

## MOB LYNCHING IN INDIA: LEGAL FRAMEWORK, JUDICIAL RESPONSE AND THE NEED FOR REFORM

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### ABSTRACT

Mob Lynching defined as the act of groups inflicting violence or punishment upon a person outside the authority of law has emerged as a serious challenge to the administrative machinery of India. Prior to the enactment of the Bharatiya Nyaya Sanhita, 2023 such acts were prosecuted under several provisions of the Indian Penal Code. However, it did not contain a distinct provision specifically addressing mob lynching. This absence of a specific provision revealed a clear legal gap in addressing collective acts of mob violence. The Bharatiya Nyaya Sanhita, 2023 introduces Section 103(2), which prescribes punishment of death or life imprisonment where murder is committed by a group of five or more persons acting in concert. The Supreme Court in *Tehseen S. Poonawalla v. Union of India* issued preventive, remedial and punitive guidelines to curb incidents of mob violence and lynching. Despite these legal developments incidents of mob violence continue to occur, raising questions about effectiveness of the current legal framework. This paper examines the historical background of mob lynching in India analyzes the existing statutory framework and judicial responses and evaluates the continuing legal and institutional gaps. It further explores the constitutional implications of mob lynching and argues for the need for a comprehensive anti-lynching law to effectively prevent and address such crimes.

**Keywords:** Mob Lynching, Bharatiya Nyaya Sanhita, 2023, Criminal Liability, Vigilantism, Criminal Liability.

### I. INTRODUCTION

In modern India Mob Lynching has become a significant threat to the rule of law signifying a move away from formal justice and toward collective vigilantism. It describes situations in which a group of people use the legal system to penalize someone on the basis of suspicion, false information or bias. Such activities are a direct threat to the public order and constitutional norms since they are often motivated by caste based prejudice, communal tensions and quick dissemination of incorrect information through internet.

Despite the seriousness of the problem there is no specific legislation in India that directly

addressed mob lynching. With the enactment of the Bharatiya Nyaya Sanhita 2023, the earlier Indian Penal Code, 1860, has been repealed. However even the new framework does not explicitly define or criminalize mob lynching as a distinct offence. Instead the offences are dealt with under the general provisions including those relating to rioting, unlawful assembly and murder. Although these provisions provide a legal framework for prosecution it is not sufficient to capture the collective and target the nature of lynching, resulting in gaps in enforcement and accountability.<sup>2</sup>

The judiciary has played an important role in addressing mob lynching. In *Tehseen S. Poonawalla v. Union of India*, mob lynching was

denounced by the Supreme Court as an insult to the rule of law and issued guidelines for its prevention and punishment.<sup>3</sup> However the persistence of such incidents highlights the limitations of judicial directives in the lack of comprehensive legal framework.

The necessity of a specific anti lynching statute becomes more apparent. This paper seek to examine the existing legal framework, analyze judicial response and evaluate necessity for legislative reform and the need for stronger laws to deal with mob lynching in India.

## II. HISTORICAL BACKGROUND OF MOB LYNCHING

Mob Lynching though widely seen as a modern phenomenon in India, it actually has deeper historical roots connected to social control and collective violence practices. The term lynching originated in the United States during the 18<sup>th</sup> century referring to extrajudicial punishment carried out by mob often driven by racial prejudice and the absence of effective legal

enforcement.<sup>4</sup> Over time, the term now refers to any type of vigilante violence in which a group takes on a role of judge and executioner.

In the Indian context, incidents resemblance to mob violence can be traced to pre independence and colonial periods, where communal riots and caste based violence often resulted in collective acts of brutality against individuals or groups.<sup>5</sup> During British rule, while formal legal institutions were introduced enforcement remained inconsistent, particularly in rural areas allowing local communities to resort to informal and often violent methods of dispute resolution.<sup>6</sup> These behavior were a reflection of ingrained prejudices and societal hierarchy that still shape mob violence tendency today.

