

# Mob Lynching Vis-a-Vis Rule of Law and Democracy: Recent Legislative and Judicial Trends in India

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## Abstract

In recent years, mob lynching has become more widespread in India. Lynching refers to the execution of a person by a mob without legal authorization. Caste, religion, region, politics, witch hunts, and intolerance are the main causes of mob lynching in India. There is no codified law in India prohibiting mob lynching; however, Sub Section (a) of Section 223 of the Criminal Procedure Code, 1973 contains the relevant provision for persons being charged jointly for the same offence committed in the course of the same transaction that is applicable to two or more people. Those who are lynched are treated inhumanely. They are frequently beaten, chained, and hanged, resulting in serious injury or death. This article will focus on a study of the causes of mob lynching, the current legal framework in this area, and the question of whether an explicit statute is required. This research focuses on the current legal frameworks for mob lynching, the problems with these frameworks, and the need for special laws to deal with such brutality. The Supreme Court's ideas, as well as laws introduced by Members of Parliament to prevent such heinousness, are included in this study. In the context of rule of law and democracy, the current Article will attempt to analyse recent legislative and judicial trends in India for mob lynching.

**Keywords:** Mob Lynching, Mob Violence, Hate Crimes, Mobocracy, legislative, democracy.

## 1. INTRODUCTION

Lynching is a new practice that has been observed in our modern India since 2013 (Pandey, Nitiya Nand, 2018). A number of incidences of mob lynching have been reported in various Indian states. Lynching is a new type of brutality in which people are separated based on their religion, caste, race, or ideology. Mob lynching refers to a group of individuals circumventing the legal system in order to enforce what they believe is justice (Yadav, Anandita 2018). In a short period of time, mob lynching has increased dramatically in India. Many innocent people have been mercilessly tortured, and some have even died for no reason. Extremism, casteism, robbery, extortion, rape, anti-nationalist, witch-hunting, class struggle, and political motives are all motivations for mob lynching. The rule of law is called into doubt by mob lynching violence, in which a group of individuals becomes the law, judge, and executioner. (Ojha, Megha 2017).

There is no explicit legislation or punishment for lynching in the Indian Legal System. Lynching is defined as the killing of someone by a mob without the consent of a court of law. (Dubey, Rashmi and Sakhalkar, Ujjwala, 2019) When two Americans named Charles Lynch and William Lynch were fighting for the American Revolution, they came up with the term "lynch law," which they used to refer to a method of dealing with black people. The purpose and significance of this derivation were to punish people without a trial. Lynch law made use of the inferiority process, which implies that it targeted a certain group or community of people in society, such as blacks, who were the intended target in America. A systematic form of physical violence in all political, legal, educational, economic, religious, military, and mass media arenas was described by William Oliver (1989) as the "Inferiority Process," which was "a systematic form of physical violence in all political, legal, educational, economic, religious, military, and mass media arenas to bring all institutions under control of Whites."

Lynching is an illegal murder committed by a crowd that is both thoughtless and morally depraved. It is not a new phenomenon in India; during the 1857 insurrection, mobs attacked British civilians; during the 1947 partition, mobs attacked families and individuals in villages and cities; and they even set fire to the properties of people who practiced a different faith. Finally, mob violence during communal conflagrations, such as those involving Sikhs in 1984, Christians in the Kandamahal riots in 2009, Muslims in the Bombay riots in 1992, Gujarat riots in 2002, Muzaffarnagar riots in 2013, and Baksa riots in 2015, is a serious concern (Uikey, Seema and Dubey, Nidhi, 2018).

Innocent persons are attacked by mobs motivated by an ideology of hatred for the 'other,' with the goal of dehumanising and demonising the 'other.' Fear of the 'other' is created in the community via deft use of social media and traditional media. Mobs' passions, fear, and hostility are stoked by emotional topics such as cow protection; friendship between two men of different religions is labelled as "love jihad." Ironically, these are also litmus tests for nationalism or instilling dread of innocent children being

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kidnapped or larceny being perpetrated (Chandra, Rakesh, 2018). Between 2014 and 3 March 2018, 45 people were slain in 40 incidences of mob lynching across nine states, according to data provided by the Ministry of Home Affairs.

## 1.1 The Indian Law and Lynching

Lynching is a serious crime that can result in a person's death or injury if one or more people are killed. Although it will be a murderous act, the Indian Penal Code will not be sufficient to prosecute the criminal mob. Lynchings are usually prosecuted under IPC Section 302 (formerly IPC Section 307), IPC Section 324 (the purpose of being hurt or injured with intent), and IPC Section 147 (for rioting). But is Indian law suitable and sufficient for the crime of mob lynching? All of these IPC sections apply to a single or a few people, but in a lynching incident, hundreds of people are involved in locating the specific person or suspect, and an uncountable crowd of violent people is easily removed from the police and law. Because there was no clear pre-planned murder reason and no one had a murder weapon, charging IPC Section 302, 307, 324 were insufficient.

