcraft Atrocities Prevention Act 2005). While these were the only three states which had special laws on witch-hunting when this study was initiated, subsequently a number of other states have enacted or are in the process of debating similar laws. In Odisha, pursuant to a public interest litigation (PIL) based on news reports on witch-hunting, the high court directed the state to take action,² leading to the enactment of the Odisha Prevention of Witch-hunting Act, 2013.³ In early 2015, the Rajasthan Prevention of Witch-hunting Act 2015 was passed. Rajasthan, which was earlier contemplating a comprehensive law on atrocities against rural women, opted for a law on witch-hunting alone, treating it as a gender-specific offence. Yet, this goes beyond the model of earlier laws, in stipulating collective fines and preventive action as well as providing rehabilitation and resettlement, the realisation of which has been delegated to specific schemes to be created by the state government in the future. In August 2015, the Assam Witch-hunting (Prohibition, Prevention and Protection) Bill was passed, retaining the gender neutral framing of “witch-hunting” as in earlier laws, but going beyond the other state laws by increasing the number of offences, outlining the course of action for rescue and protection, collective fines, medical assistance, shelter and rehabilitation—all again, contingent on provisioning by the

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state. Another trajectory in this trend of lawmaking is a broader criminalisation of “evil” superstitious practices, targeting select superstitions, purportedly because they are more harmful. Maharashtra passed the Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic Bill 2013⁴ in response to the long-standing demand by the Maharashtra Andhashraddha Nirmoolan Samiti dedicated to eradication of superstition, after its founding member, Narendra Dabholkar was killed.⁵ In the same vein, the Karnataka Prevention of Superstitious Practices Bill 2013⁶ proposes to punish a list of superstitions, by establishing a state-level Karnataka Anti Superstition Authority, district level vigilance committees on superstitious practices, and notably, by declaring consent to participation as being irrelevant defence against criminal prosecution. The bill was stalled due to the opposition from Hindu groups who allege that it is against Hindu practices and rituals, while other critiques argue that in fact it only proscribes non-Brahmanical practices, hurting peasants and communities closest to pagan rituals (Nayantara 2015; The Reality Check 2013; Ranganathan 2014). The National Commission for Women (NCW) began with proposing a national law on witch-hunting, modifying it after discussions on a draft bill titled “The Prohibition of Atrocities on Women by Dehumanising and Stigmatising Them in Public” modelled along the lines of an older Rajasthan bill, proposed by the State Commission for Women.⁷ Apart from these there have also been other proposals to introduce such a bill at the national level.⁸ This trend is even reflected internationally, with a demand that witchcraft accusations and persecutions (WAP) be recognised explicitly and banned through a resolution, drawing upon information across very diverse contexts to establish, as it were, a common trend.⁹

Questioning the Assumptions

It is not the purpose of this paper to undertake a detailed examination of the assumptions and particular circumstances which underlie these legislative interventions. But we wish to suggest that all such enactments reflect the tendency which treats a special law, thematically framed, as a necessary and sufficient response to problems such as witch-hunting which are constructed as primarily originating in evil practices, irrationality and superstition. More importantly, they reflect the view that criminalisation and punishing persons victimised by, or even those who participate wilfully in practices declared “evil,” is the most appropriate way to end superstition, harmful practices, provide redress to victims and indeed, inject scientific approach and rationality. Amongst other things, one of the stated objectives of both, the Maharashtra Act and the Karnataka Bill, is to promote belief in scientific medicine and temper.

The assumptions of such legislative proposals tend not to be based on evidence or explanation of structural conditions under which such practices flourish, protection gaps in the existing laws and, like the latter, they do not address the needs of the victims/survivors of violence associated with such violence. It is against this backdrop that the research reported here assumes relevance, as what is urgently required are studies which generate evidence about both social and legal aspects of

the witch-hunting phenomenon. This study was conducted in three states where special laws on witch-hunting have been operational to create such an evidence base through which engagement with policy and related debates can be undertaken.¹⁰

