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Black Magic and Anti-Superstition Laws in India: A Critical Analysis of Criminal Liability, Constitutional Rights and Protection of Victims

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ABSTRACT

Black magic, witchcraft, occult practice and other forms of harmful superstition continue to present significant legal and social challenges in India. Although belief in supernatural powers, religious faith and traditional practice are not, by themselves, criminal acts, the exploitation of such beliefs can result in fraud, physical violence, sexual abuse, human sacrifice, witch-hunting, intimidation, dispossession and death. The legal response in India is therefore required to balance two competing concerns: protection of freedom of conscience and religion on the one hand, and protection of human dignity, life, liberty, equality and public order on the other. India has at present no single comprehensive central statute exclusively regulating black magic and harmful superstition. Criminal liability is instead distributed among the Bharatiya Nyaya Sanhita, 2023, the Bharatiya Nagarik Suraksha Sanhita, 2023, the Bharatiya Sakshya Adhiniyam, 2023, the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, and several State enactments. Maharashtra, Karnataka, Odisha, Assam and Rajasthan, among other States, have adopted legislation dealing with black magic, witch-hunting or related harmful practices. This paper critically examines the existing legal framework, with particular emphasis on criminal liability under the Bharatiya Nyaya Sanhita, procedural and victim-protection mechanisms under the Bharatiya Nagarik Suraksha Sanhita, evidentiary issues under the Bharatiya Sakshya Adhiniyam, and constitutional limitations under Articles 14, 19, 21 and 25 read with Article 51A(h). It also analyses judicial responses to witch-hunting, human sacrifice and supernatural claims. The paper argues that the present fragmented framework leaves important gaps, particularly concerning uniform definitions, preventive mechanisms, victim rehabilitation, witness protection, investigation and the regulation of fraudulent supernatural claims. It proposes a rights-based national framework that criminalises harmful conduct without criminalising mere belief, while strengthening victim protection, scientific investigation, awareness, legal aid and institutional accountability.

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Keywords: *black magic, superstition, witch-hunting, human sacrifice, Bharatiya Nyaya Sanhita 2023, constitutional rights, Article 25, victim protection, criminal liability, anti-superstition law*

I. INTRODUCTION

India is a constitutionally plural society in which religion, culture, tradition and customary practice occupy an important place in social life. At the same time, the Constitution establishes a legal order founded upon equality, dignity, liberty, scientific temper and the rule of law.¹ The coexistence of these commitments becomes particularly difficult when religious or supernatural belief is exploited to justify harmful conduct.

Black magic is a broad social expression rather than a uniformly defined legal concept. It may refer to alleged supernatural powers, occult ritual, sorcery, exorcism, witchcraft, possession, magical cures or practices claimed to influence illness, relationships, wealth or human behaviour. The legal problem does not arise simply because an individual holds a supernatural belief; it arises when that belief becomes a mechanism for exploitation or violence.

A person who claims to possess supernatural powers may demand money from vulnerable individuals, falsely promise miraculous cures, threaten a victim with supernatural consequences, administer harmful substances, subject individuals to physical or sexual abuse, identify women as witches, encourage social ostracisation or participate in rituals causing serious injury or death. In extreme cases, allegations of witchcraft have resulted in murder and in human sacrifice.^{2,3}

The distinction between belief and harmful conduct is therefore fundamental. A democratic legal system should not ordinarily criminalise a private belief merely because the belief is irrational or scientifically unsupported. Criminal law may legitimately intervene, however, when conduct causes injury, death, fraud, coercion, intimidation, exploitation or other legally recognised harm.

The constitutional framework provides an important starting point. Article 25 guarantees freedom of conscience and the right freely to profess, practise and propagate religion, but expressly makes that right subject to public order, morality and health and to the other

¹ INDIA CONST. pmbi.; INDIA CONST. arts. 14, 21, 51A(h).

² *Sushil Murmu v. State of Jharkhand*, (2004) 2 SCC 338 (Supreme Court of India, Dec. 12, 2003) (sacrifice of a nine-year-old child).

³ *Balku Oram v. State of Odisha*, 2026 INSC 852 (Supreme Court of India, Aug. 15, 2026) (killing of a woman accused of practising witchcraft).

provisions of Part III.⁴ Article 25(2) also preserves the power of the State to enact laws for social welfare and reform.⁵ Article 21 protects life and personal liberty, and Article 14 guarantees equality before the law and the equal protection of the laws.⁶ Article 51A(h) further places upon citizens the duty to develop the scientific temper, humanism and the spirit of inquiry and reform.⁷

The transition from the Indian Penal Code, 1860 to the Bharatiya Nyaya Sanhita, 2023 provides a contemporary occasion to examine whether the criminal-law framework adequately addresses offences committed in the name of black magic and superstition. The Sanhita came into force on 1 July 2024⁸ and contains provisions dealing with culpable homicide, murder, hurt, wrongful confinement, abetment, cheating and criminal intimidation, and, of particular relevance here, with the act of inducing a person to believe that he will be rendered an object of Divine displeasure.⁹ The Indian Penal Code stands repealed, so that provisions of that Code can no longer be cited as the operative criminal law.

The procedural framework has also changed. The Bharatiya Nagarik Suraksha Sanhita, 2023 governs criminal investigation and procedure and contains provisions on the registration and investigation of offences, medical examination, victim compensation and witness protection.¹⁰ The Bharatiya Sakshya Adhiniyam, 2023 governs evidentiary questions, including expert opinion and electronic or digital records.¹¹

At the State level, legislative responses have developed more specifically. The Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013 addresses harmful practices and black magic directly.¹² Karnataka followed with the Prevention and Eradication of Inhuman Evil Practices and Black Magic Act, 2017.¹³ Odisha and Rajasthan have enacted legislation directed principally at witch-hunting and

⁴ INDIA CONST. art. 25, cl. 1.

⁵ INDIA CONST. art. 25, cl. 2(b).

⁶ INDIA CONST. arts. 14, 21.

