



A Socio-Legal Study Of The Tragic Assam Witch-Hunting Traditions

Subal Chakravarty

Assistant Professor

Barpeta Law College, Barpeta

Dr. Tarali Nayak

Assistant Professor

Barpeta Law College, Barpeta

Abstract

India, a developing country, is experiencing rapid growth in various fields, but women's status and work are declining. Crimes against women have reached their limits, with women suffering from torture, neglect, and being held responsible for their troubles. Other crimes include vulnerability, torture, violence, domestic violence, dowry harassment, and other abnormal practices. Witchcraft and witch hunting are among the serious crimes against women, with increasing frequency. This article discusses the aspects of witch and witch hunting, analyzing its causes and effects, particularly in Assam. The researchers aim to discuss about various causes and effects of witch-hunting and highlighting the judicial interpretation, need for more effective strategies to protect women and promote gender equality.

Keywords: Witch-Hunting, gender, women, violence, gender equality.

1.1 Introduction:

Women's empowerment is essential for self-reliance, economic freedom, and good social standing. Witch hunting, however, is a common social activity. In Assam, rape, dowries, and witch hunts claimed the lives of more than 1,700 women between 2006 and 2018. The number that government machines record is four times lower than the real number. The current legal system makes it difficult to enforce the law and administer punishment in witch hunts. Witch branding is the practice of locals labelling women witches and forcing them to leave the community. The law must confront the issue, but modernization cannot reach those who commit such crimes. Modernization cannot reach all facets of society, and witch-hunting has several causes.¹

¹ Islam, J., & Ahmed, A. (2018). Witch Hunting in Assam: Practices, causes, legal issues and challenges [Review of *Witch Hunting in Assam: Practices, causes, legal issues and challenges*]. *United World Law Journal*, I(II), 135–145. ResearchGate. https://www.researchgate.net/publication/325311888_Witch_Hunting_in_Assam_Practices_causes_legal_issues_and_challenges/

1.2 Concept of Witch Hunting:

Joseph T. Shipley in the Dictionary of Word Origins describes the word 'Witch' which has its origin in the ancient Anglo-Saxon word 'Wicca' means 'Witch' or 'Wizard'. The German word 'Weiken' is also related with the word 'witch' which means 'to consecrate' or 'to bless'. It is also believed that the term witch is also related with the word 'Victima', which means a 'sacrificial creature'. This figure was symbolized as good as well as evil in many societies as it was part of the invisible world and was consequently in contact with genies and spirits.

Witch hunting is considered as a superstitious, cruel and ferocious practical which causes persecution and even deaths of hundreds of the poor and helpless innocent person mainly deals with women in all over the world including India and Assam. Witch craft in historical, religious and anthropological contexts is the exercise of alleged supernatural or magical powers or spells. Generally, the devil practice simply means torturing and killing innocent persons merely on the basis of suspicion of practicing witch craft (locally known as 'daini') especially in tribal-dominated areas.

Witch or Daini is a term in Assamese vocabulary used to identify male or female bodies with magical powers, believed to bring evil to the community. Witch hunting is believed to begin, with witches identified by witch doctors like Ojah, Bej, or Deodhani. Symptoms like fever, cough-cold, and hysteria are used to determine if a person is a witch. Witchcraft, derived from the Old English word 'wicca', is a spiritual, divinatory, and mystic practice involving magical skills to influence others' minds, bodies, or properties. Victims are typically women, referred to as witches by the community, relatives, or witch doctors. This traditional practice in Assam is not new.

1.3 Literature Review:

A comprehensive examination was carried out because the current study is doctrinal in nature. Secondary sources include government reports, research papers, scholarly journals, and other cited publications. As required by the study, several books, journals, newspapers, websites, and other publications from different countries have been cited. All of them have been appropriately cited in the relevant places whenever they have been mentioned in this article.

1.4 Research Methodology:

Research is a methodical inquiry into a subject, resulting from ongoing thinking. It involves determining the research paradigm and analyzing different approaches. Research methodology involves understanding the study issue and analyzing the researcher's reasoning. This study focused on doctrine, employing a suitable

methodology including literature review and documentary analysis. Formulating research questions and analyzing them helped examine the state of problems and their solutions.²

