1. Introduction

In view of the rising graph of witch hunting cases and atrocity on women, a collective of organizations lead by PAIRVI, Vikas Bharti, FLAC, ASHA, and Humanity organized a State Consultation at Ranchi on 6th October. More than 70 civil society organizations, Panchayat members, women, survivors of witch hunting, academic community and lawyers attended the Consultation. The Chief Guest of the function was Mrs. Vimla Pradhan, Hon’ble Minister of Social Welfare Women and Child Development. The Consultation was also attended by Chairperson State Human Rights Commission, State Women Commission, Prof. Ramesh Sharan (Ranchi University), Sanjay Basu Mallick Adv. G S Jaiswal, Adv. Rashmi Katyayana, Ms Ranjana (Member, State Child Rights Commission).

2. Background and the context

Witch hunting is prevalent in a number of states across India. At least 12 states — Jharkhand, Haryana, Chhattisgarh, Orissa, West Bengal, Madhya Pradesh, Rajasthan, Andhra Pradesh, Gujarat, Maharashtra, Assam and Bihar — are recognized as areas where witch hunting is active even today. However, women in the Eastern and Central States like Assam, Bihar, Jharkhand, Madhya Pradesh, Orissa and Chhattisgarh are reportedly to be on a higher risk. A report brought out by a Jharkhand-based NGO, Association for Social and Human Awareness (ASHA), that deals specifically with monitoring incidents of witch hunting and providing counseling services to its victims, have collated data stating that between 2001-2008, 452 cases of witch-hunting related deaths were reported in the state of Jharkhand. A study conducted by Rural Litigation and Entitlement Kendra (RLEK) testifies that, more than 2,500 women were killed in the past 15 years after being accused of practicing witchcraft. This horrifying practice takes away the life of 150 - 200 innocent women every year in our country and Jharkhand tops the list with 50-60 witchcraft-related murders every year,
followed by Andhra Pradesh, where the number is around 30, Haryana with 25-30 and Orissa with 24-28 deaths.¹

Although the state of Jharkhand was formed only in the year 2000, the practice of witch-hunting in the region is not a recent phenomenon. Bihar was the first state in India to pass a law against the practice of witch hunting, entitled ‘The Prevention of Witch (Daain) Practices Act, 1999’. Jharkhand adopted the same act in 2001, entitled ‘The Prevention of Witch (Daain) Practices Act, 2001’. Although the Act is a step in the right direction, it is unfortunately completely inadequate for dealing with the severity and scale of the practice of witch hunting in the state of Jharkhand.

The UN Special Rapporteur on extrajudicial, Christof Heyns, on his visit to India stressed upon the crimes that are committed in the name of witch hunting across the country and recommended to immediate repeal of the laws and ratification of international treaties related to torture and Other Cruel, Inhuman or Degrading Treatment. The Committee on the Elimination of Discrimination against Women in its concluding remarks recommended India to adopt appropriate measures to eliminate the practice of witch-hunting, prosecute and punish those involved, and provide for rehabilitation of, and compensation to, victimized women. The committee urges to take measures based on an analysis of its causes, including control over land and calls upon the State party to create public awareness of forms of violence against women rooted in custom as an infringement of women’s human rights. Despite repeated efforts by activists, including those of NHRC, laws have not been modified accordingly to hold perpetrators accountable.

3. Recommendations

The major recommendations coming out of the Consultation are as follows:

1. Education and awareness

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¹ The Hindu, Nearly 200 women killed every year after being branded witches, July 26th, 2010
http://www.thehindu.com/news/article533407.ece
1.1 The school curriculum needs to scale up scientific and rational attitude and may include reading material on health, superstition, and witchcraft. This would help children who have access to school understand scientific reasons for illness, disease etc. which will help them wean away from superstitions.

1.2 Children and adult audience should be also shown the films which exposes superstition and shows the scientific aspects of magic, occult, witchcraft etc.

