WITCH-HUNTING, GENDER, AND THE CRIMINAL LAW RESPONSE: GENERAL PENAL CODES VERSUS SPECIALIZED STATUTES IN INDIA

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ABSTRACT

Witch-hunting in India is a form of violence in which accusations of witchcraft, rather than any demonstrable conduct, become the basis for branding, exclusion, assault, sexual violence, dispossession, and killing. Although the practice is frequently explained through superstition, its operation is also connected to gender hierarchy, caste, indigeneity, economic insecurity, local authority, and disputes over land and family resources. This paper compares two legal routes available in India: prosecution through general penal law, now principally the Bharatiya Nyaya Sanhita, 2023 (BNS), and prosecution under specialized state anti-witch-hunting statutes. The study uses a doctrinal and socio-legal method. It examines statutory materials, selected judicial decisions, official legal sources, a field-based civil-society report, and academic literature on gender, caste, customary authority, and witchcraft accusations. The comparison shows that general penal law can impose severe punishment where conduct is proved as murder, hurt, sexual violence, intimidation, or unlawful assembly, but it often enters after serious harm has occurred and does not name the social process of witch-branding. Specialized statutes improve visibility, permit earlier intervention, and in some states address witch doctors, compensation, preventive duties, or collective action. Their impact is constrained by variation in definitions and penalties, weak registration, limited investigation, witness intimidation, low institutional awareness, and insufficient rehabilitation. The paper argues for a carefully drafted central framework that criminalizes branding and related facilitation without criminalizing belief itself, harmonizes minimum standards, protects survivors, and preserves culturally informed local prevention. Criminal law should be integrated with land and property protection, health access, legal aid, education, social security, and reliable data systems.

Keywords: Adivasi women; criminal law; Dalit women; India; specialized statutes; witch-hunting; gender violence; central legislation

1. Introduction

1.1 Context and Problem Statement

Witch-hunting is not a historical remnant confined to distant societies. In contemporary India, a woman may be called a dayan, daain, tonhi, or another local term and then subjected to a sequence of harms that can begin with verbal branding and end in expulsion, sexual violence, severe assault, or death. The attached abstract identifies the practice as a gendered form of superstitious violence that disproportionately affects Adivasi and Dalit women, particularly women who are widowed, single, elderly, or otherwise socially exposed (Pawar, n.d.). The description is important because it does not reduce the problem to an irrational belief. It places belief within relationships of power, property, caste, gender, and customary authority.

The central legal difficulty is that the accusation is socially meaningful before it becomes a conventional offence. A community may treat a local healer, ojha, manti, jani, or other authority as entitled to identify a supposed witch. The accused woman can then be isolated, publicly humiliated, forced to leave her home, deprived of property, or attacked by a group. A general penal code usually sees the final incident as murder, hurt, rape, intimidation, or unlawful assembly. It may not see the preceding act of branding, the coercive social process, or the economic motive that made the accusation useful.

1.2 Research Questions and Thesis

This paper addresses four questions. First, what can general penal law accomplish when witch-hunting produces physical, sexual, or fatal violence? Second, what additional value is offered by specialized state statutes? Third, why have specialized statutes not eliminated the practice in states where they exist? Fourth, what principles should guide a central legislative response without treating indigenous belief systems as criminal in themselves?

The thesis is that the two legal routes are complementary but presently misaligned. General penal law supplies the strongest penalties for completed serious offences, yet it is predominantly reactive and offence-specific. Specialized statutes make the social mechanism visible and can authorize prevention, but their fragmented design and weak implementation often create a lower level of protection than the gravity of the conduct requires. A central framework is therefore justified, but only if it is designed as a prevention, protection,

prosecution, and rehabilitation law rather than as a simple increase in imprisonment.

1.3 Scope and Terminology

The paper uses witch-hunting to refer to the accusation, identification, branding, persecution, or punishment of a person on the supposed ground of witchcraft where the accusation exposes that person to harm, exclusion, coercion, or dispossession. Witchcraft belief, ritual practice, healing, and cultural or religious identity are not treated as crimes merely because they are supernatural or unfamiliar. The legal object of concern is violence, coercion, fraud, discriminatory exclusion, and the misuse of supernatural claims to mobilize harm.

2. Literature and Conceptual Framework

2.1 Witch-Hunting as Gendered and Intersectional Violence

The literature consistently shows that witch-hunting must be examined as gender violence, but it also warns against treating women as the only possible targets. Yadav (2020) connects witch-hunting against Dalit women with the interaction of caste, class, and gender, and identifies physical, economic, and cultural violence ranging from social exclusion to killing. Singh et al. (2025) similarly describe Jharkhand accusations as disproportionately directed at women who are widowed, unmarried, older, economically independent, assertive, or otherwise marginalized. In this sense, the label of witch functions as a disciplinary device. It marks a woman as dangerous, morally deviant, or socially disposable.

The intersectional account is stronger than a single-cause explanation. Gender shapes the target profile, caste and tribal status shape exposure to institutional neglect, poverty affects access to health and legal services, and family position affects the ability to resist an accusation. The same event, such as a sudden illness or crop loss, may therefore have different consequences for a property-owning widow, a landless woman, or a man with strong kinship protection. The category of the witch is not simply discovered. It is produced through unequal social relations.

At the same time, the gender analysis should not become an absolute claim that only women are accused. Sundar's (2001) study of Bastar reports that men and women could both become targets of suspicion within a local cosmology that interpreted illness and misfortune through supernatural agency. The more precise conclusion is that witch-hunting is gendered in its dominant patterns and consequences, not necessarily female-exclusive in every region. A

sound law should protect every person, while policy should remain attentive to the disproportionate vulnerability of women and girls.

