

Critical Analysis of Vigilante Justice a New Threat to Democratic Setup in India with Special Emphasis on Mob Lynching Under Bns, 2023

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Abstract—The phenomenon of vigilante justice and mob lynching has emerged as a significant challenge to the rule of law and democratic governance in India. This study critically examines the growing incidence of mob violence, particularly in the context of social, legal, and constitutional frameworks, with a special emphasis on the Bharatiya Nyaya Sanhita, 2023 (BNS). The research seeks to understand the underlying causes, legal gaps, and institutional failures that contribute to the rise of such extrajudicial actions.

The study begins by conceptualizing vigilante justice and distinguishing it from lawful enforcement mechanisms, highlighting its incompatibility with the principles of due process and constitutional governance. It further explores the patterns and triggers of mob lynching in India, including the role of misinformation, communal tensions, and public distrust in law enforcement agencies. The research also analyzes the pre-existing legal framework under the Indian Penal Code, 1860, identifying its limitations in addressing the specific nature of mob violence.

A key focus of the study is the transition to the Bharatiya Nyaya Sanhita, 2023, and its effectiveness in dealing with offences involving collective violence. While the BNS introduces certain reforms, the absence of a distinct provision specifically addressing mob lynching remains a critical concern. The study also evaluates judicial interventions, particularly the guidelines laid down by the Supreme Court in addressing such incidents, and assesses their implementation by administrative authorities.

In addition, the research examines the role of police, media, and social media in both contributing to and preventing mob violence. It highlights how the spread of fake news and sensationalist reporting can escalate tensions, while also acknowledging the potential of these platforms in promoting awareness and accountability.

The study further explores the broader impact of mob lynching on democratic values, including the erosion of fundamental rights, weakening of judicial authority, and the rise of “mob sovereignty.”

Through a comparative analysis of anti-lynching laws in other countries and legislative initiatives within Indian states, the study identifies best practices and lessons for strengthening the legal framework. It concludes by proposing a set of reforms, including the need for a specific anti-lynching law, improvements in policing and judicial processes, regulation of digital platforms, and enhanced victim support mechanisms.

Overall, the study emphasizes that addressing vigilante justice requires a comprehensive approach that integrates legal reform, institutional accountability, and social awareness. Upholding the rule of law and protecting constitutional values are essential to ensuring justice and preventing the recurrence of mob violence in India.

I. INTRODUCTION

Concept of Vigilante Justice:

Vigilante justice refers to the act of private individuals or groups taking law enforcement into their own hands without legal authority, often in response to a perceived failure of the formal justice system. It typically involves punishment inflicted on alleged offenders without due process, bypassing established legal procedures and safeguards. The term “vigilante” originates from the Spanish word vigilante, meaning “watchman” or “guard,” but in contemporary usage, it signifies individuals who assume the role of law enforcers outside the bounds of law.¹

¹ Black’s Law Dictionary, 11th edn.

In the Indian context, vigilante justice has increasingly manifested in the form of mob lynching, moral policing, and collective violence driven by social, religious, or political motivations. Such actions are often justified by participants as necessary to protect community values, enforce morality, or deliver swift justice where the legal system is perceived to be slow or ineffective.² However, this justification stands in direct conflict with the constitutional framework of India, which guarantees due process, equality before law, and protection of life and personal liberty under Articles 14 and 21.³

Vigilante actions are inherently arbitrary and lack procedural fairness. Unlike formal legal systems, which rely on evidence, investigation, and judicial scrutiny, vigilante justice is often driven by suspicion, rumor, or prejudice. This makes it highly susceptible to misuse, leading to wrongful punishment and even the loss of innocent lives. The phenomenon is further exacerbated by the rise of social media, where misinformation can rapidly mobilize mobs and intensify collective aggression.⁴

Thus, vigilante justice is not merely an alternative form of justice but a breakdown of legal order. It represents a shift from institutionalized law enforcement to chaotic and often violent forms of self-help, undermining the legitimacy of the rule of law.

The Historical Background (India & Globally)

The roots of vigilante justice can be traced back to early human societies, where formal legal institutions were either absent or underdeveloped. In such settings, communities often relied on self-help mechanisms to maintain order and punish wrongdoing. Globally, one of the most notable examples is the vigilante movements in the 19th-century United States, particularly in frontier regions where state authority was weak. Groups such as the “Vigilance Committees” in California emerged to combat crime but often operated without accountability, leading to arbitrary punishments.⁵

Similarly, in Latin America and parts of Africa, vigilante groups have historically arisen in response to ineffective policing and judicial systems. These groups often claim legitimacy based on community support but frequently engage in extrajudicial killings and other human rights violations.⁶ In many cases, the line between community protection and unlawful violence becomes blurred, resulting in widespread abuse of power.

In India, while traditional community-based dispute resolution mechanisms such as panchayats have existed for centuries, they were generally aimed at mediation rather than punishment. However, certain practices, particularly those involving khap panchayats, have been criticized for endorsing vigilante-like actions, including honor killings and social boycotts.⁷ During the colonial period, the British administration introduced a formal legal system, but gaps in enforcement and accessibility sometimes led communities to resort to self-help justice.

In recent decades, India has witnessed a surge in vigilante activities, particularly in the form of mob lynching related to issues such as cow protection, child kidnapping rumors, and moral policing. These incidents often involve large groups acting collectively, sometimes with tacit social or political support. The Supreme Court of India has recognized mob lynching as a serious threat to the rule of law and has called for stringent measures to prevent such incidents.⁸

The evolution of vigilante justice, both globally and in India, highlights a common pattern: it tends to emerge where there is a perceived gap between public expectations and the effectiveness of formal legal institutions. However, rather than addressing these gaps constructively, vigilante actions often deepen social divisions and erode trust in the justice system.

Rule of Law and Mob Justice

² K.S. Subramanian, *Political Violence and the Police in India* (Sage Publications, 2007).

³ Constitution of India, Arts. 14 & 21.

⁴ Shreya Singhal v. Union of India, (2015) 5 SCC 1.

⁵ Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (Oxford University Press, 1975).

⁶ United Nations Human Rights Reports on Extrajudicial Killings (Various Reports).

⁷ Lata Singh v. State of U.P., (2006) 5 SCC 475.

⁸ Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501.

The concept of the rule of law is a cornerstone of democratic governance, ensuring that all individuals and institutions are subject to and accountable under the law. It emphasizes principles such as legality, equality, fairness, and due process. In contrast, mob justice represents the antithesis of these principles, characterized by arbitrariness, collective aggression, and the absence of procedural safeguards.⁹

Under the rule of law, the determination of guilt or innocence is entrusted to impartial courts, which follow established procedures and rely on evidence. Accused individuals are presumed innocent until proven guilty, and they are entitled to a fair trial and legal representation. This system is designed to minimize errors and protect individual rights, even at the cost of delays.¹⁰

Mob justice, on the other hand, operates on immediate judgment and punishment, often based on rumors, emotions, or biases. There is no investigation, no opportunity for defense, and no mechanism for appeal. The collective nature of mob actions further diffuses responsibility, making it difficult to hold individuals accountable.¹¹

Another key distinction lies in legitimacy. The rule of law derives its authority from the Constitution and democratic institutions, whereas mob justice relies on perceived social approval or moral justification. This lack of legal legitimacy makes vigilante actions inherently unlawful, regardless of the motives behind them.¹²

Moreover, while the rule of law seeks to maintain social order and protect rights, mob justice often leads to chaos and insecurity. It creates an environment where individuals may fear being targeted without reason, thereby undermining public confidence in the legal system. The normalization of such practices can have long-term consequences for democratic stability and human rights.¹³

Therefore, the distinction between rule of law and mob justice is not merely theoretical but has profound practical implications. Upholding the rule of law is

essential to prevent the descent into arbitrary and violent forms of justice that threaten the very fabric of society.

Objectives of the Study

The primary objective of this study is to critically analyze the phenomenon of vigilante justice in India, with a particular focus on its implications for the democratic framework and legal system. The study aims to examine the underlying causes, patterns, and consequences of vigilante actions, especially in the context of mob lynching and related forms of collective violence.¹⁴

Another important objective is to evaluate the adequacy of existing legal provisions in addressing vigilante justice. With the introduction of the Bharatiya Nyaya Sanhita, 2023, there is a need to assess whether the new legal framework effectively tackles issues such as mob violence and extrajudicial punishments.¹⁵

The study also seeks to explore the role of state institutions, including the police and judiciary, in preventing and responding to vigilante incidents. It aims to identify gaps in enforcement, accountability, and public trust that may contribute to the rise of such practices.

Additionally, the research intends to analyze the socio-political factors that influence vigilante behavior, including communal tensions, misinformation, and the impact of media narratives. By understanding these factors, the study aims to provide a comprehensive perspective on the issue.

Finally, the study aspires to suggest practical recommendations for strengthening the rule of law and preventing vigilante justice. These may include legal reforms, policy measures, and awareness initiatives aimed at promoting respect for constitutional values and human rights.

Scope and Limitations

The scope of this study is primarily focused on vigilante justice in India, with particular emphasis on

⁹ A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (10th edn.).

¹⁰ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

¹¹ N.R. Madhava Menon, *Criminal Justice System in India* (LexisNexis, 2007).

¹² Upendra Baxi, *The Rule of Law in India* (Oxford University Press).

¹³ Amnesty International Reports on Mob Violence in India.

¹⁴ National Law University Reports on Lynching and Hate Crimes (Various Publications).

¹⁵ Bharatiya Nyaya Sanhita, 2023.

recent trends such as mob lynching and moral policing. While the study includes a brief comparative analysis of global instances, its main focus remains on the Indian legal and socio-political context.¹⁶

The research covers legal developments up to the introduction of the Bharatiya Nyaya Sanhita, 2023, and examines relevant judicial pronouncements, including guidelines issued by the Supreme Court to address mob violence. It also considers the role of media and technology in shaping public perceptions and influencing vigilante behavior.

However, the study has certain limitations. Due to constraints of time and resources, it relies primarily on secondary sources such as legal texts, judicial decisions, academic articles, and reports. As a result, it may not capture the full extent of ground realities or regional variations in vigilante practices.

Another limitation is the evolving nature of the phenomenon. Vigilante justice is influenced by dynamic factors such as political climate, technological advancements, and social attitudes, which may change over time. Therefore, the findings of this study may need to be revisited in light of future developments.¹⁷

Despite these limitations, the study aims to provide a comprehensive and balanced analysis of vigilante justice in India, highlighting its challenges and implications for the rule of law.

II. CONCEPTUAL FRAMEWORK OF VIGILANTE JUSTICE

Definition and Characteristics

Vigilante justice refers to actions undertaken by individuals or groups who assume the role of law enforcers without legal authority, often resulting in punishment being inflicted outside the framework of established legal procedures. It emerges when private citizens, driven by a sense of perceived injustice or urgency, bypass formal institutions to deliver what they consider to be “justice.”¹⁸ Unlike state-sanctioned

law enforcement, vigilante actions operate in a legal vacuum and are typically characterized by the absence of procedural safeguards, accountability, and impartiality.

One of the defining characteristics of vigilante justice is its extra-legal nature. It is inherently unlawful because it disregards due process and undermines the authority of the legal system. The participants in such acts often justify their conduct on moral, cultural, or emotional grounds, believing that their actions serve a greater good.¹⁹ However, this subjective justification cannot substitute the objective standards of legality and fairness embedded in the rule of law.

Another important characteristic is the collective dimension of vigilante actions. While individuals may sometimes act alone, most contemporary instances, particularly in India, involve mobs or organized groups. This collective participation often leads to diffusion of responsibility, making it difficult to identify and prosecute individual offenders.²⁰ The anonymity within a group emboldens participants, increasing the likelihood of violence and reducing the fear of legal consequences.

Vigilante justice is also marked by its reliance on immediacy rather than deliberation. Unlike formal legal processes, which involve investigation, evidence collection, and judicial scrutiny, vigilante actions are often impulsive and based on incomplete or inaccurate information. This increases the risk of wrongful punishment and miscarriages of justice.²¹

Furthermore, vigilante actions frequently target marginalized or vulnerable groups, reflecting underlying social prejudices and power imbalances. Factors such as caste, religion, and economic status can influence who becomes a victim of such actions.²² This selective targeting highlights the discriminatory nature of vigilante justice and its incompatibility with constitutional principles of equality and non-discrimination.

In essence, vigilante justice represents a breakdown of institutional authority and a shift towards arbitrary

¹⁶ Law Commission of India Reports (relevant to criminal law reforms).

¹⁷ Secondary academic sources and journal articles on vigilante justice.

¹⁸ Black's Law Dictionary, 11th edn.

¹⁹ Upendra Baxi, *The Rule of Law in India* (Oxford University Press).

²⁰ N.R. Madhava Menon, *Criminal Justice System in India* (LexisNexis, 2007).

²¹ A.V. Dicey, *Introduction to the Study of the Law of the Constitution*.

²² Amnesty International, Reports on Mob Violence in India.

enforcement of perceived norms. Its defining characteristics—illegality, collective action, immediacy, and susceptibility to bias—make it a serious threat to democratic governance and human rights.

Types of Vigilante Actions

Vigilante justice manifests in various forms, each shaped by specific social, cultural, and political contexts. In India, several distinct types of vigilante actions have emerged, reflecting the diverse motivations and triggers behind such behavior.

