23.08.2022

**To,**

**Office of the United Nations High Commissioner for Human Rights (OHCHR)   
Palais Wilson   
52 rue des Pâquis   
CH-1201 Geneva, Switzerland**

Respected High Commissioner,

***Sub: Submission of written contributions for the elaboration of a study on the situation of the violations and abuses of human rights rooted in harmful practices related to accusations of witchcraft and ritual attacks, as well as stigmatization for the purpose of informing the drafting by OHCHR of the study requested by Human Rights Council resolution 47/8***

*Sub: Input to OHCHR study pursuant to Human Rights Council resolution 47/8*

We welcome the OHCHR’s initiative to prepare a study on the situation of the violations and abuses of human rights rooted in harmful practices related to accusations of witchcraft and ritual attacks, as well as stigmatization. As human rights lawyers and members of the civil society we are submitting our inputs on the following two key questions:

**I. Measures to ensure the elimination of harmful practices amounting to human rights violations related to accusations of witchcraft and ritual attacks.**

**V. Challenges and opportunities**

Kindly note that, our inputs answer the above two questions in relation to the problem of witchcraft related killings or ‘witch-hunting’ in India particularly focussing on the state of Jharkhand.

We also consent to our contribution being published on the OHCHR website.

Yours sincerely,

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**Written contribution on the situation of the violations and abuses of human rights rooted in harmful practices related to accusations of witchcraft and ritual attacks, as well as stigmatization in India**

**I. Measures to ensure the elimination of harmful practices amounting to human rights violations related to accusations of witchcraft and ritual attacks**

* 1. What measures have been put in place, including legal and policy ones, to ensure the elimination of harmful practices amounting to human rights violations related to accusations of witchcraft and ritual attacks, as well as stigmatization?
  2. What measures have been undertaken to ensure that no one is deprived of the right to life, liberty or security of person because of religion or belief, and that no one is subjected to torture or other cruel, inhuman or degrading treatment or punishment, or arbitrary arrest or detention on the account of accusations of witchcraft and ritual attacks?
  3. What measures have been put in place to ensure equal access to justice, including effective remedy, as well as psychosocial support, rehabilitation and reintegration of survivors?

In [India,](https://www.indiatoday.in/india/story/over-2000-women-killed-in-india-for-practicing-black-magic-in-14-years-15280-2016-06-20) as per the National Crime Records Bureau (NCRB), between 2001 and 2014, a total of 464 women have been killed as a result of witchcraft allegations in the Indian state of Jharkhand. Further, more than 2000 people have died in that same period across India due to witchcraft accusations. The practice of witchcraft related killings or ‘witch-hunting’ in India is believed to be deeply rooted in patriarchy, superstition and gender based control.[[1]](#footnote-1) Almost every community in India believes in some form of superstition or in the existence of ‘evil’. But, how and when these superstitious beliefs got associated only with women or began to be used to control women is not known. Note that, the practice of branding a woman as a ‘witch’ enables people to manipulate others to believe that the woman is capable of bringing misfortune through the use of [supernatural powers](https://digitallibrary.un.org/record/1473377?ln=en). In India, the general belief in the existence of ‘evil’ and the supernatural is used to suppress women belonging to marginalized communities and take control over their property. Branding a woman as a ‘witch’ is “a common ploy to grab land, settle scores or even to punish her for turning down sexual advances. Women who become too powerful, and thus threaten the male leadership can also become the [target of witch-hunting](https://wcd.nic.in/sites/default/files/Vol%20I.compressed.pdf).” Women (belonging to the marginalized communities, especially dalit and tribal women) are branded as witches and made to undergo inhuman trials to prove their innocence. They are subjected to horrific forms of violence including rape and extreme physical torture. They are ostracized from the community and forced to live a secluded life. In short, the mere allegation of being a ‘witch’ deprives a woman of the right to have a dignified life.[[2]](#footnote-2) Today, cases of witchcraft accusations are being reported from the following [states in India](https://wcd.nic.in/sites/default/files/Vol%20I.compressed.pdf) – Jharkhand, West Bengal, Assam, Bihar, Rajasthan, Haryana, Chhattisgarh, Odisha, Madhya Pradesh, Gujarat, Maharashtra and Andhra Pradesh.