2.2 Belief, Scapegoating, and Local Governance

The sociological literature emphasizes that accusations often arise after illness, death, crop failure, economic stress, or interpersonal conflict. Singh et al. (2025) describe community-level judgment as a response to uncertainty and hardship, while Sundar (2001) interprets accusation as a way of attributing agency in circumstances where people experience little practical control. This does not excuse violence. It explains why a purely punitive response may fail if it leaves the underlying crisis of healthcare, social protection, and local dispute resolution untouched.

2.3 Property, Labour, and Economic Dispossession

Property is one of the most important mechanisms connecting witch-branding to material advantage. Yadav (2020) identifies land, homes, livestock, and other assets as targets that can be appropriated when a woman is branded and driven out. The property motive is particularly significant where a widow or unmarried woman holds or claims an interest that male relatives want to control. Gupta (2023) likewise describes the complex background of economic subjugation, sexual exploitation, and persecution of women who assert inheritance or property rights in Jharkhand.

2.4 Stigma and Survivor Consequences

The harm also continues after the immediate incident. Singh et al. (2025) report that survivors can experience social boycott, exclusion from communal resources, depression, anxiety, suicidal behavior, and stigma that affects children's education, employment, and marriage prospects. The label may therefore become intergenerational. Rehabilitation cannot be reduced to medical treatment after an assault. It must include safe housing, livelihood support, restoration of documents and property, legal aid, psychosocial care, and protection from renewed community retaliation.

2.5 Literature Gap and Contribution

Existing scholarship provides strong accounts of gendered violence, caste hierarchy, local belief, property disputes, and the psychosocial effects of accusation. It also provides legal

critiques of individual state laws. What remains less developed is a structured comparison of the two routes that a police officer or prosecutor may use: the general penal route and the specialized statute. The comparison matters because legal availability and legal performance are not identical. A general offence may be severe but late; a specialized offence may be early but weakly enforced. This paper contributes a framework for evaluating both routes together, including their links to prevention, evidence, and rehabilitation.

The paper also treats enforcement as part of legal analysis. A statute's meaning is shaped by who registers the complaint, what the first information report records, whether witnesses are protected, whether the motive is investigated, and whether the survivor receives a remedy. This approach responds to the concern in the literature that witch-hunting is often discussed either as a cultural practice or as a criminal-law problem, when in reality it is a process that moves through family, community, police, court, welfare, and land institutions.

3. Methodology

3.1 Research Design

This is a non-experimental doctrinal and socio-legal study. The doctrinal component examines the relationship between general penal provisions and specialized state statutes. The socio-legal component places those rules against the empirical and ethnographic literature on caste, gender, customary authority, property, stigma, reporting, and survivor outcomes. The design follows the approach proposed in the attached abstract, which calls for comparison of the general penal route and specialized laws together with judicial decisions, crime records, and secondary studies (Pawar, n.d.).

3.2 Materials and Analytical Criteria

The materials include the Bharatiya Nyaya Sanhita, 2023; the six state laws identified in the research proposal, namely those of Bihar, Jharkhand, Chhattisgarh, Odisha, Assam, and Rajasthan; selected judicial materials; academic articles and books; and the ActionAid Association report on witch-branding in indigenous and rural societies. The official India Code record identifies the BNS as Act No. 45 of 2023 and records its enforcement from 1 July 2024 (India Code, 2023). The paper treats earlier incidents and judgments under the Indian Penal Code as historically relevant, while using the BNS for the present statutory framework.

The comparison uses five criteria: definition, timing of intervention, scope of liability, penalty and procedure, and survivor remedies. The study also evaluates enforcement through reporting, investigation, witness security, prosecution, conviction, compensation, and rehabilitation. Because official data record only incidents that enter particular categories and institutions, the paper does not equate registered cases with the full prevalence of witch-branding. The ActionAid study is used as a contextual field-based source rather than as a national prevalence estimate.

4. The General Penal Route

4.1 From the Indian Penal Code to the Bharatiya Nyaya Sanhita

India has not historically relied on a single central offence titled witch-hunting. Instead, criminal cases have been constructed from the conduct that can be proved. Under the BNS, potentially relevant provisions include culpable homicide and murder, punishment for murder, attempt to murder, hurt and voluntarily causing hurt, assault or criminal force against women, unlawful assembly and common-object liability, abetment, and criminal intimidation (India Code, 2023). The exact charge must follow the facts and evidence. A witchcraft allegation does not replace the prosecution's duty to prove the elements of the offence.

This offence-based structure has an important virtue. It does not require the court to decide whether supernatural powers exist. The court can decide whether a group assaulted a person, whether the assault caused death, whether threats were issued, whether a woman was sexually violated, whether an unlawful assembly acted with a common object, and whether another person instigated or facilitated the conduct. Criminal law can therefore respond to the material harm without criminalizing belief as such.

4.2 Strengths of General Penal Law

The first strength is penal severity. Where the evidence proves murder, the general law can impose the highest available punishment for that offence. Where the victim survives, the law can address attempt, grievous hurt, sexual violence, confinement, intimidation, or group liability. This is particularly important because specialized statutes sometimes prescribe comparatively modest penalties for branding or harassment. General offences can also be applied across India, including in states without dedicated witch-hunting legislation.

The second strength is doctrinal neutrality. The prosecution need not prove a legally defined form of witchcraft. This avoids a trial about theology, belief, or the truth of an alleged supernatural claim. It also prevents a defense based on custom or superstition from becoming a substitute for the ordinary rules of criminal responsibility. The relevant question is conduct, causation, intention, participation, and evidence.