2.1 A egregious crime including witch hunting and infringement of Constitutional Rights:

Witch-hunting is a severe crime against humanity and women, violating the right to life, personal liberty, and religious beliefs. Despite the lack of specific provisions in the Indian Penal Code (I.P.C.) or special legislation, it remains a significant issue in Indian society. In Assam, women are often brutally killed by their male counterparts due to the practice of labeling them as witches. This is used to gain land, settle scores, or punish them for refusing sexual advances. In many cases, innocent women are forced to abandon their homes and families or commit suicide. Black magic, witchcraft, and superstitious beliefs are part of tribal customs in parts of Assam and other North-East states. In Assam, over 20 people are killed in witch-hunts per year. Black magic practitioners, known as 'Bez' or 'Ojha', still sway in tribal-dominated areas, using the faith to victimize opponents and settle personal scores. Most witch-hunts reported this year were from Kokrajhar, Udalguri, Sonitpur, N. Lakhimpur district, Kamrup, Goalpara, Chirang, Baksa, Karbi-Anglang, Jorhat, and N. Lakhimpur district of Upper Assam. Witchcraft, a practice that involves the practice of witchcraft, is a violation of human rights, highlighting the need for more effective measures to protect human rights. Witchcraft practitioners, based on superstition, commit gross human rights violations by torturing innocent women, causing death, murder, and abandoning society. Despite the widespread prevalence of witchcraft, many countries lack special legislation to curb this practice, highlighting the need for more effective measures to protect human rights.³

Witchcraft, particularly the practice of witch-hunting, is a significant challenge to the Constitution of India, as it directly violates the mandates enshrined in the "Law of the Land." The Constitution declares that all men and women are equal in the eyes of law, and witchcraft or witch-hunting is a direct violation of these mandates. Article 14 of the Constitution states that the state shall not deny equality before the law to any person, and Article 21 states that no person shall be deprived of their life and personal liberty without procedure established by law. Article 39 of the Constitution requires the state to direct its policy towards securing the position of women, ensuring equal means of livelihood and equal pay for equal work for both men and women. The Equal Remuneration Act, 1976, is enacted to enforce this provision. Other Articles of the Indian Constitution also stimulate the empowerment of women and advancement of the weaker section of society, but the practice of witchcraft results in witch-hunting violates both human rights and constitutional rights.

² Jonker, & Pennink. (2001). *The Essence of Research Methodology: A concise guide for Master and PhD Students in Management Science* (1st ed.). Springer.

³ Nath, D. (2015). Witch - Hunting: A War on Women [Review of *Witch - Hunting: A War on Women*]. In P. Ch. Dash & T. Nayak (Eds.), *Witch Hunting in Assam* (pp. 17–30). Binapani Publishing House.

2.2 Causes of Witch Hunting

The prime factors behind Witch hunting are old superstitious traditions or superstitions, lack of education and poverty.

- (a) **Old Superstitious Traditions:** This superstitious tradition finds a breeding ground in Assam, not because of illiteracy among the people, but largely because of their historical fascination with black magic. Sometimes it is noticed that when unfortunate events take place in a village, the village people become superstitious and start believing that such instances are the results of witch craft by witches and go forward to seek help from 'Oja' or 'Bej' or Witch doctors who verifies a person in the village as the Witch. Since the Vedic period such practice is believed to be existed in Assam. But in India sometimes it is noticed that educated people are also trapped in the net of superstition. For centuries after centuries these beliefs and practices are going on and have been considered as a part of tradition for which the introduction of new laws are often found to opposition.
- (b) **Lack of education or illiteracy:** Lack of education or illiteracy is one of the prime factors of witch hunting in Assam. It is often noticed that most of the incidents of Witch hunting occurs in rural and remote area where tribal people live and literacy rate is also very low. In those areas is poor and backward people live who are also deprived of good infrastructure and other basic needs as well. As primary health care facilities and qualified medical practitioners are rarely found, Bej, Oja immensely affect the mindset of those people and go forward of the treatment of various diseases.
- (c) **Poverty:** Poverty can be considered as such a state or condition in which the state of a person or community do not possess the minimum financial resources and essentials to enjoy the minimum standard of life. Basic needs refer to the deprivation of basic human needs, which commonly include food, water, sanitation, clothing, shelter, healthcare and education. So, it is one of the most important reasons of witch hunting because poverty makes the people violate all the rules and liabilities towards society.
- (d) **Miscellaneous causes:** Along with the other causes, there are several causes of witch hunting which vary from situation to situation and time and place. It is found that some evil elements exist in the society who try to instigate the illiterate masses to harm or kill somebody by accusing them of practicing witch craft only to occupy their existing property. Besides these, people involve in which hunting due to sudden need or urge aroused by mob violence.

However, by discussing the factors of witch hunting it can be explained that infrastructural as well as educational backwardness, internal conflict among tribes, communal conflict have a great role for providing this hilarious crime like witch hunting. Witch hunting which can be considered as inhuman and barbaric practice results as a threat to mankind and becomes a great curse upon society. So, the high time has reached to eradicate the evil practice from the society by root and prevent the society from its evil impact.

2.3 Incidents involving witch hunting and legal interpretations:

The Gauhati High Court has deemed witch hunting a dehumanizing act and a form of human rights violation, highlighting its prevalence in Assam and other North-East states. The court emphasized that branding a person as a witch and resorting to witch hunting is a barbaric act. The Jharkhand High Court has also ruled that the credibility of a witness's testimony depends on the quality of evidence presented, not the number of witnesses. The division bench emphasized the importance of deciding whether to rely on a witness's evidence.