⁷ INDIA CONST. art. 51A(h).

⁸ Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, INDIA CODE (India) [hereinafter BNS]. Brought into force with effect from 1 July 2024, with the exception of section 106(2), by Ministry of Home Affairs, Notification S.O. 850(E) (Feb. 23, 2024).

⁹ BNS, *supra* note 8, § 354.

¹⁰ Bharatiya Nagarik Suraksha Sanhita, 2023, No. 46 of 2023, INDIA CODE (India) [hereinafter BNSS].

¹¹ Bharatiya Sakshya Adhiniyam, 2023, No. 47 of 2023, INDIA CODE (India) [hereinafter BSA].

¹² Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013, Mah. Act No. 30 of 2013 (India) [hereinafter Maharashtra Act]. Published after the Governor's assent in the Maharashtra Government Gazette on 20 December 2013; by section 1(3) the Act is deemed to have come into force on 26 August 2013, the date of the Ordinance it replaced.

¹³ Karnataka Prevention and Eradication of Inhuman Evil Practices and Black Magic Act, 2017, Karnataka Act No. 46 of 2017 (India) [hereinafter Karnataka Act]. Assented to on 6 December 2017 and first published in the Karnataka Gazette Extraordinary on 7 December 2017; it was reported to have been brought into force with effect

witchcraft, and Assam has enacted the Assam Witch Hunting (Prohibition, Prevention and Protection) Act, 2015.¹⁴

The fragmented character of this regime raises important questions. Should India enact a comprehensive central anti-superstition law? How should the law distinguish protected religious practice from criminal exploitation? Are the existing criminal offences sufficient? Does the current system afford adequate protection to victims and witnesses? How should the police investigate cases in which the witnesses are themselves afraid of alleged supernatural powers? Can scientific temper serve as a constitutional value without becoming an instrument for suppressing legitimate religious freedom?

This paper examines these questions through a doctrinal and critical analysis of constitutional provisions, criminal law, procedural law, State anti-superstition legislation and judicial decisions.

II. STATEMENT OF THE PROBLEM

The principal legal problem is the absence of a uniform national framework addressing harmful black magic and superstition. The Orissa High Court has itself observed that, in the absence of central legislation, there is a lack of uniformity in the application of the law across the country.¹⁵

The existing system can punish the consequences of harmful practices through ordinary offences such as murder, culpable homicide, hurt, wrongful confinement, cheating, intimidation, sexual offences and abetment. Consequence-based criminalisation, however, does not always address the preventive and exploitative dimensions of black magic.

A fraudulent practitioner may exploit a victim for years without causing any immediately identifiable physical injury. A person may be psychologically intimidated by threats of supernatural punishment. A woman may be labelled a witch and socially ostracised before any physical violence occurs. A victim may hesitate to approach the police because the perpetrator has persuaded the victim that legal intervention will bring supernatural consequences.

from 4 January 2020.

¹⁴ Odisha Prevention of Witch-hunting Act, 2013, Odisha Act No. 3 of 2014 (India) [hereinafter Odisha Act] (assented to by the Governor on 15 February 2014, notwithstanding the 2013 in the short title); Rajasthan Prevention of Witch-hunting Act, 2015, Raj. Act No. 14 of 2015 (India) [hereinafter Rajasthan Act] (assented to on 24 April 2015); Assam Witch Hunting (Prohibition, Prevention and Protection) Act, 2015, Assam Act No. XXI of 2018 (India) [hereinafter Assam Act]. The Assam statute keeps 2015 in its short title, the year the Assembly passed it, although it was reserved for the President, received the President's assent on 13 June 2018 and is numbered as an Act of 2018.

¹⁵ *Jitu Murmu v. State of Odisha*, 2020 SCC OnLine Ori 815, BLAPL No. 3707 of 2020 (Orissa High Court, Aug. 10, 2020) ("The fact remains, in the absence of a central legislation it has resulted in lack of uniformity in the application of law across the country.").

The law must therefore address not only the final act of violence but also the mechanisms of manipulation, exploitation, intimidation and victimisation that precede it.

III. RESEARCH GAP

Existing legal scholarship frequently examines superstition, witch-hunting or particular State legislation separately. There remains comparatively less integrated doctrinal analysis connecting black magic and harmful superstition with the Bharatiya Nyaya Sanhita, 2023; State anti-superstition legislation with constitutional religious freedom; criminal liability with modern evidentiary problems; witch-hunting with victim and witness protection under the Bharatiya Nagarik Suraksha Sanhita; traditional occult practice with digital advertising and online fraud; and scientific temper with constitutional morality.

The present research attempts to fill that gap by examining black magic as a multi-dimensional legal problem involving substantive criminal law, constitutional law, procedural law, the law of evidence, human rights and victimology.

IV. OBJECTIVES OF THE STUDY

The objectives of this research are to examine the legal meaning and social dimensions of black magic and harmful superstition; to analyse criminal liability under the Bharatiya Nyaya Sanhita, 2023; to examine the constitutional relationship between anti-superstition legislation and Articles 14, 19, 21 and 25; to analyse State-specific anti-superstition and witch-hunting legislation; to examine judicial responses to witch-hunting, human sacrifice and supernatural practices; to assess the investigative and evidentiary challenges in black-magic offences; to evaluate the existing victim-protection mechanisms; to identify the deficiencies of the current fragmented framework; and to propose a rights-based and victim-centred national framework.

V. RESEARCH QUESTIONS

The research addresses seven questions. What forms of black magic and harmful superstition can attract criminal liability in India? Is the existing framework of the Bharatiya Nyaya Sanhita sufficient to address offences committed in the name of black magic? How do anti-superstition laws interact with Article 25 of the Constitution? Can the State prohibit harmful supernatural practices without interfering with legitimate religious freedom? What are the principal investigative and evidentiary difficulties in black-magic and witch-hunting cases? Are victims and witnesses adequately protected under the present framework? Is there a need for a comprehensive central anti-superstition law in India?