There is no definition or punishment for mob lynching in the Indian legal system. It is critical to prepare legal modifications for lynching crimes based on the Acid Attack Crime Commandments of 2013. Prior to 2013, an acid attack crime was reported under the IPC section, but it was judged to be insufficient to deal with the victim's mental and bodily injuries, and it did not cover the victim's treatment costs. After a 2013 criminal law modification, 326A and 326B were introduced, each carrying a five- to ten-year sentence.

A person or verb implicated in the same offence in the same act can be recorded and tried jointly, according to the Code of Criminal Procedure (CrPC) Section 223(a) of 1973. How is it conceivable that this may justify mob lynching?

A civil society group called the National Campaign Against Mob Lynching, which was founded by lawyer and social activist Sanjay Hegde, Prakash Ambedkar, youth leader Jignesh mevani (now MLA Gujarat), Tehseen poonawalla (Congress), Kanhaiya Kumar, and Shehla Rashid (both JNU PhD scholars), has relieved a draft Bill titled Manav Suraksha Kanon (MASUKA). They proposed a law prohibiting mob and lynching, as well as proposals for making it a non-bailable offence, a time-limited court investigation, and recompense for victims' families. The protection from lynching Bill 2017 was introduced in the Rajya Sabha by KTS Tulsii in December last year. However, the administration has taken no action on the MASUKA Bill (Kumar, Prakash, 2017).

## 1.2 Basis and Reasons of Mob Lynching in India

The recent increase in mob lynchings in India demonstrates a bizarre barbaric propensity on the part of humans. Several well-known mob lynching episodes occurred in India, as follows:

- **Caste and Religious motivated:**

India has a long history of violence motivated by caste and religion. As a result of intolerance and animosity towards other religions and castes based on their professing, practise, traditions, and provided significant, mob lynching occurrences are on the rise. Five Dalits from Haryana were lynched in 2002 on suspicion of cow slaughter, and the subsequent Muzzafarnagar and Kokrajhar riots highlight the role of caste and religion in mob lynching. In September 2015, a Hindu mob killed Mohammad Akhlaq and his son Danish in Bidara village of Uttar Pradesh, accusing them of stealing and murdering a cow-calf and storing the meat for consumption. This is the first instance of a Hindu mob lynching a Muslim in the name of a cow or beef. The incident became known as the Dadri Lynching and plunged the country into disrepute (The Indian Express, 2016).

Mazlum Ansari (32 years old) and Imteyaz Khan (15 years old) were brutally killed in March 2016 in Chatra, a district in Jharkhand, by a mob known as 'Gau Rakshak', or cow vigilantes. They were accused of cattle smuggling when, in fact, they operated a cattle market and were en route to sell eight oxen (Scroll.in, 2016). In June 2017, a Muslim child travelling with his two siblings was assassinated by a Hindu mob who accused him of being a terrorist, Pakistani, anti-national, and beef consumer. The argument began over a train seat and culminated in the death of a young boy (First Post, 2017).

Rakbar and a colleague were carrying cows on foot in August 2018. He was arrested on allegations of being a cow smuggler by the VHP's Gau Raksha. He passed away while in police custody (Express, 2018). According to a recent tally, there have been 24 episodes of lynching and vigilante violence in recent years, especially after 2015, resulting in the murder of 34 people and the rape of two women. The majority of the victims are members of the minority Muslim and Dakit communities. The majority of these were in Haryana (9 killed, 2 raped), Uttar Pradesh (9 killed), and Jharkhand (8 killed) (Citizens Against Hate, 2017).

Along with the Muslim community, other minority groups faced threats from lynching gangs. While attacks against Christians continue to be underreported, instances involving churches and priests suspected of converting Hindus to Christianity continue to occur (Apoorvanand, 2017). In 2016, seven members of a Dalit family in Gujarat were attacked by cow vigilantes, sparking widespread protests by the Dalit community. Caste violence against Dalits has a long history, involving rape, murder, and other forms of physical attack, all perpetrated by mobs. A incidence of cow lynching occurred in Gujarat on 20 July 2016, when seven

Dalit youngsters were publicly flogged by Gau Rakhsak Dals for skinning a dead cow. This was one of the earliest bovine-related lynchings. (2017) (Citizens Against Hate).