Such work is particularly relevant given that there is no large-scale authoritative data on witch-hunting in the Indian context (PLD 2013). The only signs of such violence in the National Crime Records Bureau (NCRB) are murder cases recorded as “motivated by witchcraft,” which include what is broadly referred to as witch-hunting, along with human sacrifices and black magic practices that are fatal. According to the NCRB data, during the year 2000–01 there were 253 cases of such murders (126 cases in 2000 and 127 cases in 2001) and between 2008 and 2012, more than 768 persons were murdered. These figures represent neither witch-hunting in its widest sense as the cases that culminate in murder and killings are only one end of the continuum of violence of which witch-hunting is a part (our study shows that a large number of cases of witch-hunting do not involve murder) and it also clubs cases related to witchcraft with cases of human sacrifice which need a separate treatment. Newspaper reports from the regions where witch-hunting cases are prevalent also suggest that there are many more cases than these figures seem to indicate. Since the NCRB data on witch-hunting only pertains to cases where murder has occurred, and also includes cases of human sacrifice, it is reasonable to suggest the NCRB data are a highly unreliable indicator of the crimes and violence which surround allegations of witchcraft and involve witch-hunting in some form.

Most generalised narratives tend to be anecdotal and stereotypical and frame witch-hunting as an exceptional, evil and barbaric form of violence; the “othering” of the context and its superstitious beliefs from the otherwise “rational” and “ordered” societies that we are part of results from such narratives. When framed in a gendered perspective, some accounts do view witch-hunting as targeting of single or childless women with usurping property as a primary motive. But a broader perspective on contexts and conditions which give rise to witch-hunting, forms of violence it may be associated with and the manner in which such violence may be redressed is not available.

The structure of our study thus follows from the premise that a discussion on legislative response to witch-hunting should be based on two questions. First, who are the victims and perpetrators of witch-hunting and what are the factors and causes that trigger witch-hunting in the contexts where it occurs? This will help us gain clarity on whether theme-specific legislative frameworks can respond to the reality of events and enhance legal redress for victims. Second, what are the most significant justice/protection gaps that exist in relation to victims vis-à-vis the existing laws and mechanisms of redress? This will help us to identify the areas of legislation and policy that need attention, and also assess the usefulness of the existing models of special law in responding to those gaps. In order to address these questions, our study of witch-hunting focused upon generating and analysing three data sets:

(i) Forty-eight cases of witch-hunting that had occurred in the last five or six years documented from select blocks in the

following districts from three states: Bilaspur and Janjgir-Champa (Chhattisgarh), Jamui (Bihar) and Ranchi (Jharkhand). The cases were selected from among those that (at least) involved branding of a woman (a man in a couple of cases) as a “witch” (using a variety of local terms) with a focus on including as much variation as possible.

(ii) Data from police records from the districts of Jamui in Bihar, Bilaspur in Chhattisgarh and Gumla and Ranchi in Jharkhand for 2010, 2011 and 2012. Eighty-five records were identified and analysed.

(iii) Case law from the high court and Supreme Court was scanned for cases pertaining to witch-hunting and witchcraft. Fifty-nine cases were identified which pertained to disputes which had reached the Supreme Court and 10 high courts throughout India from pre-1947 to 2012.

The data from the field was collected by community organisations that PLD collaborated with in all the three states.¹¹ The case studies, data from police records and case law were collated and analysed by a team of researchers at the PLD with the authors of the present overview, as was the final report. In what follows we briefly summarise our findings and conclusions based on this study with the hope that it will generate wider debate and discussion on the legal interventions around witch-hunting in particular and around the legal redress of gendered violence in general.

Sociological Dimensions

We first report on the findings of the study which address the social, economic and political context within which witch-hunting occurs. The first important finding is that witch-hunting primarily targets women. In 46 out of 48 case studies collected, the primary victims were women. Of the 88 victims mentioned in the FIRs, 75 were female and 13 were male. Of the total of 73 victims in the appeal court judgments, 48 were female and 25 were male. In all, the police records and the reported judgments indicated 86% primary targets of witch-hunting to be women.¹² Our data shows that although men may be targeted as witches in substantially lesser numbers, they form a considerable bulk of the secondary victims who suffer collateral violence. We also found evidence of women being instigators of witch-hunting although men outnumber them in this respect.

Contrary to the received wisdom, widows and single women were not the only ones vulnerable to witch-hunting. Majority of the victims in the case studies belonged to the age group of 40 to 60 years, showing middle-aged, married women to be the most vulnerable to witch-hunting, although there are a few instances of younger women being labelled as witches as well. In fact witch-hunting appeared to be a prevalent form of violence used to target women fully ensconced in their marital homes.