VI. HYPOTHESIS

The research proceeds on the hypothesis that India's existing criminal laws can punish many of the harmful consequences of black magic and superstition, but that the absence of a uniform national preventive framework creates gaps in addressing deception, exploitation, intimidation, victim protection and early intervention. A constitutionally valid national framework should regulate harmful conduct rather than criminalise belief itself.

VII. RESEARCH METHODOLOGY

This research adopts a doctrinal methodology. The primary sources are the Constitution of India; the Bharatiya Nyaya Sanhita, 2023; the Bharatiya Nagarik Suraksha Sanhita, 2023; the Bharatiya Sakshya Adhiniyam, 2023; the Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954;¹⁶ the Maharashtra, Karnataka, Odisha, Rajasthan and Assam enactments noted above; and the relevant decisions of the Supreme Court and the High Courts.

The secondary materials are books, journal articles, legal commentaries and government materials relating to superstition, witch-hunting, constitutional law, criminal law and victim protection. The research is analytical and comparative rather than empirical.

VIII. CONCEPTUALISING BLACK MAGIC AND HARMFUL SUPERSTITION

Black magic has no single, universally accepted legal definition in India. The term is commonly associated with alleged supernatural or occult powers used for harmful, coercive or manipulative purposes. Indian legislation has tended to avoid defining the metaphysical claim and to define instead the prohibited act: the Drugs and Magic Remedies Act, for instance, defines a magic remedy as including a talisman, mantra, kavacha and any other charm alleged to possess miraculous powers in the diagnosis, cure, mitigation, treatment or prevention of disease.¹⁷

The absence of a uniform definition is not necessarily a defect, provided that legislation is drafted around harmful acts rather than around metaphysical claims. For legal purposes the following categories may usefully be distinguished.

A. Mere belief

A person may privately believe in supernatural powers, spirits, astrology, traditional ritual or other supernatural phenomena. Mere belief should not automatically attract criminal liability.

¹⁶ Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954, No. 21 of 1954, INDIA CODE (India) [hereinafter Drugs and Magic Remedies Act]. Assented to on 30 April 1954 and brought into force on 1 April 1955.

¹⁷ Drugs and Magic Remedies Act, *supra* note 16, § 2(c).

B. Religious or cultural practice

A religious ceremony or traditional practice must be assessed in accordance with the constitutional protections, particularly Article 25. That a practice is unusual or scientifically unverifiable does not by itself make it criminal.

C. Fraudulent supernatural claims

A person may falsely claim supernatural powers in order to obtain money, property, sexual access or other benefits. Such conduct may attract criminal liability where the elements of cheating, or of another offence, are established.

D. Harmful ritual

A ritual involving physical assault, forced consumption of substances, confinement, sexual abuse, mutilation or other harmful conduct may constitute an offence independently of the claimed supernatural purpose.

E. Witch-hunting

Witch-hunting is particularly serious because an individual, most often a woman, may be branded a witch and subjected to humiliation, dispossession, assault, social exclusion or murder. The Supreme Court has recently described the brutality of witch-hunting as extending “far beyond the act of killing”, with victims, mostly women, “subjected to torture, beatings, sexual violence and social ostracization”.¹⁸

F. Human sacrifice

Human sacrifice represents the most extreme criminal exploitation of supernatural belief. The killing of a human being cannot be justified by religious or supernatural belief, and it attracts the ordinary law of homicide in addition to any applicable special legislation.¹⁹

This classification demonstrates why the law should focus upon conduct, harm, deception and coercion rather than attempt to determine whether supernatural powers exist.

IX. CRIMINAL LIABILITY UNDER THE BHARATIYA NYAYA SANHITA, 2023**A. Abetment**

Black-magic offences frequently involve several participants: a practitioner, family members, assistants, instigators or members of the community. The provisions of the Sanhita on abetment therefore have particular importance.

¹⁸ *Balku Oram, supra* note 3.

¹⁹ *Sushil Murmu, supra* note 2 (holding that superstition affords no justification for a planned and deliberate killing).

Sections 45 to 60, within Chapter IV, deal with abetment.²⁰ Section 49 provides for the punishment of an abettor where the act abetted is committed in consequence and no express provision is made for its punishment.²¹

This matters in witch-hunting cases because the person who identifies a supposed witch may not personally inflict the fatal injury, yet may instigate or facilitate the offence.

B. Culpable homicide and murder

Where black-magic practices result in death, the central question is not whether the accused genuinely believed in magic but whether the accused had the intention or knowledge required by the law of homicide.

Section 100 defines culpable homicide, section 101 defines murder, and section 103 prescribes the punishment for murder.²² The distinction between the two offences turns on the degree of intention or knowledge, and the Supreme Court has cautioned that confusion arises when courts lose sight of the meaning of the terms the legislature has used.²³

A claim that the accused was acting to remove an evil spirit, to cure a victim or to respond to alleged witchcraft cannot by itself displace the legal consequences of intentionally causing death.

C. Hurt and grievous hurt

Occult rituals may involve beating, burning, poisoning, forced consumption of substances, physical restraint or other violence.

Section 115 deals with voluntarily causing hurt.²⁴ Section 123, headed “Causing hurt by means of poison, etc., with intent to commit an offence”, is particularly relevant where poison or a stupefying or unwholesome substance is administered with the requisite intention.²⁵

Such provisions apply where an alleged exorcism or ritual causes physical injury.

D. Wrongful restraint and confinement

Victims may be locked inside rooms, temples, houses or other places during an alleged exorcism or occult treatment.

²⁰ BNS, *supra* note 8, §§ 45-60. Chapter IV, headed “Of Abetment, Criminal Conspiracy and Attempt”, runs to section 62; sections 61 and 62 deal with criminal conspiracy and attempt respectively.

²¹ BNS, *supra* note 8, § 49.

²² BNS, *supra* note 8, §§ 100, 101, 103.