One prominent form is moral policing, where individuals or groups attempt to enforce their own standards of morality on others. This may include targeting couples in public spaces, restricting women's behavior, or penalizing actions perceived as culturally inappropriate. Such actions are often justified in the name of preserving tradition or social values, but they infringe upon individual freedoms and personal autonomy.²³

Another significant type is cow vigilantism, which has gained prominence in recent years. Groups claiming to protect cows—an animal considered sacred in Hinduism—have engaged in violent acts against individuals suspected of cow slaughter or beef consumption. These incidents often involve mob lynching and have disproportionately affected minority communities.²⁴ The legal prohibition on cow slaughter in certain states is frequently misused as a pretext for extrajudicial violence, highlighting the dangerous intersection of law, religion, and vigilantism.

Child-lifting rumours have also led to numerous instances of vigilante violence, particularly in rural and semi-urban areas. False information spread through social media platforms has triggered panic and suspicion, leading mobs to attack innocent individuals suspected of kidnapping children.²⁵ These incidents demonstrate how misinformation can rapidly escalate into violence when combined with fear and lack of verification.

Additionally, there are instances of anti-theft vigilantism, where suspected thieves are publicly beaten or humiliated by crowds. While theft is a punishable offence under law, such acts bypass legal procedures and often result in disproportionate punishment.²⁶ Similarly, communal vigilantism involves targeting individuals based on their religious or ethnic identity, often during periods of heightened tension or conflict.

Another emerging form is digital vigilantism, where individuals use online platforms to identify and shame alleged offenders. While not always physically violent, such actions can lead to harassment, reputational damage, and even offline violence.²⁷

These various forms of vigilante justice illustrate the adaptability of the phenomenon. Despite differences in context and motivation, they share a common feature: the substitution of lawful processes with arbitrary and often violent actions.

Causes Behind Vigilante Justice

The rise of vigilante justice in India cannot be attributed to a single factor; rather, it is the result of a complex interplay of institutional weaknesses, social dynamics, and technological influences. Understanding these causes is essential to addressing the problem effectively.

Delay in Judicial System

One of the primary factors contributing to vigilante justice is the perceived delay in the judicial system. The Indian judiciary, while robust in principle, faces significant challenges such as backlog of cases, shortage of judges, and procedural complexities. As a result, the resolution of cases can take years, if not decades.²⁸

This delay often leads to frustration among the public, who may feel that justice is neither timely nor effective. In such circumstances, individuals may resort to self-help measures, believing that immediate action is necessary to address wrongdoing. The popular adage “justice delayed is justice denied”

²³ Shilpa Phadke, *Why Loiter? Women and Risk on Mumbai Streets* (Penguin, 2011).

²⁴ Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501.

²⁵ Government of India, Ministry of Home Affairs Reports on Mob Lynching.

²⁶ Indian Penal Code (relevant theft provisions, now under BNS 2023).

²⁷ Danielle Citron, *Hate Crimes in Cyberspace* (Harvard University Press).

²⁸ Law Commission of India Reports on Judicial Backlog.

reflects this sentiment and underscores the importance of timely adjudication.

However, while delays in the judicial system may explain the rise of vigilante behavior, they cannot justify it. Resorting to extrajudicial measures undermines the very foundations of the legal system and creates a cycle of violence and lawlessness.²⁹

Lack of Trust in Police

Another significant factor is the lack of trust in law enforcement agencies. In many parts of India, the police are perceived as inefficient, corrupt, or biased. Instances of delayed response, inadequate investigation, and misuse of power have contributed to this perception.³⁰

When individuals lose confidence in the ability of the police to protect them or to take appropriate action against offenders, they may feel compelled to take matters into their own hands. This lack of trust is further aggravated in cases where police officials are seen as complicit or inactive during incidents of mob violence.

The Supreme Court of India has emphasized the duty of the state to prevent mob violence and ensure accountability of law enforcement agencies.³¹ Strengthening police reforms and improving public trust are therefore crucial steps in addressing vigilante justice.

Social Media Misinformation

The rapid spread of misinformation through social media has emerged as a major catalyst for vigilante violence. Platforms such as WhatsApp, Facebook, and Twitter enable the instant dissemination of information, often without verification. False rumors, doctored videos, and inflammatory messages can quickly mobilize large groups of people.³²

In several cases, rumors about child kidnappers or cow slaughter have led to mob attacks on innocent individuals. The viral nature of such content amplifies fear and suspicion, creating a sense of urgency that discourages critical thinking.

The challenge lies in balancing freedom of expression with the need to prevent harmful content. Legal measures and technological interventions are necessary to curb the spread of misinformation, but public awareness and digital literacy are equally important.³³

Political and Communal Influences

Political and communal factors also play a significant role in the rise of vigilante justice. In some instances, vigilante groups operate with implicit or explicit support from political actors, who may seek to mobilize public sentiment for electoral or ideological purposes.³⁴

Communal tensions, particularly along religious lines, can further exacerbate vigilante behavior. Incidents of violence are often framed in terms of identity, leading to polarization and justification of unlawful actions. This creates an environment where vigilante groups feel empowered to act without fear of consequences. Moreover, the selective enforcement of laws and perceived bias in handling cases can reinforce these tendencies. When certain groups believe that the legal system does not treat them fairly, they may resort to self-help measures, further undermining social cohesion.³⁵

Addressing these influences requires a commitment to impartial governance, strict enforcement of laws, and promotion of inclusive values. Without such measures, vigilante justice is likely to persist as a tool for advancing narrow interests at the expense of broader societal harmony.

III. MOB LYNCHING IN INDIA – AN OVERVIEW

Meaning and Features of Mob Lynching

Mob lynching refers to the act of a group of individuals taking the law into their own hands and inflicting punishment, often violent, upon a person accused of an offence without any legal trial or due process. It is a form of collective vigilantism in which a “mob”

²⁹ Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

³⁰ K.S. Subramanian, *Political Violence and the Police in India* (Sage, 2007).

³¹ Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501.

³² Shreya Singhal v. Union of India, (2015) 5 SCC 1.

³³ IT Act, 2000 and related intermediary guidelines.

³⁴ Christophe Jaffrelot, *Religion, Caste and Politics in India* (Primus Books).

³⁵ Reports on communal violence and governance in India.

assumes the roles of investigator, judge, and executioner simultaneously.³⁶ The term “lynching” historically denotes extrajudicial punishment carried out by a crowd, and in the Indian context, it has come to signify incidents where individuals are attacked based on suspicion, rumours, or identity-related factors.

One of the defining features of mob lynching is the absence of due process. Unlike formal legal systems, where guilt is determined through evidence and judicial scrutiny, mob lynching relies on immediate judgment. This lack of procedural safeguards increases the likelihood of wrongful targeting and punishment.³⁷

Another important feature is the collective nature of the act. Mob lynching typically involves a group of people acting together, which creates a sense of anonymity and reduces individual accountability. Participants often feel emboldened by the presence of others, leading to escalation of violence.³⁸ This diffusion of responsibility makes it difficult for law enforcement agencies to identify and prosecute all those involved.

Mob lynching is also characterized by spontaneity and rapid escalation. Many incidents are triggered by sudden rumours or allegations, leading to immediate action without verification. The role of emotions such as fear, anger, and prejudice is significant, as they override rational judgment.³⁹

A further feature is the symbolic dimension of such acts. Mob lynching is not always limited to punishing an individual; it often serves as a message to a broader community. Victims are frequently targeted based on their identity, such as religion, caste, or social status, which transforms the act into a form of collective intimidation.⁴⁰

Additionally, mob lynching often involves public participation and visibility. Incidents frequently occur in open spaces and are sometimes recorded and

circulated on social media, amplifying their impact. This public nature not only normalizes violence but also creates a culture of fear and insecurity.⁴¹

Thus, mob lynching is a complex phenomenon that goes beyond individual acts of violence. It represents a breakdown of legal order, where collective action replaces institutional mechanisms of justice.

Patterns and Trends in India

In recent years, India has witnessed a noticeable rise in incidents of mob lynching, making it a subject of significant legal and social concern. While mob violence is not a new phenomenon, its frequency, visibility, and underlying motivations have evolved over time.

One observable pattern is the increase in identity-based targeting. Many incidents involve victims belonging to specific religious or caste groups, indicating that mob lynching is often intertwined with broader social and communal tensions.⁴² This pattern reflects deep-rooted divisions within society, which are sometimes exploited or intensified by external factors.

Another trend is the geographical spread of such incidents. Mob lynching cases have been reported from various states across India, including both rural and urban areas. However, certain regions have experienced a higher concentration of incidents, often linked to local socio-political dynamics.⁴³ The diversity in locations suggests that the problem is not confined to a particular area but is a nationwide concern.

The role of technology and communication has also significantly influenced recent trends. The widespread use of smartphones and social media platforms has facilitated the rapid dissemination of information, including rumours and misinformation. This has contributed to the sudden mobilization of mobs and the escalation of violence.⁴⁴

³⁶ Black's Law Dictionary, 11th edn

³⁷ Maneka Gandhi v. Union of India, (1978) 1 SCC 248

³⁸ N.R. Madhava Menon, *Criminal Justice System in India* (LexisNexis, 2007).

³⁹ A.V. Dicey, *Introduction to the Study of the Law of the Constitution*.

⁴⁰ Upendra Baxi, *The Rule of Law in India* (Oxford University Press).

⁴¹ Amnesty International, Reports on Mob Violence in India.

⁴² Christophe Jaffrelot, *Religion, Caste and Politics in India*.

⁴³ National Law University Reports on Lynching and Hate Crimes

⁴⁴ Shreya Singhal v. Union of India, (2015) 5 SCC 1.

Another important trend is the normalization of mob behavior. In some cases, participants in mob lynching incidents do not perceive their actions as criminal but rather as justified responses to perceived threats. This normalization is reinforced by social approval or lack of immediate legal consequences.⁴⁵

There is also a pattern of inadequate legal response in certain cases. Delays in investigation, difficulties in identifying perpetrators, and lack of witness cooperation often hinder effective prosecution. This can create a sense of impunity, encouraging further incidents.⁴⁶

At the same time, judicial intervention has emerged as a countervailing trend. The Supreme Court of India has recognized mob lynching as a serious threat to the rule of law and has issued guidelines to prevent such incidents and ensure accountability.⁴⁷ These developments indicate an increasing awareness of the issue within the legal system.

Overall, the patterns and trends of mob lynching in India reveal a complex interplay of social, technological, and institutional factors. The persistence of such incidents underscores the need for comprehensive measures to address the root causes and strengthen the rule of law.

Data and Statistics

One of the challenges in analyzing mob lynching in India is the lack of comprehensive official data. The National Crime Records Bureau (NCRB), which is the primary agency responsible for collecting crime statistics, has historically not maintained a separate category for mob lynching. As a result, such incidents are often recorded under broader categories such as murder, rioting, or unlawful assembly.⁴⁸

This absence of specific data makes it difficult to assess the true scale and nature of the problem. However, in recent years, there have been efforts to improve data collection and classification. The NCRB has introduced categories such as “mob violence” in certain reports, but the data remains limited and inconsistent.⁴⁹

In the absence of comprehensive official statistics, several independent organizations and research groups have attempted to document incidents of mob lynching. These reports, based on media coverage and field research, indicate a significant number of cases linked to factors such as cow protection, child-lifting rumours, and communal tensions.¹⁵ While these sources provide valuable insights, they may not capture all incidents and can be influenced by reporting biases.

Despite these limitations, available data suggests certain trends. For instance, a considerable proportion of lynching incidents have been associated with allegations of cow slaughter or beef consumption. Similarly, cases triggered by rumours of child abduction have been reported across multiple states.⁵⁰ Another notable aspect is the demographic profile of victims. In many cases, victims belong to marginalized or minority communities, highlighting the intersection of mob violence with issues of social inequality and discrimination.⁵¹

The lack of reliable data also poses challenges for policy-making and legal reform. Without accurate information, it is difficult to design targeted interventions or assess the effectiveness of existing measures. Therefore, improving data collection and transparency is a crucial step in addressing mob lynching.

In conclusion, while statistical data on mob lynching in India remains incomplete, available evidence points to a growing and concerning trend. The need for systematic documentation and analysis cannot be overstated.

Common Triggers of Mob Lynching

Mob lynching incidents in India are often triggered by a combination of immediate factors and underlying social dynamics. Understanding these triggers is essential for identifying patterns and preventing future occurrences.

One of the most common triggers is rumours and misinformation. False information, particularly when

⁴⁵ Danielle Citron, *Hate Crimes in Cyberspace*

⁴⁶ Law Commission of India Reports.

⁴⁷ Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501

⁴⁸ National Crime Records Bureau, Crime in India Reports.

⁴⁹ NCRB (recent publications on mob violence categories).

⁵⁰ IndiaSpend Reports on Lynching Data.

⁵¹ FactChecker.in Lynching Reports.

spread through social media, can create panic and suspicion. For example, rumours about child kidnappers have led to several incidents where innocent individuals were targeted by mobs.⁵² The speed at which such information spreads makes it difficult to verify facts, leading to impulsive actions.