The instigator(s) of the violence are generally related to the victim through kinship, community or neighbourhood ties. A most significant finding of our study is that a very large segment of the perpetrators are related to the victims through ties of marriage. Moreover, the two seem to belong

to comparable social and economic strata. Although allegations about use of “supernatural” powers are invariably present in cases of witch-hunting—land, property, jealousy, sexual advances and other common sources of tension between social intimates were found in a large number of cases. Counter narratives in every case make for a more complex understanding of witch-hunting than what the framework of “superstition” suggests. As the instigators are persons who are proximate to the victim, the plausibility of conflicts, tensions and jealousies between them is reinforced. While the *ojha* (a shaman or an oracle) appears in majority (not all) of the cases, the tensions and conflicts in many cases exist prior to the entry of the *ojha*, suggesting that they tend to confirm rather than initiate the accusation.

We found that marriage and the unstinting support of the immediate family, especially the husband, offers little immunity against targeting. Rather, as suggested above, targeting often results in victimisation of the immediate family members of the women. While the sample size is not sufficient to say that married women are always more vulnerable, the need to think about witch-hunting as one among many forms of violence which surface in contexts of family disputes and stresses is clearly indicated in our study.

In light of the above it was not surprising to find that cases of targeting persons, mostly women, as witches occur across all sections of society and the patterns in this regard reflected the socio-demographic composition of the sites of the study. No significant inter-caste/inter-community dynamics could be discerned in our case studies. Thus the position in social hierarchy in itself does not appear to directly shape vulnerability although this may be so in regions where such dynamics play a significant part in everyday relations of people. The economic condition of the victims also does not appear to have a significant bearing on the vulnerability to being targeted, as the economic status of the victims’ households was found to vary along the scale of adequate to marginal, some with land and some without land, and varied degrees of access to other resources such as animals, vehicles and built houses.

While interpersonal jealousies, conflicts and tensions arise in a context of close proximity, it seems that witch-hunting is also linked with a set of broader political and economic context which shapes people’s lives. The high rates of lack of formal education among the victims and the perpetrators and the large number of health issues which surfaced as pretexts for labelling women as witches indicate the links that witch-hunting has with issues central to governance and development. The areas from where the case studies were collected suffer from acute neglect and dismal administration that has manifested in poor healthcare, sanitation and education, with large sections of the population being below the poverty line. Illness, deaths and tragedies that cannot be explained, particularly in the context where education, health facilities, and sanitation are lacking, tend to get rationalised through witch-blaming.

The structural context within which victimisation plays out reflects governance failure as well as absence of rule of law, which create the necessary impunity for targeting and victimisation.

Many of the motivations that result in “witch” accusations may appear trivial but assume alarming proportions in contexts of structural neglect, deprivations, apathy of the law enforcement machinery which combine to create impunity that enable accusations to result in victimisation, without fear of consequences.

Physical and Social Consequences and Local Responses

Our study reveals that witch-hunting has both short-term and long-term consequences for the victim. These consequences take the form of physical violence as well as social deprivations. A victim of witch-hunting faces stigma, isolation and ostracism as the most prevalent and persistent form of violence. The victimisation is continuing in nature—beginning with verbal taunts and slurs using local terms denoting “witch” as well as other abuses aimed at demonising and isolating the victim and her family. Name calling is rarely limited to being called witch; it is almost always accompanied by a range of sexual slurs and local abuse.

The actual physical violence perpetrated is usually public with instances of forced entry into the victim’s house only to drag her outdoors to a public place being a visible trend. Almost all cases involve more than one accused, so that violence is executed by a group rather than an individual. Police records also indicate the gendered and sexual nature of violence accompanying witch-hunting. Humiliation, shaming and demonising the victim through forced disrobing, parading, blackening of face, tonsuring the hair, breaking teeth, forced consumption of dirty water and excreta are common. Physical violence is not present in all cases of targeting, but when it does occur, it adds gravity to a case, and may in some cases be fatal.