The appellant appealed a Sessions Court sentencing him to life in prison for killing people he believed to be witches. The Court took note of the cruel practice of witch hunts in northeastern states and parts of Assam. The Division Bench highlighted the dehumanising practice of witch hunts and labelling someone a witch. President India has yet to sign the Assam Witch Hunting (Prohibition, Prevention and Protection) Bill, 2015. The Court highlighted how witch-hunting affects a significant portion of the nation and classified it as a socio-legal issue. The court granted one accused person the benefit of the doubt and acquitted the other two, confirming their convictions. The case underlines the necessity of outlawing witch-hunting as a social hazard.⁴

The appellants were convicted under Section 302 and 34 of the Indian Penal Code and sentenced to rigorous imprisonment for life and a fine of Rs.10,000/- each. The case involved a murder case involving four witnesses who testified to the death of a woman. The appellants denied their involvement, but the Sessions Judge, Chirang, found them guilty. The appellants' counsel argued that the intention to cause death did not appear from the medical evidence and the use of weapons was not substantiated. The prosecution's counsel argued that the evidence on record was consistent and that the injuries were not severe enough to cause death. The court found the evidence sufficient to establish the intention to cause death and found the evidence unworthy of any evidentiary value. The Supreme Court ruled that in an appeal against conviction, the benefit of reasonable doubt must be given to the accused if two views are possible on the appraisal of the evidence. The court also emphasized the importance of lodging a timely FIR to obtain early information about the assailants, the part played by the accused, the nature of the incident, and the names of witnesses.⁵

3.1 Conclusion and Suggestion:

Education is one of the strongest tools to bring a great change against the barbaric superstitious belief like witch hunting. Therefore, focus should be laid on educating the mass especially the women in tribal area. Legal education is one of the best mediums through which it becomes easy to make the women understand their rights and proper justice system. Help can be taken from different NGO's, who should come forward from every corner to bring a mass awareness about witch hunting in society. Improved health care facilities and service in remote areas can be useful in decreasing the prevalence of Okah's, Bez and other practitioners who are mainly responsible for identifying witches. This evil practice can be removed by organizing rallies, seminars and workshops and by giving priority to the participation of marginalized class.

⁴ Bhim Turi v. State of Assam, 2017 SCC Gau 813.

⁵ Dukhia Kujur And Anr vs The State of Assam (2019)

Reference:

1. Islam, J., & Ahmed, A. (2018). Witch Hunting in Assam: Practices, causes, legal issues and challenges [Review of Witch Hunting in Assam: Practices, causes, legal issues and challenges]. United World Law Journal, I(II), 135–145. ResearchGate. https://www.researchgate.net/publication/325311888_Witch_Hunting_in_Assam_Practices_causes_legal_issues_and_challenges/link/5b04ebec4585154aeb08004a/download?tp=eyJjb250ZXh0Ijp7ImZpcnN0UGFnZSI6InB1YmxpY2F0aW9uIiwicGFnZSI6InB1YmxpY2F0aW9uIn19
2. Jonker, & Pennink. (2001). The Essence of Research Methodology: A concise guide for Master and PhD Students in Management Science (1st ed.). Springer.
3. Nath, D. (2015). Witch - Hunting: A War on Women [Review of Witch - Hunting: A War on Women]. In P. Ch. Dash & T. Nayak (Eds.), Witch Hunting in Assam (pp. 17–30). Binapani Publishing House.
4. Bhim Turi v. State of Assam, 2017 SCC Gau 813.
5. Dukhia Kujur And Anr vs The State of Assam (2019)
6. Court, G. H. (2017, November 17). Witch-hunting is the worst form of human rights violation... <https://www.scconline.com/blog/post/2017/11/17/witch-hunting-worst-form-human-rights-violation/> [Review of Witch-hunting is the worst form of human rights violation... <https://www.scconline.com/blog/post/2017/11/17/witch-hunting-worst-form-human-rights-violation/>].
7. Singh, B. (2024, November 5). Quality Of Evidence And Not Number Of Witnesses Determine Credibility: Jharkhand High Court Upholds Conviction In Witchcraft-Related Murder [Review of Quality Of Evidence And Not Number Of Witnesses Determine Credibility: Jharkhand High Court Upholds Conviction In Witchcraft-Related Murder]. Wwww.livelaw.in; LiveLaw. <https://www.livelaw.in/high-court/jharkhand-high-court/jharkhand-high-court-evidence-quality-not-witnesses-number-determines-credibility-conviction-upheld-witchcraft-related-murder-274238>
8. Baruah, S. (2024, May 14). Once labelled a witch herself, she helped end witch-hunting in Assam — Birubala Rabha no more [Review of Once labelled a witch herself, she helped end witch-hunting in Assam — Birubala Rabha no more]. The Indian Express. <https://indianexpress.com/article/india/assams-crusader-against-witch-hunting-dies-havent-met-anyone-as-brave-as-her-9326790/>