Religious factors also play a significant role in certain cases. Allegations related to cow slaughter or beef consumption have been a major trigger for mob violence in India. Such incidents often reflect deeper communal tensions and are influenced by cultural and religious sentiments.⁵³

Similarly, caste-based dynamics can contribute to mob lynching. In some instances, individuals from lower castes have been targeted due to entrenched social hierarchies and discrimination. These incidents highlight the persistence of caste-based inequalities in contemporary society.⁵⁴

Another common trigger is accusations of theft or criminal activity. Suspected thieves are sometimes subjected to public punishment by mobs, often without any evidence or legal process. While theft is a punishable offence, such extrajudicial actions violate fundamental principles of justice and proportionality.⁵⁵

Economic and social tensions can also act as underlying triggers. Competition for resources, unemployment, and local disputes may create an environment where individuals are more likely to resort to violence.⁵⁶ In such contexts, even minor incidents can escalate into large-scale mob actions.

The role of political and social narratives cannot be overlooked. In some cases, rhetoric that emphasizes identity or perceived threats can contribute to the formation of mobs and justification of violence.⁵⁷ This highlights the importance of responsible communication and leadership in preventing such incidents.

Overall, the triggers of mob lynching are diverse and interconnected. While immediate causes such as rumours or accusations may spark an incident, deeper

structural factors often shape the context in which such violence occurs.

IV. CONSTITUTIONAL PERSPECTIVE

Introduction

The issue of mob lynching and vigilante justice poses a direct challenge to the constitutional framework of India. The Constitution envisions a legal order based on the rule of law, protection of fundamental rights, and accountability of state institutions. However, incidents of mob violence reflect a breakdown of these principles, where individuals or groups take the law into their own hands, bypassing established legal processes.⁵⁸

From a constitutional standpoint, mob lynching is not merely a criminal act but a violation of core democratic values. It undermines the authority of the State, erodes public confidence in the legal system, and threatens the fundamental rights guaranteed to every individual. This chapter examines mob lynching through the lens of key constitutional provisions, particularly Articles 14, 19, and 21, and analyzes the duty of the State to protect citizens. It also explores the implications of institutional failure in preventing such incidents.

Rule of Law and Article 14

Article 14 of the Constitution of India guarantees equality before the law and equal protection of the laws within the territory of India. This provision embodies the principle of the rule of law, which requires that all individuals, regardless of their status, are subject to the same legal standards and procedures.⁵⁹

The concept of rule of law, as articulated by A.V. Dicey, emphasizes the supremacy of law over arbitrary power and the necessity of legal procedures in determining rights and liabilities.³ In the Indian context, Article 14 ensures that no person can be

⁵² Amnesty International India Reports.

⁵³ Ministry of Home Affairs Advisories on Rumour-Based Violence.

⁵⁴ Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501.

⁵⁵ Reports on caste-based violence in India.

⁵⁶ Indian Penal Code / Bharatiya Nyaya Sanhita provisions on theft and violence.

⁵⁷ Sociological studies on violence and social conflict.

⁵⁸ Upendra Baxi, *The Rule of Law in India* (Oxford University Press).

⁵⁹ Constitution of India, Art. 14.

deprived of legal protection or subjected to arbitrary treatment.

Mob lynching stands in direct contradiction to this principle. When a mob punishes an individual based on suspicion or prejudice, it effectively replaces the rule of law with the rule of the crowd. The victim is denied equal protection and is subjected to arbitrary violence without any legal justification.⁶⁰

The Supreme Court of India has consistently upheld the importance of Article 14 in maintaining constitutional order. In cases involving mob violence, the Court has emphasized that allowing such acts to go unchecked would lead to a state of anarchy, where the law is dictated by popular sentiment rather than legal principles.⁶¹

Furthermore, the selective targeting often observed in lynching cases—based on religion, caste, or social identity—violates the principle of equality. It highlights the discriminatory nature of such acts and the failure of the State to ensure equal protection for all citizens.

Thus, the prevalence of mob lynching reflects not only individual acts of violence but also a systemic challenge to the rule of law. Upholding Article 14 requires strict enforcement of laws and accountability for those involved in such acts.

Right to Life and Personal Liberty under Article 21

Article 21 of the Constitution guarantees that no person shall be deprived of their life or personal liberty except according to procedure established by law. Over time, judicial interpretation has expanded the scope of this provision to include various aspects of human dignity, safety, and well-being.⁶²

The Supreme Court, in *Maneka Gandhi v. Union of India*, held that the procedure established by law must be just, fair, and reasonable.⁶³ This interpretation reinforces the idea that any deprivation of life or liberty must follow due process and cannot be arbitrary.

Mob lynching represents a gross violation of Article 21. Victims are deprived of their life and liberty without any legal procedure, often in a brutal and public manner. Such acts not only result in physical harm but also undermine the dignity and security of individuals.⁶³

The right to life under Article 21 also imposes a positive obligation on the State to protect individuals from harm. This includes taking preventive measures, ensuring effective law enforcement, and providing remedies in case of violations.⁶⁴ In the context of mob lynching, this obligation extends to preventing the formation of mobs, responding promptly to incidents, and prosecuting those responsible.

In *Tehseen S. Poonawalla v. Union of India*, the Supreme Court explicitly recognized mob lynching as a violation of Article 21 and described it as a “horrendous act of mobocracy.”⁶⁵ The Court issued guidelines to prevent such incidents, emphasizing the duty of the State to safeguard the right to life.

The failure to prevent mob lynching not only results in individual rights violations but also creates a climate of fear and insecurity. It signals that the State is unable or unwilling to protect its citizens, thereby weakening the constitutional guarantee of life and liberty.

Therefore, Article 21 serves as a crucial framework for analyzing the constitutional implications of mob lynching. Ensuring its effective enforcement is essential to preserving human dignity and maintaining public confidence in the legal system.

Freedom under Article 19 and Its Misuse

Article 19 of the Constitution guarantees certain fundamental freedoms, including freedom of speech and expression, assembly, and movement. These freedoms are essential for a लोकतांत्रिक (democratic) society, enabling individuals to express opinions, participate in public life, and organize collectively.⁶⁶ However, these freedoms are not absolute. Article 19(2) to 19(6) provides for reasonable restrictions in the interests of public order, morality, and the

⁶⁰ A.V. Dicey, *Introduction to the Study of the Law of the Constitution*.

⁶¹ N.R. Madhava Menon, *Criminal Justice System in India* (LexisNexis, 2007).

⁶² *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501.

⁶³ Constitution of India, Art. 21.

⁶⁴ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

⁶⁵ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

⁶⁶ *Francis Coralie Mullin v. UT of Delhi*, (1981) 1 SCC 608.

sovereignty and integrity of India. This balance is necessary to prevent the misuse of freedoms in a manner that harms others or disrupts social order.

In the context of mob lynching, the misuse of Article 19 freedoms becomes evident. The right to assemble peacefully does not extend to forming violent mobs or engaging in unlawful activities. Similarly, freedom of speech cannot justify the spread of hate speech, incitement to violence, or dissemination of false information.⁶⁷

Social media has amplified the potential for misuse of these freedoms. The rapid spread of rumours and inflammatory content can incite mob violence, as seen in several lynching incidents. While individuals have the right to express themselves, this right must be exercised responsibly and within legal limits.⁶⁸

The Supreme Court has addressed the issue of misuse of free speech in cases such as *Shreya Singhal v. Union of India*, where it emphasized the need to balance freedom of expression with the prevention of harm.⁶⁹ In the context of mob lynching, this balance requires stricter regulation of content that incites violence and greater accountability for those who misuse their freedoms.

Thus, while Article 19 guarantees essential freedoms, their misuse can contribute to the rise of vigilante justice. Ensuring responsible exercise of these rights is crucial for maintaining public order and protecting individual rights.

State's Duty to Protect Citizens

The Constitution imposes a fundamental duty on the State to protect the life, liberty, and security of its citizens. This duty arises not only from specific provisions such as Articles 14 and 21 but also from the broader framework of governance and the Directive Principles of State Policy.⁷⁰

In the context of mob lynching, the State's duty includes preventive, protective, and remedial measures. Preventive measures involve identifying potential threats, monitoring social tensions, and taking steps to prevent the formation of violent mobs. Protective measures include ensuring timely intervention by law enforcement agencies and

providing security to vulnerable individuals or communities.

Remedial measures involve conducting fair investigations, prosecuting offenders, and providing compensation to victims. The failure to take these steps can result in a violation of constitutional obligations.⁷¹

The Supreme Court, in *Tehseen S. Poonawalla v. Union of India*, laid down detailed guidelines for the State to prevent and address mob lynching. These include appointing nodal officers, establishing fast-track courts, and taking action against officials who fail to perform their duties.⁷²

Despite these guidelines, challenges remain in their implementation. Factors such as lack of resources, administrative inefficiency, and political considerations can hinder effective action. Strengthening institutional mechanisms and ensuring accountability are therefore essential.

The State's duty to protect citizens is a cornerstone of constitutional governance. Failure to fulfill this duty not only results in individual rights violations but also undermines the legitimacy of the State itself.

Failure of Constitutional Machinery in Lynching Cases

The occurrence of mob lynching raises serious concerns about the failure of constitutional machinery. Such failures can manifest at various levels, including law enforcement, administration, and governance.

One of the most significant aspects of this failure is the inability to prevent incidents. Despite prior warnings or intelligence, authorities may fail to take timely action, allowing situations to escalate into violence.¹⁸ This reflects gaps in coordination, preparedness, and accountability.

Another dimension is the failure to respond effectively. Delayed police intervention, inadequate crowd control, and lack of immediate action can worsen the situation and increase the severity of violence. In some cases, allegations of complicity or inaction by officials further erode public trust.

The failure to ensure justice is also a critical concern. Delays in investigation, weak prosecution, and low

⁶⁷ *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501.

⁶⁸ Constitution of India, Art. 19.

⁶⁹ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1

⁷⁰ IT Act, 2000 and intermediary guidelines.

⁷¹ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

⁷² Constitution of India, Directive Principles of State Policy.

conviction rates can create a sense of impunity among perpetrators. This not only denies justice to victims but also encourages future incidents.⁷³

From a constitutional perspective, such failures undermine the principles of rule of law and protection of fundamental rights. They indicate a gap between constitutional ideals and ground realities.

However, it is important to note that the Constitution also provides mechanisms to address such failures, including judicial review, accountability of public officials, and legislative reforms. Strengthening these mechanisms is essential to bridge the gap between law and practice.

V. LEGAL FRAMEWORK BEFORE BNS 2023

Introduction

Before the enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS), the Indian Penal Code, 1860 (IPC) served as the primary legal framework for addressing criminal offences, including acts of mob violence and lynching. However, the IPC did not contain any specific provision that explicitly defined or penalized “mob lynching” as a distinct offence. Instead, such incidents were prosecuted under various general provisions relating to homicide, unlawful assembly, and rioting.⁷⁴

While these provisions provided a basis for legal action, they were not designed to address the unique nature and dynamics of mob lynching. The absence of a specific legal framework led to challenges in classification, investigation, and prosecution of such cases. This chapter examines the relevant provisions under the IPC and analyzes why they were considered inadequate in dealing with the growing problem of mob lynching in India.

Murder under Section 302 IPC

Section 302 of the IPC prescribes punishment for murder, which may extend to death or imprisonment for life, along with fine.⁷⁵ In cases of mob lynching resulting in death, this provision was often invoked against the accused individuals.

The application of Section 302 in lynching cases is based on the principle that if the act of the mob results in the intentional killing of a person, it constitutes murder. However, the challenge lies in attributing individual liability within a group. Unlike cases involving a single perpetrator, mob lynching involves multiple participants, each playing a different role.⁷⁶

In such situations, courts often rely on the doctrine of common intention under Section 34 IPC or common object under Section 149 IPC to establish collective liability. While these doctrines allow for holding multiple individuals accountable, they require proof of shared intent or objective, which can be difficult to establish in spontaneous mob situations.⁷⁷

Another issue is the identification of specific individuals responsible for fatal injuries. In many cases, the chaotic nature of mob violence makes it challenging to determine who caused the death. This can lead to difficulties in securing convictions under Section 302.

Thus, while Section 302 provides a strong legal basis for punishing homicide, its application in mob lynching cases is often complex and limited by evidentiary challenges.

Culpable Homicide under Section 304 IPC

Section 304 IPC deals with culpable homicide not amounting to murder and provides for punishment based on the degree of intention or knowledge involved.⁷⁸ In certain mob lynching cases, where the intention to cause death cannot be conclusively established, courts may apply this provision instead of Section 302.

The distinction between murder and culpable homicide is based on the degree of intention and the circumstances of the act. In mob lynching cases, the lack of clear individual intent may result in the offence being classified as culpable homicide.⁷⁹

While Section 304 allows for flexibility in dealing with varying degrees of culpability, it also raises concerns about consistency in sentencing. The same type of incident may be treated differently depending

⁷³ Law Commission of India Reports.

⁷⁴ Indian Penal Code, 1860.

⁷⁵ IPC, s. 302.

⁷⁶ N.R. Madhava Menon, *Criminal Justice System in India* (LexisNexis, 2007).

⁷⁷ IPC, ss. 34 & 149.

⁷⁸ IPC, s. 304.

⁷⁹ K.D. Gaur, *Textbook on Indian Penal Code*.

on the interpretation of intent, leading to disparities in punishment.

Moreover, the application of Section 304 may sometimes fail to capture the gravity of mob lynching, particularly when the act is driven by collective aggression and results in severe harm or death. This can undermine the deterrent effect of the law.

Therefore, although Section 304 serves as an alternative provision, it does not adequately address the specific characteristics of mob lynching, such as collective violence and targeted attacks.