1.3 A series of workshops could be held with Traditional/opinion leaders as they are widely respected in the tribal societies, particularly in the areas where more number of cases are reported. They need to be taken in confidence and involved in the process.

1.4 Improved access to health care services in remote areas can decrease the prevalence of ojhas, gunis and other practitioners, who are responsible for identifying witches and branding them. However, traditional healers and health care practitioners should be recognized and provided further training to improve traditional and community medicine and health care systems.

1.5 Civil society and department of social welfare, and women and child development along with PRIs should organize camps, fairs, medical camps for children and women which can also be used as a forum to make them increasingly aware against witch hunting.

1.6 Women should be provided legal education so that they can understand their rights and approach justice systems in case of violation of their rights

2. Witch Hunting Act

2.1 The Act must be redrafted incorporating the experience of the implementation of the Act in the state and other states. The Rules or guidelines must be laid down simultaneously for the adequate implementation of the Act.

2.2 The punishment provided in the Act is less than that provided in the Sec.323 IPC, which is invoked in states where legislation against witch hunting does not exist. This not only is contradictory with the IPC but also weak restraint against the crime.
2.3. The discrepancy brought in by the decision in Tulsa Devi vs. State of Jharkhand, with regard to the burden of proof needs to be reversed. The case which laid down that the victim must prove that the accused identified her as witch/daain frustrates the purpose of the Act, as identification is done extremely surreptitiously, and weak women victims can hardly prove the accusation in the court of law.

2.4. The punishment provided by the Act should be increased.

2.5. The word “identifier” needs to be replaced by “brander”, as identification means identifying something that already exists.

2.6. The experience of the implementation of the Act suggests that in most of the cases only the persons accusing women of being witch/daain is apprehended. The tantric, ojha, guni etc generally go scot free. Specific provisions for these people must be included in the Act.

2.7. A minimum mandatory punishment must be provided so that judiciary does not use its discretion in reducing the punishment.

2.8. Expansive definition of “witch/daain” is also required as the current Act provides protection only to women.

2.9. The Acts must incorporate the clause that in the case of witch killing, the property will not go to the nearest male agnate but will be taken over by the community /State

2.9 3. Implementation of the Act and administrative changes

3.1. The Department of social welfare/women and child development along with state women commission should form special cell and it should be made mandatory to report and investigate all such cases by the cell and provide expeditious remedy to victims. The special cell should also hold camps Gram Panchayat level to make women more aware of their rights, to approach police and judiciary, other helpful institutions.
3.2 The Act should be widely publicized in the campaign mode. Market days / traditional fairs/jatras etc., Community radios particularly in the areas with high incidences could be used for the purpose.

3.3 The state should conduct a census of single/widows owning landed property as these women are more likely to be the victims.

3.4 Ojhas, gunis, tantriks should be identified and tradition healers from amongst them should be provided training in community and traditional healing systems. The fake witch doctors/ojhas, gunis should also be brought into mainstream and efforts must be made to engage with them.

3.5 To avoid the cases of victims turning hostile their statement should be recorded under S.164 of the Cr. PC.

3.5 The State must enact such Acts that uphold resource rights and right to participation in the decision making of women, such as Forest rights Act, 2006 and Panchayat (Extension to Scheduled Areas) Act 1996.

3.6. All cases of witch hunting where the victim happens to be SC/ST and the accused non SC/ST should be tried under the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989.

3.6 The SHRC should take the cases of witch hunting on a priority basis; it should also frame a guideline, which helps expeditious disposal of the cases of the witch hunting, and provides protection to the victims.

3.7 The SHRC should direct SPs of all districts to expedite disposal of cases of witch hunting.

3.8 Non registration of FIRs in cases of witch hunting should be taken seriously.

**4. Rehabilitation of the victims**

4.1 The state must create a fund for the rehabilitation of the victims.
4.2 The Women Commission and the department of women and child development/social welfare should provide accompaniment to the victims in their rehabilitation.