COMBAT BETWEEN LAW AND SUPERSTITION

Lathangi G, Harshinee S & Abdul Rahim S,

Vellore Institute of Technology, Chennai

ABSTRACT

Every person has a faith and belief that leads superstition. Sometimes practices carried on from ancient time are believed to be superstitious. They carry a certain scientific reason behind them. The paper points out how legal science which from the age of Enlightenment has been flourished as a torch against superstition and illogical beliefs.

Freedom of religion is considered as the valuable possession of every individual. Constitution, establishes the right to freedom of religion, belief, faith, thought, and expression of all these freedoms to all its citizens. At times, these expressions and beliefs become blind. People following such blind belief and faith on religion and practicing religious activities oversteps the human right of others to live with dignity and status.

This paper highlights about the use of superstition in legal system. The authors have also discussed about anti superstition law, freedom of religion and superstition and criticism pertaining to it.
INTRODUCTION

The word Superstition” has been Originated from the Latin word “Superstition”, which means excessive fear of the god\(^1\). According to Collins English Dictionary\(^2\) Superstition” is an irrational belief usually founded on ignorance or fear and characterized by obsessive reverence for omens, harms etc. Richard Webster (2012) contradicts that superstition” is that it is a notion, act or ritual that derives from such beliefs; and any irrational belief, especially with regard to the unknown

Every person has a faith and belief that leads superstition. Sometimes practices carried on from ancient time are believed to be superstitious but they carry a certain scientific reason behind them for example Elders say we should not sleep facing North. The scientific reason is that relation between Earth's magnetic field and the human body's field. They made this practice of sleeping with our heads facing in the South direction to avoid harmful effects related to blood pressure and other diseases that asymmetry with the Earth's magnetic field would create. But sadly, it has led to a superstition that if we sleep with our head in the North, we will die. This is also taken advantage misused by people who are in a dominative position in the society and turn it into a rule, use it as a source of propaganda against certain individuals or for their self-gain. Some people are blindly into superstitious beliefs believe to be true and perform rituals leading to killing people. There are many cases of Parents killing their own daughters by performing rituals

Reports of India's National Crime Records Bureau informed right around 2,500 Indians murdered in obviously coordinated witch chases from 2000 to 2016, a few occasions of kids being killed because of being superstitious beliefs, such examples have gotten fast as the years progressed. Lacking laws and enactments, obliviousness, and ignorance has scarcely set up any battle against the prevalence superstitions in India. Absence of investigation and examination in this field has brought about no information or insights about the crimes related to superstition carried out behind the fronts of strange notions. As times passes India has enacted Anti-superstitious laws but still requires stronger legislation to tackle superstitions related crimes.

Lawyers are very much interested in superstition for a variety of reasons which are both congenial and ancient. Today’s law is the result of a painful struggle and sufferings against such beliefs, especially in the field of criminal law and some typical crimes such as witchcrafts and human sacrifice. There are therefore many reasons to believe that that law, in its many facets, is completely removed and away from superstition, and the two notions appear to be incompatible one with another.

This paper discusses about superstition in India and also emphasises on superstition as a legal system and also highlights few cases on how superstitious beliefs turns into a root cause for a crime and also elucidates about anti-superstitious laws and the developments required pertaining to it.

A LAWERS INTERPRETATION OF SCIENTIFIC FACTS AND EVIDENCE USING SUPERSTITIONS

If law is ought to be a science, naturally lawyers will be able to understand and apply scientific knowledge out of their own limits, not unlike a chemist understands drugs and medicine, or an engineer understands thermodynamics. As a result of such increased self-esteem which lack in lawyers, in order to prove or disprove their argument data, scientific methods, and reasoning are frequently used by lawyer, to understand why certain natural events lead to the enforcement of a rule.

