



## Constitutional and Civil Rights to Protect Scheduled Caste And Scheduled Tribes From Atrocities and The Law against Witch Hunting



**National Human Rights Commission  
India**

**Constitutional and Civil  
Rights to Protect Scheduled  
Castes and Scheduled  
Tribes from Atrocities and  
The Law against  
Witch Hunting**



**NATIONAL HUMAN RIGHTS COMMISSION  
INDIA**

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## **Constitutional and Civil Rights To Protect Scheduled Castes and Scheduled Tribes From Atrocities**

The Scheduled Castes (SCs) and Scheduled Tribes (STs) are officially designated groups of historically disadvantaged or marginalized people in India. As per the United Nations, “In the absence of a formal definition, the existence of a minority group can be assessed using objective and subjective criteria; these criteria have been elaborated by various UN independent experts drawing from international standards. Objective criteria focus on the shared characteristics of the group such as ethnicity, national origin, culture, language or religion. These categories derive from the global standard on minorities, the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM) and Article 27 of the International Covenant on Civil and Political Rights (ICCPR) concerning the rights of persons belonging to ethnic, religious and linguistic minorities. The term ‘race’ is sometimes used alongside ‘ethnicity’ in legislation on non-discrimination; this is not considered an endorsement of the notion of distinct races but is recognition that practices of racism and racial discrimination nevertheless persist and need to be combated. Subjective criteria focus on two key points: the principle of self-identification and the desire to preserve the group identity. According to the principle of self-identification, individuals belonging to minority groups have the right to self-identify as a minority or to not self-identify as a minority (UNDM article 3.2). A minority community has the right to assert its status as a minority and thereby to claim minority rights. Individuals can claim their membership in a minority community on the basis of objective criteria, including shared ethnicity, culture, language and religion. The preservation

of the minority group identity depends on the expressed will of the minority community.”

## **Who are Scheduled Castes (SCs) and Scheduled Tribes (STs)?**

The Constitution of India recognizes certain castes, races and tribal groups as Scheduled Castes and Scheduled Tribes under **Article 341** and **342**. Scheduled Castes are those castes/communities who suffered from the age-old practice of untouchability, who are subjected to geographical isolation and need special consideration for safeguarding their interests.

### **The Scheduled Castes**

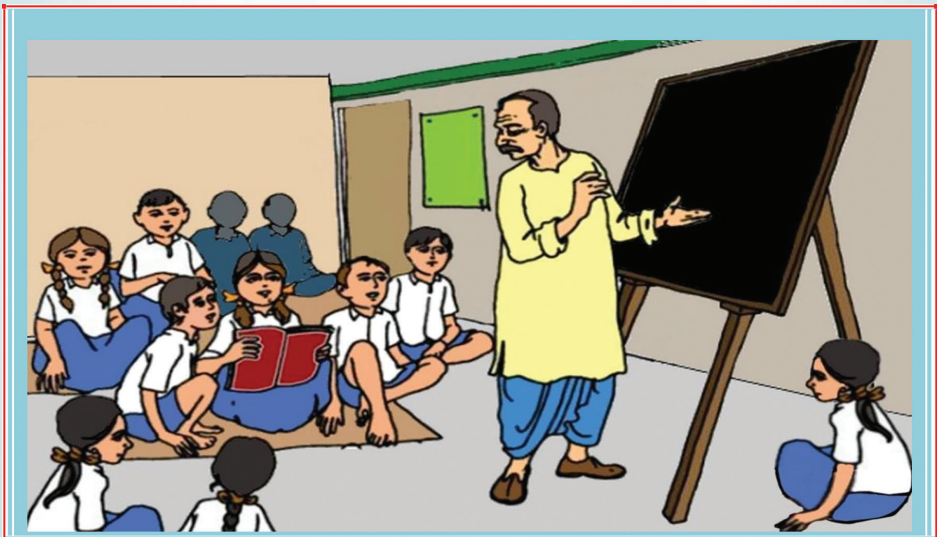
Scheduled castes are those castes which are placed on a low level in the religious hierarchy. For ages these people have been treated as untouchables and have been subjected to persecution because of their caste.