The long-term consequences of witch-hunting are equally, if not more, serious—involving forced displacement/expulsion from their homes and villages, with those who stay on facing isolation and limited or no access to common resources of the village. Regardless of where the victims may be, in their village or displaced, they become impoverished and live in fear. The consequences upon the victim’s family are equally grim, with the immediate kin of the victims being affected by the dislocation, isolation, loss of property and livelihood.

With regard to the responses of institutions and actors closest to the site of victimisation, our data shows that the immediate family are most protective (except in some cases where a marital dispute already exists), and as a result also victimised. The responses of the extended family vary, with many of them being the primary instigators themselves; in some cases, however, where the victim was expelled from the village, members of the extended family sheltered them until the point at which their hospitality began to put them at risk of secondary targeting. The neighbours appear to be hostile, either as instigators themselves, or as supportive of instigators, and as passive onlookers in a few cases. The apathy in many cases is on account of fear of reprisal from vested interest groups. In a small number of instances the neighbours came to the aid of the victim.

We found that women’s groups, primarily the Mahila Samakya Sangathana, and indeed, the partner organisations who collected the field data for this study, played the most effective role in the areas we investigated. The women’s organisations, where they exist, particularly stand out as the main lifeline for the victims’ protection, redress and restoration of dignity. They deploy dialogue, negotiation and legal action, drawing in multiple actors to strategically address the ostracism, expulsion and victimisation, to safeguard the victims’ interests. In a few cases, the Mukhiya or the local leaders also intervened positively. However, the nature of their intervention is not uniform and the local panchayat members were found to be aiding the perpetrators in a number of cases.

Interface with the Law

It is significant to observe that a great number of cases are never taken to the police. Out of the 48 cases studied one-third never approached the police and about one-fourth were prevented from doing so. Of the remaining cases (22) in which the police was approached, more than half had been dismissed due to factors such as lack of proper investigation, absence of witnesses, minor punishments to the perpetrators, compromise between the victim and the perpetrator, etc. The police records (FIRs/charge sheets) as well as reported appeal court judgments provide some insights into the point at which the criminal justice system begins to interact with victimisation connected with witch-hunting. These records and judgments show that even though the actual spectrum of violence involved in cases of witch-hunting is very broad, it is usually only when physical violence occurs, often publicly orchestrated by a group of accused, that the criminal justice system comes into play.

Our data reveals that 72 of the 85 FIRs involved physical violence and hurt, in addition to other offences, such as theft, destruction of property, trespass and humiliation. In 13 cases where physical violence was not found, victims complained of name-calling, abuses in combination with threat to life. At least four of the five FIRs that culminated in compromise and closure involved name calling and threats with no indication of physical violence. But predictably, the appeal court judgments are not about physical violence, but about murder and grave violence with 56 of the 59 cases involving murder, and two others involving attempt to murder.

Trial court records were not part of the inquiry. But, in fact, they are essential for understanding what kinds of cases, and indeed, offences, eventually get prosecuted. The study of trial court judgments pertaining to witch-hunting is strongly recommended as an area of further research to gain insights into which complaints reported to the police enter the judicial system, and which never do. In the absence of this information, and based on our data, we can infer that the law interacts with victimisation only when physical violence involving public humiliation is involved, but that such cases do not proceed to the appellate courts unless they pertain to or result in murder. All 59 judgments of the appellate court are appeals against convictions by the accused indicating that the state had not

appealed against acquittal in a single case of witch-hunting that has been reported. Our case studies also reveal that a majority of the cases of witch-hunting either do not reach the police or are dismissed due to a variety of reasons including shoddy investigations.

The study also looked at the laws and the provisions that are most frequently used and whether they provide redress that is commensurate with the nature and type of victimisation. The special laws on witch-hunting in three states, Bihar, Jharkhand and Chhattisgarh, focus on preventive action and addressing harassment where the motive is clearly linked to “witch” accusation. These laws, with barely four to five provisions each, criminalise the acts of “identifying” (Prevention of Witch (Daain) Practices Act 1999, Bihar and Prevention of Witch-hunting (Dayan Pratha) Act 2001, Jharkhand) and “exhibiting” any person as witch along with the mental and physical torture accompanying such identification (Witchcraft Atrocities Prevention Act 2005, Chhattisgarh). In addition they cover mental and physical harassment arising from witch-hunting. The Bihar and Jharkhand laws carry small sentences, but the Chhattisgarh law carries more substantial sentences. All the offences in the special laws, regardless of the small sentences, are cognisable and non-bailable. They seek to prevent escalation of victimisation through early intervention by the police. Yet we found, from a total of 85 FIRs, only six were registered solely on the basis of the special law—with two from Jharkhand, four from Chhattisgarh and none from Bihar. The data categorically shows that the mischief that the special law was enacted to correct remains unaddressed, with no action or prosecution against preliminary forms of harassment. In fact, the data establishes that special laws are rarely, if ever, used alone, and almost never at the preliminary stages to prevent escalation of violence.