The third strength is the possibility of cumulative liability. A principal attacker, a person who restrained the victim, a person who supplied the weapon, an instigator, and members of a common-object assembly may each be examined under different provisions. In theory, this allows the law to reach the collective character of witch-hunting rather than treating the incident as a private quarrel between two individuals.

4.3 Structural Limits

The central limitation is timing. General penal law is most visible after a serious injury or death. It may not be invoked when the initial harm is a public accusation, ostracism, forced ritual, economic boycott, or threat that has not yet produced a conventional offence. Yadav (2020) observes that verbal abuse, public humiliation, and social exclusion are often not counted in the same way as physical violence. The result is a legal threshold that may allow the social process to intensify before the state acts.

A second limitation is fragmentation of the narrative. The case may be recorded as murder, assault, rape, or intimidation without capturing the fact that the victim was targeted because she was branded a witch. This matters for prevention and data. If the motive is invisible in the first information report, investigation, charge sheet, or judgment, authorities cannot easily identify repeat patterns, local instigators, property disputes, or areas requiring preventive intervention.

A third limitation is evidentiary. Witch-hunting is often collective, occurs in rural or remote settings, and is accompanied by threats against witnesses. Survivors and family members may depend economically on the same community that participated in the violence. ActionAid Association (2022) reports that police intervention often occurred only once a murder had taken place, while earlier branding and assault did not reliably produce state action. The report also notes that early intervention in some cases in Assam and Odisha helped prevent escalation, which shows that the gap is not only legal but institutional.

A fourth limitation is the absence of a dedicated survivor pathway. A general prosecution may punish the offender but not provide relocation, restoration of land, protection from social boycott, counselling, or support for children. Compensation provisions that exist in general criminal procedure may be difficult to access without legal aid and proactive administration. The survivor is then required to navigate several systems at once, including police, prosecution, welfare, land records, health services, and local administration.

5. Specialized State Statutes

5.1 Legislative Landscape

Specialized state legislation developed because general penal law was not perceived as adequate to the social form of the harm. The states identified in the research proposal are Bihar, Jharkhand, Chhattisgarh, Odisha, Assam, and Rajasthan. Their laws use different local and legal vocabularies, but generally address the act of identifying or branding a person as a witch, the practice of witchcraft where defined by the statute, the conduct of witch doctors or instigators, and related violence. The official India Code portal separately lists the Rajasthan Prevention of Witch-Hunting Act, 2015, the Assam Witch Hunting (Prohibition, Prevention and Protection) Act, 2015, and the Odisha Prevention of Witch-Hunting Act, 2013 (India Code, 2013, 2015a, 2015b).

The legislative landscape is not uniform. The Rajasthan statute expressly identifies provisions dealing with prohibition, punishment for witch-hunting, punishment for witchcraft and witch doctors, unnatural death, compensation, preventive action, and protective action. The Assam statute's title itself reflects a three-part model of prohibition, prevention, and protection. The Odisha law emerged from a state-specific judicial and legislative response and must be read with general criminal law. These differences demonstrate why counting the existence of a statute is not the same as measuring legal protection.

5.2 What Specialized Laws Add

The first contribution of a specialized law is symbolic and classificatory. It names the wrong as a distinct social practice rather than leaving the victim's experience dispersed among ordinary offences. Naming can improve police recording, public awareness, training, and legislative accountability. It can also make the motive relevant at the beginning of the case,

rather than only after a death has occurred.

The second contribution is earlier intervention. A statute can criminalize branding, accusation, instigation, or the use of a witch doctor before the conduct reaches murder. It can also impose duties on police and district authorities, authorize preventive orders, and provide for compensation or protection. The official Rajasthan statute, for example, contains separate provisions on preventive action by law-and-order machinery and preventive and protective action by the state government (India Code, 2015a).

The third contribution is recognition of facilitators. The violence may be initiated by a person who claims authority to identify a witch and then mobilizes others. If the law reaches only the person who physically strikes the victim, it overlooks the source of the accusation and the social organization of the attack. Specialized statutes can make the role of the witch doctor, instigator, or community mobilizer legally visible, although the scope and severity of such provisions differ between states.

5.3 Why Specialized Laws Underperform

Specialization alone does not produce enforcement. The first problem is uneven statutory design. Definitions may differ on whether the law applies to any person or only to a woman, whether verbal branding is enough, whether social exclusion is covered, how witch doctors are treated, and whether the law applies independently of the general penal code. Variation can create unequal protection and uncertainty for police officers, prosecutors, and courts.

The second problem is penalty structure. If the specialized offence of branding or harassment carries a low maximum sentence, investigators may prefer general provisions where the facts permit them, or they may fail to treat the initial conduct as serious. A low penalty can also allow accused persons to return to the community and intimidate witnesses. The result is a legal discount for conduct that may be the first stage of a fatal attack.

The third problem is that many statutes remain prosecution-centered. They define an offence but do not create a complete survivor system. Singh et al. (2025) argue that legislation in Jharkhand criminalizes conduct after violence erupts while offering little assistance for reintegration. This is a major design weakness because social exclusion and loss of property can continue even where the physical attacker is convicted.

The fourth problem is institutional knowledge. ActionAid Association (2022) reports that police frequently intervened only when murder forced the state to act. If station-level officers do not know the specialized statute, or if the local administration treats the matter as a private or customary dispute, the law remains formally available but practically absent. The existence of a statute must therefore be evaluated through registration, investigation, charge framing, trial completion, conviction, compensation, and survivor safety.