²³ *Phulia Tudu v. State of Bihar*, (2007) 14 SCC 588 (on the distinction between culpable homicide and murder under the corresponding provisions of the Indian Penal Code, 1860).

²⁴ BNS, *supra* note 8, § 115.

²⁵ BNS, *supra* note 8, § 123.

Sections 126 and 127 address wrongful restraint and wrongful confinement respectively.²⁶

These provisions are significant because deprivation of liberty often occurs before more serious violence takes place.

E. Cheating and fraudulent exploitation

A person who claims supernatural powers and dishonestly induces a victim to part with money or property may fall within the offence of cheating under section 318.²⁷

The law must distinguish between a sincere religious belief and a deliberate fraudulent representation made in order to obtain property. Comparative experience shows that the distinction is workable: in *United States v. Ballard* the Supreme Court of the United States held that a jury trying a mail-fraud charge founded on claims of miraculous healing could not be asked whether the defendants' religious doctrines were true, but could be asked whether the defendants sincerely believed them.²⁸

The essential question is therefore whether the statutory elements of deception and dishonest inducement are established.

F. Criminal intimidation

Supernatural threats may be used as instruments of psychological control. A practitioner may tell a victim that refusal to obey will result in death, illness, possession or divine punishment.

Section 351 deals with criminal intimidation.²⁹

The law should focus upon the effect and the legal elements of the threat rather than require the prosecution to prove or disprove the existence of supernatural powers.

G. Inducing belief in Divine displeasure

An especially relevant provision is section 354, headed "Act caused by inducing person to believe that he will be rendered an object of Divine displeasure", which is the successor to section 508 of the Indian Penal Code, 1860.³⁰

The provision demonstrates that the criminal law recognises the capacity of religious or supernatural fear to operate as a mechanism of coercion. Its practical utility is nevertheless

²⁶ BNS, *supra* note 8, §§ 126, 127.

²⁷ BNS, *supra* note 8, § 318.

²⁸ *United States v. Ballard*, 322 U.S. 78 (1944).

²⁹ BNS, *supra* note 8, § 351.

³⁰ BNS, *supra* note 8, § 354.

limited: the maximum punishment is imprisonment of either description for one year, or fine, or both.³¹

It must in any event be interpreted with care, so that legitimate religious teaching or expression is not unnecessarily criminalised.

X. STATE ANTI-SUPERSTITION LEGISLATION

India's most significant legislative response to harmful superstition has emerged at the State level. Three States have adopted the same broad model, directed at human sacrifice and Aghori practices as well as black magic: Maharashtra in 2013, Karnataka in 2017 and, most recently, Gujarat in 2024.³² The remaining State statutes considered below are narrower, addressing witch-hunting and witchcraft specifically.

A. Maharashtra

The Maharashtra Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013 is among the most comprehensive State statutes.³³

The Act seeks to prevent and eradicate human sacrifice and the inhuman, evil and Aghori practices and black magic specified in its Schedule, and it provides for Vigilance Officers with powers of entry, search and seizure.³⁴

Its importance lies in the attempt to identify harmful practices before they necessarily result in conventional offences such as murder.

B. Karnataka

The Karnataka Prevention and Eradication of Inhuman Evil Practices and Black Magic Act, 2017 was enacted to protect people from exploitation through inhuman and sinister practices performed or propagated in the name of supernatural or magical powers.³⁵

³¹ BNS, *supra* note 8, § 354. A maximum of one year sits oddly with the gravity of the exploitation the provision describes, and the point is developed below.

³² Gujarat Prevention and Eradication of Human Sacrifice and other Inhuman, Evil and Aghori Practices and Black Magic Act, 2024, Guj. Act No. 8 of 2024 (India). Passed by the Gujarat Legislative Assembly on 21 August 2024 and published, after the Governor's assent, in the Gujarat Government Gazette (Extraordinary) on 2 September 2024. Its stated object, to bring social awakening and awareness in society and to create a healthy and safe social environment protecting people against evil and sinister practices, reproduces the Maharashtra formula almost word for word. No commencement notification for the Act was traced.

³³ Maharashtra Act, *supra* note 12. The measure was first promulgated as an Ordinance on 26 August 2013, days after the killing of the rationalist Narendra Dabholkar, and was enacted later that year.

³⁴ Maharashtra Act, *supra* note 12, §§ 3, 5 and sch. The Schedule, referred to in section 2(1)(b), lists twelve prohibited practices; section 3(2) punishes them with imprisonment of not less than six months and up to seven years and a fine of not less than 5,000 and up to 50,000 rupees, and section 3(4) makes the offence cognizable and non-bailable; section 5 provides for Vigilance Officers not below the rank of Inspector of Police.

³⁵ Karnataka Act, *supra* note 13.

The Act adopts a schedule-based approach, identifying the prohibited practices and expressly saving a range of religious and customary observances.³⁶

The Karnataka model illustrates an important legislative technique: instead of criminalising an abstract belief in supernatural powers, the statute identifies particular harmful acts.

C. Odisha

The Odisha Prevention of Witch-hunting Act, 2013 focuses on witch-hunting and witchcraft.³⁷

The legislation emerged in a context in which accusations of witchcraft had been associated with violence against women and against vulnerable communities, and it followed directions of the Orissa High Court calling for guidelines pending legislation.³⁸

D. Rajasthan

The Rajasthan Prevention of Witch-hunting Act, 2015 prohibits witch-hunting and witchcraft and makes specific provision for punishment, for persons holding themselves out as witch doctors, for unnatural death and for compensation.³⁹

The inclusion of compensation and of preventive action is particularly significant from a victim-centred perspective: where a fine is imposed the court is required to take into account the physical and mental harm to the victim and any damage to the victim's property, and to direct that at least sixty per cent of the fine recovered be paid to the victim as compensation.⁴⁰

E. Assam

The Assam Witch Hunting (Prohibition, Prevention and Protection) Act, 2015 is directed, as its title indicates, at prohibition, prevention and protection. Its stated purposes include the elimination of torture, oppression, humiliation and killing, and the provision of relief and rehabilitation to victims.⁴¹

This model is valuable because it moves beyond punishment and incorporates victim protection and rehabilitation.