Our data from police records show that almost all cases are registered under provisions of the Indian Penal Code (IPC), with one or more provisions of the special law, to establish if it were the motive of the crime. The majority of the provisions of the IPC invoked in the records are related to beating, hurt, trespass, theft, murder, conspiracy, etc—with more bailable rather than non-bailable offences being invoked. A state-level pattern is also visible—with 25 cases registered in Jamui District in Bihar between 2010 and 2012, but nine cases registered from Gumla and Ranchi Districts in Jharkhand in the same period. Chhattisgarh reports the highest number of cases, with 51 registered in Bilaspur District between 2010 and 2012. Jharkhand has the distinction of not just under-registration of cases, but also of all the compromises evidenced in the data, with five of the nine cases closed on account of “mutual compromise.”

Curiously, many of the FIRs from Chhattisgarh invoke Section 294 of the IPC pertaining to nuisance caused by obscene songs and acts to prosecute the act of identifying or naming a person as “witch” (sometimes in conjunction with the relevant provision of the state law). Thus it is the IPC which is most frequently used in cases of witch-hunting as, unlike the special laws, it provides a more comprehensive framework that responds to threats, slurs and defamation, trespass, intimidation,

destruction of property, assault, physical hurt grievous or otherwise and a range of sexual offences and murder.

The data shows that the special laws do not in fact achieve the purpose they sought to serve in any of the three states. For the most part, special laws are invoked when physical attack and hurt is already inflicted, along with the offences under the IPC. They do not seem to facilitate preventive action. In any case, the IPC also can enable preventive action, but the barrier seems more to do with the institutional apathy of the law enforcement machinery than the lack of adequate provisions in the law. As already mentioned earlier, the reported appeal court cases show that the cases that proceed to a higher level involve murder in the large majority, or attempt to murder in few.

Low-Grade Sexual Violence

It can be inferred that the police, indeed the legal system, responds only in cases of high threshold of violence. This apathy of the police to low grade violence, particularly when this occurs within the contexts of poverty and marginalisation, creates impunity for continued victimisation. It is precisely this approach of the law enforcement machinery that should make us sceptical of greater reliance upon the police and the criminal justice system—and indeed of more criminalisation, framed as special laws that are contingent on police intervention. The police, although arguably the weakest link in the justice chain, are not alone in their indifference and apathy. Of the 59 appeal court cases against convictions for murder, 22 ended in acquittal, and eight were converted to convictions for lesser offences. The most significant reasons for such a high rate of acquittal at the appeal stage are poor investigation that results in insufficient evidence to establish the guilt of the accused beyond reasonable doubt, non-examination of key witnesses/non-production of crucial evidence by the prosecution, as well as witnesses turning hostile. Many judgments express dismay and anguish at the indifference of each of the agencies involved in handling serious cases of murder. Criminal prosecution, although necessary, is an empty solution without addressing institutional reform of the agencies and actors within the criminal justice system, and indeed, without assuring witness protection.

It may be noted here that, until 2012, the cut-off period for this study, the IPC was severely inadequate for addressing sexualised and gender-based violence that is part of the witch-hunting. Acts of forced disrobing, parading, stoning, tonsuring the hair, blackening face and so on were dealt with as simple hurt (Section 323), or outraging the modesty of a woman (Section 354) or indeed, word or gesture to insult the modesty of woman (Section 509). Each of these were not just trivial in comparison to the gravity of the violence, but they also respond to the physical violation without regard to the intentional humiliation and degradation that these acts seek to inflict; and without regard to the long-term ostracism that follows. Notwithstanding the problematic use of the term “modesty,” some of these lacunae have been overcome with the Criminal Law (Amendment) Act 2013, which names disrobing or abetting the disrobing of a woman as a serious offence (Section 354B), while also strengthening the older provision on outraging

the modesty (Section 354), making both cognisable and non-bailable offences.

