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## CRIMINALIZATION OF COMMUNAL VIOLENCE IN INDIA: A JURISPRUDENTIAL ANALYSIS WITH SPECIAL REFERENCE TO OFFENCES AGAINST ARUNACHAL PEOPLE

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### Abstract

Communal violence in India has long posed a challenge to the constitutional promise of equality, justice, and fraternity. While the legal framework provides for criminalization of acts of violence, the lived experiences of marginalized groups reveal persistent gaps in enforcement and protection. This paper examines the law relating to communal violence with a special focus on criminal offences committed against the people of Arunachal Pradesh, a region often overlooked in mainstream legal discourse. By analyzing statutory provisions, judicial pronouncements, and socio-legal realities, the study highlights how communal violence manifests uniquely in frontier states, where ethnic identity, migration, and political marginalization intersect. The paper argues that existing criminal law mechanisms, though comprehensive in theory, fail to adequately safeguard vulnerable communities in practice. It further explores the need for legislative reform, victim-centric approaches, and institutional accountability to ensure that the criminal justice system responds effectively to communal violence. Ultimately, the research underscores the importance of contextualizing national legal frameworks within regional realities to achieve substantive justice for the Arunachal people and similarly situated groups across India. Communal violence in India represents not only a breakdown of law and order but also a profound challenge to constitutional morality and democratic governance. This paper investigates the criminal law framework addressing communal violence, with particular emphasis on offences against the Arunachal people, whose experiences reveal the intersection of ethnic identity, frontier geopolitics, and systemic neglect. Beyond statutory provisions, the study interrogates the role of investigative agencies, prosecutorial discretion, and judicial sensitivity in shaping outcomes for victims of communal crimes. It explores how inadequate documentation of offences, weak witness protection, and political pressures contribute to impunity. The research also situates Arunachal Pradesh within broader debates on minority rights, federal responsibility, and the duty of the State to prevent targeted violence. Comparative insights are drawn from other regions of India to highlight structural deficiencies and the uneven application of criminal law. The paper advocates for reforms such as specialized tribunals, community-based monitoring mechanisms and restorative justice approaches to strengthen accountability. By contextualizing national legal frameworks within regional realities, the study underscores the urgent need for a victim-centric, rights-based approach to communal violence that ensures substantive justice for the Arunachal people and contributes to a more inclusive criminal justice system.

**Keywords:** Communal Violence, Criminal Justice System, Minority, Rights, Victim, Justice.

## Introduction

Communal violence in India has historically posed a grave challenge to the constitutional promise of equality, fraternity, and secularism. Rooted in colonial legacies and exacerbated by post-independence political and social tensions, such violence continues to undermine the democratic fabric of the nation. While the Indian Penal Code (IPC) and certain special legislations address forms of collective violence, the jurisprudential debate persists on whether communal violence requires distinct criminalization beyond general provisions. Judicial interventions have attempted to fill legislative gaps, yet systemic failures in enforcement remain a recurring concern. This paper examines the historical and legal framework, judicial responses, and socio-political context of communal violence, with particular reference to offences committed against the people of Arunachal Pradesh. As part of the Northeastern migrant population, they have often faced racial discrimination and targeted violence in metropolitan centers, making their experiences a critical lens through which to understand the intersection of communalism, racial prejudice, and constitutional protections.

This paper situates communal violence within its historical, legal, and socio-political context, with particular reference to offences committed against the people of Arunachal Pradesh. As part of the Northeastern migrant population, they face unique vulnerabilities stemming from racial stereotyping, cultural alienation, and inadequate institutional safeguards in metropolitan centers. Their experiences provide a critical lens to understand how communalism intersects with racial prejudice, exposing gaps in India's legal framework. By engaging with comparative perspectives from international jurisdictions, the study underscores the need for jurisprudentially sound reforms that strengthen accountability, victim protection, and the realization of constitutional ideals.

## Research Methodology

This study adopts a qualitative doctrinal approach, integrating legal analysis with socio-cultural inquiry to capture the complexities of communal violence. Primary sources include constitutional provisions, statutory law such as the IPC and SC/ST Act, and judicial pronouncements of the Supreme Court and High Courts, which form the foundation of jurisprudential analysis. Secondary sources—scholarly articles, law commission reports, and policy documents—are used to critique existing frameworks and highlight gaps. A comparative dimension is incorporated through examination of international conventions and foreign jurisdictions, particularly the UK and South Africa, to situate India's legal framework within global standards.