*Scheduled Castes are those castes named in the Scheduled Castes order of the Government of India, promulgated in August 1950. Hence, a person is considered to be a member of a Scheduled Caste, if he or she belongs to a caste which, under the Constitution, has been declared to be a Scheduled Caste for the area, for which he or she is a resident. The term, “Scheduled Castes” was first incorporated into the Government of India Act of 1935. The purpose of classification of castes as Scheduled Castes is to safeguard the interest of those who suffer from caste discrimination and to provide for them special concessions to help them catch up with the rest of the population in the process of development.*

**‘Schedule’ means a Schedule to the Constitution. ‘Scheduled Castes’ means such castes, races or tribes or parts of or groups within castes, races, or tribes as are deemed under Article 341 of the Constitution to be**

## ***the Scheduled Castes for the purposes of the Constitution.***

*Sita belongs to Jatav community from Uttar Pradesh. This community is listed as scheduled caste. Sita resides in a remote village of Gorakhpur district. When she was admitted to a primary school, she was subjected to a lot of discrimination on the basis of her caste. Her school teacher asked her to sit in the corner of the classroom, away from the other students who belonged to general castes. She was served her mid-day meal separately. One day she was beaten because she touched a student from another caste. Although untouchability and discrimination on the basis of caste are crimes as per the law and banned by the Constitution, yet they prevail even today.*



## **The Scheduled Tribes**

Scheduled Tribes are the people belonging to tribes, who often live in forests, although there are some nomadic tribes as well. As these people are usually not a part of any

organized religion, they are commonly considered outcasts. Socially they have their own traditions, dressing styles, food habits and a distinguished culture.

A number of 'tribes or tribal communities' suffer from primitive mentalities, geographical isolation, shyness and social, educational & economic backwardness. This can be better understood in terms of their historical background.

*Article 342(1) of the Constitution of India says that the President may with respect to any State or Union Territory, and where it is a State, after consultation with the Governor thereof, by a public notification, specify the tribes or tribal communities or part of or groups within tribes or tribal communities as Scheduled Tribe in relation to that State or Union Territory as the case may be.*

*(2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.*

### **Constitutional Rights for the Scheduled Castes and Scheduled Tribes-**

With this recognition, special protections are provided to these groups which have been historically marginalized and exploited. This includes special access to educational institutions, employment, and other socio-economic benefits (Article 15 and 16).

**Constitution of India guarantees equality for all irrespective of their class, colour, creed, gender or religion:**

? **Article 17 of the Constitution of India** seeks to abolish untouchability. 'Untouchability' refers not

just to the avoidance or prohibition of physical contact but to a much broader set of social sanctions.

? **Article 46 of the Constitution of India** promotes the educational and economic interests of SCs, STs and other weaker sections of the society and seeks to protect them from social injustice and exploitation.

❖ **Article 338 of the Constitution of India** provides for the establishment of the National Commission for Scheduled Castes. Its functions include:

❖ To investigate and monitor all matters relating to the constitutional and other legal safeguards for the SCs and to evaluate their working;

❖ To look into specific complaints about the violation of rights and safeguards of the SC

❖ **Article 338-A of the Constitution of India** provides for the establishment of the National Commission for Scheduled Tribes, which functions similarly like the National Commission for Scheduled Castes.

## Right to equality

Indian Constitution guarantees its citizens equality in all aspects. Every person must be treated equally in the eyes of the law and in society. But these provisions do not bar the government from making special provisions for the deprived sections of the society. **(Article 14 & 15 of the Indian Constitution)**



## Atrocities against SC/ST

In India where class dominance is a common practice, atrocities against the weaker sections make headlines on a daily basis. These people often face discrimination, exclusion, and acts of violence. In 2016, when the National Crime Record Bureau released its last data, over 1.44 lakh cases of atrocities against Scheduled Castes and 23,408 cases of atrocities against Scheduled Tribes came for trial before the judiciary. Most victims are either women or people from the poorer sections of the society.

Despite constitutional provisions to uphold the rights of Dalits in post- independent India, the violence against them has continued well into the 21st century. It has been observed that the State and society are complicit in the process of keeping them marginalized. When victims of caste violence try to access justice, often the first stumbling block they encounter is institutional bias in the form of the police.

The police need to record their First Information Reports (FIR), which they are often reluctant to do.



