

THE PREVENTION AND PROHIBITION OF WITCH-BRANDING AND
WITCH-HUNTING AND OTHER HARMFUL PRACTICES BILL, 2022

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Bill No. XC of 2022

THE PREVENTION AND PROHIBITION OF WITCH-BRANDING AND
WITCH-HUNTING AND OTHER HARMFUL PRACTICES BILL, 2022

A

BILL

to provide for effective measures to prevent, prohibit and protect persons especially women from witch-branding and witch-hunting, to eliminate their torture, oppression, humiliation, killing, sexual assault, stigmatization, discrimination, ostracization by providing punishment for such offences, relief and rehabilitation of victims of such offences and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5 **1.** (1) This Act may be called the Prevention and Prohibition of Witch-Branding and Witch-Hunting and Other Harmful Practices Act, 2022. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.	<p>2. (1) In this Act, unless the context otherwise requires,—</p> <p>(a) “abettor” means any person who brands or identifies anyone as witch;</p> <p>(b) “appropriate Government” means in the case of a State, the Government of that State and in all other cases the Central Government;</p> <p>(c) “Court” means a Court of Metropolitan Magistrate or Judicial Magistrate of the first-class exercising jurisdiction in the area where offence is alleged to have taken place or of and other Judicial Magistrate of the first class or the Court of Sessions specified as a Special Court by sub-section (1) of section 11 of the Criminal Code;</p> <p>(d) “Criminal Code” means the Code of Criminal Procedure, 1973;</p> <p>(e) “police station” includes police outposts;</p> <p>(f) “witch” means any person especially women, who has been branded as witch or <i>Daini, Daina, Dakni, Dakan, Bhootni, Booutuni, Dayan, Tonhi, Tonaha, Chedel, Chud, Shakan, Shakani, Bhootdi, Vantri, Daain, Chudail, Dayan, Dahani, Chetkin, etc.</i> by a person or persons in belief that such persons has powerintention to harm anyone;</p> <p>(g) “witch-branding and witch-hunting” means identifying, calling, stigmatizing, defaming or accusing any woman as witch by any other person by words, or by signs or by indications or conducts or actions or practices or in any other manner, thereby causing or abetting physical or mental harm or execution of a person or persons which may involve mass frenzy, physical, emotional, sexual, economic and property related violence, lynching or any other activities;</p> <p>(2) Words and expressions used but not defined in this Act and defined in the Criminal Code or the Indian Penal Code, 1860 shall have the same meanings as assigned to them in the Criminal Code and Indian Penal Code.</p>	<p>5</p> <p>2 of 1974</p> <p>10</p> <p>15</p> <p>20</p> <p>45 of 1860</p>
Prohibition of witch-branding and witch-hunting.	<p>3. Witch-branding and witch-hunting is hereby prohibited.</p>	<p>25</p>

CHAPTER II

PUNISHMENT FOR OFFENCES

Punishment for witch-branding and witch-hunting.	<p>4. (1) Whoever contravenes the provision of section 3 shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend up to seven years and with fine, which shall not be less than one lakh rupees but which may extend to five lakh rupees:</p> <p>Provided that the Court may, for adequate and special reasons, to be recorded in the judgment, impose a sentence of imprisonment of either description for a term of less than one year.</p> <p>(2) Any person convicted of an offence of witch-branding and witch-hunting shall be disqualified from inheriting, or taking on lease, rent or by any other means, the property of the person against whom such offence has been committed.</p>	<p>30</p> <p>35</p>
Punishment for causing death.	<p>5. Whoever, assaults or uses violent force against a person accusing such person to be a witch, resulting in her or his death, shall be punished in accordance with section 302 of the Indian Penal Code, 1860.</p>	<p>40 45 of 1860</p>
Punishment for abetment of suicide.	<p>6. Whoever intimidates a person identifying, calling, stigmatizing, defaming or accusing such person to be a witch and does any act leading or compelling the person to commit suicide shall be punished with imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees.</p>	<p>45</p>