To ensure contextual depth, the study employs a case study method focusing on offences against Arunachal people in metropolitan cities. This involves analyzing reported cases, media documentation, and NGO reports to understand the lived realities of racial discrimination and communal targeting. In addition, the methodology considers **ethnographic insights** from Northeastern communities, exploring cultural identity, migration patterns, and the challenges of integration into urban spaces. It also examines **administrative responses**, including police practices and awareness campaigns, to assess institutional sensitivity toward Arunachal migrants. By combining doctrinal analysis with socio-political perspectives, the methodology provides a holistic framework for evaluating communal violence and its impact on marginalized groups.

This methodology ensures a jurisprudential lens, combining legal theory with practical realities of enforcement and victim experience.

## Literature Review

Scholarship on communal violence in India spans constitutional, legislative, judicial, and sociological dimensions. Upendra Baxi, in *The Future of Human Rights*, critiques the state's

failure to uphold constitutional values of equality and fraternity in the face of communalism, while Rajeev Bhargava's *Politics and Ethics of the Indian Constitution* explores secularism and the ethical challenges posed by identity-based conflicts. Analyses of the Communal Violence Bill (2005 and 2011) highlight political reluctance to codify communal violence as a distinct offence, leaving victims dependent on general IPC provisions. Judicial literature, particularly discussions around *Tehseen S. Poonawalla v. Union of India* (2018), reflects how courts have stepped in to fill legislative gaps through directives against mob lynching. Sociological studies, such as Ashutosh Varshney's *Ethnic Conflict and Civic Life*, examine why some communities resist violence while others succumb, emphasizing civic networks. Meanwhile, reports by NGOs like the North East Support Centre & Helpline document racial discrimination against Northeastern migrants, including Arunachal people, underscoring systemic neglect and the urgent need for culturally sensitive legal protections. Together, these works provide a multi-layered foundation for analyzing communal violence in India.

The literature reveals a consensus on the need for stronger legal frameworks, but limited focus on Northeastern communities, which this paper seeks to address.

### Justification of the Study

The justification for this study rests on three interconnected dimensions. First, the **constitutional imperative** demands that communal violence be addressed as it undermines the values of equality, dignity, and fraternity enshrined in the Constitution. Second, the **legislative vacuum** created by the absence of a dedicated anti-communal violence statute leaves victims dependent on general IPC provisions, which fail to capture the collective and identity-based nature of such crimes. Third, the **marginalization of communities** such as the Arunachal people highlights the urgent need for reform, as they face racial

stereotyping, cultural alienation, and inadequate protection due to lack of awareness among enforcement agencies. By focusing specifically on offences against Arunachal people, this study demonstrates how communal violence intersects with racial discrimination, thereby strengthening the case for jurisprudential and legislative reform aimed at ensuring accountability, victim protection, and the realization of constitutional ideals.

### Objectives

The objectives of this research are to critically examine the adequacy of India's existing criminal law framework in dealing with communal violence, while also analyzing judicial interpretations and jurisprudential developments relating to mob violence and identity-based crimes. It seeks to highlight the lived experiences of Arunachal people as victims of racial and communal targeting in metropolitan India, thereby situating their struggles within broader constitutional debates. The study further aims to compare India's legal framework with international standards and foreign jurisdictions, drawing lessons from countries that have codified hate crimes. Ultimately, the research intends to propose jurisprudentially sound recommendations for codifying and criminalizing communal violence, ensuring accountability, and safeguarding vulnerable communities. It aims to investigate the intersection of customary tribal practices with national law, particularly in the context of Arunachal Pradesh, and to analyze the socio-political factors that perpetuate racial stereotyping and marginalization. Furthermore, the study seeks to identify gaps in victim rehabilitation and compensation mechanisms, examine the accountability of law enforcement agencies, and assess the broader implications of communal violence on India's democratic and secular framework. By situating these issues within both domestic and international jurisprudence, the research aspires to contribute to a more comprehensive and inclusive legal discourse.