³⁶ Karnataka Act, *supra* note 13, §§ 2(1), 3 and sch. The Schedule lists sixteen prohibited practices; section 3(2) punishes them with imprisonment of not less than one year and up to seven years and a fine of not less than 5,000 and up to 50,000 rupees, and section 6 provides for a Vigilance Officer.

³⁷ Odisha Act, *supra* note 14.

³⁸ *Sashiprava Bindhani v. State of Orissa*, 2012 SCC OnLine Ori 152, W.P. (C) No. 17638 of 2011 (Orissa High Court, Apr. 25, 2012).

³⁹ Rajasthan Act, *supra* note 14, §§ 2(c), 6, 7. Section 2(c) defines a witch doctor as a person locally known as a Gunia, Ojha or Tantrik, or otherwise, who claims supernatural or magical power to control or cure a witch or performs a ritual purportedly to free a woman from an evil spirit; section 6 punishes such conduct, and section 7 punishes the unnatural death of a woman subjected to witch-hunting.

⁴⁰ Rajasthan Act, *supra* note 14, §§ 8, 9. Section 8 further provides for a collective fine, the net proceeds of which are applied to the rehabilitation of victims.

⁴¹ Assam Act, *supra* note 14.

XI. CONSTITUTIONAL DIMENSIONS

A. Article 14: equality

Article 14 guarantees equality before the law and the equal protection of the laws.⁴²

Witch-hunting frequently affects socially vulnerable persons, particularly women and members of marginalised communities, and unequal access to police protection, healthcare and legal assistance can intensify the harm.

A strong anti-superstition framework must therefore secure equal protection irrespective of gender, caste, community, geographical location or social status.

B. Article 19

Article 19 protects several freedoms, including the freedom of speech and expression and the right to practise any profession or to carry on any occupation, trade or business, each subject to constitutionally permitted restrictions.⁴³

A person claiming to be a spiritual healer cannot invoke occupational freedom in order to justify fraud, physical violence or harmful practice.

Restrictions upon public communication concerning supernatural claims should likewise be narrowly designed to address deception, exploitation and harm, rather than merely unpopular belief.

C. Article 21: life, liberty and dignity

Article 21 provides the strongest constitutional basis for protecting victims of black magic and witch-hunting.

Life under Article 21 is not confined to biological existence. The Supreme Court has held that the right to life includes the right to live with human dignity, and that any act which offends against or impairs human dignity amounts pro tanto to a deprivation of that right.⁴⁴

A practice involving forced confinement, physical violence, sexual abuse, torture or human sacrifice conflicts directly with those values.

⁴² INDIA CONST. art. 14.

⁴³ INDIA CONST. art. 19, cls. (1)(a), (1)(g), (2), (6).

⁴⁴ *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608 (Supreme Court of India, Jan. 13, 1981).

D. Article 25: freedom of religion

Article 25 protects freedom of conscience and the right freely to profess, practise and propagate religion, but the right is expressly subject to public order, morality and health and to the other fundamental rights.⁴⁵

Article 25 cannot therefore be read as conferring immunity for criminal conduct merely because the accused describes that conduct as religious.

The jurisprudence of the Supreme Court has also recognised that a practice claimed to be religious may be examined in order to determine whether it forms an essential and integral part of the religion. In *Durgah Committee, Ajmer v. Syed Hussain Ali* the Court cautioned that practices “though religious may have sprung from merely superstitious beliefs and may in that sense be extraneous and unessential accretions to religion itself”, and that unless such practices are an essential and integral part of a religion their claim to protection must be carefully scrutinised.⁴⁶ The essential-practices approach is not, however, settled: the conflict between that observation and the earlier decision in the *Shirur Mutt* case is among the questions referred to a nine-Judge Bench in *Kantaru Rajeevaru*.⁴⁷

In *Indian Young Lawyers Association v. State of Kerala* the Supreme Court restated the constitutional tension between religious practice, equality, dignity and social reform.⁴⁸

The correct constitutional approach is therefore not to prohibit religion but to prevent harmful conduct disguised as religion.

XII. ARTICLE 51A(H) AND SCIENTIFIC TEMPER

Article 51A(h) makes it the duty of every citizen of India to develop the scientific temper, humanism and the spirit of inquiry and reform.⁴⁹

Scientific temper does not mean that the State is constitutionally authorised to criminalise every supernatural belief. The Fundamental Duties are not enforceable in the manner of the Fundamental Rights.

Article 51A(h) nevertheless supplies an important constitutional value in support of scientific education, rational investigation, public awareness, evidence-based healthcare, the questioning

⁴⁵ INDIA CONST. art. 25, cl. 1.

⁴⁶ *Durgah Committee, Ajmer v. Syed Hussain Ali*, AIR 1961 SC 1402 (Supreme Court of India, Mar. 17, 1961). The observation was made in relation to Article 26.

⁴⁷ *Kantaru Rajeevaru v. Indian Young Lawyers Association*, (2020) 9 SCC 121 (Supreme Court of India, May 11, 2020) (holding the reference of questions of law to a larger Bench in a review petition to be maintainable).

⁴⁸ *Indian Young Lawyers Association v. State of Kerala*, (2019) 11 SCC 1 (Supreme Court of India, Sept. 28, 2018).

⁴⁹ INDIA CONST. art. 51A(h).

of fraudulent supernatural claims, the prevention of harmful practices and social reform. The Supreme Court has invoked the same commitment in condemning witch-hunting, observing that the Constitution envisioned a society founded upon equality, fraternity and scientific temperament, in which any practice derogatory to women was to be discarded.⁵⁰

The constitutional goal should therefore be to develop scientific temper without imposing compulsory disbelief. That distinction is essential in a religiously plural democracy.