*Pradip Kalubhai Rathod was a resident of Umralla Taluka in the Bhavnagar district of Gujarat. He was the youngest of three siblings and was pampered by all the family elders. Pradip asked his father to buy a horse. His father tried to persuade him to buy an Enfield Bullet motorcycle instead. When Pradip did not give up the demand, his father purchased a horse for him. Pradip turned out to be a good rider. But, when Pradip rode the horse around the village, the Darbars (Kshatriyas) did not take it well. They were furious to know that a Dalit boy was riding on a horse. Actually Pradip may have been the first Dalit to do so. People began to threaten Pradip to abandon his horse, but he did not pay heed to those warnings. A mangled body of a 21-year-old Pradip was found by his family on the evening of March 29, 2018. His family alleged that the boy Pradip Kalubhai Rathod was killed by men belonging to the Darbar caste of his village. Although an FIR was lodged, the police changed the whole narrative in their investigation. The Bhavnagar police maintained that Pradip used to perform stunts on the horse and motorcycle whenever he would encounter a girl. The police also claimed to have come across several accounts of objectionable behaviour of Pradip in front of school girls in his village and neighboring villages. They also said that there were instances when Pradip got into a scuffle at school. So, Pradip was not only killed for riding the horse, but his killers may also go scot free due to weak investigation by the police.*

Atrocities on the basis of caste are unconstitutional. In our Constitution, emphasis is given to the safeguarding of the rights of the marginalised people. The Constitution reiterates the basic human rights principle that all persons are entitled to live with equality and dignity. Before proceeding further we need to know the reasons of caste prejudice in our society.

National Commission for SCs and STs conducted a study in 1990 named ***Atrocities on Scheduled Castes and Scheduled Tribes: Causes and Remedies***. It pointed out various causal factors for atrocities: This included land alienation, bonded labour, debt, non-payment of minimum wages, caste prejudice and practice of untouchability, political factions on caste lines, refusal to perform traditional works such as digging burial pits, arranging cremations, removing carcasses of dead animals, beating drums, Racial/Physical features of the person etc. The deep rooted prejudice and reason for such atrocities is traceable to the caste system.



During the 19th and 20th centuries, social transformation was brought about by the sweep of law. Criminal law sought to curb deviance through deterrence. Thus, the fear of criminal law is used effectively to ensure change in social attitudes. Article 17 of the Constitution abolished untouchability and made its practice illegal. Parliament enacted the Untouchability (Offences) Act in 1955 to punish the practice of untouchability. Later on, this was amended to the Protection of Civil Rights Act, 1976. Under this Act,

‘untouchability’ as a result of religious and social disabilities was made punishable. The Preamble of the Protection of Civil Rights Act, 1976 says:

**“to prevent the commission of offences of atrocities against the members of Scheduled Castes and Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.”**

### **Salient features of the Protection of Civil Rights Act, provisions regarding punishment:**

- Whoever commits any offense under this Act shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.
- For the second offense, with imprisonment for a term of not less than six months and not more than one year, and also with a fine which shall be not less than one hundred rupees and not more than five hundred rupees.
- For the third offense or any offense subsequent to the third offense with imprisonment for a term of not less than one year and not more than two years and also fine which shall be not less than 500 rupees and not more than one thousand rupees.

Due to legal loopholes, the levels of punishments being less punitive as compared to those of the Indian Penal Code (IPC), the Protection of Civil Rights Act almost failed to meet its objectives. The law and order machinery was not professionally trained and even socially inclined to implement such social legislation. Thus, a more comprehensive and more

punitive Act was required to protect SCs and STs from violence committed by other communities.

### **Major Cases where the law failed to get justice for the victims-**

1. *Kizhavenmani, Tamil Nadu (1958): 44 SCs were burnt to death in a confined building because these SC agricultural labourers sought a raise in their very low wages. The High Court of Tamil Nadu acquitted all the accused.*
2. *Karamchedu, Andhra Pradesh (1984): Five SCs were massacred. The trial court convicted many of the accused. The High Court however acquitted all of them. The Supreme Court upheld the trial court judgment – a clear example that acquittals do not always mean false cases.*



*person from Scheduled caste being beaten by mob*

This gave rise to the **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 or the SC/ST (PoA) Act**. It is a special law which deals with offences specifically committed against members of the SC/ST community in India – defined as “atrocities”. It extends to the whole of India. The law exists to register and prosecute a range of discriminatory actions against caste and tribal identity and to provide legal aid to the victims.

### **Objective of the SC/ST Act, 1989**

An Act to prevent the commission of offenses of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts and the Exclusive Special Courts for the trial of such offenses and for the relief and rehabilitation of the victims of such offenses and for matters connected therewith or incidental thereto.