Lawyers play with the finest of ease with science use its terminology, and infer consequences, occasionally supported via way of means of experts, different instances as do-it-your self-scientists. The fact is that even as the law is usually debatable, science isn’t, as it gives correctness and reality. Therefore, decisions taken pertaining to science are accurate and appropriate. Scientific policies usually bargain a margin occasionally narrow, different instances wider of uncertainty, and doubt is a intellectual disposition even earlier than being a protocol, mainly while one faces exclusive or new circumstances. While a lawyer will generally tend to expand, thru analogy, a rule just so it can include increasingly more cases, the casuistry of natural legal guidelines isn’t a few sorts of bizarre exception, however clearly the affirmation of the infinity of occasions that may take place and of the policies that govern them. One can consequently advise that the use that normally lawyers anywhere placed make of science is appreciably superstitious, looking to
give an explanation for the statistics of lifestyles and society through theories and arguments they do now no longer actually grasp, and that may effortlessly be disproved. Things got even bad when concepts conceived in order to establish criminal liability were incorporated in the fields of contract and tort, where liability has very little to do with a person’s responsibility and is, more simply, an effective way of allocating damages, often on the basis of objective standards or vicarious responsibility (the res Ipas loquitur and respondents’ superior principles). This clearly is not the case where to quote the development of the theories on causation. The thing which should be dealt how heavily lawyers learn on to pseudoscientific arguments in order to validate their arguments.

The standard of insurance uncovers a profound doubt in generally acknowledged logical speculations, and gives a similar significance, if not more, to minority sees which can incapacitate dynamic cycles and force uncommon safety efforts. Plainly the explanations for this methodology are not, in essence, unreasonable yet political: governments should disperse tensions and fears of their citizens and do so offering notice to extremely vocal enemy of logical developments. And yet the actions which are presented are spruced up in logical pieces of clothing proposing that the standards encapsulate the fitting treatment. Different models come from the utilization that regularly is made of information drawn from sociologies. There is no uncertainty that insights are fundamental to settle on educated choices. Be that as it may, insights are just one of numerous aspects of complex social and monetary real factors and must be placed in their proper setting, beginning from who, how, when and where the information have been gathered. At the point when choices depend just on numbers and there is no huge proof throughout a sensible time span that such choices bring the ideal impact, usually measurements are utilized to cover inspirations than can't be openly communicated. In different cases these equivalent inspirations are generalized using assessments of public sentiment, which, in principle, ought to have the option to transform a nonsensical social strain into a level headed legitimate choice. Be that as it may, possibly the most widely recognized (mis)use of logical equations is in the field of monetary business sectors and of rivalry, where the between connection among law and financial matters is especially close.
JUSTICE AND SUPERSTITION

What we now call the administration of justice is undistinguishably interlaced with magic. This is quite obvious when we look at the few earlier societies still existing in South America, in Central Africa and in some distant islands of Asia. One would commit a great mistake if one thought that these are unbelievable cases. It is enough to go back over the history of early Roman law were the magic and superstition are at the roots of Western legal systems and evident in many ways. The first and most obvious are rituals that govern judicial procedures and which, through the ages, have transformed themselves into rules of procedure, but still maintain elements of magic. The robes, the garments, the wigs, the gavel or the ceremonial mace which are worn or used by the various actors of the judicial play have a profound symbolic sense which is personified by them and transferred to the parties of the proceedings and to the public.

The ritual is reinforced by the association in the court-room. The bench overseeing everything, the position of the public prosecutor, of the lawyers, of the accused, of the jury, of the public. The space in front of the judge where only the lawyers are admitted. The thoughtful words engraved in the court room. The oath affirmed by the witnesses. The preamble when the judgement is read out. Only towards the 18th Century does motivation of legal decisions become usual, and in the 19th Century a constitutional principle. This is an attempt, essential to our contemporary eyes, to reduce less hidden output of the judicial machinery. It would appear often that the motivation is meant primarily to obtain the consent of the community towards a decision which in itself is unexplainable. Similar thoughts might be applied to some noticeable aspects of judicial law making especially when the legislature prefers not to tackle a controversial issue, and asks the support of the magician/witch dressed in the judge’s robes to find a solution. But even more masked in mystery is the role of the jury whose decision is, in the system where it is a constitutional requirement, simply a “Yes” or a “No” with no need to motivate or justify, and whose negotiation process is protected by procedural secret. What should be pointed out that there is a widespread belief that it is still the most acceptable form of justice. By no means rational, but made mostly of feelings, beliefs, passions, taking the place that in the earliest form of drama belongs to the chorus, which is placed as a transcriber between the gods and the individual’s fate.
The most irrational judicial decision which was exposed over two-fifty years ago by Cesare Beccaria in his innovative work “Dei delitti e delle pene” – is the death penalty. One doesn’t have to spend further words on the fact that social appeasement and general prevention which should ensue from the execution of the offender have little to do with rationality. State administered vengeance is still, in its substance, vengeance, conforming to the biblical quote of “eye for eye, tooth for tooth”.