6. Evidence, Enforcement, and Justice Outcomes

6.1 Reporting and Investigation

Underreporting is not a marginal issue. A woman who has been branded may fear retaliation, homelessness, loss of livelihood, or disbelief by police. Family members may be involved, and village authorities may pressure the survivor to compromise. The ActionAid Association study, based on fieldwork in eight districts across five states during October to December 2020, used focus groups, case studies, interviews, police and local records, and discussions with authorities and community actors. It documented 115 case studies involving 84 women and 31 men, while emphasizing that the material was not a national prevalence survey (ActionAid Association, 2022).

The study's value lies in showing how the pathway to law enforcement works. It found that police often intervened when murder had occurred because murder could not be ignored, but did not consistently intervene at the stage of branding or assault. This pattern confirms the paper's central comparison: general penal law is capable of severe punishment after harm, while specialized law is valuable precisely because it should trigger action before the final harm. If prevention is not implemented, the two routes converge too late.

6.2 Evidence and Witness Hostility

The evidentiary problem has at least four layers. First, the accusation may be spoken in a gathering rather than recorded in a document. Second, the attack may be committed by a crowd, making individual attribution difficult. Third, witnesses may be participants, relatives, or economically dependent neighbors. Fourth, the community may treat the formal case as a threat to local order and pressure witnesses to withdraw or alter their statements.

Judicial directions in witch-hunting matters have recognized the importance of timely witness

statements, legal aid, medical and psychological assistance, and protective administration. The Orissa High Court's guidelines in Sashiprava Bindhani v. State of Orissa (2012) called for preventive duties, protection, awareness, and procedures to prosecute persons who endangered life on the allegation that a woman was a witch. The lesson is that procedure is substantive in these cases. A law that is not activated during the first signs of danger cannot protect the victim merely by prescribing punishment after death.

6.3 Data and the Problem of Measurement

Available numbers should be interpreted carefully. National crime records may classify only murders for which witchcraft is identified as a motive. They do not necessarily capture branding, threats, expulsion, sexual assault, attempted killing, property loss, or cases never reported. Yadav (2020) emphasizes both the severity of recorded killings and the likelihood that many incidents remain unreported. The official and civil-society data systems therefore answer different questions and should not be merged without methodological explanation.

A better system would record the full incident sequence. A standardized police form should capture the local term used, the alleged trigger, the role of a healer or community authority, the victim's gender, age, caste or tribal identity where voluntarily disclosed, disability, marital status, land or property conflict, type of harm, preventive response, and outcome. Such data must be protected from misuse and collected with privacy safeguards. The aim is not to stigmatize communities. It is to identify risk patterns and institutional failure.

6.4 Conviction, Compensation, and Rehabilitation

Conviction is important, but it is not the only outcome that matters. A survivor may remain unsafe, displaced, unemployed, stigmatized, and unable to access property. A family may lose its home and documents even if the immediate perpetrators are imprisoned. The legal system should therefore treat compensation and rehabilitation as part of justice rather than as charitable additions.

The statutory model should include immediate emergency assistance, safe accommodation, medical care, trauma-informed counselling, legal representation, restoration of identity documents, protection of land and housing rights, education support for children, and livelihood assistance. Compensation should not require the survivor to wait for the conclusion

of a lengthy criminal trial. Recovery can be reviewed and adjusted as the case develops. This approach also reduces the economic pressure to return to the community before it is safe.

7. Constitutional and Human Rights Analysis

7.1 Equality, Dignity, and Life

Witch-hunting conflicts with the constitutional commitment to equality, non-discrimination, life, and personal liberty. Its effects are not limited to bodily injury. The woman's dignity, reputation, residence, property access, family relationships, and ability to participate in community life may all be attacked. When the state ignores early warning signs because the conduct is described as custom or superstition, formal equality exists on paper while protection is denied in practice.

The constitutional analysis also clarifies the state's positive duty. The issue is not only whether a public official personally commits violence. The state must take reasonable steps to prevent foreseeable harm, investigate complaints, protect witnesses, prosecute perpetrators, and provide remedies. Judicial decisions have increasingly connected witch-hunting with constitutional morality and the rejection of practices that subordinate women. Gaurav Jain v. State of Bihar (1991) described witch-hunting as a grave human-rights violation and urged preventive state action.

7.2 Freedom of Religion and Scientific Temper

A central law must be drafted with care because a broad offence of witchcraft could intrude into religious freedom, indigenous identity, or harmless ritual practice. The legally defensible distinction is between belief and harm. The state need not determine whether a supernatural claim is true. It must prohibit branding, coercion, fraud, violence, forced ritual, public humiliation, displacement, sexual abuse, and incitement when those acts are used against a person.

The constitutional duty to promote scientific temper supports public education and rational inquiry, but it should not be used as a license for cultural contempt. Singh et al. (2025) note the tension between the criminal-law condemnation of violence and the need to understand indigenous knowledge systems in their social context. Prevention is more likely to work when it is locally legitimate, multilingual, and designed with Adivasi women, survivors, health

workers, educators, and community organizations rather than imposed solely through distant administrative institutions.

8. Judicial Response and the Meaning of Constitutional Morality

8.1 From Judicial Directions to Statutory Reform

Judicial intervention has performed two functions. First, courts have used existing penal offences to uphold responsibility for murder and other violence. Second, courts have urged governments to enact specific laws, create preventive mechanisms, and provide legal and psychological assistance. The Orissa High Court's intervention in Sashiprava Bindhani (2012) is significant because it treated prevention as an administrative obligation, not merely as a matter for later trial.

The judicial record also reveals the limits of adjudication. Courts decide the evidence in individual cases. They cannot by themselves create local health infrastructure, secure land records, reform police practice, or sustain survivor rehabilitation. A judgment may articulate constitutional morality, but implementation depends on legislation, budget, administration, and community-level work. Judicial condemnation is therefore necessary but insufficient.