**The provisions of SC/ST Act and Rules can be divided into three different categories, covering a variety of issues related to atrocities against SC/ST people and their position in society:**

- *The first category contains provisions of criminal law. It establishes criminal liability for a number of specifically defined atrocities, and extends the scope of certain categories of penalizations given in the Indian Penal Code (IPC).*
- *The second category contains provisions for relief and compensation for victims of atrocities.*
- *The third category contains provisions that establish special authorities for the implementation and monitoring of the Act.*

### **Salient features of the SC/ST (PoA) Act:**

- Creation of new categories of offences other than those already listed in the Indian Penal Code (IPC) or in the Protection of Civil Rights Act 1955 (PCRA) with respect to atrocities against SCs and STs.
- The Act provides that such offences can be committed only by specified persons (atrocities can be committed only by non-SCs and non-STs on members of the SC or ST communities. Crimes among SCs and STs or between STs and SCs do not come under the purview of this Act).
- Defines various types of atrocities against SCs/STs [Section 3(1) (i) to 3(1) (xv) and 3(2) (i) to 3(2)(vii)].
- Prescribes stringent punishment against such atrocities [Section 3(1) (i) to 3(1) (xv) and 3(2) (i) to 3(2)(vii)].
- Enhanced punishment for certain offences [Section 3(2) (i) to 3(2) (vii),5].
- Enhanced minimum punishment for public servants [Section 3(2)(vii)].
- Provides punishment for even neglect of duties by a public servant [Section4].
- Attachment and forfeiture of property [Section7].
- Removal of potential offenders [Section 10(1), 10(3),10(3)].
- Creation of Special Courts [Section14].
- Appointment of Special Public Prosecutors [Section15].
- Empowers the government to impose collective fines [Section16].

- Cancellation of arms licenses in the areas identified where an atrocity may take place or has taken place [Rule 3(iii)] and seize all illegal fire arms [Rule 3(iv)].
- Grant arms licenses to SCs and STs [Rule 3(v)].
- Denial of anticipatory bail to offenders [Section 18].
- Denial of probation to convicts [Section 19].
- Provides for compensation, relief and rehabilitation for victims of atrocities or their legal heirs [Section 17(3), 21(2) (iii), Rule 11,12(4)].
- Identification of atrocity prone areas [Section 17(1), 21(2) vii, Rule 3(1)].
- Setting up deterrents to avoid committing of atrocities on the SCs amongst others [Rule 3(i) to 3(xi)].
- Setting up a mandatory, periodic monitoring system at different levels [Section 21(2)(v)]-
  - o District level [Rules 3(xi), 4(2), 4(4) & 17]
  - o State level [Rules 8(xi), 14, 16, 18]
  - o National level [Section 21(2), 21(3), 21(4)]

**Although, SC/ST (PoA) Act was not a perfect law, it provided a shield to marginalised communities against open exploitation.** Dalits and Tribals still face discrimination. On the other hand however, a narrative has been crafted over misuse of the provisions of the Act against innocent persons. Even Supreme Court of India said, the SC/ST (PoA) Act has turned into an instrument of “blackmail” and is being used by some to exact “vengeance” and satisfy vested interests.



**But it is also true that law enforcement agencies have failed to impose the rule of law.** Often, there are complaints about officials siding with the accused. This may be due to muscle power, money power or the bias against the SC/ST. Since dalits are widespread and live in close vicinity to other castes, atrocities against them are more frequent and more visible. Tribal are concentrated in some areas and are more isolated from other sections of the society.

**Justice still elusive:**

1. Tsundur, Andhra Pradesh, 1991: Eight SCs were massacred. The trial court convicted the accused in 2007. The High Court acquitted them in 2014. The Supreme Court has admitted a special leave petition (SLP) of the surviving victims and survivors of victims.
2. Six cases of Bihar including the Bathani Tola (1996) and Laxmanpur Bathe (1997). In most of these, the trial court convicted the accused. In all of these, the High Court acquitted the accused. Appeals are pending in the Supreme Court.
3. Kambalapalli, Karnataka: The prime witness in this case, who is the sole survivor and head of the family turned “hostile” due to threat to life, resulting in the acquittal of all the accused.



In **2007, Thorat Committee**, under the Chairmanship of Professor S.K. Thorat was constituted to study caste discrimination in higher education sector. This was the first ever Committee constituted to deal with the issue. The Committee provided many recommendations. However, the HRD ministry failed to implement the recommendations of the Thorat Committee. Also, a National Human Rights Commission (NHRC) report suggested that lack of political will and loopholes in the law has resulted in failure of implementation of the SC/ST (PoA), Act.