Unlawful Assembly under Section 141 IPC

Section 141 IPC defines an unlawful assembly as a group of five or more persons with a common object to commit an offence or to enforce a right by criminal means.⁸⁰ This provision is particularly relevant in cases of mob lynching, as such incidents typically involve large groups acting together.

The concept of unlawful assembly allows the law to address collective behavior and hold individuals accountable for participating in a group with a shared objective. Section 149 IPC further extends liability to every member of the assembly for offences committed in pursuit of the common object.⁸¹

However, the application of Section 141 and related provisions faces several challenges. Establishing the “common object” of the assembly can be difficult, especially in cases where the mob forms spontaneously without prior planning.⁸²

Additionally, mere presence at the scene of an unlawful assembly may not be sufficient to establish guilt unless active participation or knowledge of the common object is proven. This creates evidentiary hurdles in prosecuting individuals involved in mob lynching.

Another limitation is that the provision focuses on the formation of the assembly rather than the specific act of lynching. As a result, it may not fully capture the severity and consequences of the offence.

Thus, while Section 141 provides a framework for addressing group behavior, it is not specifically tailored to deal with the complexities of mob lynching.

Rioting under Sections 146–148 IPC

Sections 146 to 148 IPC deal with the offence of rioting, which occurs when force or violence is used by an unlawful assembly in pursuit of its common object.⁸³ These provisions are frequently invoked in cases of mob violence, including lynching.

Section 146 defines rioting, while Section 147 prescribes punishment for simple rioting. Section 148 deals with rioting armed with deadly weapons, which carries a higher penalty.

In the context of mob lynching, these provisions are relevant because they address the use of violence by a group. However, like the provisions on unlawful assembly, they are general in nature and do not specifically address lynching as a distinct offence.⁸⁴

One limitation is that the punishment for rioting may not be proportionate to the severity of lynching incidents, particularly when they result in death or serious injury. While additional charges such as murder may be applied, the fragmented approach can complicate prosecution.

Another issue is the overlap between different provisions, which can lead to inconsistencies in charges and legal interpretation. This lack of clarity may affect the effectiveness of the legal response to mob lynching.

Therefore, although the provisions on rioting are relevant, they do not provide a comprehensive framework for addressing the specific nature of mob lynching.

Absence of a Specific Law on Mob Lynching

One of the most significant gaps in the pre-BNS legal framework was the absence of a specific law addressing mob lynching. The IPC, being a 19th-century legislation, was not designed to deal with contemporary forms of collective violence driven by social, technological, and political factors.⁸⁵

The lack of a clear definition of mob lynching created challenges in classification and data collection. Without a specific offence, incidents were recorded

⁸⁰ IPC, s. 141.

⁸¹ IPC, s. 149.

⁸² Law Commission of India Reports.

⁸³ IPC, ss. 146–148.

⁸⁴ Ratanlal & Dhirajlal, *The Indian Penal Code*.

⁸⁵ Historical background of IPC (1860).

under various categories, making it difficult to assess the scale and nature of the problem.⁸⁶

Furthermore, the absence of a dedicated legal provision limited the ability of the law to address the unique features of mob lynching, such as collective intent, targeted violence, and the role of misinformation. This gap also affected the development of specialized investigative and prosecutorial strategies.

Recognizing these challenges, the Supreme Court in *Tehseen S. Poonawalla v. Union of India* called for the enactment of a separate law to address mob lynching and issued guidelines to prevent such incidents.⁸⁷ The Court emphasized that existing laws were insufficient to deal with the growing menace of mob violence.

Several states also attempted to introduce specific legislation on mob lynching, reflecting the perceived inadequacy of the IPC framework. However, the absence of a uniform national law remained a significant concern.

Thus, the lack of a specific legal provision on mob lynching was a major limitation of the pre-BNS framework, highlighting the need for comprehensive legal reform.

Why IPC Was Considered Inadequate

The inadequacy of the IPC in addressing mob lynching can be attributed to several factors. First, the IPC provisions are largely generic and do not account for the unique characteristics of mob lynching, such as collective violence and identity-based targeting.⁸⁸

Second, the reliance on multiple provisions—such as murder, rioting, and unlawful assembly—results in a fragmented legal approach. This can complicate investigation and prosecution, as different elements of the offence are addressed separately rather than as a single, cohesive act.

Third, the evidentiary challenges associated with mob lynching, such as identifying perpetrators and proving common intent, are not adequately addressed by existing provisions. This can lead to low conviction rates and reduced deterrence.⁸⁹

Fourth, the IPC does not specifically address the role of modern factors such as social media and

misinformation, which have become significant drivers of mob violence. This limits the ability of the law to respond effectively to contemporary challenges. Finally, the absence of a specific offence reduces the symbolic and deterrent value of the law. Recognizing mob lynching as a distinct crime would send a strong message about its seriousness and the State's commitment to preventing it.⁹⁰

These limitations collectively highlight the need for a more targeted and comprehensive legal framework, which ultimately led to the introduction of reforms under the *Bharatiya Nyaya Sanhita, 2023*.

VI. MOB LYNCHING UNDER BHARATIYA NYAYA SANHITA (BNS), 2023

Introduction to BNS Replacing IPC

The *Bharatiya Nyaya Sanhita, 2023* (BNS), represents a significant reform in India's criminal law framework, replacing the Indian Penal Code, 1860 (IPC). The IPC, enacted during the colonial period, served as the backbone of criminal law for over a century and a half. However, its structure and provisions were often criticized for being outdated and insufficient to address contemporary forms of crime, including emerging patterns of collective violence such as mob lynching.⁹¹

The introduction of BNS marks an effort to modernize criminal law by incorporating new offences, redefining existing ones, and aligning the legal framework with present-day realities. While the BNS retains several core principles of the IPC, it also introduces changes aimed at improving clarity, efficiency, and responsiveness.

One of the key objectives of the BNS is to address crimes that have evolved due to technological, social, and political changes. In this context, the issue of mob lynching has gained prominence, given its increasing occurrence and its implications for the rule of law. Although the BNS does not explicitly define "mob lynching" as a separate offence in a standalone provision, it attempts to address such acts through broader provisions relating to group crimes, organized violence, and offences against the human body.

⁸⁶ NCRB Crime in India Reports

⁸⁷ *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501.

⁸⁸ Upendra Baxi, *The Rule of Law in India*

⁸⁹ Reports on mob lynching and conviction rates.

⁹⁰ Academic writings on criminal law reform in India.

⁹¹ *Bharatiya Nyaya Sanhita, 2023*.

Thus, the shift from IPC to BNS provides an opportunity to examine whether the new legal framework effectively responds to the challenges posed by mob lynching.

Specific Provisions Addressing Mob Violence/Lynching

The Bharatiya Nyaya Sanhita, 2023, approaches the issue of mob lynching primarily through provisions dealing with group liability, unlawful assembly, and offences involving multiple perpetrators. While there is no single provision that exclusively defines mob lynching, the cumulative application of these provisions enables the law to address such incidents. One of the notable aspects of the BNS is the continued recognition of collective liability. Similar to the IPC, the BNS incorporates principles that hold individuals accountable for offences committed as part of a group with a common intention or object. This is particularly relevant in cases of mob lynching, where multiple individuals participate in acts of violence.

The BNS also emphasizes organized and coordinated criminal activity, which can be interpreted to include mob violence. By focusing on the collective nature of offences, the law attempts to capture the essence of lynching as a group-based act rather than an isolated incident.

Additionally, provisions relating to grievous hurt, culpable homicide, and murder under the BNS can be invoked in cases where mob violence results in injury or death. These provisions ensure that the severity of the offence is reflected in the punishment, depending on the outcome of the act.

Another important aspect is the recognition of aggravating factors, such as the involvement of multiple persons, use of weapons, or targeting of specific individuals. These factors can influence the classification of the offence and the severity of punishment.

Furthermore, the BNS provides scope for addressing incitement and abetment, which are often relevant in mob lynching cases where individuals may not directly participate in violence but play a role in instigating or facilitating it.

Overall, while the BNS does not explicitly codify mob lynching as a distinct offence, its provisions collectively create a framework through which such acts can be prosecuted.

Key Changes from IPC to BNS

The transition from IPC to BNS involves several structural and substantive changes that are relevant to the issue of mob lynching.

One of the key changes is the reorganization and simplification of provisions. The BNS aims to make the law more accessible and coherent by restructuring offences and reducing redundancy. This can facilitate better understanding and application of the law in complex cases such as mob violence.

Another significant change is the focus on contemporary forms of crime. While the IPC was primarily designed to address traditional offences, the BNS takes into account modern challenges, including crimes influenced by technology and social dynamics. This broader perspective is important in addressing mob lynching, which is often linked to misinformation and rapid communication.

The BNS also introduces a more nuanced approach to punishment, with provisions that consider the gravity of the offence and the role of each participant. This is particularly relevant in mob lynching cases, where individuals may have varying degrees of involvement. In addition, the BNS places greater emphasis on victim-centric justice, recognizing the need to protect and compensate victims of crime. This shift is important in the context of mob lynching, where victims often belong to vulnerable or marginalized groups.

Another notable change is the integration of preventive measures within the legal framework. While the IPC primarily focused on punishment, the BNS reflects a broader approach that includes prevention and deterrence.

Despite these improvements, it is important to note that many core principles of the IPC, such as collective liability and classification of offences, have been retained. This continuity ensures stability but also raises questions about whether the changes are sufficient to address specific issues like mob lynching. Thus, the BNS represents both continuity and change, combining traditional legal principles with modern adaptations.

Whether BNS Adequately Addresses Mob Lynching

The question of whether the BNS adequately addresses mob lynching is complex and requires a balanced analysis. On one hand, the BNS provides a more modern and flexible framework for dealing with

group crimes, which can be applied to cases of mob lynching. On the other hand, the absence of a specific provision explicitly defining and penalizing mob lynching remains a point of concern.

One of the strengths of the BNS is its ability to adapt existing provisions to contemporary contexts. By focusing on collective liability and organized crime, the law can address the essential features of mob lynching without the need for a separate offence. This approach allows for flexibility in interpretation and application.

However, the lack of a clear definition may lead to ambiguity and inconsistency in enforcement. Different authorities may interpret and apply the law differently, resulting in variations in charges, investigation, and prosecution. This can affect the overall effectiveness of the legal response.

Another issue is the symbolic importance of recognizing mob lynching as a distinct crime. A specific provision would send a strong message about the seriousness of the offence and the State's commitment to preventing it. The absence of such recognition may limit the deterrent effect of the law.

The Supreme Court of India has previously emphasized the need for a dedicated legal framework to address mob lynching, highlighting the limitations of existing provisions.⁹² While the BNS attempts to address these concerns through broader reforms, it does not fully meet the demand for a specific law.

Moreover, the effectiveness of the BNS depends not only on its provisions but also on implementation and enforcement. Issues such as police efficiency, judicial delays, and public awareness continue to play a crucial role in determining outcomes.

In conclusion, while the BNS represents a step forward in modernizing criminal law, its adequacy in addressing mob lynching remains subject to debate. The absence of a specific provision continues to be a significant limitation.

Punishments and Legal Consequences

The BNS prescribes punishments for offences involving violence based on their severity, ranging from imprisonment to life imprisonment and, in certain cases, the death penalty. In the context of mob

lynching, the applicable punishment depends on the nature and outcome of the act.⁹³

If mob violence results in death, provisions relating to murder may be invoked, leading to severe penalties. In cases involving grievous hurt or lesser forms of violence, corresponding provisions prescribe appropriate punishments. The law also considers aggravating factors, such as the use of weapons or the vulnerability of the victim, in determining the severity of punishment.

The principle of collective liability ensures that all participants in a mob can be held accountable for the offence, even if their individual roles differ. This is particularly important in addressing the group dynamics of lynching.

In addition to punishment, the BNS framework allows for legal consequences such as fines, compensation, and restitution. These measures aim to address the harm suffered by victims and provide some form of redress.

Another important aspect is the potential for enhanced penalties in cases involving organized or premeditated violence. This reflects the seriousness of such acts and their impact on society.

However, challenges remain in ensuring effective enforcement of these provisions. Issues such as identification of perpetrators, collection of evidence, and witness protection can affect the outcome of cases. Thus, while the BNS provides a comprehensive system of punishments, its effectiveness depends on the proper functioning of the criminal justice system as a whole.

VII. JUDICIAL APPROACH AND LANDMARK CASES

Introduction

The judiciary plays a central role in upholding the rule of law and safeguarding fundamental rights in a constitutional democracy. In the context of vigilante justice and mob lynching, the courts in India have acted as crucial institutions in interpreting the law, addressing legal gaps, and ensuring accountability. Mob lynching, being a manifestation of collective violence and breakdown of legal order, directly

⁹² Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501.

⁹³ Comparative analysis of IPC and BNS provisions on offences against the human body.

challenges constitutional values such as equality, dignity, and personal liberty.

Given the absence of a specific statutory framework for mob lynching prior to recent reforms, the judiciary has stepped in to fill the void by issuing guidelines and setting legal standards. Through landmark judgments, the Supreme Court and various High Courts have emphasized the duty of the State to prevent mob violence and have laid down measures to curb such incidents. This chapter examines the judicial approach to mob lynching, focusing on key cases and the broader role of the judiciary in addressing vigilante justice.