This brings us back to the starting point of this paragraph: the law – in the Western legal tradition – is or aspires to be rational. But is Justice rational? And can it be entirely rational? To what extent is it, in its essence, a highly sophisticated ethical, political, and cultural product specific to Western civilization in which transcending values are deeply embedded and which do not fit in a rigorous logical system?3

SUPERSTITION AS A LEGAL SYSTEM

The boundaries between rational law and illogical beliefs are tremendously unclear, giving us the impression that lawyers, notwithstanding several centuries of knowledgeable efforts have not managed to dismiss the dark shadow of superstition. One can, however see things from an opposite viewpoint, that would be advocate of superstition. The reason why lawyers are still subject to the influence of superstition is because superstition can largely be described as a legal system. Superstition isn’t non rational but this does not mean it does not follow strict rules. First of all, it is mostly colours, numbers, circumstances, objects are well, and previously, defined. If the factual elements change the bad (or good) luck will not follow. A black cat on the sidewalk, sitting at table in fourteen, breaking a window-pane are not anticipated among those events which forbear ill consequences. The rules are known in order that persons may avoid deteriorating victim of the spell or that they may take appropriate precautions or counter-measures. All this raised up to the maximum degree in enchantment, but without reaching such heights even if the event with an illogical sense may be relatively free in its growth. The reaction to it, in order to be effective and dismiss its negative consequences must follow an extremely formalized ritual which often includes standard formulas.

3 Green, L. “The Duty Problem in Negligence Cases.”
Formalism is the main entrance to a further similarity with legal systems, and that is, in certain fields, what might be called a numerous divisions of superstitions in the sense that although a single individual may have his own superstitions (the first thing one does in morning, or before going to sleep; wearing a specific tie on certain occasions; taking a certain seat on the train or on the bus) these are of little significance and become relevant only when they receive wide grip in the community (e.g. how many people would willingly accept to sit at a table of thirteen? And How many people would carefreely walk underneath an open ladder or voluntarily break a mirror?4) Superstitions are typical social norms which develop in a community and are abided by it to their degree of social acceptance.

This enables us to detect patterns of regularity and especially the function which is ensured in the various societies. One should also consider the role played by certain individuals, which we might call the “officials of (the law of) superstition”. In certain cultures, the fortune-teller has a very important societal position, of which he or she is well aware of. This person may present some particular physical aspects which by themselves help single he/she out. But the soothsayer is generally clad in black and spells are generally transmitted by his/her facial expressions or by his/her hands. As in any legal system this brings us to the distinction between private acts of superstition and official acts of superstition which require a minister and whose significance is definitely superior. This “public (or administrative) law” of superstition sets out the importance of the (social) assignment of powers to certain persons which enable them to produce effects through simple acts. An additional aspect of the “legal” system of superstition should be considered. Although to rational eyes it is easy to invalidate any of the elements of superstition (and this is basic with its definition) one has to admit that it is not without a law of causation. People believe in superstitions not because they are totally irrational, but because they fit into a very restricted and informal rationality, which is easily grabbed by simple and non-educated minds. It is sufficient to consider the amount of, often highly educated, persons who believe in horoscopes and astrology notwithstanding it has been sufficient and it is long ago demonstrated that they lack any scientific foundation.

---

CRITICISM AGAINST ANTI-SUPERSTITIOUS LAWS

The main criticism put forward against the anti-superstitious laws is that they are against in effect, though, a depth analysis of such Anti-superstitious laws shows that they are not so\(^3\). It is that legislative intention of such anti-superstitious laws is reformative in character and the new laws, are kind of same with the reformative legislations in the earlier context. Lyla Bavadam (2006) elucidates clearly and explains that Anti-superstitious law aims at targeting any religion or sect but only focuses on fraudulent practices in the name of God and religion. It is to be highlighted that that it criminalises those people who claims to be a miracle maker and do fraudulent activities at the expense of one belief. In order to know that these anti-superstitious laws are not in contradiction Freedom of religion, there is a necessity to understand the meaning and concept of religion and Freedom of Religion in Indian context.