Even as these amendments fill a long-standing legal vacuum, they are far from comprehensive. The parading of women, tonsuring the hair and blackening the face are forms of violation that involve more than physical injury, as they intend and result in humiliating the victim, destroying her social standing and dignity in the community. These need to be part of the penal code, given their social resonance—although largely associated with caste atrocities perpetrated against Dalits, there is increasing evidence that such victimisation is also used to punish social and sexual transgressions, which may or may not take the form of witch-hunting. Restricting such offences to a special law makes legal redress for such victimisation contingent on motive of witch-hunting, not otherwise. The Criminal Law Amendment 2013 introduced the right to compensation and medical treatment for victims of acid attack and rape, which, in fact, needs to be expanded to include all victims of gender-based and sexual violence. The compensation available must be under state schemes as envisaged under the amendment, disbursed immediately by the state to help recovery of the victim, rather than being linked to conviction of the accused, or their financial capacity to pay fine, as the special laws on witch-hunting tend to do.

The criminal law regime (including the special laws) fail to address long-term consequences of witch-hunting. The tendency to resort to more criminalisation, through special law or otherwise, has been at the cost of evolving a policy framework for rehabilitation, restoration or reparative justice. So long as the legal vacuum for addressing long-term consequences of witch-hunting remains, with no right to redress or mandatory support services to help overcome dislocation, loss of property, loss of livelihood, our legal framework cannot claim to address witch-hunting. Criminal laws and the criminal justice system can only address one part of the victimisation, that too notionally, as the data of this study suggests. There is an urgent need to visualise and craft justice from the perspective of the

victims, through framing entitlements and services that are available to them, independent of criminal law or prosecutions.

Concluding Remarks

To revert to the issue of whether or not special laws on witch-hunting (specifically addressing targeting of persons/women as “witches” or more broadly, through the anti-superstition law route) are a useful and effective response to the practice, we answer the two questions this article posed at the outset: first, who the victims and perpetrators of witch-hunting are, the underlying causes, factors and contexts that trigger witch-hunting, and the second, what are the most significant justice/protection gaps in relation to victims vis-à-vis the existing laws and mechanisms of redress?

In terms of factors and contexts that trigger witch-hunting, the study shows it to be one among many ways of settling scores and conflicts, although the nature of tensions and the motives have evolved over time to cover a wide range of contexts. The motives of witch-hunting are not static or limited, with superstition and belief in the occult being just one which, certainly as counter-narratives suggest, is a strongly contested part of the story. Thus the violence associated with caste atrocities is often similar to the cruelty perpetrated in witch-hunting. Indeed, even though we did not come across many such cases, the two forms of violence may coincide in some instances. Other reports, not part of this study, also suggest that violence and humiliation as a public spectacle is not limited to witch-hunting alone, with increasing evidence of public retribution in cases of sexual transgression, inter-community relationships, and so-called honour crimes.

While the IPC covers a range of offences, there is a pressing need for naming distinct offences like parading, tonsuring and blackening the face, so that such acts are not trivialised as “simple hurt” evaluated only in terms of the physical scars inflicted; they need to be defined as atrocities that intend to, and result in, degrading and stigmatising the victim. Confining these offences within the framework of a special law would however be

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counterproductive as prosecution would be contingent on establishing the motive of witch-hunting, and more significantly, will exclude from legal redress similar victimisation that is perpetrated for reasons other than witch-hunting.

In the Indian context, certain patterns of public humiliation have only expanded beyond contexts with which they have historically been associated. Thus, as suggested above, atrocities that had been typically used to oppress Dalits are sometimes used to punish social and sexual transgressions. Given the evidence and possibility of perpetrating such humiliation for a range of other causes, there is need to name and recognise these as distinct offences within the framework of the IPC, rather than framing such offences in the context of one theme alone. Even as new offences are identified, these must be included as part of the general penal code so that similar forms of victimisation can be addressed regardless of the context or motive of violence.