**Legislative Measures:**

There is no national legislation against ‘witch-hunting’ or witchcraft accusations in India. However, several Indian states where such incidents are often reported have passed legislations to put an end to this practice. The state of Jharkhand which has the [highest witch-hunting related deaths](https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwibyKmk2tz5AhXkZWwGHXMSDwwQFnoECCkQAQ&url=https%3A%2F%2Fscroll.in%2Farticle%2F955045%2Fwhats-to-blame-for-jharkhands-witch-hunting-problem-poor-healthcare-and-illiteracy&usg=AOvVaw1aVfWVp-okT93t41OL-BWD) in the country legislated ‘[The Prevention of Witch Hunting Practices Act, 2001](https://www.jhpolice.gov.in/download/file/fid/13251)’ to combat this social evil. The main objective behind the said legislation is “to provide for effective measures to prevent the witch practices and identification of a woman as a witch and their oppression mostly prevalent in tribal areas and elsewhere in the state and to eliminate the women’s torture, humiliation and killing by the society.” The following are some of the key provisions under the 2001 Act:

[Section 3](https://www.jhpolice.gov.in/download/file/fid/13251): Identification of Witch - Whoever identifies any person as witch and does any act towards identification either by words, actions or manner shall be punished with imprisonment for a term which may extend to 3 months or with fine of Rs. 1000 or with both.

[Section 4](https://www.jhpolice.gov.in/download/file/fid/13251): Damages for Causing Harm- Any person who cause any kind of physical or mental torture to any person by identifying her as a witch whether deliberately or otherwise shall be punished with imprisonment for a term which may extend to 6 months or fine of Rs 2,000 or both.

[Section 5](https://www.jhpolice.gov.in/download/file/fid/13251): Abetment in the Identification of Witch - Any person who intentionally or inadvertently abets, conspires, aids, instigates any other person or persons of the society whether in identification of any woman as a witch with an intention to cause by anyone harm to that person shall be punishable with imprisonment for a term which may extend to 3 months or with a fine of Rs 1,000/-or with both.

[Section 6](https://www.jhpolice.gov.in/download/file/fid/13251): Witch curing- Whoever does any act of so healing allegedly or purportedly and of curing any woman said to be witch by doing any act of ‘*jhadphook*’ or ‘*totka*’ and thereby causing any kind of physical or mental harm and torture to that person identified as a witch in any manner shall be punished with imprisonment for a term which may extend to one year with a fine of Rs 2,000/- or with both.

Though the objective of [The Prevention of Witch Hunting Practices Act, 2001](https://www.jhpolice.gov.in/download/file/fid/13251) is to provide effective measures to stop torture and humiliation of women in the name of witchcraft, the above mentioned provisions of the Act do not seem to reflect the same legislative intent. For example, under section 3 of the Act, the punishment prescribed for accusing another as a ‘witch’ is only imprisonment of up to 3 months with a minor fine. The literal reading of section 3 of the 2001 Act shows that the serious consequences associated with the act of accusing or branding someone as a ‘witch’ has not been taken into consideration while drafting the punishment for this offence. Further, the punishment for causing mental or physical harm by accusing someone as a ‘witch’ under section 4 is only imprisonment of up to 6 months with a minor fine. Section 4 of the Act does not appear to take into account the serious threat to life which results when a woman is either beaten mercilessly or subjected to undergo series of tests on account of being accused of practicing witchcraft. The reason for the sentences under the 2001 Act being less could stem from a possible lack of understanding and acknowledging the harm associated with the practice of witchcraft and due to the wider acceptance/normalization of this practice which again relates to influence of social-cultural values and traditions.

The 2001 Act is silent on issues such as compensation and rehabilitation for the victim. Furthermore, the Act does not either mention or equate witchcraft accusations with customary practices that are prejudicial to interests of women. The 2001 Act also fails to instruct the local administration to take appropriate steps to suppress ‘witch-hunting’ and educate people about this social evil. Note that, despite the 2001 Act being a ‘special law’ (which is applicable to a particular subject matter), the Act is also silent on the issue of accountability of local administration if they fail to protect women from being branded as ‘witches’ or fail in their obligation to provide assistance to the victim in seeking justice.

Note that, out of the 59 judgments (of the High Courts and the Supreme Court of India) related to ‘witch-hunting’ that were [studied as part of a report](https://www.academia.edu/15475888/Contemporary_Practices_of_Witch_Hunting_A_Report_on_Social_Trends_and_the_Interface_with_Law_2015_) by an NGO in 2014, 31 of those judgments belonged to the state of Jharkhand. Further, out of the 31 cases (in Jharkhand), in 26 cases, crimes occurred before the state law (The Prevention of Witch Hunting Practices Act, 2001) was passed and only 5 cases occurred after the state law was passed. Moreover, out of those 5 cases that came to light after the 2001 Act, only in 3 cases charges were framed. The NGO report also highlighted large number of acquittals in cases where serious charges of murder had been framed. Out of the 59 convictions in 59 cases by the trial courts, in 22 cases, the accused were acquitted by the appellate courts. The report also sheds light on the fact that, only a handful of cases reach the courts, whereas, as per various newspaper reports, post 2001, there have been several instances of witchcraft related deaths in Jharkhand. According to one such report in a [national daily](https://timesofindia.indiatimes.com/city/ranchi/witch-hunts-superstition-kills-more-than-naxals-in-jharkhand/articleshow/70336295.cms), a total of 123 women were branded as witches and killed between 2016 and 2019.