MEANING OF RELIGION, BELIEF AND FAITH IN INDIAN CONTEXT

In a multicultural society like India, there are numerous religious groups with diverse forms of worships, practices, rituals, rites etc. It is very difficult to make a common understanding as to what religion is and what matters are of religious belief or practice. Meaning of religion or the question as to what constitutes religion can be ascertained only with reference to the various ingredients which are commonly associated with most of the religions such as\(^5\)

i. The assumption of a superior order of existence or life superior to our earthly existence and mundane affairs;

ii. The concept of a creator or Supreme Being;

Belief in certain ethical rules of conduct for the upliftment of a human being to a higher stratum. However, by examining the Indian Constitution and by legal precedence, we can say that religion is a matter of faith. It is definitely a matter of belief and principle. It must be capable of explicit face in word and deed, such as, worship or rituals. There is no formula of general application and no knife-edge test

\(^5\) The Constitution of India Article 25
FREEDOM OF RELIGION AND SUPERSTITIONS

The significant Indian culture is driven by religion and convictions identified with it. Religion is accepted to be forming the lives and social direct of all Indians. This colossal significance and a more extensive extent of importance hasn't permitted anybody to lay a particular meaning of religion. Yet, the idea of religion is associated with the possibility of an unrivalled request of presence or life and the presumption of the presence of a predominant being. Despite the fact that the Preamble to the Indian Constitution doesn't feature the legitimate and explicit importance of 'religion', the Preamble, Article 25⁶ and Article 26⁷ introduces the right to freedom of professing, practising and propagating any religion without any discrimination. Each strict area has the privileges to deal with their strict foundations, undertakings identified with religion and oversee property as indicated by law. In any case, the activity of the opportunity of religion is likewise limited by impediments. It can't contradict basic rights or conflict with public request, wellbeing and ethical quality and such different limits.

Legal points of reference and understandings feature that customs, functions, and methods of love establish a significant piece of religion. Regularly on this premise, eccentric practices and customs dominate and there are no limits to stop it. Although the thought of importance isn’t viewed as the premise on which hostile to odd notion or strange notion is settled on, it is undoubtedly a significant mode for pronouncing which practices, customs and convictions are a significant piece of the

---

⁶ The Constitution of India Article 25 (1) & (2). It reads as follows, —Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion. I Clause (2) of Article 25 further reads as follows, —Nothing in this Article shall affect the operation of any existing law or prevent the state from making any law—
(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;
(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public
⁷ The Constitution of India ARTICLE 26. It reads as follows, —Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—
(a) to establish and maintain institutions for religious and charitable purposes;
(b) to manage its own affairs in matters of religion;
(c) to own and acquire movable and immovable property; and
(d) to administer such property in accordance with law
religion. Yet, the Constitution doesn't consider the idea of vitality and talk about it unmistakably. It is extremely hard to chalk out rehearses that are fundamental for a religion.

Works on disliking basic liberties and against humankind can't be endorsed as a fundamental piece of a religion. Yet, frequently the contention and debates start on this point where the preliminary to deny barbarism for the sake of religion is gone against by the crucial right to opportunity of religion. Wrongdoers and hoodlums oftentimes take the guard of opportunity of religion for the violations they submit.

EVOLVING SUPERSTITIOUS BELIEFS

There is an increase in superstitious beliefs followed by many people all around the world. among all the countries India is well known for its superstitions where these are sometimes followed by peoples in other countries as well. We can see in some superstitious beliefs there are no harm where there is no loss or causes no problems to others and additionally there are also superstitions which are for the welfare of people which are mostly followed to protect our health like for example, keeping cow dung around the home will prevent us from germs and also taking bath after coming from a funeral is for the same cause to keep us away from the germs.

See, like these there are some superstitious beliefs which are considered to be good for human life and environment but in some cases when superstitious goes out of control, where people start to do things which disturbs others peacefulness and happiness which sometimes end up in brutality and crime. Brutality in the sense, where without humanity and people fully controlled by superstitions will without any proper reason and with full absurdity do harm others with the belief of getting something in return for that. This crime and brutality mostly occur in human sacrifices in the name of god for the belief of having a better life for others in return or in a belief of having a good start for their new life on return which is considered as arbitrary in nature. Can you even believe of killing little, new born babies with a reason of getting happiness in return? Sounds crazy right, but this is what is happening not only in India but all around the world in the name of superstition or tradition.
This superstitious belief of giving human sacrifices in the name of god is called as 'nara bali' in Tamil Nadu and so called as many in different languages. 'Black magic'!! Heard of this term before? If not, it is also considered as one of the superstitious practices, but the process will actually be carried on by an individual or a group of persons. They do this and consider black magic as a profession where they trap some people to do certain things which are unnatural and harmful for them as well as others. In India the prevalence of superstitions is increasing day by day but in India, there are also anti superstitious laws to prevent those activities.