### Significance of the Study

This study is significant because it addresses the persistent gap between constitutional guarantees and the lived realities of communities affected by communal and racial violence. By focusing on the experiences of Arunachal people and other tribal groups, it brings attention to voices often marginalized in mainstream legal discourse. The research contributes to academic scholarship by situating Indian jurisprudence within comparative and international frameworks, while also offering practical insights for policy reform. Its emphasis on codification, accountability of state machinery, and victim-centric remedies makes it relevant not only for legal theorists but also for lawmakers, civil society, and enforcement agencies seeking to strengthen India's democratic and secular foundations.

### Historical and Legal Context

Communal violence in India has deep historical roots, often linked to colonial policies of divide and rule and post-independence challenges of nation-building in a diverse society. The legal response has traditionally relied on general provisions of the Indian Penal Code, such as sections on rioting, unlawful assembly, and criminal conspiracy, rather than a dedicated statute addressing communal violence. Over time, special legislations like the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act were introduced to protect marginalized groups, but their scope remains limited and inconsistently applied. The absence of a comprehensive law specifically criminalizing communal violence has left enforcement fragmented, with state authorities frequently criticized for inaction or complicity during outbreaks of violence. Constitutional provisions, particularly Articles 14, 19, 21, and 25, provide the normative foundation for equality, dignity, and religious freedom, yet the gap between constitutional ideals and practical enforcement persists. This historical and legal trajectory underscores the need for codification

of communal violence as a distinct offence, ensuring accountability and protection for vulnerable communities such as the Arunachal people and other tribal groups.

Past efforts to codify communal violence as a distinct offence have been made through the Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, introduced in 2005 and revised in 2011. Both versions sought to establish accountability mechanisms, victim rehabilitation, and liability for state officials during outbreaks of violence. However, these bills faced political opposition and were never enacted, leaving India to continue relying on general IPC provisions and fragmented safeguards. The failure of these legislative initiatives underscores the persistent gap between constitutional ideals and statutory protections, reinforcing the need for renewed efforts to adopt a comprehensive law.

The communal violence bills, had they been enacted, could have provided Arunachal people and other Northeastern communities with stronger statutory safeguards against racial stereotyping and targeted attacks. Their provisions for victim rehabilitation, compensation, and liability of state officials promised a framework of accountability and protection that general IPC provisions fail to deliver. However, the absence of such legislation has left enforcement dependent on weak and inconsistent mechanisms. Police bias, inadequate awareness campaigns, and limited sensitivity to the cultural identity of tribal groups continue to undermine justice. Migrants from Arunachal Pradesh remain vulnerable in metropolitan centers, while local tribals face systemic neglect in their home state. The failure to pass these bills thus represents a missed opportunity to bridge the gap between constitutional ideals and lived realities, reinforcing the urgent need for comprehensive legal reform.

### Jurisprudential Foundations

Communal violence has roots in colonial governance, where the IPC criminalized rioting

but ignored identity-based violence. Post-independence, constitutional guarantees sought to curb communalism, yet incidents persisted. The **Communal Violence Bill (2005)** was never enacted, leaving reliance on IPC and special laws like the **SC/ST Act, 1989**.

Indian jurisprudence consistently frames communal violence as a violation of fundamental rights under Articles 14 and 21 of the Constitution, emphasizing equality before law and the right to life and dignity. Courts have underscored the state's duty to protect minorities and vulnerable groups, recognizing that communal violence undermines constitutional secularism and the rule of law. However, a persistent challenge lies in balancing individual criminal liability with systemic failures of state machinery, particularly in cases where administrative negligence or complicity exacerbates violence. The debate continues on whether communal violence should be codified as a distinct offence, separate from general provisions of the Indian Penal Code, to ensure clarity, accountability, and stronger deterrence. This jurisprudential discourse highlights the tension between constitutional ideals and practical enforcement, reinforcing the urgent need for legislative reform tailored to India's pluralistic society.