7. Whoever, on the pretext of witch-branding and witch-hunting a person uses criminal force against such person or instigates or provokes others in doing so with the intent to harm or to displace the person from the house, agricultural land, village or the property, lawfully occupied or owned by him or her or interferes with his or her rights over any land or premises or to coerce him or her to leave the house or village of which he or she is a rightful owner, resident or a visitor, shall be punished with imprisonment of either description for a term which shall not be less than five years but which may extend to ten years and with fine which shall not be less than five lakh rupees but which may extend to ten lakh rupees. Punishment for use of criminal force for displacing a person from lawfully occupied property.
8. Whoever, on the pretext of witch-branding and witch-hunting a person assaults or uses criminal force against such person to remove or causes to remove clothes from his or her body and demonstrates and parades him or her naked or with such scanty clothes that fail to protect his or her modesty, shall be punished with imprisonment of either description for a term which shall not be less than seven years, but which may extend to ten years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees. Punishment for using criminal force to outrage modesty.
9. Whoever, on the pretext of witch-branding and witch-hunting a person—
 (i) subjects that person to any form of torture including acts of stoning, hanging, stabbing, dragging, public beatings, cutting or burning any part of the body or of hair, forced hair shavings, pulling of nails or teeth out, cutting of nose or other body-parts, blackening of face, whipping, branding with hot objects or use of any other blunt or sharp weapons or objects; or
 (ii) forces that person to perform public acts of humiliation or to eat human excrement or to drink urine or to drink or eat inedible or obnoxious substances or to socially ostracized or to stigmatize for life or to prohibit to participate in auspicious occasions, to curtail movements and employment or subjects him or her to taunts, slurs and other verbal abuses,
 shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may extend to ten years and with fine which shall not be less than five lakh rupees but which may extend to ten lakh rupees. Punishment for torture.
10. Whoever, on the pretext of witch-branding and witch-hunting a person, damages his or her reputation and dignity, or with intention to sexually exploit or to extort money or the property, or any other ulterior motive, identifies, calls, stigmatizes, defames or accuses a person as witch, shall be punished with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years and with a minimum fine of one lakh rupees which may extend to five lakh rupees. Punishment for damaging reputation, dignity etc.
11. Whoever, on the pretext of witch-branding and witch-hunting a person, blames such person of any misfortune that befalls his or her village or area or locality or community which may also include natural disasters, such as droughts, floods, crop loss, illness, death of cattle or any death in the village, shall be punished with imprisonment of either description for a term which may extend to three years and with fine which shall not be less than one lakh rupees which may extend to five lakh rupees. Punishment for attributing misfortune.
12. Whoever, knowingly or having reasons to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of shielding the offender from legal punishment, or with that intention misleads investigation or gives any information, regarding the offence, which he knows or believes to be false, shall, be liable for punishment as provided under sections 182 and 201 of the Indian Penal Code, 1860. Punishment for causing disappearance of evidence.
13. Whoever, attempts to commit any offence under this Act and does any act towards such commission shall be liable for punishment in accordance with the provisions of section 511 of the Indian Penal Code, 1860. Punishment for attempt to commit offences.

Punishment for abetment of offence.

14. (1) Whoever, abets any offence under this Act, shall be liable for the same punishment provided for that offence under the relevant provisions of this Act.

(2) A public servant who wilfully refuses to register a complaint for an offence under this Act or neglects the investigation or tries to withhold facts and evidences relating to the complaint with intention to minimize the gravity of the offence shall be deemed to have abetted the offence and shall be liable for punishment for the offence as provided under this Act. 5

Punishment for community involvement.

15. If it is established that there has been community involvement in causing such offences under this Act, everyone of the community involved shall be punished with which shall not be less than one lakh rupees each but may extend to five lakh rupees and whoever fails to deposit the said fine shall undergo one year imprisonment in addition to the punishment imposed upon him by the court fixing specific accusations in the proceeding. 10

CHAPTER III

TRIAL OF OFFENCES

Offences to be cognizable, non-bailable and non-compoundable.

16. Notwithstanding anything contained in the Criminal Code, every offence under this Act shall be cognizable, non-bailable and non-compoundable. 15

Imprisonment for non-payment of fine.

17. Any person, who wilfully or otherwise, fails to pay the fine ordered by a Court, shall be liable to undergo imprisonment as provided under section 64 of Indian Penal Code, 1860. 45 of 1860

Provision for compensation to the victim.

18. (1) The fine realized as punishment for an offence under this Act shall be paid to the victim as compensation. 20

(2) The compensation paid under sub-section (1) shall not be compounded with any other compensation or financial assistance which the appropriate Government may decide to pay as immediate relief to the victim or the rehabilitation grant payable under section 24.