**Bezbaruah Committee** : The Ministry of Home Affairs has constituted a Committee in February 2014 under the Chairmanship of Shri M.P. Bezbaruah, Member, North-Eastern Council to look into concerns of the persons hailing from the North-Eastern states who are living in different parts of the country, especially the Metropolitan areas, and to suggest suitable remedial measures which could be taken by the Government.

Recommendations made by the Committee, inter-alia, include legislative measures, special police initiatives for safety and security of North Eastern people living in Delhi, NCR and other parts of the country, educating people about

the North East and addressing their grievance of accommodations etc.

### **An important feature of the Committee**

- A special helpline No. 1093 for NE people is being synchronized with helpline No. 100. Other States are advised to set up special helpline.

### **The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015:**

In 2015, with a view to address the problem of atrocities against SCs and STs effectively, the government amended the existing SC/ST (PoA) Act.

- It amends existing categories and adds new categories of acts to be treated as offences under the Act.
- It specifies the following acts as amounting to **sexual exploitation of women belonging to the SC or ST community:**
  - (i) Using acts, words or gestures of a sexual nature against **women belonging to the SC or ST community.**
  - (ii) Touching a **women belonging to the SC or ST community** intentionally in a sexual manner without her consent.
  - (iii) Practice of dedicating a **women belonging to the SC or ST community** as a *Devadasi* to a temple.
- **New offences:**

The Act deems the following as offences-

- (i) Garlanding with footwear.
- (ii) Compelling to dispose or carry human or animal carcasses, or to do manual scavenging.
- (iii) Abusing SCs or STs by caste/name in public.
- (iv) Attempting to promote feelings of ill-will against SCs or STs or disrespecting any deceased person held in high esteem.

- (v) Imposing or threatening a social or economic boycott.
- Preventing SCs or STs from undertaking the following activities will be considered an offence:
  - (i) Using common property resources.
  - (ii) Entering any place of worship that is open to the public.
  - (iii) Entering any education or health institution.
- **Presumption as to the offences:** If the accused was acquainted with the victim or his family, the court will presume that the accused was aware of the caste or tribal identity of the victim unless proved otherwise.
- **The Act specifies the duties of public servants:** Under the earlier Act, the Court of Sessions at the district level was deemed a Special Court. The amendment specifies that an **exclusive Special Court** and **exclusive Special Public Prosecutor** must be provided at the district level. These Special Courts must be established where offences are less in number. Cases should be disposed of within **two months**.
- The amendment also added a chapter on the **rights of victims and witnesses**. It specifies the duty of the State to make arrangements for the protection of victims, their family, and witnesses.

### Role of Public Servants

- The Act specifies that a non-SC or ST public servant who neglects his duties relating to SCs and STs shall be punishable with imprisonment for a term of six months to one year. The Act specifies these duties, including: (a) registering a complaint or FIR, (b) reading out information given orally, before taking the signature of the informant and giving a copy of this information to the informant etc.



### **Subhash Kashinath Mahajan Case (2018) on SC/ST (Prevention of Atrocities) Act:**

- *Supreme Court opined that SC/ST Prevention of Atrocities Act {SC/ST (PoA Act)} is being misused and checks are needed to prevent such misuse.*
- *The Act has become a tool to persecute innocents and public servants for political and personal gains.*
- *Provided guidelines for preventing the misuse of the act.*
- *Preliminary inquiry at the level of Deputy Superintendent of Police (DSP) is required to verify the authenticity of the case before registering FIR.*

- *A person can be released on anticipatory bail unless a prima facie case of crimes or atrocities is made out.*
- *No FIR should be registered against government servants without the approval of the appointing authority.*
- *SC/ST (PoA) Act, had to be interpreted in a manner which will ensure that “casteism is not perpetuated” through the implementation of the law.*



*Supreme Court of India*

In **Subhash Kashinath Mahajan v. State of Maharashtra**, the **Supreme Court** did not consider the **socio-cultural realities of caste atrocities**. The judgment did not provide any statistical evidence but relied only on several High Court judgments. It equated the high rate of acquittals to a large number of false cases. But increasing acquittal cannot be the reason for the case being false. Dilution of SC/ST (PoA) Act will have a **crippling effect on social justice**. Because of the juxtaposition of the powerful and the powerless in India's caste system in every village, it is very difficult to ensure proper investigation and quick and successful trial. The

dilution will make the Act toothless and **roll back social transformation.**

**The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment bill, 2018, was passed by the Parliament in August, 2018**

After Section 18 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, the following section shall be inserted, namely:-

“18 A

- (1) for the purpose of this Act-
  - (a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or
  - (b) the investigating officer shall not require approval for the arrest, if necessary, of any person, against whom an accusation of having committed an offence under this Act has been made and no procedure other than that provided under this Act or the Code shall apply.
- (2) The provisions of section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any Court.”