8.2 Recent Constitutional Emphasis

The Supreme Court's recent decision in Balku Oram v. State of Odisha (2026) reaffirmed criminal responsibility for a murder committed after a woman was branded as a witch and strongly criticized the persistence of superstition and collective hostility. The decision is useful for the present analysis because it rejects the idea that superstition reduces the seriousness of murder. It also places reason, dignity, and constitutional morality in opposition to the use of a woman as a scapegoat for illness or death.

9. General Penal Codes versus Specialized Statutes: Comparative Findings

9.1 Definition and Visibility

General penal law is broad but indirect. It identifies conduct such as murder, hurt, intimidation, sexual violence, or unlawful assembly. Specialized law is narrower but more visible because it names witch-branding and related conduct. The general route avoids theological disputes,

while the specialized route captures the social meaning and motive of the accusation. The best framework uses both: a specialized trigger for early action and general offences for serious resulting harm.

9.2 Timing of Intervention

General penal law tends to operate after an offence has matured. Specialized law can operate at the branding, threat, instigation, or exclusion stage. In practice, however, the advantage disappears when police register a case only after murder. Prevention must therefore be mandatory, monitored, and connected to an emergency response protocol. A statute should specify who must act, what information must be recorded, how quickly protection must be offered, and what consequences follow from deliberate non-registration.

9.3 Liability and Community Participation

General law can reach multiple participants through abetment, common-object liability, and conspiracy-related doctrines where their elements are proved. Specialized law can make the role of the witch doctor or accuser explicit. The weakness is that local statutes may vary in how they define and punish facilitators. A central framework should treat incitement, organized accusation, forced ritual, and coordinated social exclusion as aggravating factors, while preserving individual proof requirements.

9.4 Punishment and Remedies

General law has stronger penalties for completed serious offences but limited specificity about rehabilitation. Specialized law may include compensation, preventive measures, or protection, but may impose modest penalties for early conduct. This creates a false choice between severity and prevention. The recommended model is a graduated structure: meaningful punishment for branding and incitement, enhanced punishment for repeat or organized conduct, general penal charges for resulting offences, and enforceable remedies for survivors.

9.5 Enforcement and Institutional Fit

Neither route works when police, prosecutors, courts, welfare officers, and revenue authorities treat the matter as a private dispute. Witch-hunting frequently crosses institutional boundaries. It can involve violence, land, health, caste discrimination, gender, child protection, and local

governance. A specialized law should therefore create coordination duties rather than another isolated offence that no agency owns.

10. The Case for a Central Framework

10.1 Why Uniform Minimum Standards Are Needed

A central framework is justified by unequal protection across state borders. The social practice is not limited to states that have enacted dedicated laws, and people accused of witchcraft may move between districts or states. A national minimum standard could ensure that branding, incitement, forced ritual, social exclusion used as coercion, and related dispossession are recognized everywhere. It could also standardize data, training, emergency protection, compensation, and witness support.

Uniformity should not mean identical local administration. States and tribal districts may need culturally appropriate prevention, local-language outreach, and different partnerships with health and community organizations. The central law should establish rights and duties, while implementation should be adapted through state rules developed with affected communities. The principle is equal protection, not administrative sameness.

10.2 Design Principles for a National Law

A national law should adopt the following principles:

Criminalize harmful conduct, not belief. The offence should focus on branding, accusation, coercion, incitement, forced ritual, violence, sexual abuse, social exclusion used as punishment, and dispossession.

Recognize intersectional vulnerability. The law should require attention to gender, caste, tribal status, age, disability, marital status, and economic dependence without making proof of identity a condition of protection.

Create early-warning duties. Police, district administration, health workers, schools, and local bodies should have a clear protocol for responding to threats and accusations before violence escalates.

Reach facilitators and organized groups. Accusers, healers, instigators, persons who convene

punitive gatherings, and those who threaten witnesses should face liability when their conduct satisfies the statutory elements.

Provide survivor rights. Protection, legal aid, medical care, counselling, safe housing, compensation, livelihood support, and restoration of property or residence should be enforceable rights.

Protect fair trial standards. The law should not reverse the presumption of innocence or make supernatural belief itself evidence of guilt. Liability must remain tied to provable acts and participation.

Require public accountability. Governments should publish anonymized data on complaints, registration, investigation, prosecution, conviction, compensation, and rehabilitation.

10.3 Institutional and Police Reform

A central law should establish a specialized nodal officer in each district, but specialization should supplement rather than replace ordinary policing. Every police station should have a written protocol for receiving a complaint of witch-branding, recording the allegation as a potential threat to life and dignity, assessing immediate risk, and contacting legal aid and protection services. The first response should not be mediation between the survivor and the alleged perpetrators when the complaint involves violence, threats, or coercion.

Investigation should be trauma-informed and evidence-focused. Statements should be recorded promptly; medical examination should be accessible and respectful; digital evidence, call records, video, and messages should be preserved where relevant; and the role of the healer or community meeting should be investigated. Prosecutors should consider the full sequence of events rather than only the final injury. Courts should use witness protection and remote testimony mechanisms where available and appropriate.

10.4 Health, Land, and Social Protection

Legal reform cannot substitute for public services. Illness and unexplained death are common triggers for accusations. Accessible primary healthcare, mental-health services, public health communication, and trained local health workers can reduce the demand for scapegoating. The aim is not to declare community belief illegitimate, but to ensure that people have credible non-

punitive explanations and practical assistance when crisis occurs.