XIII. JUDICIAL APPROACH TO WITCH-HUNTING AND SUPERSTITION

Indian courts have repeatedly recognised witch-hunting as a serious social evil.

A. *Ashok Laxman Sohoni v. State of Maharashtra*

In *Ashok Laxman Sohoni v. State of Maharashtra* the Supreme Court dealt with the killing of a woman by her husband and his sister in the belief that she was practising sorcery. The Court upheld the conviction for murder while commuting the death sentence to imprisonment for life.⁵¹

The decision shows that superstition-driven killing has occupied the Supreme Court since well before any State enacted dedicated legislation.

B. *Sashiprava Bindhani v. State of Orissa*

In *Sashiprava Bindhani v. State of Orissa* the Orissa High Court addressed the continuing problem of witch-hunting and, in the absence of legislation, framed guidelines directing public-awareness programmes in gram panchayats, health camps to identify psychological disorders that may give rise to false accusations of witchcraft, and the prompt recording of the statements of witnesses.⁵²

The judgment is important because it demonstrates the preventive role of the constitutional courts even before comprehensive State legislation was enacted; the Odisha Act followed in the year after the decision.

C. *Jitu Murmu v. State of Odisha*

In *Jitu Murmu v. State of Odisha* the Orissa High Court considered a bail application arising from the assault of a woman believed to be possessed by an evil spirit, and used the occasion to review the legislative developments across the States.⁵³

⁵⁰ *Balku Oram*, *supra* note 3.

⁵¹ *Ashok Laxman Sohoni v. State of Maharashtra*, (1977) 2 SCC 103, AIR 1977 SC 1319 (Supreme Court of India, Feb. 17, 1977).

⁵² *Sashiprava Bindhani*, *supra* note 38.

⁵³ *Jitu Murmu*, *supra* note 15.

The Court held that in the absence of central legislation there is a lack of uniformity in the application of the law, and directed that in witch-hunting cases the investigating agency should promptly have the statements of witnesses recorded before a Magistrate in order to guard against witnesses turning hostile.⁵⁴

That is particularly important because black-magic cases may involve witnesses who themselves believe that the accused possesses supernatural powers.

D. *Sushil Murmu v. State of Jharkhand*

In *Sushil Murmu v. State of Jharkhand* the Supreme Court dealt with the sacrifice of a nine-year-old child before an idol of the goddess Kali and confirmed the sentence of death, treating the case as falling within the rarest of rare category.⁵⁵

The case illustrates the extreme consequences that follow when supernatural belief is converted into a justification for taking human life. The constitutional protection of religious freedom cannot extend to human sacrifice.

E. *Balku Oram v. State of Odisha*

A significant contemporary development is the decision of the Supreme Court in *Balku Oram v. State of Odisha*, delivered on 15 August 2026.⁵⁶

The case arose from the killing in 1998 of a woman who had been accused of causing a child's death by witchcraft. The Supreme Court affirmed the conviction under section 302 read with section 34 of the Indian Penal Code, 1860 and the sentence of imprisonment for life, and condemned witch-hunting in strong terms, observing that the malady "still plagues sections of our society, where prejudice, superstition and irrational fear supersedes the rule of law, constitutional morality".⁵⁷

The decision is relevant to contemporary research because it shows that witch-hunting remains a live constitutional and criminal-law problem notwithstanding the existence of State legislation.

⁵⁴ *Jitu Murmu*, *supra* note 15. The direction was framed by reference to section 164 of the Code of Criminal Procedure, 1973; the corresponding provision is now section 183 of the BNSS.

⁵⁵ *Sushil Murmu*, *supra* note 2.

⁵⁶ *Balku Oram*, *supra* note 3.

⁵⁷ *Balku Oram*, *supra* note 3.

XIV. INVESTIGATION UNDER THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023

The Bharatiya Nagarik Suraksha Sanhita supplies the procedural structure for investigation and prosecution.

Section 173 governs information in cognizable cases; section 175 confers upon a police officer the power to investigate a cognizable case; and section 176 prescribes the procedure for investigation.⁵⁸

In black-magic cases the investigation should not be confined to the immediate physical act. Investigators should examine the identity of the alleged practitioner; the relationship between the accused and the victim; any previous threats; financial transactions; advertisements and claims made on social media; medical records; injuries and forensic evidence; ritual objects; the position of witnesses and the pressure exerted by the community; previous similar incidents; communications between the participants; and the possibility of abetment or conspiracy.

The investigation should remain evidence-based. The police should neither endorse supernatural explanations nor dismiss victims because they describe supernatural experiences.

XV. EVIDENTIARY ISSUES UNDER THE BHARATIYA SAKSHYA ADHINIYAM, 2023

Black-magic cases may generate unusual evidentiary problems.

The Adhiniyam recognises the opinions of experts under section 39, so that medical experts, forensic specialists, psychologists and other appropriately qualified persons may play an important part according to the facts. The same section treats the opinion of an Examiner of Electronic Evidence as a relevant fact.⁵⁹

The statute also expressly recognises electronic and digital records: section 61 provides that an electronic or digital record is not to be denied admissibility on the ground that it is electronic, section 62 makes special provision as to evidence relating to electronic records, and section 63 governs their admissibility.⁶⁰

This has increasing importance because occult practitioners now advertise through video-sharing and social-media platforms, messaging applications, websites, online advertisements and digital payment platforms.

⁵⁸ BNSS, *supra* note 10, §§ 173, 175, 176.

⁵⁹ BSA, *supra* note 11, § 39.

⁶⁰ BSA, *supra* note 11, §§ 61-63.

Digital records may establish the representations made by the accused, the payments received, the threats communicated, the relationships between participants and the continuation of a fraudulent practice.

The Adhiniyam therefore supplies a modern evidentiary foundation for the investigation of supernatural-fraud cases.

XVI. VICTIM PROTECTION

A major weakness of the criminal-justice response to black magic is that prosecution alone does not necessarily protect the victim.