Tehseen S. Poonawalla v. Union of India (2018)

One of the most significant judicial pronouncements on mob lynching in India is the case of Tehseen S. Poonawalla v. Union of India. In this case, the petitioner sought the intervention of the Supreme Court to address the rising incidents of mob lynching across the country. The Court recognized mob lynching as a serious threat to the rule of law and described it as an instance of “mobocracy,” where the authority of the law is replaced by the will of the crowd.⁹⁴

The Supreme Court observed that such acts are not merely criminal offences but also violations of fundamental rights, particularly the right to life and personal liberty under Article 21. The Court emphasized that the State has a constitutional obligation to protect individuals from such violence and to ensure that perpetrators are brought to justice.

One of the most important contributions of this judgment is the formulation of comprehensive guidelines to prevent and address mob lynching. These guidelines were categorized into preventive, remedial, and punitive measures, providing a structured approach to tackling the issue.

The Court directed State Governments to appoint nodal officers in each district to monitor and prevent incidents of mob violence. These officers were tasked with identifying areas prone to such incidents and taking proactive steps to maintain law and order. The Court also emphasized the need for intelligence gathering and coordination among law enforcement agencies.

In terms of remedial measures, the Court mandated prompt registration of FIRs, effective investigation, and timely prosecution of offenders. It also highlighted the importance of providing compensation and support to victims.

On the punitive front, the Court stressed the need for disciplinary action against officials who fail to perform their duties in preventing or responding to mob violence. This aspect is particularly significant as it addresses the issue of administrative accountability. The judgment also called upon Parliament to consider enacting a separate law to deal specifically with mob lynching. This reflects the Court’s recognition of the limitations of existing legal provisions and the need for a more targeted approach.

Overall, the Tehseen Poonawalla case represents a landmark in the judicial response to mob lynching, providing both legal clarity and practical guidelines.

Supreme Court Guidelines on Mob Lynching

The guidelines issued by the Supreme Court in the Tehseen Poonawalla case form a crucial part of the judicial framework for addressing mob lynching. These guidelines are not merely advisory but carry the force of law under Article 141 of the Constitution, making them binding on all authorities.

The preventive measures outlined by the Court focus on anticipating and avoiding incidents of mob violence. This includes the identification of sensitive areas, monitoring of social media for inflammatory content, and public awareness campaigns to counter misinformation. The Court emphasized that prevention is the most effective way to address mob lynching.

The remedial measures aim to ensure a swift and effective response to incidents. This includes immediate police action, medical assistance to victims, and protection of witnesses. The Court also highlighted the importance of fast-track trials to ensure timely justice.

The punitive measures address accountability, both for perpetrators and for public officials. The Court directed that failure of police or administrative authorities to prevent or respond to mob violence should result in disciplinary action. This creates a

⁹⁴ Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501.

system of checks and balances within the administration.

Another significant aspect of the guidelines is the emphasis on victim compensation. Recognizing the severe impact of mob lynching on victims and their families, the Court directed State Governments to establish schemes for compensation and rehabilitation. These guidelines represent a comprehensive approach to addressing mob lynching, covering all stages from prevention to punishment. However, their effectiveness depends largely on implementation by State authorities.

Other Relevant Supreme Court and High Court Cases
Apart from Tehseen Poonawalla, several other judicial decisions have contributed to the development of legal principles related to mob lynching and vigilante justice.

In *Shakti Vahini v. Union of India*, the Supreme Court dealt with the issue of honor killings and actions by khap panchayats. While not directly related to mob lynching, the case addressed similar concerns regarding collective violence and extrajudicial punishment. The Court held that any attempt by groups to take the law into their own hands is illegal and must be dealt with strictly.⁹⁵

Similarly, in *Arumugam Servai v. State of Tamil Nadu*, the Supreme Court condemned the role of caste-based assemblies in promoting violence and emphasized the need for strict action against such practices. These cases highlight the judiciary's consistent stance against vigilante actions, regardless of the context.

High Courts across India have also dealt with cases involving mob violence, often emphasizing the need for prompt investigation and accountability. In several instances, courts have directed State authorities to take specific measures to prevent recurrence of such incidents.

Another important judicial approach has been the emphasis on constitutional morality. Courts have repeatedly stressed that actions based on social or cultural beliefs cannot override constitutional principles. This is particularly relevant in cases where mob violence is justified on grounds of tradition or community norms.⁹⁶

These judicial pronouncements collectively reinforce the principle that no individual or group has the authority to administer justice outside the legal framework. They also highlight the evolving role of the judiciary in addressing new forms of violence.

Role of Judiciary in Curbing Vigilante Justice

The judiciary plays a multifaceted role in curbing vigilante justice and mob lynching. One of its primary functions is interpretation of law, ensuring that existing legal provisions are applied in a manner that addresses the realities of mob violence. In the absence of specific legislation, judicial interpretation becomes crucial in filling legal gaps.

Another important role is protection of fundamental rights. Through its judgments, the judiciary ensures that the rights to equality, life, and liberty are upheld, even in challenging circumstances. By recognizing mob lynching as a violation of these rights, the courts have elevated the issue to a constitutional level.

The judiciary also acts as a policy catalyst by issuing guidelines and recommendations for legislative and administrative action. The guidelines in the Tehseen Poonawalla case are a prime example of this role. They provide a framework for the State to follow, even in the absence of specific legislation.

In addition, the judiciary plays a key role in ensuring accountability. By holding public officials responsible for their actions or inaction, the courts create incentives for better performance and adherence to legal duties. This is particularly important in cases of mob lynching, where administrative failure can have serious consequences.

The judiciary also contributes to public awareness and deterrence. Judicial pronouncements send a strong message that vigilante justice will not be tolerated and that the rule of law must prevail. This can influence public attitudes and discourage participation in such acts.

However, the role of the judiciary is not without limitations. Courts can issue directions and interpret laws, but effective implementation depends on the executive and law enforcement agencies. Therefore,

⁹⁵*Shakti Vahini v. Union of India*, (2018) 7 SCC 192.

⁹⁶*Arumugam Servai v. State of Tamil Nadu*, (2011) 6 SCC 405.

the success of judicial interventions depends on coordination among all branches of government.⁹⁷

Despite these challenges, the judiciary remains a crucial pillar in the fight against vigilante justice. Its proactive approach has helped to address legal gaps and reinforce constitutional values.

VIII. ROLE OF POLICE AND ADMINISTRATION

Introduction

The effectiveness of any legal framework in addressing mob lynching and vigilante justice depends largely on the role played by the police and administrative machinery. While laws and judicial guidelines provide the normative foundation, their success is determined by how efficiently they are implemented on the ground. In cases of mob violence, the police and district administration serve as the first line of defense, responsible for both preventing incidents and responding to them when they occur.

Mob lynching presents unique challenges for law enforcement due to its spontaneous nature, collective participation, and rapid escalation. The role of the police is therefore not limited to reacting to incidents but extends to proactive measures aimed at preventing such occurrences. Similarly, the administration is tasked with maintaining public order, addressing underlying tensions, and ensuring accountability. This chapter examines the dual role of preventive and reactive policing, the failures observed in handling mob violence, the issue of accountability, and the implementation of judicial guidelines.

Preventive vs Reactive Policing

Policing strategies in the context of mob lynching can broadly be categorized into preventive and reactive approaches. Preventive policing focuses on anticipating and averting incidents before they occur, while reactive policing deals with responding to incidents after they have taken place.

Preventive policing involves identifying potential risk factors such as communal tensions, spread of rumours, and areas with a history of mob violence. It includes measures such as intelligence gathering, community

engagement, and monitoring of social media platforms. By addressing the root causes and early warning signs, preventive policing aims to reduce the likelihood of mob formation.⁹⁸

Community policing plays a significant role in prevention. Building trust between the police and local communities can help in gathering information and diffusing tensions. When citizens perceive the police as accessible and reliable, they are more likely to report suspicious activities or rumours, thereby enabling timely intervention.

Reactive policing, on the other hand, comes into play once an incident has occurred. It involves immediate response to control the situation, rescue victims, and apprehend offenders. Effective reactive policing requires quick mobilization of resources, coordination among different agencies, and adherence to legal procedures.

While both approaches are essential, an over-reliance on reactive policing can be problematic. In many cases, delayed response by law enforcement has resulted in escalation of violence and loss of life. This highlights the importance of strengthening preventive mechanisms.

An ideal policing system should maintain a balance between prevention and response. Preventive measures reduce the occurrence of incidents, while effective response ensures that any incidents that do occur are handled swiftly and lawfully.

Failures in Handling Mob Violence

Despite the existence of legal provisions and judicial guidelines, there have been several instances where the police and administration have failed to effectively handle mob violence. These failures can be categorized into different stages of response.

One of the most critical failures is the inability to prevent incidents. In many cases, authorities have prior information about potential threats, such as circulating rumours or rising tensions, but fail to take timely action. This reflects gaps in intelligence gathering and risk assessment.⁹⁹

Another significant issue is the delay in response. Mob lynching incidents often escalate rapidly, leaving little

⁹⁷ Constitutional law principles and judicial accountability doctrines.

⁹⁸ K.S. Subramanian, *Political Violence and the Police in India* (Sage Publications, 2007).

⁹⁹ Law Commission of India Reports on Public Order and Police Reforms.

time for intervention. However, delays in reaching the scene or mobilizing adequate force can worsen the situation. In some cases, police presence has been insufficient to control large crowds, leading to further violence.

There have also been instances of passive or ineffective intervention, where law enforcement officers fail to take decisive action to disperse mobs or protect victims. Such inaction can be attributed to lack of training, fear of backlash, or inadequate resources. The failure in investigation and prosecution is another area of concern. Identifying perpetrators in a large crowd is challenging, and lack of proper evidence collection can weaken cases. This often results in low conviction rates, which in turn reduces the deterrent effect of the law.

Additionally, allegations of bias or complicity have been raised in certain cases, where authorities are perceived to have acted selectively or failed to protect vulnerable groups. Such perceptions undermine public trust and exacerbate social tensions.

These failures highlight the need for systemic reforms in policing and administration, including better training, resource allocation, and accountability mechanisms.

Accountability of Authorities

Accountability is a crucial aspect of effective governance and law enforcement. In the context of mob lynching, holding authorities accountable for their actions or inaction is essential to ensure compliance with legal and constitutional obligations. The principle of accountability requires that public officials be answerable for their conduct and subject to disciplinary or legal consequences in case of failure. This includes police officers, district administrators, and other officials responsible for maintaining law and order.

The Supreme Court has emphasized the importance of accountability in cases of mob violence. In *Tehseen S. Poonawalla v. Union of India*, the Court directed that failure of officials to prevent or respond to mob lynching should result in disciplinary action.³ This directive underscores the idea that inaction or negligence by authorities is not merely an administrative lapse but a violation of constitutional duties.

Accountability mechanisms may include internal disciplinary proceedings, judicial oversight, and

independent inquiries. These mechanisms aim to identify lapses, assign responsibility, and ensure corrective measures.

However, challenges remain in implementing accountability. Bureaucratic inertia, lack of transparency, and political considerations can hinder effective action. In some cases, officials may avoid responsibility due to the collective nature of decision-making or lack of clear guidelines.

Strengthening accountability requires clear standards of conduct, regular monitoring, and effective grievance redressal systems. It also involves fostering a culture of responsibility within institutions, where adherence to the rule of law is prioritized over other considerations.

Implementation of Supreme Court Guidelines

The guidelines issued by the Supreme Court in *Tehseen S. Poonawalla v. Union of India* provide a comprehensive framework for addressing mob lynching. However, their effectiveness depends on proper implementation by the police and administration.

One of the key requirements is the appointment of nodal officers in each district to monitor and prevent incidents of mob violence. These officers are responsible for coordinating efforts, collecting intelligence, and ensuring timely action. The implementation of this measure has been uneven across states, with variations in effectiveness.

Another important aspect is the monitoring of social media and dissemination of information. Authorities are required to take steps to counter rumours and misinformation that may lead to mob violence. This involves collaboration with technology platforms and public awareness campaigns.

The guidelines also emphasize the need for prompt registration of FIRs and effective investigation. Ensuring that cases are registered without delay and investigated thoroughly is crucial for securing convictions and deterring future incidents.

The establishment of fast-track courts for cases of mob lynching is another important measure. These courts aim to expedite the judicial process and provide timely justice to victims. However, challenges such as case backlog and resource constraints can affect their functioning.

The provision of compensation and support to victims is also a key component of the guidelines. This reflects

a victim-centric approach, recognizing the need for rehabilitation and assistance.

Despite these measures, implementation remains inconsistent. Factors such as lack of coordination, resource limitations, and administrative inefficiencies can hinder progress. Continuous monitoring and evaluation are necessary to ensure that the guidelines are effectively enforced.¹⁰⁰

IX. ROLE OF MEDIA AND SOCIAL MEDIA

Introduction

In contemporary society, media and digital communication platforms play a decisive role in shaping public opinion, influencing behavior, and disseminating information. While traditional media such as newspapers and television have long served as primary sources of information, the rise of social media platforms has transformed the way information is created, shared, and consumed. This transformation has brought both opportunities and challenges, particularly in the context of mob lynching and vigilante justice in India.