## WITCH HUNTING



Witch hunting or witch branding is a social menace. Witch hunting dates back to the 14th century when certain people were labeled as ‘witches’ and were executed across Europe, Africa and Asia. In India, it is most prevalent in the north-eastern state of Assam. Morigaon district of Assam is infamously referred to as the “Indian Capital of Black Magic”. People from far-flung areas would come here to learn ‘witchcraft’. Even today, witch hunting is being practiced in the State and has become a burning issue, where predominantly women fall prey to this heinous crime. Witch doctors (locally known as ‘ojha’ or ‘bej’) are the people, who usually brand a woman (or a man, in a few cases) a witch.



Witch hunting involves the branding of victims, especially women as witches, after an observation made by a witch doctor. The victim who is branded a witch is subjected to numerous forms of torture like beating, burning, parading her naked through the streets, forcing them to eat human excrement and sometimes rape. In some cases their hair is cut off and the victim and their children are socially ostracized and even put to death. During the last decade, around 1,000 women have been killed across India for “practicing witchcraft”.



*Ojha treating/torturing a woman*

## **Reasons for prevalence of witch hunting**

The reasons for witch hunting or the practice of witch craft are many. However, it has been in practice as part of traditional belief, which is the reason why people are reluctant to give up the practice.

***Noji Regan is a resident of Rajasthan. She is a widow in her 60s who lives alone. She owns about two acres of land. Noji was branded a witch by a few men in her village in July 2014. She says they came for her wielding swords dragged her by her hair and beat her with sticks as thick as her legs. It was said that buffalos of one of the accused had stopped giving milk. He insisted Noji had cast an evil eye on the animal. The men were later arrested for branding her a witch and attacking her.***

In many cases, witch killings have been carried out by the land mafia. Miscreants use social superstitions to uproot families from the land they have an eye on and later acquire their property at throwaway prices. Even the police have claimed that some alleged witch killings were nothing more than murders.

***Rajni Sirohi is a childless widow living in the Village of Muzaffarnagar district of Uttar Pradesh. She owns 3 acres of land. Her in-laws demanded to hand over her land to them, which she denied. This led to conflicts within the family. One day her father-in-law Gajendra came with an Ojha. After some rituals Ojha declared that there is a witch in the house which is causing problems in the family. Rajni was dragged by her hair and pulled out of her house. She was beaten, paraded on streets and expelled from the village. No one helped the poor lady. Now her in-laws are illegal occupants of her house and agricultural land.***

According to estimates by the National Crime Records Bureau (NCRB), between 2000 and 2016, more than 2,500 people have been assaulted and killed in witch hunts across India. Most of the states do not record witch hunting as a specific category of crime. Police often register it as an attack against

women. Such crimes are logged as physical assault or murder with no mention of the woman being branded as a witch. Older women are more vulnerable to accusations of witchcraft. Most of the women accused of witchcraft are old widows and women who do not have immediate family living with them in villages. Widowed, divorced, or living alone, they are perceived as wild, free and threatening. Killing a woman makes it easy to grab land and property belonging to the woman and calling her a 'Chudail', 'Tohni', 'Dakan' or 'Dayan' (all synonyms for witch) makes her murder acceptable.

Existing laws in India have failed to address the issue. NGOs, Civil Societies, and the judiciary have on several occasions expressed the need for special laws for curbing this social evil.



***Woman being paraded in streets followed by mobs on the pretext of witch hunting***

### **No National Legislation to address “Witch Hunting”:**

There is no specific and particular national level legislation that recognises or penalises “Witch hunting” hence the provisions under the Indian Penal Code 1860 can be used as an alternative for the victims. The different IPC sections invoked in such cases are Section 302 (Murder), Section 307 (Attempt to murder), Section 323 (Hurt), Section 376 (Rape) and Section 354 (Outraging a woman’s modesty).