The study identifies distinct protection gaps in law, which need urgent attention, urging us to broaden the debate beyond special laws. Criminalisation is the only aspect of justice. In relation to the criminal justice system, reforms cannot be limited to new offences or special laws. The evidence in this study points to police apathy, poor investigation and indifferent prosecution being significant barriers to accessing legal remedies for victims. Without a reform agenda for each of these agencies within the criminal justice system, redress for victimisation will remain rhetorical, available perhaps only in the most egregious cases.

The most critical protection gaps in law and policy, however, relate to reparations and restorative justice. Reparative remedies involve compensation, community dialogue, protection, livelihood support, shelter, compensation, promise of non-recurrence of violence and, where necessary, relocation. Compensation schemes cannot be tied with conviction of the perpetrator or their financial capacity. It must be released immediately, on assessment of harm caused, through the state. Similarly, responsibility must be placed on the local administration

and governing bodies for restoring the victim's socio-economic status in her village, including through dialogue and promise of non-recurrence of violence. Where dislocation cannot be avoided, issues of relocation, shelter and livelihood for the family remain.

The value of social processes, particularly in those led by women's groups, is significant. The various women's bodies like Mahila Samakhya Samitis, Mahila Mandals and self-help groups must be mandated and mobilised to play a role. The local governing bodies and state officials can be mobilised as well, through a combination of rewards and penalties that hold them accountable for witch-hunting in their jurisdiction.

Finally, one of the most neglected aspects in the analysis of witch-hunting has been the linkages of the practice with structural conditions that exacerbate reliance on the irrational. The underlying conditions of communities and regions within which witch-hunting occurs have similar structural conditions—signified by lack of education, public health, sanitation and little or no access to justice. Insufficient attention to the linkages between the underlying conditions and the impunity visible in witch-hunting has led to the practice being treated as “barbaric, evil and inhuman,” stemming from ignorance and age-old superstition and thus criminalisation within the framework of a special law is seen as an appropriate response.

Awareness programmes often touted as a long-term solution to eliminating witch-hunting, and indeed creation of scientific temper and rationality are doomed without bringing about a parallel transformation in the material conditions of the regions and communities where witch-hunting occurs. The capacity to transcend one's belief systems is possible with structural changes that ensure accessible and quality education, public health, healthcare and an accountable administration; and where the law enforcement is responsive and diligent. Only when sufficient attention is paid to the linkages of deprivations and neglect with witch-hunting, will the practice cease to be “othered” as barbaric, and seen as an outcome of marginalisation and institutional failures.

NOTES

- 1 The study was conducted by PLD in 2011–13 with financial support from the Ministry of Women and Child Development. The complete report in its final version has been published by the PLD. See PLD (2014).
- 2 *Mrs Sashiprava Bindhani v State of Orissa and Others*, available at <http://indiankanoon.org/doc/139771322/>
- 3 The bill was introduced in Odisha Legislative Assembly on 26 August 2013 and passed by the assembly in December 2013, available at <http://odisha.gov.in/govtpress/pdf/2013/1669.pdf>.
- 4 Available at http://www.antisuperstition.org/images/Black_Magic_Act_English.pdf.
- 5 Ironically, Dabholkar's efforts at getting the law yielded little, but within days of his death, the Maharashtra state government passed the Anti Superstition and Black Magic Ordinance in August 2013, enacting the law in December to replace the ordinance.
- 6 Available at <http://oppanna.com/wp-content/uploads/2013/11/superstitionbill2013.pdf>.

- 7 A national discussion on this bill was organised by the National Commission for Women in Jaipur on 27–28 February 2014.
- 8 Human Rights Defense International has prepared a draft legislation. See <http://www.hrdi.in>.
- 9 See Witchcraft and Human Rights Information Network at <http://www.whrin.org>.
- 10 A similar study was conducted using the same template as that used in the PLD study. See Partners for Law in Development, Assam Mahila Samata Society and North East Network 2014. The findings of this study also reiterate those reported here.
- 11 Bihar: Mahila Samakhya Society; Jharkhand: Chotanagpur Sanskritik Sangh and Pyara Kerketta Foundation; Chhattisgarh: Kanooni Marg Darshak Kendra, a field centre of Centre for Social Justice and Social Institute of Research Study and Action.
- 12 The data from the study undertaken in Assam also indicates that women are predominantly the victims. See Partners for Law in Development, Assam Mahila Samata Society and North East Network 2014.

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