India adopted a constitutional framework based on the preservation of the basic rights and rule of law after gaining independence. However, there were still occasional instances of mob violence, which were frequently connected

to problems like cow protection, honor based crime and allegation of theft or kidnapping.<sup>7</sup> In recent years the nature of mob lynching has escalated due to the rise of digital technology, where misinformation and rumors spread rapidly through social media platform triggering instantaneous and widespread public reactions.<sup>8</sup>

Therefore, mob lynching is not a brand new occurrence in India but rather an evolving form of collective violence shaped by historical, social and technological factors. Understanding its background is essential for addressing its current form and the need for appropriate legislative and policy solutions.

## III. CONSTITUTIONAL IMPLICATIONS

Mob Lynching directly violates fundamental rights guaranteed under the Constitution of India. The most significant is the right to life and personal liberty under Article 21, which ensures that no person shall be deprived of life except according to procedure established by law. The acts of mob violence, extrajudicial in nature breach the core principle of this article.<sup>9</sup>

Mob violence undermines the principle of equality before the law enshrined in Article 14. When individuals or groups take the law into their own hands, it results in arbitrary also it often target vulnerable communities based on religion, caste or social status.<sup>10</sup> The State's duty to guarantee equal protection under the law is undermined by such acts.

Additionally, the State has constitutional duty to maintain public order and protect citizens from violence. The failure of law enforcement authorities to prevent or respond effectively the incidents of mob lynching reflects a breach of this obligation. In *Tehseen S. Poonawalla v. Union of India* the Supreme Court lays down guidelines that the State must take preventive, remedial, and punitive measures to curb mob violence and uphold constitutional values.<sup>11</sup>

## IV. JUDICIAL RESPONSE IN INDIA

The judiciary in India has played a massive

important role in addressing mob violence particularly in the absence of a specific statutory framework. In *Tehseen S. Poonawalla v. Union of India*, the Supreme Court explicitly condemned mob lynching as mobocracy and laid down detailed guidelines directing the state to adopt preventive, remedial and punitive measures.<sup>3</sup> These included the appointment of nodal officer, establishment of fast track courts and measures to curb the spread of false content.

In *Shakti Vahini v. Union of India*, the Court addressed honored based violence and emphasized the duty of the state to protect individuals from collective violence by vigilante groups.<sup>12</sup> Similarly in *Arumugam Servai v. State of Tamil Nadu*, the court strongly criticized caste based mob violence and called for stringent action against perpetrator.<sup>13</sup>

## V. LEGAL FRAMEWORK AND GAPS IN CRIMINAL LAW

The general sections of the Indian Penal Code, 1860 have historically served as the foundation for India's legal framework regarding mob lynching, particularly those relating to unlawful assembly, rioting and murder.<sup>14</sup> These provisions provide a basis for prosecution but they fail to adequately capture the collective and targeted nature of mob violence. The enactment of the *Bharatiya Nyaya Sanhita, 2023* marks a significant development especially through section 103(2), which prescribes stringent punishment for murder committed by a group of five or more persons acting in concert.<sup>15</sup> However, neither the framework explicitly defines or recognize mob lynching as a distinct offence.

This absence creates gaps in criminal law including challenges in attributing individual liability and addressing motives such as hate or vigilantism. Furthermore, procedural challenges such as delayed trials, lack of victim protection and weak enforcement mechanisms hinder effective justice delivery. Although judicial guidelines, particularly in *Tehseen S. Poonawalla v. Union of India*, have attempted to mend these

gaps, they cannot substitute comprehensive legislation.<sup>11</sup> Thus, the existing legal framework remains fragmented highlighting the urgent need for specific anti lynching law.

## VI. COMPARATIVE ANALYSIS

India presently relies on broad rules under the *Bharatiya Nyaya Sanhita, 2023* and the previous the *India Penal Code, 1860* rather than having a specific anti-lynching law. Other jurisdiction on the other hand have passed particular legislation to deal with mob violence, the *Emmett Till Anti- Lynching Act of 2022* makes lynching a federal crime in the United States, with harsher punishments and greater responsibility for both participants and organizers.<sup>16</sup>

The *Public Order Act, 1986* which focuses on riots and violent disorder while highlighting intent and public harm is how the UK combats group violence.<sup>17</sup> The *Penal Code of Bangladesh* specifically makes mob attack and murder illegal and collective aggression carries harsher punishment.<sup>18</sup>

These comparative cases shows that India needs a legislative framework that clearly defines mob lynching, outlines preventive measures and guarantees harsher punishments increasing enforcement and supplementing judicial standards.