Victims may suffer physical injury, psychological trauma, social ostracisation, loss of property, displacement, sexual exploitation, economic exploitation, stigma and fear of retaliation.

The Bharatiya Nagarik Suraksha Sanhita contains provisions on victim compensation and witness protection. Section 396 provides for a victim compensation scheme, section 397 for the treatment of victims, and section 398 requires that “[e]very State Government shall prepare and notify a Witness Protection Scheme for the State with a view to ensure protection of the witnesses”.⁶¹

These mechanisms should be actively used in witch-hunting and black-magic cases. Some State legislation already points the same way: the Rajasthan Act directs a substantial share of any fine recovered to the victim, and the Assam Act expressly contemplates relief and rehabilitation.⁶²

Protection should begin at the earliest stage and should not depend upon conviction.

XVII. SPECIAL PROTECTION FOR WOMEN AND VULNERABLE PERSONS

Witch-hunting is frequently gendered. A woman may be accused of causing illness, death, infertility, crop failure or family misfortune. The Supreme Court has described the practice as reflecting a deep-rooted social prejudice against women.⁶³

Such accusations can reinforce patriarchal control and can be bound up with disputes over property.

Anti-superstition law should therefore be connected with the wider protections available under criminal law, the law on domestic violence, child-protection law and human-rights law.

⁶¹ BNSS, *supra* note 10, §§ 396, 397, 398.

⁶² Rajasthan Act, *supra* note 14; Assam Act, *supra* note 14.

⁶³ *Balku Oram*, *supra* note 3.

Particular attention should be given to widows, elderly women, children, persons with disabilities, persons with mental illness, economically vulnerable persons and members of socially isolated communities.

The law must avoid reinforcing the stigma attaching to persons accused of supernatural practices while at the same time protecting those falsely branded as witches.

XVIII. ONLINE BLACK MAGIC AND DIGITAL EXPLOITATION

The traditional image of black magic involves physical ritual in temples, forests or isolated locations. Contemporary exploitation increasingly operates online.

Fraudsters advertise miraculous cures, the removal of curses, love spells, supernatural protection, guaranteed wealth, fertility rituals, the removal of possession and solutions to family problems. Digital platforms increase the scale of the exploitation.

The legal response should therefore include digital investigation and financial tracing. Where online communication is used to deceive victims or to induce payment, the provisions on cheating and on electronic evidence become directly relevant.⁶⁴

It should also be recognised that the field is not wholly unregulated. The Drugs and Magic Remedies Act already prohibits the publication of advertisements referring to a magic remedy which claims, directly or indirectly, to be efficacious for the purposes specified in section 3, and it applies to any person carrying on or purporting to carry on the profession of administering magic remedies.⁶⁵

A future anti-superstition framework should build upon that model, addressing digital advertisement and online commercial exploitation without suppressing legitimate religious expression.

XIX. CRITICAL ANALYSIS OF THE EXISTING LEGAL FRAMEWORK

A. Fragmentation

The greatest weakness is legislative fragmentation. Different States employ different definitions, different prohibited acts, different punishments and different preventive mechanisms, so that a victim's protection may depend in part upon geographical location. The problem is older than the five statutes discussed above: Bihar legislated in 1999, Jharkhand in

⁶⁴ BNS, *supra* note 8, § 318; BSA, *supra* note 11, §§ 61-63.

⁶⁵ Drugs and Magic Remedies Act, *supra* note 16, §§ 3, 5. Section 7 prescribes the penalty: imprisonment which may extend to six months, or fine, or both, on a first conviction, and to one year, or fine, or both, on a subsequent conviction.

2001 and Chhattisgarh in 2005, each on its own terms.⁶⁶ The Orissa High Court has made precisely this criticism.⁶⁷

B. Lack of uniform terminology

Terms such as black magic, witchcraft, occult practice, supernatural power and superstition carry different meanings in different statutes. A poorly drafted central law could become vague and vulnerable to constitutional challenge.

C. Overreliance on consequence-based offences

The Bharatiya Nyaya Sanhita can punish murder, hurt, cheating and intimidation, but the criminal law generally intervenes only after the harmful conduct has occurred or the statutory elements have been made out. The one provision aimed squarely at coercion through supernatural fear carries a maximum of one year's imprisonment.⁶⁸ Special legislation can supply preventive mechanisms of the kind the Maharashtra and Karnataka statutes attempt.

D. Difficulty of witness testimony

Witnesses may fear supernatural retaliation, which can produce hostile witnesses or delayed complaints. Witness protection is therefore essential, and section 398 of the Bharatiya Nagarik Suraksha Sanhita now makes a State scheme mandatory.⁶⁹

E. Risk of excessive State intervention

An anti-superstition law could itself become problematic if it criminalised ordinary religious ritual merely because the ritual appears irrational. The constitutional objective must be harm prevention rather than belief control.

F. Insufficient rehabilitation

Punishing offenders does not restore a victim's property, livelihood, psychological wellbeing or social standing. Compensation and rehabilitation must therefore become integral parts of the legal response.

XX. COMPARATIVE PERSPECTIVE

A comparative approach shows that legal systems can regulate harmful conduct without criminalising belief.

⁶⁶ Prevention of Witch (Daain) Practices Act, 1999 (Bihar); Prevention of Witch (Daain) Practices Act, 2001 (Jharkhand); Chhattisgarh Tonahi Pratadna Nivaran Adhiniyam, 2005, C.G. Act No. 17 of 2005 (assented to Sept. 26, 2005). Neither the Bihar nor the Jharkhand short title carries the name of the State.

⁶⁷ *Jitu Murmu*, *supra* note 15.

⁶⁸ BNS, *supra* note 8, § 354.

⁶⁹ BNSS, *supra* note 10, § 398.