GAME OF SUPERSTITIONS DEFEATED BY ANTI SUPERSTITIOUS LAWS

In the name of caste, tradition, religion, better life many practices are followed which is nothing but actually falls within the meaning of cheating others. As i said before there are many anti superstitious laws were introduced to control them. Before also these laws were prevailing but now it is stronger. Many are brought carefully so that these won't affect the real practices, astrology and horoscope etc. One among the anti-superstitious laws is,


A Social activist named Narendra Dabholkar has demanded for this act for the first time and he had struggled a lot for years to protect and save people from these superstitious beliefs and practices with will result in inhumane activities which harm and sometimes kill other people. but you know right, doing good things for others will make us stuck in trouble. same like that Mr Dabholkar was also landed in trouble and was finally shot dead by two strangers.

To your notice Maharashtra was the first to take action against black magic, this was bought to action with many restrictions like only family members of the victim are allowed to complain this matter but the only grievance is, in these types of matter, issue actually starts from the family members as they will be more connected and usually support these superstitions things.
CASES RELATED TO SUPERSTITIONS IN INDIA

ANDRA PARENT’S DAUGHTERS CASE

You would have mostly heard about this case, which is famously know as 'andra parents’ daughters' case. This incident happened on 24th January, 2021 in Chittoor. This is a case of parents murdering their two daughters out of superstitious beliefs in the name of human sacrifice. The incident started with an anonymous phone call from a person who informed the police that there are some black magic and harmful rituals are going on in a house and ask them to rush to the place and have look, the andra police immediately reached the place, with continuous knocking of the door, as no one came forward to open the door they broke inside the house. They could see the father of the children in hall in a trance state as well his wife, mother of the children in the same state, when the police rushed to the living room there was their younger daughter who was laying in the bed in a pool of blood with head broken, same like that their elder daughter was also found in the pooja room in the same state with head broken by dumbbells. Actually, the anonymous person who informed the police was the friend of the father, who informed his friend about the rituals of sacrificing their daughters in the name of lord shiva and told him that they are expected to come to life again anytime which is impossible. By these activities of the parents, you may think them as uneducated but the fact is they are well educated, to be specified, their father is a vice principal in government women's college in Chittoor and the mother of the kids is a correspondent in IIT talent school, both are well educated and they are also said by the neighbours as non-believers of these superstitious practices. Their elder daughter is an IAS aspirant and an MBA graduate and their younger daughter is a good student as well. The couples were delusional. The only thing they were saying was, their daughters are gonna come back to life anytime and the police are disturbing the rituals happening. The truth is they have murdered their daughters in the name of lord shiva with all those superstitious beliefs. A beautiful family in Andra Pradesh has been torn apart by superstitious beliefs. Hard to believe but this is what had happened. These couples were arrested for double murder on 26th Jan, 2021 in Chittoor.
CONCLUSION

As discussed in the above article we can come to the conclusion that, superstitions are created by humans so it will be easily influenced by other humans as well so creation of superstitions may not be in our control but being in control of that superstitions are in our hands only. So, it is your own responsibility to safeguard yourself as well as others. You could clearly see, in this period of Covid it is hard to survive, so people around who are sensitive and emotionally connected to god are now taking up a new stand saying things that would escape us from covid like example, wandering around roads shouting 'Go Corona' and asking us to follow some procedures to defeat corona, also the case i referred above also has these impact, the mother of the daughters said that she is Lord Shiva and corona has been released from her body not from anywhere else. These things may be hard to believe but still it is followed by many, until it’s in control it is not a problem but of it extends then serious consequences will be faced by us.

“CREATION OF SUPERSTITIONS MAY NOT BE IN OUR HANDS BUT FOLLOWING OF THEM IS”
REFERENCES