Appeal.

19. Subject to the provisions of the Criminal Code, the aggrieved person shall be eligible to file an appeal to the next higher Court within ninety days of the date on which the Court concerned has passed the order: 25

Provided that the Court may entertain an appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the stipulated period.

CHAPTER IV

30

LEGAL PROCESSES FOR SPEEDY JUSTICE

Speedy trial.

20. (1) **It shall be the duty of the appropriate Government to establish adequate number of Courts to ensure that trial of offences under this Act are completed within a period of sixty days.**

(2) The appropriate Government shall ensure that every appeal under this Act is disposed of within a period of ninety days from the date of the filing of the appeal. 35

Special Public Prosecutor.

21. (1) **The appropriate Government shall appoint a Special Public Prosecutor in all Courts for trial of cases under this Act.**

(2) A Special Public Prosecutor shall be an advocate, who has been in practice as an advocate for not less than seven years and preferably known for human rights work. 40

CHAPTER V

MEASURES FOR PREVENTION AND PROTECTION OF PERSON FROM WITCH-BRANDING
AND WITCH-HUNTING

22. (1) When a police officer receives information or a report that witch-branding or
5 witch-hunting is likely to be committed or there are reasonable grounds to suspect that
witch-branding and witch-hunting is being committed against a person, the officer shall
immediately proceed to the place and shall take all suitable and adequate measures to prevent
the witch-branding or witch-hunting and rescue the victim. Duties of the
police to
rescue and
protect
persons.

(2) It shall be duty of the police authority, as may be specified, to provide protection
10 to a victim or a likely victim of an offence under this Act, including getting such person
admitted in a recognized protective or shelter home either run by the Government or by a
recognized voluntary organisation, in case the person has no place for shelter or fears attack
by any person and to ensure security measures including providing police protection.

(3) The police officer shall immediately remove or cause to remove the person and the
15 objects suspected or likely to harm a victim or likely victim and shall verbally or in writing
warn the person or persons accused of having intention or attempting to commit witch-
branding and witch-hunting to leave the place immediately and abstain from inflicting any
harm upon the victim or likely victim and in case, the situation warrants, the police officer
may cause arrest of the person(s), who may be identified as an abettor.

(4) Whenever an offence under the Act is reported to a police officer, in whose jurisdiction
20 the offence is committed, the officer concerned shall record the same and shall take action in
accordance with the provisions contained in the Criminal Code and shall take necessary
steps to collect forensic and other evidence as per the Indian Evidence Act 1872.

1 of 1872.

(5) A police officer having the area of jurisdiction shall take necessary steps to protect
25 the persons, associated with social works or voluntary organisation, who organize awareness
programmes against witch-branding and witch-hunting.

23. The Central Government shall,—

(a) direct the National Commission for Women to prepare a strategy document
to ensure awareness building through digital campaigns and mass drives and for
30 ensuring the elimination of the practice of witch-branding and witch-hunting; and

(b) **set up a National Monitoring Committee for the monitoring and reviewing
of the implementation of the Act with such composition as may be prescribed:**

Provided that the National Monitoring Committee shall include members
of civil society and representatives of Non-Government Organisations working
35 on issues of witch-branding and witch-hunting.

24. **The Central Government shall provide adequate funds after due appropriation
made by Parliament by law, for carrying out the purposes of the Act.**

Duties of the
Central
Government.Central
Government
to provide
funds.

25. The State Government shall,—

(a) designate adequate personnel in the State Commission for Women to monitor
40 the implementation of the Act;

(b) provide resources to districts where incidents of witch-branding and witch-
hunting are prevalent for carrying out the purposes of this Act;

(c) direct the State Commission for Women to take measures for sensitization
and training of all stakeholders including officials and public regarding the issue of
45 witch-branding and witch-hunting;

(d) ensure confidentiality during testimony of victims as well as witnesses;

Duties of the
State
Government.