Media can act as a powerful tool for awareness, accountability, and transparency. However, when misused or inadequately regulated, it can contribute to misinformation, panic, and even violence. In several instances of mob lynching, the spread of false information through social media platforms has played a critical role in triggering collective violence. At the same time, sensationalist reporting by mainstream media has sometimes amplified tensions and influenced public perception in ways that undermine the rule of law.

This chapter examines the role of media and social media in the context of mob lynching, focusing on the spread of fake news, the impact of online misinformation, the phenomenon of media trials, and the need for effective digital regulation.

Spread of Fake News and Rumours

The spread of fake news and rumours has emerged as one of the most significant factors contributing to mob lynching in India. Fake news refers to false or misleading information presented as factual, often with the intent to deceive or manipulate public

opinion. Rumours, on the other hand, are unverified pieces of information that spread rapidly, particularly in situations of uncertainty or fear.

In the context of mob violence, fake news often takes the form of fabricated stories about criminal activities, communal tensions, or threats to public safety. These narratives can provoke strong emotional reactions, leading individuals to take immediate action without verifying the accuracy of the information.¹⁰¹

The psychological impact of rumours is particularly significant. When individuals perceive a threat to their safety or community, they are more likely to respond impulsively. This is further exacerbated by group dynamics, where individuals in a crowd may reinforce each other's beliefs and actions. As a result, even baseless rumours can escalate into violent incidents.

Another factor contributing to the spread of fake news is the lack of media literacy among the general population. Many individuals may not have the skills or resources to verify information, making them more susceptible to misinformation. This creates an environment where false narratives can thrive and influence behavior.

Traditional media can also play a role in spreading or amplifying rumours, particularly when reporting is based on unverified sources or lacks proper fact-checking. In some cases, the pressure to report breaking news quickly can lead to inaccuracies, which may later be corrected but not before causing harm.

Addressing the issue of fake news requires a combination of technological, legal, and educational measures. Fact-checking mechanisms, responsible journalism, and public awareness campaigns are essential to counter the spread of misinformation.

WhatsApp and Online Misinformation

The rise of messaging platforms such as WhatsApp has significantly altered the landscape of information dissemination. These platforms allow users to share messages, images, and videos instantly with large groups of people, often without any form of verification or oversight. While this has enhanced communication and connectivity, it has also created new challenges in controlling misinformation.

WhatsApp, in particular, has been linked to several incidents of mob lynching in India. Messages

¹⁰⁰ Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501.

¹⁰¹ Cass Sunstein, *On Rumours: How Falsehoods Spread* (Princeton University Press).

containing false information about child kidnappers, organ trafficking, or other threats have circulated widely, leading to panic and suspicion. In many cases, these messages are forwarded repeatedly, creating a sense of credibility and urgency.¹⁰²

One of the key features that contribute to the spread of misinformation on such platforms is end-to-end encryption. While encryption is important for protecting user privacy, it also limits the ability of authorities to monitor and trace the origin of harmful content. This creates a tension between privacy rights and the need for regulation.

Another factor is the viral nature of content. Messages that evoke strong emotions, such as fear or anger, are more likely to be shared. This leads to rapid dissemination of information, often without any verification. The speed at which such messages spread makes it difficult for authorities to intervene in time.

Efforts have been made to address these challenges, including limiting the number of times a message can be forwarded and introducing labels for forwarded messages. However, these measures have had limited success in curbing misinformation.

The role of users is also critical. Individuals often share messages without verifying their authenticity, contributing to the spread of false information. Encouraging responsible behavior and promoting digital literacy are therefore essential components of any solution.

Thus, while platforms like WhatsApp have revolutionized communication, they have also become significant contributors to the spread of misinformation and, indirectly, to incidents of mob violence.

Media Trials and Sensationalism

Another important aspect of the role of media in mob lynching is the phenomenon of media trials and sensationalism. Media trials refer to the practice of conducting parallel investigations or judgments by media outlets, often before the completion of legal proceedings.

In cases of mob violence, media coverage can influence public perception by presenting individuals

as guilty or innocent without proper evidence. This can lead to prejudice, affect the fairness of trials, and undermine the principle of presumption of innocence.¹⁰³

Sensationalism in reporting further exacerbates the problem. Media outlets may use dramatic headlines, selective information, or emotionally charged language to (attract) viewers and increase engagement. While this may boost ratings, it can distort facts and contribute to public panic or anger.

In some instances, sensational reporting has been linked to the escalation of violence. By highlighting certain aspects of an incident without context, media coverage can reinforce stereotypes or communal biases. This can create an environment where vigilante actions are seen as justified.

At the same time, it is important to recognize the positive role of media in exposing incidents of mob lynching and holding authorities accountable. Investigative journalism has brought attention to cases that might otherwise have gone unnoticed.

The challenge lies in balancing the need for information with the responsibility to report accurately and ethically. Adherence to journalistic standards, including verification of facts and avoidance of prejudicial reporting, is essential in this regard.

Courts in India have also addressed the issue of media trials, emphasizing the need to protect the integrity of judicial proceedings. The judiciary has highlighted that freedom of the press must be exercised in a manner that does not interfere with the administration of justice.¹⁰⁴

Need for Digital Regulation

The increasing role of digital platforms in spreading information has raised important questions about regulation. While freedom of speech and expression is a fundamental right under Article 19 of the Constitution, it is subject to reasonable restrictions in the interest of public order and security.

Digital regulation aims to strike a balance between protecting individual freedoms and preventing the misuse of technology for harmful purposes. In the context of mob lynching, regulation is necessary to

¹⁰² Cass Sunstein, On Rumours: How Affairs Advisories on Whatsapp Rumours.

¹⁰³ Government of India, Ministry of Home Affairs Advisories on Whatsapp Rumours.

¹⁰⁴ N.R. Madhava Menon, *Criminal Justice System in India* (LexisNexis, 2007).

control the spread of misinformation and ensure accountability.

Legal frameworks such as the Information Technology Act, 2000, and subsequent rules provide mechanisms for regulating online content and holding intermediaries accountable. These include provisions for removing unlawful content, tracing the origin of messages, and imposing obligations on platforms to ensure compliance.¹⁰⁵

However, the implementation of these regulations presents several challenges. One of the key issues is the global nature of digital platforms, which operate across jurisdictions and may not be subject to uniform laws. This complicates enforcement and coordination. Another concern is the potential impact on freedom of expression. Over-regulation can lead to censorship and restrict legitimate speech. Therefore, regulatory measures must be carefully designed to avoid infringing on fundamental rights.

Technological solutions, such as artificial intelligence and machine learning, can play a role in identifying and removing harmful content. However, these tools are not foolproof and may raise concerns about accuracy and bias.

Public awareness and digital literacy are equally important. Educating users about the risks of misinformation and encouraging responsible behavior can complement regulatory efforts.

In conclusion, effective digital regulation requires a multi-faceted approach that combines legal measures, technological solutions, and public engagement.

X. IMPACT ON DEMOCRATIC SETUP

Introduction

A democratic system is founded on the principles of rule of law, protection of fundamental rights, and supremacy of constitutional authority. The legitimacy of governance in such a system depends on the existence of institutions that ensure justice, equality, and accountability. However, the rise of mob lynching and vigilante justice poses a serious challenge to these foundational principles.

Mob violence represents more than a law-and-order issue; it reflects a deeper crisis within the democratic structure. When individuals or groups assume the role of law enforcers, it undermines the authority of the State and weakens institutional mechanisms designed to deliver justice.¹⁰⁶ This chapter examines the broader impact of mob lynching on the democratic setup in India, focusing on its implications for the rule of law, judicial authority, social cohesion, and fundamental rights.

Threat to Rule of Law

The rule of law is a cornerstone of democracy, ensuring that all individuals and institutions are subject to and governed by law. It guarantees that legal processes are followed, rights are protected, and justice is administered through established mechanisms.

Mob lynching directly threatens this principle by replacing legal procedures with arbitrary and often violent actions. When mobs take the law into their own hands, they bypass investigation, evidence, and judicial scrutiny. This creates a parallel system of “justice” that operates outside the legal framework.¹⁰⁷ Such actions erode public confidence in the legal system. If individuals believe that justice can be achieved through collective violence, the authority of courts and law enforcement agencies is diminished. This can lead to a cycle of lawlessness, where more people resort to vigilante actions, further weakening the rule of law.

The Supreme Court has recognized mob lynching as a manifestation of “mobocracy,” where the rule of law is replaced by the rule of the crowd.¹⁰⁸ This characterization highlights the gravity of the issue and its potential to destabilize democratic governance.

Therefore, the persistence of mob lynching poses a fundamental threat to the rule of law, undermining the very basis of a constitutional democracy.

Undermining Judicial Authority

In a democratic system, the judiciary serves as the ultimate authority for interpreting laws and resolving disputes. It ensures that justice is delivered in a fair and

¹⁰⁵ Sahara India Real Estate Corp. Ltd. v. SEBI, (2012) 10 SCC 603.

¹⁰⁶ Upendra Baxi, *The Rule of Law in India* (Oxford University Press).

¹⁰⁷ A.V. Dicey, *Introduction to the Study of the Law of the Constitution*.

¹⁰⁸ Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501.

impartial manner, based on evidence and legal principles.

Mob lynching undermines this authority by effectively bypassing the judicial process. When mobs punish individuals without trial, they negate the role of courts and deny the accused the right to a fair hearing.¹⁰⁹ This not only violates legal norms but also challenges the legitimacy of the judiciary as an institution.

The impact of such actions extends beyond individual cases. Repeated incidents of mob violence can create a perception that the judicial system is ineffective or irrelevant. This perception can weaken public trust and reduce reliance on legal institutions.

Moreover, media trials and public opinion can sometimes influence the judicial process, further complicating the situation. When narratives are shaped outside the courtroom, they can affect the fairness and impartiality of legal proceedings.

The judiciary has attempted to address these challenges through proactive interventions, including issuing guidelines and emphasizing the need for accountability. However, the effectiveness of these measures depends on their implementation by other branches of government.

Thus, mob lynching not only disrupts individual cases but also undermines the broader authority and credibility of the judicial system.

Minority Insecurity and Social Division

One of the most significant social consequences of mob lynching is the sense of insecurity it creates among minority and vulnerable groups. In many instances, victims of mob violence belong to specific religious, caste, or ethnic communities. This pattern raises concerns about discrimination and selective targeting.¹¹⁰

When certain groups are disproportionately affected, it creates a perception of bias and exclusion. Members of these communities may feel that they are not adequately protected by the State, leading to fear and mistrust. This undermines the principle of equality, which is fundamental to a democratic society.

Mob lynching also contributes to social division by reinforcing stereotypes and prejudices. Incidents of violence can deepen existing tensions and create new

fault lines within society. This can lead to polarization, where communities become increasingly isolated and distrustful of each other.

The long-term impact of such division is significant. It affects social cohesion, economic development, and overall stability. A society marked by fear and mistrust is less likely to function effectively as a democracy.

Addressing these issues requires not only legal measures but also efforts to promote inclusivity, tolerance, and mutual respect. Strengthening social harmony is essential to counter the divisive effects of mob violence.

Erosion of Fundamental Rights

Fundamental rights are the backbone of the Indian Constitution, ensuring the protection of individual freedoms and dignity. Mob lynching poses a direct threat to these rights, particularly the right to life and personal liberty under Article 21 and the right to equality under Article 14.¹¹¹

When individuals are subjected to violence without due process, their fundamental rights are violated in the most extreme manner. The denial of a fair trial and the arbitrary nature of mob actions further exacerbate these violations.

The erosion of fundamental rights is not limited to victims alone. The fear of violence can restrict the freedom of movement, expression, and association of entire communities. This creates a chilling effect, where individuals may avoid certain activities or expressions to protect themselves.

The State has a constitutional obligation to protect fundamental rights and ensure that violations are addressed promptly and effectively. Failure to do so not only harms individuals but also weakens the constitutional framework.

Judicial interventions have highlighted the importance of safeguarding fundamental rights in the face of mob violence. However, ensuring their effective protection requires coordinated efforts from all branches of government.

Thus, mob lynching represents a serious challenge to the protection and enforcement of fundamental rights in India.

¹⁰⁹ Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

¹¹⁰ Christophe Jaffrelot, *Religion, Caste and Politics in India*.

¹¹¹ Constitution of India, Arts. 14 & 21.

Rise of “Mob Sovereignty” vs Constitutional Sovereignty

The concept of sovereignty in a democracy is rooted in the Constitution, which serves as the supreme law of the land. Constitutional sovereignty implies that all actions, whether by individuals or institutions, must conform to legal and constitutional norms.

Mob lynching, however, reflects a shift towards what may be termed as “mob sovereignty,” where the will of the crowd takes precedence over the rule of law. In such a scenario, decisions are driven by emotions, prejudices, or immediate perceptions rather than legal principles.

This shift poses a serious threat to democratic governance. If mob sovereignty becomes normalized, it can lead to a breakdown of institutional authority and the emergence of arbitrary power structures.⁷ the distinction between lawful authority and unlawful action becomes blurred, creating uncertainty and instability.

The rise of mob sovereignty also undermines the legitimacy of the State. When individuals or groups assume the role of law enforcers, it suggests a lack of confidence in State institutions. This can weaken governance and reduce the effectiveness of public policies.

Countering this trend requires reaffirming the supremacy of the Constitution and strengthening institutional mechanisms. Public awareness and education about constitutional values are also essential in promoting respect for the rule of law.