## VII. NEED FOR ANTI-LYNCHING LEGISLATION

The increasing incidents of mob lynching in India highlights the need for specific anti-lynching law. Although the offences relating to murder, rioting and unlawful assembly are already covered in the *Bharatiya Nyaya Sanhita, 2023* it is not sufficient.<sup>2</sup> They are inadequate to address the heinous crime like mob lynching it involves collective violence, targeted victimization and frequently involves hate motives. The absence of clear legal definition leads to inconsistent application of law and weakens the deterrent effect of criminal sanctions.

The State could explicitly identify mob lynching

as a separate crime and impose severe punishment proportionate to its seriousness with the help of a dedicated statute. Additionally, it would make it easier to hold public authorities who neglect to take immediate action or preventive action accountable in addition to the offenders. Preventive measures including appointing nodal officers, keeping an eye on sensitive areas and controlling false information especially on digital platform can be included in such a law.<sup>8</sup>

Furthermore, to guarantee justice and rehabilitation, victim centric provisions are crucial. These could include measures for time bound investigations and trials compensation schemes and safeguard for witnesses. The Supreme Court urged the legislature to enact a separate law to adopt a distinct statute and successfully stop mob violence.<sup>11</sup>

Given these factors the enactment of specific anti-lynching law is crucial to closing current legal loopholes, strengthen the rule of law and upholding the constitutional responsibility to preserve life, liberty and dignity.

### VIII. SOCIO CULTURAL CAUSES AND IMPACT OF MOB LYNCHING

Deep seated socio cultural issues are frequently the cause of mob lynching in India including casteism, religious intolerance and communal tensions. Prejudice towards marginalized and minorities are amplified by rumors, social media misinformation and moral policing creating a ground for mob lynching.<sup>19</sup> Traditional social hierarchies and patriarchal norms sometimes justify vigilantism in the perception of protecting community honor. In rural areas the lack of awareness about legal consequences further amplify the occurrence of lynching.

The impact of mob lynching is multidisciplinary. Victims and their families suffer physical, psychological and social trauma, it often leads to long term fear and insecurity. Communal tension escalate and disrupting social peace

and trust among the community.<sup>20</sup> Such violence expose systematic flaws in law enforcement and court response, weakening public confidence in the rule of law.

### IX. PREVENTIVE MEASURES

- Stronger Law Enforcement: Ensure police to react quickly to rumors or crowd gatherings and step up patrolling in high risk location.
- Strict Anti-Lynching Legislation: Enact specific laws criminalizing mob violence with severe penalties to deter vigilante acts.
- Awareness Campaigns: Educate the communities about legal consequences of lynching and the importance of reporting crimes.
- Monitoring Social Media: Implement system to detect and stop the dissemination of fake news, rumors and sensitive content online.
- Prompt Judicial Action: Establish fast track court for mob related cases to ensure swift justice and prevent impunity.
- Victim Protection Scheme: Provide psychological and financial support to victims and their families to reduce trauma and vulnerability.

### X. CONCLUSION

Mob Lynching in India represents a severe threat to social harmony, public safety and the rule of law. The current legal system is still unable to effectively stop such extrajudicial violence, notwithstanding the judiciary intervention in a number of historic cases to protect constitutional rights and punish offenders. Mob vigilantism is still fueled by sociocultural stereotype, false information and ineffective law enforcement. Therefore comprehensive reforms are necessary such as the passing of specific anti lynching legislation, tougher enforcement of current criminal laws

quick court action and effective preventive measures through community involvement and awareness programs. To secure justice rebuild public confidence and promote a culture where violence is never accepted as a form of social control, it is imperative to address both the legal loophole and the societal reasons of lynching. Without these reforms mob lynching will continue to erode India's democratic values and threaten the safety of vulnerable communities.

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