(e) grant relief and compensation for victims of witch-branding and witch-hunting in such manner as may be prescribed;

(f) provide rehabilitation mechanisms and schemes for victims of witch-branding and witch-hunting in such manner as may be prescribed;

(g) provide medical and counselling services for victims of witch-hunting; 5

(h) increase public awareness through various mechanisms to inform communities about the Act, including engagement with tribal leaders, faith leaders, caste leaders, community leaders;

(i) take steps for launching of campaigns against witch-branding and witch-hunting through combined efforts of, administration, voluntary organisations, non-Governmental organisations, women's organisations, concerned individuals and academics, educational institutions etc. especially in regions where the menace of witch-branding and witch-hunting is most rampant; 10

(j) take steps for organizing women's groups at village level and drawing up creative plans in consultation with such groups to enhance the self-confidence and economic independence of vulnerable women in such areas; and 15

(k) take appropriate measures to improve education and health in such affected areas.

Steps to be taken at the district level.

26. (1) The District Magistrate shall, in consultation with the field level voluntary organizations, identify areas in the district which are prone to incidents of witch-branding and witch-haunting and designate person(s) to ensure awareness on the practices of witch-branding and witch-hunting, ensure prevention and prohibition of such practices. 20

(2) The appropriate Government shall set up a district level task force consisting of representatives from concerned non-Governmental organisations, women's organisations and individuals to address the issue of witch-hunting and witch-branding, in all areas where there has been recurring incidents of witch-branding and witch-hunting and with such functions, as may be specified. 25

(3) Every district level task force shall prepare an annual district level action plan along with budget requirements to address cases of witch-branding and witch-hunting in such manner as may be prescribed. 30

(4) The district level task force shall submit periodic reports to the State Government on the field situation, including number of cases handled, compensation and rehabilitation provided in such manner as may be prescribed.

(5) The State Government shall submit periodic reports to the National Monitoring Committee at least once annually in such manner as may be prescribed. 35

(6) All Government functionaries and local bodies including Panchayats as may be specified by the District Magistrate in relation to any area and the inhabitants of such area shall, if they have reason to believe or have the knowledge that witch-branding and witch-hunting is about to be, or has been, committed in the area, shall forthwith report such fact to the nearest police station and assist the police in the execution of the provisions of this Act or any rule or order made there under. 40

CHAPTER VI

SPECIAL PROVISIONS

Rehabilitation of affected persons.

27. (1) The appropriate Government shall provide for rehabilitation grant to be paid to the victim or next of kin in such manner as may be prescribed for the offences committed against such person under this Act and, for any other offence or offences which have not been defined in the Act but have been defined in other criminal laws, for the time being in force. 45

(2) It shall be the responsibility of the District Magistrate to draw a long-term community-based rehabilitation plan in consultation with the Gram Panchayat functionaries, in order to ensure that the victim of witch-branding and witch-hunting or next of kin is settled in the community itself with the resources including movable and immovable assets of such person restored, or if these have been destroyed, then adequately compensated as per status before the crime and in case, the victim or next of kin cannot be restored within the community, they shall be provided with adequate support and resources including homestead land or housing in a nearby village or urban area.

(3) The appropriate Government shall establish One Stop Crisis Centres at the Block Level with such functions, as may be specified.

39 of 1987 **28.** A victim of witch-branding and witch-hunting or their next of kin shall have right to free legal services under the Legal Services Authorities Act, 1987. Right to free legal aid to victims.

CHAPTER VII

MISCELLANEOUS

15 **29.** Section 360 of the Criminal Code and the provisions of the Probation of Offenders Act, 1958 shall not apply to any person of the age of twenty-one years and above, who is found guilty of having committed an offence under this Act. Non-application of section 360 of the Criminal Code or the Probation of Offenders Act, 1958 to persons guilty of an offence.

20 **30.** Nothing in section 438 of the Criminal Code shall apply in relation to any case involving the arrest of any person on accusation having committed an offence under this Act. Non-application of section 438 of the Criminal Code to persons committing an offence.

45 of 1860 **31.** Subject to other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter V-A, section 149 and Chapter XXIII of the Indian Penal Code shall, so far as may be, apply for the purposes of this Act as they apply for the purpose of the Indian Penal Code, 1860. Application of certain provisions of the Indian Penal Code.

25 **32.** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time custom or usage or any instrument having effect. Act to override other laws.

30 **33.** No suit, prosecution or other legal proceedings shall lie against the Government or any officer or authority of the Government or any other person for anything which is in good faith done or intended to be done under this Act. Protection of action taken in good faith.

34. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

35 (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall 40 be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

Witch-branding is the stigmatisation of specific groups of individuals, including for the most part, widowed women, childless women, old couples and lower caste women. Many women and children, and some men continue to be branded, castigated, externed to a life of isolation, or even killed, without adequate protection from the State and society. There is a strong gender dimension to witch hunts tilted towards women, given that a large majority of those killed in this patriarchal assertion are women, and amongst them widows, unmarried, and divorced or separated women and those who dare to assert themselves. It is not only a question of death for those condemned; those who escape death face a condemnation of their futures. Once suspected and accused of witchcraft, the affected person lives in perpetual fear and lifelong anxiety. They and their families are often subject to several human rights violations.

The practice of witch-hunting is most common across these twelve States of India—Jharkhand, Bihar, Haryana, West Bengal, Madhya Pradesh, Maharashtra, Gujarat, Odisha, Chhattisgarh, Assam, Rajasthan and Uttar Pradesh.

India currently lacks clear national laws to prevent witch-hunting. Punishment is usually awarded based on the Indian Penal Code, 1860. There is a failure to create a formal law on witch-hunting that violates a range of core rights laid down in numerous international treaties and conventions. It includes the right to non-discrimination, right to safety, right to life, right to access to national Courts, and the most significant, right to live a decent life, free from cruel and inhumane treatment.

Presently, section 323 of the Indian Penal Code, 1860 is used to deal with most cases of witch-hunting. The effect of this is that the persistent harassment of a woman, violence, social ostracization and deprivation of rights are prosecuted in the same way as a common assault. In addition, certain provisions of the Indian Penal Code, 1860 have been typically used to book offenders in cases relating to witch-hunting such as section 382 ‘theft after preparation made for causing death, hurt or restraint in order to commit theft’, sections 339—48 ‘wrongful restraint and confinement’, sections 320—22, ‘Causing grievous hurt’, sections 359—69, ‘Kidnapping and abduction’, sections 375—376, ‘Rape’, sections 499—501, ‘Defamation’ and section 302, ‘Murder’. The loopholes in the law and order are evident from the fact that, in most of the witch-hunting cases, the witch hunting laws of the respective States are not invoked, rather only the relevant clauses of Indian Penal Code, 1860 are cited.

The use of the aforesaid sections in the absence of a stringent law to deal with the problem of witch-hunting has resulted in an *ad hoc*, un-coordinated and often insensitive approach to tackle the social evil of witch-hunting. A national law on the other hand would acknowledge, understand and address the specific harms and specific wrong done to women who are labelled as witches and subjected to oppression. There is a need to prevent, prohibit and prosecute witch-hunting as a specific manifestation of ongoing discrimination and violence against women across India.

In summation, there is a clear need for building up a National Law for criminalizing witch-hunting practitioners and mob-violence against targeted families. Criminalisation and punishing those involved in witch-hunting is the most appropriate way to end superstition, harmful practices and provide redress to victims.

The proposed Bill, therefore, seeks to provide for more effective measures to protect people from ‘witch-branding and witch-hunting’ and prevent the act of torture, oppression, humiliation and killing by providing punishment for such offences, relief and rehabilitation of victims of such offences.

Hence, this Bill.

SUJEET KUMAR.

FINANCIAL MEMORANDUM

Clause 20 of the Bill provides for establishment of adequate number of Courts for trial of offences under this Act. Clause 21 provides for appointment of special public prosecutor in all Courts. Clause 23 provides for setting up of a National Monitoring Committee for implementation of this Act. Clause 24 provides that the Central Government shall provide funds for carrying out the purposes of the Act. Clause 27 provides for rehabilitation grant to the victim or next of kin and clause 28 provides for free legal aid to the victims.

The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about seventy crore rupees would be incurred per annum from the Consolidated Fund of India.

A non-recurring expenditure of about twenty crore rupees is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 34 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

RAJYA SABHA

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BILL

to provide for effective measures to prevent, prohibit and protect persons especially women from witch-branding and witch-hunting, to eliminate their torture, oppression, humiliation, killing, sexual assault, stigmatization, discrimination, ostracization by providing punishment for such offences, relief and rehabilitation of victims of such offences and for matters connected therewith or incidental thereto.

(Shri Sujeet Kumar, M.P.)