**Policy Measures**:

To address the problem of witchcraft, the Government of Jharkhand has launched [project ‘*Garima*’ in 2021](https://indianexpress.com/article/cities/city-others/project-garima-in-jharkhand-to-restore-dignity-of-women-branded-as-witches-7433393/) (a first of its kind project) which focuses on helping women who have been subjected to torture because of witchcraft accusations. This project is covering over 2668 villages in the state for a period of three years. As part of the project, the government is organizing street plays, other awareness programmes and also educating the local community about various government schemes that have so far not reached women who have been accused of witchcraft. The government through this project is ensuring that such schemes reach women who have been harassed and tortured in the name of witchcraft. The government for this purpose has identified 1149 such women from 450 villages. This particular step by the government shows its intention to work towards putting an end to this social evil.

**V. Challenges and opportunities**

* 1. What have been the key challenges to prevent and address human rights violations and abuses rooted in harmful practices related to accusations of witchcraft and ritual attacks, as well as stigmatization?
  2. Have you identified some promising practices in this regard?
  3. What kind of further action could be undertaken by existing mechanisms at the United Nations for the elimination of harmful practices amounting to human rights violations related to accusations of witchcraft and ritual attacks, as well as stigmatization?

1. Multiple factors are at play behind witchcraft accusations in India. Factors such as patriarchy, gender, caste and superstition are at the root of witch-beliefs and form the basis for violence against dalit and tribal women in the name of ‘witch-hunting’. ‘Witch-hunting’, as a form of structural violence, uses a host of social factors to invariably target women and isolate them. Superstitious beliefs, for example, are used to associate women belonging to the marginalized communities with evil and discriminate against them in order to preserve and ensure the continuity of male dominance. Property rights are one of the most common disputes over which a woman is labelled as a ‘witch’ by her family members and the community in order to deny her an independent existence.[[3]](#footnote-3) Because in male dominated societies like India, women are seen as the weaker gender, superstitious beliefs become an easy tool to attack women for personal gains by portraying them as evil by nature. Witchcraft accusations are also gender specific as they benefit the patriarchal ideology by continuing the exploitation of women. Further, equating ‘witch’ with women and ‘witch-hunters’ with men, sheds light on the control and authority of the masculine order in society.[[4]](#footnote-4) In short, the targeting of dalit and tribal women as ‘witches’ will continue unabated unless the direct association of these accusations with gender stereotyping to suppress women is established and taken into account while framing laws and policies.

2. As mentioned earlier, project [‘Garima’](https://indianexpress.com/article/cities/city-others/project-garima-in-jharkhand-to-restore-dignity-of-women-branded-as-witches-7433393/) launched by the state of Jharkhand hopes to eradicate the practice of ‘witch-hunting’ and restore the dignity of women who have been victimised due to this practice.

3. Existing mechanisms at the United Nations can push the Indian State to adopt measures to bring in societal transformation which is important to break free from the social-cultural cycle that gives strength to and ensures the continuity of gender stereotypes in society. There is, however, no one route towards ensuring speedy transformation of gender biased societal values. Therefore, the emphasis at the moment should be upon taking the legal route i.e., 1.) adopting new stringent legislations which recognizes harmful social practices as serious crimes and 2.) amending existing legislations keeping in mind India’s pluralistic environment to ensure effective implementation. These steps are essential in providing an opportunity to victims to access justice. Note that, The Prevention of Witch Hunting Practices Act, 2001 has never been reviewed or amended since its inception.

The United Nations mechanisms can also underscore the issue of lack of data collection and dissemination by the Indian government related to heinous crimes against women. Government agencies (both at the Centre and the state level) are extremely slow in compiling data and publishing reports relating to witchcraft related killings. Most reports only state the number of cases reported for witchcraft without giving any details such as current status of such cases, total number of convictions/acquittals in any given year. Therefore, there is a need to have separate detailed reports for at least certain heinous crimes against women such as witchcraft that have not been given due attention by the government in the past.

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1. Kanchan Mathur, ‘Witchcraft, Witches and Social Exclusion’ in Swati Shirwadkar (ed), *Family Violence in India: Human Rights, Issues, Actions and International Comparisons* (1st edn, Rawat Publications 2016) 294. [↑](#footnote-ref-1)
2. Ajay Skaria, ‘Women, Witchcraft and Gratuitous Violence in Colonial Western India’ (1997) 150 (1) Past & Present 109, 123. [↑](#footnote-ref-2)
3. Madhu Mehra and Anuja Agrawal, ‘Witch-hunting in India? Do We Need Special Laws?’ (2016) 51 (13) Economic and Political Weekly 51, 53. [↑](#footnote-ref-3)
4. Puja Roy, ‘Sanctioned Violence: Development and the Persecution of Women as Witches in South Bihar’ (1998) 8 (2) Development in Practice 136, 143. [↑](#footnote-ref-4)