Property protection is equally important. Revenue officials and legal-aid providers should treat a witch accusation involving a widow, unmarried woman, or independent woman as a possible indicator of dispossession. Emergency orders should prevent sale, transfer, eviction, or destruction of property while the allegation is investigated. Legal aid should assist with inheritance, land records, residence, maintenance, and compensation claims. Social pensions and livelihood schemes can reduce the economic vulnerability that makes exclusion so destructive.

10.5 Community Prevention and Cultural Legitimacy

Prevention should be locally credible. Campaigns led only by police or external officials may be rejected as contempt for tradition. Effective programs should include survivors, women's groups, Adivasi and Dalit representatives, teachers, health workers, local elected bodies, and where possible traditional authorities willing to reject violence. Public messaging should explain that a person can hold a belief without having the right to punish another person.

Community intervention should also avoid placing responsibility on women alone. Because women may participate in or endorse accusations, a simple male-perpetrator model is incomplete. Prevention must address the incentives and fears that lead community members to accept a scapegoat, while building collective responses to illness, crop failure, bereavement, and conflict that do not sacrifice an individual.

10.6 Research and Data Agenda

Future research should combine legal analysis with longitudinal fieldwork. Important questions include whether early registration under specialized statutes prevents later homicide, how often property disputes precede accusations, how many survivors return home safely, and which forms of community intervention reduce recurrence. Studies should disaggregate sex, age, caste, tribal identity, disability, marital status, geography, and type of harm, while protecting confidentiality.

Researchers should also avoid treating official numbers as self-explanatory. A fall in recorded cases may represent prevention, underreporting, reclassification, or reduced police registration. A rise may reflect greater reporting rather than greater prevalence. Mixed-method research,

including survivor narratives and administrative process tracing, is necessary to distinguish these possibilities.

The General Penal Route in an Actual Case

The general penal route should be understood as a sequence rather than a list of sections. A complaint may begin with a threat, public accusation, or assault. The police must then identify the immediate danger, record the full context, preserve evidence, and determine whether the conduct discloses offences under the BNS or another applicable law. If the victim later dies, the investigation must retain the earlier accusation as evidence of motive, common object, planning, or participation. Treating the death as an isolated homicide can obscure the network that produced it.

The route also depends on the quality of the first response. If officers tell the complainant to settle the matter with the village, the alleged perpetrators learn that the state is unlikely to intervene. If officers record only a minor non-cognizable quarrel, subsequent escalation may appear sudden even though the danger was reported earlier. A rights-based response requires the officer to ask who made the accusation, who repeated it, who summoned the gathering, what harm was threatened, whether the victim has property or inheritance disputes, and whether children or other dependants are at risk.

The BNS provides a common national vocabulary for the material offences, but the vocabulary must be used intelligently. Murder and attempt to murder address the most serious violence. Hurt and assault provisions address physical attacks that do not produce death. Sexual-offence provisions may apply where the accusation is used to justify stripping, rape, or other sexual abuse. Unlawful-assembly and common-object provisions can be relevant where a group acts together. Abetment and criminal intimidation can help address instigation and threats, subject to proof of the statutory elements (India Code, 2023).

Why Motive Matters in Criminal Justice

Motive is not always an independent element of the offence, but it can be central to investigation and adjudication. A witchcraft accusation may connect the victim to the accused through family conflict, land, debt, sexual coercion, or village power. It can explain why a group selected a particular woman and why witnesses are afraid. It can also reveal that a

supposedly spontaneous assault was preceded by planning. The specialized statute is valuable partly because it directs attention to this context.

The law should not assume that every accusation has a property motive. Sundar (2001) cautions that in Bastar accusations could arise within a broader cosmology of illness and misfortune and could target men as well as women. A careful investigation therefore tests competing explanations. It asks whether the accusation followed a death or illness, whether a healer was consulted, whether property or inheritance was contested, whether the victim had challenged local authority, and whether similar accusations occurred before. The point is not to impose one theory but to prevent the theory of superstition from ending the investigation.

Comparative State-Level Patterns

The six dedicated state laws form a useful but uneven policy laboratory. Bihar's 1999 law represents an early attempt to criminalize the identification of a woman as a witch and the associated torture and humiliation. Jharkhand's 2001 law responded to a region in which witch accusations are entangled with Adivasi social organization, land, and local judgment. Chhattisgarh's 2005 law addresses the local category of tonahi. Odisha's 2013 law followed sustained concern about witch-hunting and judicial pressure for a legislative response. Assam's statute adopts the language of prohibition, prevention, and protection, while Rajasthan's 2015 law includes provisions directed at witch-hunting, witch doctors, compensation, and preventive and protective action (India Code, 2013, 2015a, 2015b).

The comparison should not be reduced to which state has the harshest punishment. A statute can be strong on paper and weak in operation, or modest in punishment but effective when police and community institutions use it at the first sign of danger. The relevant legal ecology includes rules of criminal procedure, witness protection, legal aid, compensation, land administration, health services, and the willingness of local officials to confront collective violence. ActionAid Association (2022) illustrates this point by showing that police action at an early stage in some cases could forestall escalation, while delayed intervention left the criminal law responding only after severe harm.

A second comparison concerns the target of regulation. Some laws emphasize the person who brands or identifies another as a witch. Others also address the practice of witchcraft, the witch doctor, unnatural death, collective fines, or preventive duties. These choices reflect different

legislative theories. A law focused on branding treats the accusation as the legal trigger. A law focused on witchcraft risks shifting attention toward whether a supernatural practice exists, which can create proof problems and threaten legitimate belief. A law focused on facilitators treats the social organization of the violence as the central concern.