### Case Law Analysis

**Supreme Court Decisions** In *Tehseen S. Poonawalla v. Union of India* (2018) 9 SCC 501, the Supreme Court recognized mob lynching as a serious threat to constitutional order and directed states to adopt preventive protocols, including fast-track trials and victim compensation. This case established the principle of proactive state responsibility in curbing communal violence. In *Kaushal Kishor v. State of Uttar Pradesh* (2023) SCC OnLine SC 19, the Court reaffirmed the constitutional duty to protect free speech and dignity. While not directly about communal violence, the judgment indirectly strengthens protections against identity-based targeting by

emphasizing the state's obligation to safeguard individual dignity.

**High Court Decisions** The Delhi High Court has explicitly recognized racial targeting of Northeastern citizens as unconstitutional, stressing that such acts violate Articles 14 and 21 of the Constitution. These rulings highlight judicial sensitivity to the unique vulnerabilities of communities like the Arunachal people, who face stereotyping and violence in metropolitan centres.

**Implications for Jurisprudence** Together, these cases underscore the judiciary's evolving role in addressing communal and identity-based violence. They reveal a consistent emphasis on state accountability, victim protection, and constitutional guarantees of equality and dignity. However, they also expose the limitations of relying solely on general IPC provisions, reinforcing the need for a dedicated legislative framework to criminalize communal violence and racial targeting.

### Special Reference to Arunachal People

Migrants from Arunachal Pradesh often encounter racial stereotyping, discrimination, and even violence in metropolitan centers, where their distinct physical features, cultural practices, and linguistic identity make them particularly vulnerable. Although the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act provides certain safeguards, its application remains inconsistent and frequently fails to address the specific forms of hostility faced by Northeastern communities. Reliance on general provisions of the Indian Penal Code, such as sections on assault or criminal intimidation, proves inadequate because these do not capture the racial and ethnic dimensions of the violence. The absence of a dedicated legal framework leaves Arunachal people exposed to systemic bias, weak enforcement, and limited access to justice.

A jurisprudential analysis must therefore highlight the need for targeted legislation, stronger institutional accountability, and

culturally sensitive mechanisms that recognize the unique vulnerabilities of Northeastern migrants while ensuring their constitutional right to equality and dignity. Local tribal communities in Arunachal Pradesh face unique challenges that compound their vulnerability to communal violence. Their distinct cultural practices, traditional attire, and linguistic diversity often make them targets of stereotyping and exclusion when they migrate to urban centers. Within their home state, tribal groups rely heavily on customary justice systems, which, while integral to preserving identity, sometimes lack the capacity to address modern forms of racial hostility and organized violence. The inconsistent application of the SC/ST (Prevention of Atrocities) Act further weakens their protection, leaving gaps in enforcement and remedies. Moreover, economic marginalization and limited political representation exacerbate their exposure to discrimination and violence. A jurisprudential analysis must therefore highlight the need for harmonizing customary law with national criminal law, ensuring that tribal autonomy is respected while constitutional guarantees of equality and dignity are upheld. Strengthening institutional accountability, promoting cultural sensitivity in law enforcement, and integrating victim-centric remedies are crucial steps to safeguard the rights of local tribals in Arunachal Pradesh.

### Comparative Perspective

In comparison, countries such as South Africa and the United Kingdom have adopted specific hate crime laws that directly criminalize identity-based violence, setting clear standards for accountability. International conventions like the UN Convention on the Elimination of Racial Discrimination reinforce the duty of states to prevent and punish such acts. India, however, continues to rely on general criminal law provisions, which creates a significant gap in addressing communal violence when measured against these international and comparative models. A broader comparative perspective shows that several jurisdictions

have moved decisively to criminalize identity-based violence. South Africa's legislative framework treats hate crimes as distinct offences, ensuring that racial and ethnic hostility is prosecuted with clear statutory backing. The United Kingdom has similarly enacted laws that categorize attacks motivated by race, religion, or ethnicity as aggravated offences, thereby strengthening deterrence and accountability. International instruments, particularly the UN Convention on the Elimination of Racial Discrimination, emphasize the duty of states to adopt proactive measures against such violence. India's continued reliance on general provisions of the Indian Penal Code, without a dedicated statute, underscores a significant divergence from these global models and highlights the pressing need for reform.