Ultimately, the conflict between mob sovereignty and constitutional sovereignty highlights the importance of preserving democratic principles in the face of emerging challenges.

XI. COMPARATIVE ANALYSIS

Introduction

The phenomenon of mob lynching is not unique to India; it has been observed in various forms across different countries and historical contexts. However, the legal responses to such acts have varied significantly depending on social, political, and institutional frameworks. A comparative analysis of anti-lynching laws and measures adopted in other

jurisdictions, along with legislative efforts within Indian states, provides valuable insights into how such violence can be addressed effectively.

This chapter examines anti-lynching frameworks in selected countries, reviews legislative initiatives undertaken by Indian states, and identifies key lessons that can inform a more robust legal and policy response in India.

Anti-Lynching Laws in Other Countries

(a) United States of America

The United States has a long and complex history of lynching, particularly in the late 19th and early 20th centuries, where such acts were often racially motivated. For decades, the absence of federal legislation specifically addressing lynching was a significant gap in the legal framework. However, persistent advocacy led to the enactment of the Emmett Till Anti-Lynching Act, 2022, which classifies lynching as a federal hate crime.¹¹²

This law allows federal authorities to prosecute individuals involved in lynching, particularly when such acts are motivated by bias related to race, religion, or other protected characteristics. The recognition of lynching as a distinct offence underscores the importance of addressing the specific nature and impact of such violence.

The U.S. approach also highlights the role of civil rights laws and federal intervention in addressing systemic violence. By treating lynching as a hate crime, the law acknowledges the broader social and historical context in which such acts occur.

(b) African and Latin American Contexts

In several African and Latin American countries, mob justice has emerged as a response to weak law enforcement and lack of trust in state institutions. While many of these countries do not have specific anti-lynching laws, they address such acts through provisions related to homicide, public disorder, and human rights violations.¹¹³

For example, in countries like Nigeria and Brazil, incidents of mob violence are prosecuted under general criminal laws, but there have been increasing calls for specific legislation to address the issue. The

¹¹² Emmett Till Anti-Lynching Act, 2022 (USA).

¹¹³ United Nations Human Rights Reports on Extrajudicial Killings.

lack of targeted legal provisions often results in inconsistent enforcement and limited deterrence.

These jurisdictions demonstrate the challenges faced by countries with limited institutional capacity. They highlight the importance of strengthening law enforcement and ensuring public trust as key components of addressing mob violence.

(c) United Kingdom

The United Kingdom does not have a specific offence labeled as “lynching,” but its legal framework effectively addresses such acts through laws on murder, assault, rioting, and hate crimes.¹¹⁴ The UK also places strong emphasis on policing, surveillance, and rapid response to public disorder.

One notable aspect of the UK system is the focus on public order offences and the use of preventive measures to control crowds. The legal framework allows authorities to take action against individuals who incite or participate in violence, even before serious harm occurs.

The UK experience demonstrates that a comprehensive legal framework, combined with effective enforcement and preventive policing, can address mob violence without necessarily having a separate offence for lynching.

Indian States with Proposed Anti-Lynching Laws

In India, the absence of a central law specifically addressing mob lynching has led several states to take independent legislative initiatives. These efforts reflect the growing recognition of the need for targeted legal measures.

(a) Manipur

Manipur was one of the first states to enact a specific law addressing mob lynching through the Manipur Protection from Mob Violence Act, 2018.¹¹⁵ This legislation defines mob violence and provides for stringent punishment, including life imprisonment in cases resulting in death.

The Act also includes provisions for preventive measures, such as the appointment of nodal officers and the identification of areas prone to mob violence. It emphasizes victim compensation and rehabilitation, reflecting a victim-centric approach.

Manipur’s law is significant as it provides a comprehensive framework addressing prevention, punishment, and victim support.

(b) Rajasthan

The state of Rajasthan introduced the Rajasthan Protection from Lynching Bill, 2019, aimed at creating a specific offence of lynching and prescribing penalties based on the severity of the act.¹¹⁶ The Bill defines lynching as an act of violence by a mob on the grounds of religion, caste, sex, place of birth, or other specified factors.

The Bill also includes provisions for fast-track courts, compensation to victims, and punishment for officials who fail to prevent such incidents. However, like many state laws, its implementation has faced challenges, including delays in receiving necessary approvals.

Rajasthan’s initiative highlights the importance of recognizing the identity-based nature of mob violence and addressing it through specific legal provisions.

(c) West Bengal

The West Bengal (Prevention of Lynching) Bill, 2019 represents another significant effort to address mob violence at the state level.¹¹⁷ The Bill provides for stringent punishment, including life imprisonment and the death penalty in extreme cases.

It also introduces the concept of accountability of public officials, making it an offence for authorities to fail in their duty to prevent lynching. Additionally, the Bill emphasizes witness protection and victim compensation, aiming to strengthen the overall legal response.

West Bengal’s approach reflects a comprehensive understanding of the issue, addressing both legal and administrative aspects.

Lessons for India

The comparative analysis of international frameworks and state-level initiatives in India offers several important lessons for developing an effective response to mob lynching.

One key lesson is the importance of recognizing mob lynching as a distinct offence. The example of the

¹¹⁴ UK Public Order Act and criminal law provisions.

¹¹⁵ Manipur Protection from Mob Violence Act, 2018.

¹¹⁶ Rajasthan Protection from Lynching Bill, 2019.

¹¹⁷ West Bengal (Prevention of Lynching) Bill, 2019.

United States demonstrates that specific legislation can enhance clarity, improve data collection, and strengthen deterrence. A clear definition of the offence also facilitates consistent enforcement.

Another lesson is the need for a comprehensive approach that goes beyond punishment. State laws such as those in Manipur and West Bengal emphasize preventive measures, victim compensation, and administrative accountability. This holistic approach is essential for addressing the root causes and consequences of mob violence.

The role of accountability mechanisms is also crucial. Holding public officials responsible for failure to prevent or respond to incidents can improve enforcement and build public trust. This aspect has been highlighted in both judicial guidelines and state legislation.

The importance of public awareness and social cohesion is another key takeaway. Legal measures alone are not sufficient to address mob lynching; efforts must also be made to promote tolerance, reduce misinformation, and strengthen community relations.

Additionally, the need for uniform national legislation is evident. While state laws represent important steps, variations in legal frameworks can lead to inconsistencies in enforcement. A central law would provide uniform standards and ensure coordinated action across the country.

Finally, the comparative analysis highlights the significance of effective implementation. Even the most comprehensive laws are ineffective without proper enforcement. Strengthening institutional capacity, improving training, and ensuring coordination among agencies are essential for success.

XII. CRITICAL ANALYSIS

Introduction

The phenomenon of vigilante justice and mob lynching presents complex legal, ethical, and societal challenges. While earlier chapters have examined the conceptual, legal, and institutional dimensions of mob violence, a critical analysis is necessary to evaluate the underlying assumptions, gaps, and contradictions within the existing framework.

This chapter seeks to analyze whether vigilante justice can ever be justified, assess the limitations of the Bharatiya Nyaya Sanhita, 2023 (BNS), identify implementation challenges, and examine the broader political and social dynamics influencing such acts. It also explores the tension between public perception and legal norms, which often shapes responses to mob violence.

Is Vigilante Justice Ever Justified? (Legal & Ethical View)

From a legal standpoint, vigilante justice is fundamentally incompatible with the rule of law. The legal system is based on established procedures, including investigation, evidence, and adjudication by competent authorities. Any attempt by individuals or groups to bypass this process and impose punishment undermines the legitimacy of the legal system.¹¹⁸

The Constitution of India guarantees fundamental rights such as the right to life and personal liberty, which cannot be curtailed without due process of law. Vigilante actions, by their very nature, violate these rights and therefore cannot be justified within the legal framework.

From an ethical perspective, however, the issue is more complex. Some arguments in favor of vigilante justice are based on the perceived failure of state institutions to deliver timely and effective justice. In situations where individuals feel that the legal system is inaccessible or inefficient, they may resort to self-help or collective action.¹¹⁹

Despite these arguments, ethical theories such as deontological ethics emphasize the importance of adhering to moral rules and duties, regardless of outcomes. From this perspective, taking the law into one's own hands is inherently wrong, as it violates the principles of fairness and justice.

Similarly, utilitarian perspectives may also reject vigilante justice, as the harm caused by arbitrary and often violent actions outweighs any perceived benefits. Mob violence can lead to wrongful punishment, escalation of conflict, and long-term social harm.

Therefore, while the motivations behind vigilante justice may sometimes be rooted in frustration or fear, it cannot be justified either legally or ethically. The

¹¹⁸ Upendra Baxi, *The Rule of Law in India* (Oxford University Press).

¹¹⁹ N.R. Madhava Menon, *Criminal Justice System in India* (LexisNexis, 2007).

appropriate response lies in strengthening institutions and ensuring access to justice, rather than endorsing extrajudicial actions.

Gaps in BNS 2023

The Bharatiya Nyaya Sanhita, 2023 represents a significant reform in India's criminal law framework. However, as discussed in earlier chapters, it does not explicitly define or criminalize mob lynching as a separate offence. This omission constitutes one of the primary gaps in the legal framework.¹²⁰

The absence of a specific provision creates challenges in classification and prosecution. Cases of mob lynching are addressed through general provisions related to murder, rioting, and unlawful assembly. While these provisions provide a basis for legal action, they do not capture the unique characteristics of mob violence, such as collective intent and targeted aggression.

Another gap is the lack of clear guidelines on responsibility and accountability. Although principles of collective liability exist, the practical application of these principles can be difficult, particularly in identifying individual roles within a mob.

The BNS also does not adequately address the role of digital platforms and misinformation, which are significant contributors to mob violence. While other laws may cover aspects of online activity, the absence of integrated provisions limits the effectiveness of the legal response.

Additionally, the BNS does not provide a comprehensive framework for victim protection and rehabilitation in the specific context of mob lynching. While general provisions exist, a targeted approach could enhance support for victims and their families. These gaps highlight the need for further legal reforms, including the possibility of introducing a specific offence of mob lynching and strengthening related provisions.

Implementation Challenges

Even where legal provisions and judicial guidelines exist, their effectiveness depends on implementation.

In the context of mob lynching, several challenges hinder the enforcement of laws and policies.

One major challenge is the capacity of law enforcement agencies. Police forces often face resource constraints, lack of training, and inadequate infrastructure, which affect their ability to prevent and respond to incidents of mob violence.¹²¹

Another issue is the difficulty in evidence collection and prosecution. Identifying perpetrators in a large crowd is inherently challenging, and the lack of reliable evidence can weaken cases. Witnesses may also be reluctant to come forward due to fear of retaliation.

The delay in judicial processes further complicates the situation. Prolonged trials can reduce the deterrent effect of the law and contribute to public frustration. This, in turn, may reinforce the perception that vigilante justice is a more effective alternative.

Coordination among different agencies, including police, administration, and judiciary, is another area of concern. Lack of coordination can lead to gaps in response and accountability.

Finally, the implementation of Supreme Court guidelines, such as those issued in *Tehseen S. Poonawalla v. Union of India*, has been inconsistent across states. This uneven implementation limits the effectiveness of judicial interventions.¹²²

Addressing these challenges requires systemic reforms, including capacity building, improved coordination, and enhanced accountability mechanisms.

Political and Social Dimensions

Mob lynching cannot be understood solely as a legal issue; it is deeply influenced by political and social factors. In many cases, such incidents are linked to identity-based tensions, including religion, caste, and ethnicity. These factors can shape both the occurrence of mob violence and the response of authorities.¹²³

Political dynamics play a significant role in shaping public discourse and policy responses. Statements by political leaders, media narratives, and public debates

¹²⁰ Bharatiya Nyaya Sanhita, 2023.

¹²¹ Law Commission of India Reports on Police Reforms.

¹²² *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501.

¹²³ Christophe Jaffrelot, *Religion, Caste and Politics in India*.

can influence perceptions of mob lynching and affect the willingness of authorities to take action.

Social factors such as prejudice, misinformation, and group dynamics also contribute to the phenomenon. The spread of rumours, often through social media, can create fear and suspicion, leading to collective action.

The normalization of certain forms of vigilante behavior is another concern. When such actions are justified or tolerated, it creates an environment where mob violence becomes more likely.

Addressing these dimensions requires a broader approach that goes beyond legal measures. Promoting social cohesion, addressing inequalities, and fostering a culture of tolerance are essential to reducing the incidence of mob lynching.

Conflict Between Public Perception and Legal Norms

One of the key challenges in addressing vigilante justice is the conflict between public perception and legal norms. In some cases, sections of society may view vigilante actions as justified, particularly when they believe that the legal system has failed to deliver justice.

This perception is often influenced by factors such as media coverage, personal experiences, and social narratives. When individuals perceive the legal system as slow or ineffective, they may be more inclined to support extrajudicial actions.

However, legal norms are based on principles of fairness, due process, and protection of rights. These principles are essential for ensuring justice and preventing abuse. Allowing public perception to override legal norms can lead to arbitrary and unjust outcomes.

The tension between these two perspectives creates challenges for policymakers and law enforcement agencies. On one hand, they must address public concerns and improve the effectiveness of the legal system. On the other hand, they must uphold constitutional principles and prevent the normalization of vigilante justice.

Bridging this gap requires efforts to enhance public trust in institutions. This includes improving the efficiency of the legal system, ensuring transparency,

and promoting awareness of legal rights and processes.