A third comparison concerns remedies. The Rajasthan statute's structure, as recorded on the official India Code portal, expressly includes compensation and preventive and protective actions. By contrast, the literature on Jharkhand repeatedly emphasizes the absence of meaningful reintegration and the continuing social and economic effects on survivors. The lesson is that a statute should not be judged only by the existence of a compensation section. It should be judged by whether a survivor can actually obtain money, housing, protection, property restoration, counselling, and livelihood support without navigating the system alone.

The ActionAid Field Study as an Enforcement Lens

The ActionAid Association report is particularly useful because it connects legal rules with the lived sequence of persecution. Its fieldwork covered Goalpara in Assam, East Khasi Hills in Meghalaya, Ranchi and Khunti in Jharkhand, Alirajpur in Madhya Pradesh, and Ganjam, Keonjhar, and Mayurbhanj in Odisha. The researchers combined focus groups, case studies, interviews, local records, media reports, and discussions with police, administrators, health workers, teachers, lawyers, village leaders, women's groups, and ojhas (ActionAid Association, 2022).

The report documented 115 case studies involving 84 women and 31 men. It also recorded cases in which women and men were accused of causing illness or death and observed that the public exposure of an alleged witch could transform a private household dispute into a community spectacle. This is important for legal design because the harm is not always a single act by a single offender. It can be a process involving accusation, gathering, interrogation, forced confession, physical punishment, and expulsion.

The report's account of police intervention highlights the preventive value of specialized law. Police commonly intervened when a murder occurred because a homicide required formal action. They did not consistently intervene when the person was first branded or assaulted. Yet the report also records that earlier intervention in some Assam and Odisha cases helped stop escalation. This finding supports a practical reform: the legal system should treat a credible

witch-branding complaint as an early-warning event requiring risk assessment and protection, not as a dispute that can wait for proof of grave injury.

Social Exclusion as a Legal Harm

Social exclusion requires careful legal treatment because not every refusal of association is a crime. However, exclusion becomes legally significant when it is organized as punishment, intimidation, or a means to force a woman from her home or property. Denial of access to a communal well, threats of violence, forced boycott, destruction of documents, and orders to leave may each form part of a coercive course of conduct. Singh et al. (2025) describes how stigma can affect survivors and their children across generations. A national law should recognize the cumulative context while preserving the requirement that the prohibited act be proved.

The criminal law should be complemented by civil and administrative remedies. A survivor may need an immediate residence order, protection from eviction, restoration of land records, access to a public water source, school continuity for children, or relocation. These outcomes cannot wait for a criminal conviction. A multi-track response allows criminal prosecution to proceed while welfare and revenue authorities address the conditions that otherwise make the accusation effective.

Caste, Tribe, and State Responsibility

The category of a witch is produced within a social order that distributes credibility and protection unequally. Yadav (2020) argues that Dalit women experience the combined pressure of caste, class, and gender and that witch-hunting can reinforce caste hierarchy. Singh et al. (2025) shows that in Jharkhand the practice is also connected to the difficulty of translating between formal institutions and indigenous knowledge systems. These insights require a double response: the state must not romanticize customary authority, but it must also not treat Adivasi communities as simply ignorant objects of reform.

The state's responsibility is heightened when officials know that a locality has a history of witch-branding or when a complaint identifies a credible threat. Preventive administration should include mapping vulnerable areas, training officers, monitoring local disputes, and coordinating with women's commissions, legal-services authorities, and tribal welfare

institutions. The objective is not surveillance of belief. It is prevention of violence where the state has reason to foresee it.

Gender, Agency, and Resistance

A survivor-centered account should not portray accused women only as passive victims. Feminist and indigenous organizations have created legal-literacy campaigns, assisted survivors, challenged property dispossession, and changed how women are represented in public discussion. Singh et al. (2025) notes that such movements emphasize women's agency, leadership, and resourcefulness. Law reform should support this agency through independent legal representation, participation in rehabilitation planning, and protection from officials who try to settle the matter without consent.

The Limits of Constitutional Condemnation

Constitutional condemnation can be rhetorically powerful, but it may remain abstract unless connected to institutional duties. Saying that witch-hunting violates dignity does not itself establish who must provide housing tonight, who must prevent a retaliatory gathering, who must secure the victim's land documents, or who must explain the criminal process in a local language. The central legislation should convert constitutional values into operational entitlements and reviewable decisions.

The same point applies to scientific temper. Education is indispensable, but a campaign that simply labels a community irrational may deepen distrust. A more effective approach combines public-health information, local-language communication, women's rights education, legal literacy, and dialogue with community actors. The state should challenge violence firmly while engaging the social meanings that make accusations persuasive.

Core Comparative Propositions

The comparison yields six propositions. First, general penal law is strongest at the point of completed violence and weakest at the point of accusation. Second, specialized statutes are strongest when they create an early-warning and protection system, not merely a new offence. Third, the role of facilitators matters because collective violence rarely begins with the final attacker. Fourth, data must record the motive and sequence of harm, or the gendered and economic character of the practice disappears. Fifth, punishment without rehabilitation leaves

the survivor exposed. Sixth, national minimum standards and locally legitimate prevention are not opposites; they are mutually necessary.

These propositions also qualify the claim that a central law will solve the problem. Law can alter incentives, create duties, and supply remedies. It cannot by itself eliminate the fear of disease, resolve every land dispute, or transform gender and caste relations. The proper argument for central legislation is therefore institutional: a national framework can set minimum rights, define the state's preventive obligations, coordinate agencies, and make unequal protection harder to justify.

Suggested Legislative Model

A model central statute should contain a clear definition of witch-branding and witch-hunting. It should cover naming or representing a person as a witch, tonhi, dayan, daain, or equivalent term when done with intent or knowledge that it is likely to cause harm, fear, exclusion, coercion, or dispossession. It should separately cover publishing or circulating the accusation, convening a punitive gathering, forcing confession or ritual, threatening the person, and directing others to harm or exclude the person. The definition should be technology-neutral so that digital messages and social-media circulation are covered where relevant.