### Relevance of BNS, 2023 to Communal Violence

The Bharatiya Nyaya Sanhita, 2023, which replaces the Indian Penal Code, introduces updated provisions that directly impact the criminalization of communal violence. **Sections 187–190** deal with unlawful assemblies and rioting, providing clearer definitions and enhanced punishments, especially when deadly weapons are used. These are crucial in addressing mob violence, which often characterizes communal clashes. Similarly, **Section 194** criminalizes acts promoting enmity between groups on grounds of religion, race, place of birth, residence, or language – a provision particularly relevant to offences against Arunachal people, who are frequently targeted due to their ethnic identity. In addition, **Sections 195–196** strengthen prohibitions against hate speech and public mischief, penalizing deliberate acts intended to outrage religious or cultural feelings or spread inflammatory information that could incite violence. Importantly, **Section 198** imposes liability on public servants who fail to act against unlawful assemblies or riots, thereby addressing the recurring issue of state inaction during communal disturbances. Together, these provisions modernize India's legal response to

identity-based violence, offering a more robust framework to protect vulnerable communities like those from Arunachal Pradesh.

### Recommendations

India must move beyond piecemeal responses to communal violence and adopt a dedicated legal framework that criminalizes such acts as distinct offences. This framework should integrate constitutional principles of secularism with recognition of customary justice systems in Arunachal Pradesh, ensuring both protection of vulnerable tribal communities and accountability of state authorities. Judicial oversight, victim-centric remedies, and harmonization of plural legal traditions are essential to uphold the rule of law and safeguard national unity.

India's response to communal violence must be strengthened through a multi-pronged approach. A comprehensive law specifically defining and criminalizing communal violence is essential, complemented by amendments to the Indian Penal Code that explicitly address racial and ethnic hostility. To ensure effective enforcement, special investigative units should be created, with clear liability imposed on state officials who fail in their duty to protect citizens. Equally important are awareness campaigns aimed at dismantling entrenched stereotypes against Northeastern communities, particularly the Arunachal people, thereby fostering social harmony. Finally, robust judicial monitoring mechanisms must be instituted to guarantee impartial adjudication and accountability in communal violence cases.

### Conclusion

The criminalization of communal violence in India remains an unfinished project, despite constitutional guarantees and judicial interventions. The persistence of identity-based violence, particularly against vulnerable groups such as the Arunachal people, demonstrates the inadequacy of relying solely on general provisions of the IPC and now the Bharatiya Nyaya Sanhita (BNS), 2023. While the BNS strengthens prohibitions against unlawful assemblies, rioting, and hate speech, the absence of a dedicated statute addressing communal violence as a distinct offence continues to leave gaps in protection. Jurisprudence has recognized the corrosive impact of such violence on equality, dignity, and fraternity, but legislative inertia has prevented the creation of a comprehensive framework that harmonizes constitutional principles with statutory enforcement. Future legal and policy frameworks must prioritize **specific safeguards for Northeastern citizens**, including codification of racial and ethnic violence under the Bharatiya Nyaya Sanhita, 2023. Sections such as **§194 (promoting enmity between groups)** and **§195–196 (hate speech and public mischief)** should be enforced rigorously to deter offences targeting Arunachal people. Additionally, awareness campaigns, police sensitization programs, and judicial monitoring can help dismantle entrenched prejudices. By foregrounding the experiences of Arunachal Pradesh people, India can move toward a jurisprudence that not only criminalizes communal violence in general but also affirms the dignity of communities—historically marginalized within its pluralistic society. This focus ensures that the fight against communal violence is inclusive, contemporary, and responsive to the lived realities of those most affected.

To conclude with a sharper emphasis on **offences against Arunachal Pradesh people**, it is important to highlight that their experiences represent a distinct intersection of communal and racial violence in India. Migrants from

Arunachal Pradesh and other Northeastern states often face stereotyping, derogatory remarks, and physical assaults in metropolitan centers, rooted in their cultural and ethnic identity. These offences are not merely isolated acts of discrimination but form part of a broader pattern of communal hostility that undermines constitutional guarantees of equality and dignity. The jurisprudence surrounding communal violence must therefore explicitly recognize the vulnerability of Northeastern communities, ensuring that their protection is not left to fragmented application of general provisions.

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