Ultimately, aligning public perception with legal norms is essential for maintaining the integrity of the justice system and preventing mob violence

XIII. SUGGESTIONS AND REFORMS

Introduction

The persistence of mob lynching and vigilante justice in India reflects not only gaps in the legal framework but also systemic weaknesses in enforcement, governance, and social awareness. While earlier chapters have examined the conceptual, legal, and institutional dimensions of the issue, it is equally important to propose practical and effective reforms.

Addressing mob lynching requires a comprehensive approach that combines legislative action, institutional strengthening, and social change. This chapter outlines key suggestions and reforms, including the need for a specific anti-lynching law, police reforms, fast-track judicial mechanisms, public awareness initiatives, regulation of social media, and victim compensation systems.

Need for a Specific Anti-Lynching Law

One of the most significant reforms required is the enactment of a specific anti-lynching law at the national level. As discussed in earlier chapters, the existing legal framework relies on general provisions relating to homicide, rioting, and unlawful assembly. While these provisions provide a basis for prosecution, they do not adequately capture the unique nature of mob lynching.¹²⁴

A dedicated law would provide a clear definition of mob lynching, including its essential elements such as collective violence, targeted attacks, and the role of misinformation. This would facilitate consistent classification and data collection, enabling better policy formulation.

Such a law should also incorporate graded punishments based on the severity of the offence, ranging from imprisonment for lesser offences to life imprisonment or more severe penalties in cases resulting in death. The inclusion of aggravating factors, such as targeting of vulnerable groups or

¹²⁴ Bharatiya Nyaya Sanhita, 2023 (analysis of provisions).

premeditated acts, would enhance the effectiveness of the law.

In addition, the law should provide for preventive measures, including the identification of vulnerable areas, monitoring of potential threats, and appointment of nodal officers. These measures would help in addressing the issue proactively rather than reactively. The Supreme Court has also emphasized the need for a specific law to deal with mob lynching, highlighting the limitations of existing provisions.¹²⁵ Enacting such legislation would demonstrate the State's commitment to addressing the issue and strengthening the rule of law.

Police Reforms

Effective policing is crucial for preventing and responding to mob lynching. However, several structural and operational challenges limit the capacity of law enforcement agencies. Addressing these challenges requires comprehensive police reforms. One key area of reform is capacity building and training. Police personnel need to be equipped with the skills and knowledge required to handle situations involving mob violence, including crowd control, conflict resolution, and use of technology.¹²⁶ Regular training programs can enhance their ability to respond effectively.

Another important aspect is resource allocation. Adequate manpower, infrastructure, and technological support are essential for effective policing. This includes access to surveillance systems, communication tools, and data analysis capabilities.

The concept of community policing should also be strengthened. Building trust between the police and local communities can facilitate information sharing and early intervention. When citizens view the police as approachable and reliable, they are more likely to cooperate in preventing incidents.

Accountability mechanisms must also be reinforced. Clear guidelines should be established to hold officers responsible for failure to prevent or respond to mob violence. This would ensure adherence to legal and constitutional obligations.

Police reforms are not limited to operational changes but also involve institutional restructuring. Ensuring independence, transparency, and professionalism within the police force is essential for effective law enforcement.

Fast-Track Courts

The delay in judicial processes is a significant factor contributing to the persistence of mob lynching. Prolonged trials can weaken the deterrent effect of the law and reduce public confidence in the justice system. Establishing fast-track courts for cases of mob violence can address this issue.

Fast-track courts are designed to expedite the adjudication of cases, ensuring timely justice for victims and accountability for offenders. By prioritizing cases of mob lynching, these courts can reduce delays and improve conviction rates.

The effectiveness of fast-track courts depends on several factors, including adequate staffing, efficient case management, and coordination with law enforcement agencies. Proper training of judges and prosecutors is also essential to handle the complexities of such cases.

In addition to speed, it is important to ensure that the quality of justice is not compromised. Fast-track mechanisms should adhere to principles of fairness, due process, and transparency.

The establishment of fast-track courts would also send a strong message about the seriousness of mob lynching and the commitment of the State to addressing it.¹²⁷

Public Awareness Campaigns

Legal and institutional reforms must be complemented by efforts to address the social and psychological factors contributing to mob lynching. Public awareness campaigns play a crucial role in this regard. Such campaigns should focus on promoting awareness about the consequences of mob violence, the importance of verifying information, and the role of individuals in maintaining social harmony. Educating citizens about their legal rights and responsibilities can

¹²⁵ Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501.

¹²⁶ Law Commission of India Reports on Police Reforms.

¹²⁷ Reports on Fast-Track Courts and Criminal Justice Delivery

help in preventing impulsive actions based on rumours.

Awareness initiatives can be conducted through various mediums, including schools, community programs, and media platforms. Collaboration with civil society organizations, educational institutions, and local leaders can enhance the reach and effectiveness of these campaigns.

Special emphasis should be placed on digital literacy, enabling individuals to (identify) and critically evaluate information shared on social media. This is particularly important in an era where misinformation spreads rapidly.

Public awareness campaigns can also promote values such as tolerance, empathy, and respect for diversity. By addressing underlying social attitudes, these initiatives can contribute to long-term change.

Regulation of Social Media

The role of social media in spreading misinformation and triggering mob violence has been widely recognized. Effective regulation of digital platforms is therefore essential to address this issue.

Legal frameworks such as the Information Technology Act, 2000, and related rules provide a basis for regulating online content. These include provisions for removing unlawful content, tracing the origin of messages, and imposing obligations on intermediaries.¹²⁸

However, regulation must strike a balance between preventing misuse and protecting freedom of expression. Over-regulation can lead to censorship and restrict legitimate speech, while under-regulation can allow harmful content to proliferate.

Technological solutions can complement legal measures. Platforms can use algorithms and artificial intelligence to detect and remove false or harmful content. At the same time, transparency and accountability mechanisms should be in place to ensure fairness.

Collaboration between government agencies, technology companies, and civil society is essential for effective regulation. International cooperation may also be required, given the global nature of digital platforms.

Ultimately, regulating social media requires a multi-dimensional approach that addresses legal, technological, and social aspects.

Victim Compensation Mechanisms

Providing adequate support to victims of mob lynching is a critical aspect of justice. Victim compensation mechanisms aim to address the physical, emotional, and financial impact of such incidents.

Compensation schemes should be designed to provide timely and adequate financial assistance to victims and their families. This includes covering medical expenses, loss of income, and other related costs.

In addition to financial support, victims require rehabilitation and counseling services. Addressing psychological trauma is essential for their recovery and reintegration into society.

The process of obtaining compensation should be simple and accessible, with clear guidelines and minimal bureaucratic hurdles. Delays in disbursement can undermine the effectiveness of these schemes.

The Supreme Court has emphasized the importance of victim compensation in cases of mob lynching, highlighting the need for a victim-centric approach.¹²⁹ Strengthening compensation mechanisms not only provides relief to victims but also reinforces the State's commitment to justice and accountability.

XIV. CONCLUSION

Introduction

The issue of vigilante justice and mob lynching represents one of the most pressing challenges to the rule of law and democratic governance in contemporary India. Throughout this study, an attempt has been made to examine the phenomenon from multiple dimensions, including conceptual, legal, constitutional, institutional, and societal perspectives. The analysis highlights that mob lynching is not merely an isolated criminal act but a complex social problem that reflects deeper structural and institutional deficiencies.

This concluding chapter brings together the key findings of the study, presents final observations, and

¹²⁸ Information Technology Act, 2000 and Intermediary Guidelines.

¹²⁹ Supreme Court guidelines on victim compensation in mob lynching cases.

outlines the future outlook for addressing the issue in a comprehensive and sustainable manner.

Summary of Findings

The study begins by establishing the conceptual framework of vigilante justice, identifying it as a form of extrajudicial action undertaken by individuals or groups who assume the role of law enforcers. It distinguishes between lawful authority exercised by the State and unlawful actions carried out by mobs, emphasizing the importance of due process and institutional accountability.

The analysis of mob lynching in India reveals certain recurring patterns and triggers. These include the spread of rumours, particularly through social media, identity-based tensions related to religion or caste, and allegations of criminal activities such as theft or child abduction. The study also highlights the role of misinformation and group dynamics in escalating such incidents.

From a constitutional perspective, mob lynching is identified as a direct violation of fundamental rights, particularly the right to life and personal liberty under Article 21 and the right to equality under Article 14. The phenomenon undermines the rule of law by replacing legal procedures with arbitrary actions.

The examination of the legal framework prior to the Bharatiya Nyaya Sanhita, 2023 (BNS) reveals that the Indian Penal Code, 1860 (IPC) did not contain specific provisions addressing mob lynching. Instead, such incidents were prosecuted under general provisions relating to murder, culpable homicide, unlawful assembly, and rioting. While these provisions provided a basis for legal action, they were not designed to address the unique characteristics of mob violence.

The introduction of the BNS represents an important step in modernizing criminal law. However, the study finds that it does not explicitly define or criminalize mob lynching as a separate offence. Although the BNS incorporates provisions relating to group crimes and collective liability, the absence of a specific provision continues to pose challenges in classification and enforcement.

Judicial interventions, particularly the decision in *Tehseen S. Poonawalla v. Union of India*, have played

a crucial role in addressing the issue. The Supreme Court recognized mob lynching as a serious threat to the rule of law and issued comprehensive guidelines to prevent and respond to such incidents.¹³⁰ These guidelines provide a framework for preventive, remedial, and punitive measures, emphasizing the responsibility of the State and its agencies.

The study also examines the role of police, administration, media, and social media in the context of mob lynching. It identifies significant gaps in preventive policing, delays in response, and challenges in investigation and prosecution. The role of misinformation, particularly through digital platforms, is highlighted as a key factor contributing to the spread of violence.

Comparative analysis with other countries and state-level initiatives in India reveals the importance of recognizing mob lynching as a distinct offence and adopting a comprehensive approach that includes prevention, punishment, and victim support.

Finally, the study identifies the broader impact of mob lynching on democratic governance, including the erosion of fundamental rights, undermining of judicial authority, and the rise of what may be termed as “mob sovereignty.”

Final Observations

The findings of this study underscore the seriousness of mob lynching as a threat to the constitutional and legal framework of India. It is evident that the phenomenon cannot be addressed solely through existing legal provisions or reactive measures. Instead, it requires a holistic approach that combines legal reform, institutional strengthening, and social transformation.

One of the key observations is that vigilante justice cannot be justified under any circumstances. While it may arise from frustration with perceived failures of the legal system, it ultimately leads to greater injustice and instability. Upholding the rule of law requires strict adherence to legal procedures and rejection of extrajudicial actions.

Another important observation is the need for clarity and specificity in the legal framework. The absence of a dedicated law on mob lynching creates ambiguity and limits the effectiveness of enforcement.

¹³⁰ *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501.

Recognizing mob lynching as a distinct offence would enhance both the symbolic and practical aspects of the legal response.

The study also highlights the importance of institutional accountability. Failures in policing and administration contribute significantly to the occurrence and escalation of mob violence. Ensuring accountability of public officials is essential for improving performance and building public trust.

The role of media and social media emerges as a double-edged sword. While these platforms can promote awareness and accountability, they can also contribute to misinformation and sensationalism. Regulating digital content and promoting responsible journalism are therefore critical components of the solution.

Another key observation is the need to address the social and psychological dimensions of mob lynching. Factors such as prejudice, fear, and group dynamics play a significant role in shaping behavior. Addressing these factors requires efforts to promote education, awareness, and social cohesion.

The study also emphasizes the importance of victim-centric approaches. Providing adequate compensation, support, and rehabilitation to victims is essential for ensuring justice and restoring confidence in the system.

Overall, the findings suggest that addressing mob lynching requires a coordinated effort involving all branches of government, as well as active participation from civil society and the public.

Future Outlook

Looking ahead, the challenge of addressing mob lynching presents both risks and opportunities. On one hand, the persistence of such incidents poses a serious threat to democratic governance and social stability. On the other hand, the growing recognition of the issue provides an opportunity for meaningful reform.

One of the key priorities for the future is the enactment of a comprehensive anti-lynching law at the national level. Such legislation should provide a clear definition of the offence, prescribe appropriate punishments, and incorporate preventive and remedial measures. It should also address the role of misinformation and digital platforms.

Strengthening institutional capacity is another important aspect. This includes improving policing, enhancing judicial efficiency, and ensuring effective coordination among different agencies. Investment in training, technology, and infrastructure is essential for achieving these objectives.

The role of technology will continue to be significant in shaping the future of this issue. While digital platforms have contributed to the spread of misinformation, they also offer opportunities for monitoring, prevention, and awareness. Leveraging technology effectively can enhance the ability of authorities to respond to emerging threats.

Promoting public awareness and education is equally important. Encouraging critical thinking, digital literacy, and respect for constitutional values can help in reducing the influence of misinformation and preventing impulsive actions.

The judiciary is expected to continue playing a proactive role in addressing mob lynching. Through its interpretations and directions, it can provide guidance and ensure accountability. However, the effectiveness of judicial interventions depends on their implementation by the executive.

Finally, addressing mob lynching requires a broader commitment to strengthening the rule of law and democratic institutions. This includes ensuring transparency, accountability, and inclusivity in governance. By reinforcing these principles, it is possible to create an environment where justice is delivered through lawful means and the likelihood of mob violence is minimized.¹³¹

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