The statute should establish graduated offences. Branding or incitement should be punishable even before physical injury. Aggravated forms should apply where the conduct is organized, repeated, directed at a child, older person, person with disability, or vulnerable woman, connected to property dispossession, accompanied by sexual violence, or committed by a public or customary authority who abuses a position of influence. Resulting murder, rape, grievous hurt, or other serious crimes should continue to be prosecuted under the BNS and any other applicable law, with the accusation treated as relevant context and an aggravating circumstance where legally appropriate.

The law should create duties rather than vague aspirations. On receiving information, the police should register the complaint, assess risk, separate the alleged victim from immediate danger, identify the alleged instigators, and inform the legal-services and protection authorities. District administrations should maintain emergency shelter and a response team. Revenue and welfare officials should examine property and livelihood risks. Health authorities should provide urgent care and trauma-informed counselling. Failure to perform these duties should attract

departmental accountability, while criminal liability should be reserved for deliberate obstruction, complicity, or serious dereliction connected to harm.

The survivor chapter should be enforceable. It should provide free legal aid, interim compensation, safe accommodation, confidentiality, protection from retaliation, assistance with identity documents, property and residence protection, education continuity, psychosocial care, and livelihood support. Survivors should participate in decisions about return, relocation, and rehabilitation. Children and dependants should be included because stigma can be transmitted through family and community relationships, as documented in the Jharkhand literature (Singh et al., 2025).

Finally, the law should require independent monitoring. A state-level authority or designated commission should publish anonymized annual data and review whether cases were registered at the branding stage, whether preventive action occurred, and whether survivors received remedies. Periodic review should include representatives of women's organizations, Adivasi and Dalit communities, legal-services institutions, health professionals, researchers, and survivors. Accountability is necessary because the historical weakness of anti-witch-hunting law has been implementation, not merely the absence of statutory language.

Implementation Roadmap

Reform should be introduced in stages. In the first stage, the central government and states should issue a common administrative protocol, train police and prosecutors, map high-risk districts, and ensure that legal-services authorities know how to respond to complaints. The protocol should be translated into local languages and tested with women's groups and community organizations. It should state clearly that a complaint of branding or threatened witch-hunting is not a matter for informal compromise when it contains intimidation, violence, sexual abuse, or property coercion.

In the second stage, states should establish survivor-support funds and district response teams. These teams should link police, health, welfare, revenue, education, and legal aid. The team should not be controlled solely by the police because survivors may need services that are not criminal in character. It should have the capacity to arrange emergency shelter, transport, medical treatment, counselling, documentation, and access to a lawyer. A named officer should remain responsible for communication with the survivor so that she is not required to repeat

her account to several offices.

In the third stage, governments should evaluate outcomes rather than activities. Counting the number of awareness meetings or arrests is insufficient. Evaluation should ask whether threats were acted on, whether the victim remained safe, whether property was preserved, whether cases were investigated without delay, whether witnesses were protected, and whether children continued school. Independent universities and civil-society organizations should be permitted to audit anonymized data and conduct survivor-centered evaluations.

Relationship with Existing Laws

The proposed framework should operate in addition to, not in place of, the BNS and other protective legislation. Where conduct amounts to murder, rape, grievous hurt, intimidation, trafficking, or an offence against a child, the corresponding general law must be applied. Where caste-based exclusion or violence is proved, applicable legislation concerning Scheduled Castes and Scheduled Tribes should be considered. Where domestic or family violence is involved, the survivor should be able to use domestic-violence remedies as well. Coordination is preferable to forcing one statute to carry every legal function.

11. Limitations

The study has three main limitations. First, official national data are not designed to capture every stage of witch-branding, and available state data are uneven. Second, the paper relies on secondary academic literature, statutory texts, judicial materials, and a civil-society field report rather than original interviews. Third, state statutes and rules may be amended, and the operation of the BNS is still developing. The conclusions should therefore be understood as a comparative legal and socio-legal framework, not as a statistical estimate of national prevalence or a definitive evaluation of every prosecution.

12. Conclusion

Witch-hunting in India is not adequately understood as superstition alone. It is a form of socially organized harm in which supernatural accusation can authorize violence, exclusion, and dispossession. The principal victims are often women whose age, marital status, caste, tribal identity, poverty, or assertion of property and personal autonomy makes them vulnerable, although regional evidence shows that men may also be targeted. A gendered analysis is

therefore necessary but should remain empirically careful.

General penal law remains indispensable. It can punish murder, attempt, hurt, sexual violence, intimidation, unlawful assembly, and abetment without requiring a court to decide whether witchcraft is real. Its weakness is that it usually becomes visible after serious harm, and it does not consistently capture the preceding act of branding or the economic and social structure behind the attack.

Specialized state statutes respond to that weakness by naming witch-hunting, enabling early intervention, and in some cases addressing witch doctors, prevention, compensation, and protection. Their performance is limited by fragmented definitions, uneven penalties, low awareness, weak registration, witness intimidation, and inadequate rehabilitation. A statute on the books is not equivalent to safety in the village.

India should adopt a central minimum framework that complements, rather than displaces, state laws. It should criminalize harmful conduct without criminalizing belief, impose meaningful liability on instigators and organized participants, require preventive police and administrative action, protect witnesses, and provide immediate survivor-centered remedies. It should also connect criminal law to healthcare, land and property protection, social security, education, legal aid, and culturally legitimate community prevention. The constitutional promise of equality and dignity will be credible only when the law acts before a woman is killed, not only after a court condemns the killing.

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