In the United Kingdom the Witchcraft Act 1735 was repealed by the Fraudulent Mediums Act 1951, which penalised persons who fraudulently purported to act as spiritualistic mediums or to exercise powers of telepathy or clairvoyance.⁷⁰ That Act was itself repealed in 2008, so that such conduct is now addressed through general criminal law and consumer-protection regulation.⁷¹

In the United States, religious belief is protected by the First Amendment while fraud, assault, coercion and other harmful conduct remain subject to criminal regulation. A neutral law of general applicability is not rendered inapplicable merely because compliance conflicts with a religious practice,⁷² and, as *Ballard* shows, the sincerity of a claim to supernatural power may be tried even though its truth may not.⁷³

India can therefore develop a model that combines protection of freedom of belief, prohibition of harmful practices, punishment of fraud and exploitation, victim compensation, preventive intervention and public education. The Indian model should remain sensitive to the constitutional commitment to religious pluralism.

XXI. NEED FOR A NATIONAL ANTI-SUPERSTITION FRAMEWORK

A central law is desirable, but it must be carefully drafted. Such legislation should not declare that supernatural belief is itself unlawful.

It should instead prohibit objectively identifiable harmful conduct: human sacrifice; torture in the name of exorcism; forced consumption of harmful substances; physical mutilation; the branding or stigmatising of a person as a witch for the purpose of causing harm; fraudulent supernatural claims made for financial exploitation; coercive occult practices; sexual exploitation during alleged ritual; forced confinement; harmful practices involving human beings or animals; threats of supernatural punishment used to compel unlawful acts; and the organised promotion of prohibited harmful practices.

The statute should include express savings for legitimate religious and cultural practice where no prohibited harm occurs, on the model already adopted in Karnataka.⁷⁴

⁷⁰ Fraudulent Mediums Act 1951, 14 & 15 Geo. 6 c. 33 (U.K.) (repealed).

⁷¹ The Consumer Protection from Unfair Trading Regulations 2008, SI 2008/1277, sch. 4 (U.K.) (repealing the Fraudulent Mediums Act 1951 with effect from 26 May 2008).

⁷² *Employment Division, Department of Human Resources of Oregon v. Smith*, 494 U.S. 872 (1990).

⁷³ *Ballard*, *supra* note 28.

⁷⁴ Karnataka Act, *supra* note 13.

XXII. RECOMMENDATIONS

A. Enact a model national anti-superstition law

Parliament should consider a comprehensive law dealing with harmful supernatural practices, while respecting the federal structure and the existing State legislation.

B. Adopt a harm-based definition

The law should regulate harmful conduct rather than define supernatural belief as inherently criminal.

C. Create special investigation mechanisms

States should establish trained police units for witch-hunting and harmful-superstition cases in vulnerable districts.

D. Require mandatory victim risk assessment

The police should carry out an immediate assessment of threats, displacement, financial exploitation and the risk of further violence.

E. Strengthen witness protection

The witness-protection framework of the Bharatiya Nagarik Suraksha Sanhita should be actively applied in cases in which witnesses face intimidation or community pressure, and the prompt recording of statements before a Magistrate should be treated as routine.⁷⁵

F. Improve forensic investigation

Investigators should document injuries, toxic substances, ritual objects, financial records, communications and digital evidence.

G. Monitor fraudulent advertisements online

Platforms and authorities should cooperate against fraudulent commercial claims involving miraculous cures or supernatural guarantees where the conduct amounts to an offence.

H. Provide legal aid

Victims should receive immediate access to legal services, particularly where they are socially or economically vulnerable.

⁷⁵ BNSS, *supra* note 10, §§ 183, 398.

I. Provide compensation and rehabilitation

Victim compensation should extend to medical treatment, psychological counselling, temporary shelter, livelihood assistance and the restoration of property where that is legally appropriate.

J. Promote public education

Government agencies, educational institutions and civil society should promote scientific temper and awareness of legal remedies.

K. Train police and judiciary

Training should cover superstition-related offences, community dynamics, the gender dimensions of witch-hunting, victim psychology, forensic investigation, digital evidence and the constitutional limits upon State intervention.

L. Protect legitimate religious freedom

The law should state expressly that peaceful religious belief or practice which involves no prohibited harm is not criminal merely because it is supernatural, traditional or scientifically unverifiable.

XXIII. CONCLUSION

Black magic and harmful superstition represent a complex intersection of criminal law, constitutional freedom, social reform and human rights. The fundamental legal challenge is to distinguish belief from harm.

The Constitution does not require the State to criminalise irrational belief. At the same time, constitutional religious freedom cannot provide immunity for murder, torture, fraud, intimidation, sexual exploitation, human sacrifice or witch-hunting.

The Bharatiya Nyaya Sanhita, 2023 supplies a substantial criminal-law foundation through its provisions on abetment, homicide, hurt, wrongful confinement, cheating, criminal intimidation and inducing belief in Divine displeasure. The Bharatiya Nagarik Suraksha Sanhita strengthens the procedural mechanisms relating to investigation, victim compensation and witness protection, while the Bharatiya Sakshya Adhiniyam provides a modern framework for expert and digital evidence.

The fragmented character of the State anti-superstition laws nevertheless demonstrates the need for greater uniformity. Maharashtra and Karnataka have addressed harmful black-magic practices directly, while Odisha, Rajasthan and Assam offer important models on witch-hunting, prevention and victim protection.

The emerging judicial approach reinforces the principle that constitutional morality and human dignity cannot yield to superstition-driven violence. The observations of the Supreme Court in *Balku Oram v. State of Odisha* show that witch-hunting remains a contemporary constitutional concern.⁷⁶

The appropriate legislative objective is therefore not the elimination of belief but the elimination of the harmful exploitation of belief. A constitutionally sound national framework should rest upon five principles: belief must be protected; harm must be prohibited; fraud must be punished; victims must be protected; and scientific temper must be promoted.

Such an approach would allow India to preserve its constitutional commitment to religious pluralism while ensuring that no person can use superstition, occult claims or alleged supernatural powers as a justification for violating another person's life, liberty, dignity and equality.

⁷⁶ *Balku Oram*, *supra* note 3.