On May 8, 2015, the Assam state assembly unanimously passed Assam Witch Hunting (Prohibition, Prevention and Protection) Bill, in a bid to eliminate rising cases of superstition leading to the murder of so-called “witches”. The Act prohibits the practice of witch doctors that cause injury and harm. The Act now recognises all cases of witch-hunting as non-bailable, cognizable and non-compoundable offences. A person practicing witchcraft will incur heavy penalty. The Act prescribes various measures that the administration and police need to initiate along with NGOs and the civil society to educate people about witch hunting. This Bill got the nod of President of India in June, 2018, almost three years after it was passed.



*Inside police station, a victim of witch hunting requesting to file an FIR*

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

The Act prescribes a prison term of up to seven years and up to 5 lakh rupees as fine for calling a person a witch. It also has provisions to be read with Section 302 of the IPC (Murder) if someone is killed after being branded a witch. Whosoever instigates a person, by calling/defaming/stigmatizing someone so as to commit suicide, shall be punished with imprisonment for not less than 5 years but which may be extended to life imprisonment and with fine not less than 1 lakh rupees but which may be extended to 5 lakh rupees.

## Other States:

The other states which have similar legislations are listed below:

- Bihar was the first state in India to pass a law against witch hunting in the year 1999, namely, **“Prevention of Witch (Dayan) Practices Act”**.
- The State of Jharkhand enacted the **“Anti Witchcraft Act”** in 2001 to protect women from inhuman treatment and to also provide legal recourse to victims of such abuse. Sections 3, 4, 5 and 6 of the concerned Act prescribe the punishment for identifying/branding someone as a witch, trying to cure the woman branded as a witch and causing any damage to her. Section 7 of the Act provides the procedure for trial under the Act.
- Chhattisgarh government passed a bill in 2005 named **“Chhattisgarh Tonhi Pratama Bill”**, which was established to prevent atrocities on women in the name of Tonhi.
- Rajasthan government has also passed a bill **“Rajasthan Women (Prevention and Protection from Atrocities) Bill”** in 2006, which makes calling any woman a *“dayan/bhootni/chudail”* or to accuse a woman of practicing witchcraft, illegal and a punishable offence. Punishment under this Bill extends to three years of imprisonment and up to 5000 rupees as fine.
- Till now there is no specific legislation in Maharashtra against witch- hunting and the sole reason behind it is opposition from some religious groups who believe that the enacted law might take away their ancient rites. After the incidents of witch-hunting have increased, the State Government is

planning to pass a bill to eradicate the social ills and human sacrifice.

- Among the states where witch-hunting is prevalent, some areas of West Bengal like Purulia, Bankura and Birbhum are prominent. Yet, the state government has failed to pass a separate legislation to tackle it.

Inspite of the above Acts, prohibiting and punishing the harassment or displacement of women on the accusation of practicing witchcraft, there is immense need of a national legislation which will have a binding effect over all the states in prohibiting witch hunting.

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WALDEN IS BEHIND SOCIAL MANAGEMENT  
A WISDOMY ACT AND FORM OF REVOLUTION

National Human Rights Commission  
India

RIGHT TO FOOD  
AND  
RIGHT TO SHELTER

National Human Rights Commission  
India

RIGHT TO SANITATION

National Human Rights Commission  
India

KIDNAPPING/ABDUCTION,  
TRAFFICKING (ITPA AND IPC);  
WRONGFUL CONFINEMENT

National Human Rights Commission  
India

RESPONSIBILITIES OF THE POLICE  
TOWARDS  
THE VULNERABLE SECTIONS OF SOCIETY

National Human Rights Commission  
India

THE MINIMUM WAGES COMMISSION ACT,  
THE MINIMUM WAGES ACT,  
THE PAYMENT OF GRATUITY ACT,  
THE PENSIONERS ACT

National Human Rights Commission  
India

PROVISIONS RELATING TO THE  
MISCELLANEOUS ACT, 1976  
AND  
THE PROVISIONS RELATING TO THE  
JANAJALOS AND GOVS AND  
THEIR SE-AB LIGHT UNACT 2013

National Human Rights Commission  
India

Constitutional and Civil Rights  
to Promote Scheduled Caste And  
Scheduled Tribes Through Rights of  
the Law against, White Hunting

National Human Rights Commission  
India

RIGHTS OF SENIOR CITIZENS

National Human Rights Commission  
India

RIGHT TO WATER

National Human Rights Commission  
India



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