- **Economic and Political motivated:**

Economic and political factors have always played a significant role in mob lynchings. In villages, mob lynching is the most convenient method of acquiring land and property. The 2006 Kherlanji Massacre in Maharashtra was the first documented case of lynching. Around 50 locals beat four family members and paraded their wife and children naked before murdering them over a land dispute (First Post, 2016). A particular political philosophy based on hindutva is playing a significant role in these instances. When it comes to mob lynching, it is quite easy to sway the crowd in the name of religion, culture, and custom. On 24 January 2009, a radical mob attacked a group of young ladies and men at a Mangalore pub, saying the women had violated traditional Indian values.

It is simple to mobilise the mob by using religion, caste, and sex as a political tool. In India, various political parties and groups have historically been centred on religion and caste, which has led in mob violence in order to play their political card during elections. It is the cheapest and most effective strategy to win an election in India, where the majority of the population is religious, superstitious, and emotional. Beef bans, Romeo squires, Ghar Vapsi, and Love jihad, to name a few, are all politically motivated concepts designed to polarise society and exploit for political gain.

- **Mob Justice:**

Due to their ignorance of legal laws and the repercussions of breaking the law, the police's lack of zeal, and the slow pace of the judicial system, the people of India seek to be judge and do justice for themselves by establishing their own rules and regulations. At February 2016, while being brought in Patiala House Court on sedition charges, JNUSU President Kanhaiya Kumar was beaten up by lawyers. In May 2017, a mob of Delhi University students lynched an e-rickshaw driver. The incident started after the driver intervened to prevent two inebriated students from urinating in public, and they later returned with a mob of students to attempt to lynch the driver (First Post, 2017). In June 2017, a crowd of at least 250 people in Guwahati beat the two youths to death on suspicion of being child lifters (Tehelka, 2018). In 2017, over 27 people were slain just on suspicion of being child lifters. Mob justice occasionally receives support from political parties and organisations.

- **Witch hunting:**

Witch hunting is India's historical problem, which is entirely founded on mob lynching. "Witch-hunting" refers to the practise of branding a woman as a witch, which typically occurs after an Ojha certifies her status, as well as the prosecution and execution of that woman, which frequently involves mass frenzy and lynching (The Prevention of Witch hunting Bill, 2016). Witch hunting literally entails abusing and murdering a lady suspected of possessing evil magical abilities. In witch hunts, the mob's involvement in torturing and murdering the victim constitutes prima facie evidence.

Witch hunts are conducted for a variety of reasons, including land acquisition, settling scores, family rivalry, property, patriarchy, superstition, suppression, subordination, sexual advances, and caste considerations. Between 2000 and 2012, approximately 2,100 persons accused of witchcraft were slain in areas where superstition and vigilantism coexist and tiny whispers can turn fatal, according to 2014 crime figures. Between 2000 and 2015, around 2200 cases were filed in India against the witch hunting process (National Crime Record Bureau 2016). The majority of witch hunt victims are women from Schedule Castes and Schedule Tribes (Washington Post, 2014). According to researchers, under the guise of superstition, women are targeted and abused in witch hunts by some people in order to acquire land and satisfy personal interests. Occasionally, it is used to penalise women who challenge social standards (Laxmi, 2005).

In 2014, a mob in Jharkhand accused a 50-year-old mother and her daughter of witchcraft and tortured and murdered them (Washington Post, 2014). In August 2015, villagers in Jharkhand lynched five women accused of witchcraft after taking middle-aged ladies from their houses and beating them to death (Aljazeera, 2015). In August 2016, a couple in Assam was lynched by a mob on accusations of witchcraft. The couple was pulled from their home and lynched by a mob from the neighbourhood. The assault occurred in front of their ten-year-old daughter (Telegraph India, 2017).

In July 2015, an Adivasi lady was taken from her home and murdered by a mob after a local priest allegedly labelled her a witch and accused her of practising witchcraft and "bringing diseases" to the area (Telegraph India, 2017). Villagers attacked the family of Guru Munda, a 40-year-old tribal from Mundasahi village in Keonjhar district, in July 2015, accusing the family of practising witchcraft. Munda, his wife, Budhini, and their two daughters and two sons were assassinated in cold blood (Tehelka, 2018).

### **1.3 Lynching Incidents which Shook the Nation**

#### **1. Khairlanji lynching:**

Khairlanji massare (or kherlanji massacre) is one of the earliest documented instances of lynching, occurring in September 2006 when four individuals were lynched over a property dispute. A village called kherlanji in Maharashtra's bhandara district, where a mob of at least fifty locals from the politically strong kunbi caste went into the home of a bhotmange and killed four members of the same family. Bhotmange's wife and daughter were paraded naked in front of the entire community, and the ladies were sexually abused prior to their killing.

## **2. 2009 Mangalore pub attack:**

On 24th January 2009, Sri Ram Sena, a radical gang comprised of forty activists, attacked young men and women in a pub called "amnesia-the lounge" in Mangalore, Karnataka, claiming that these young people were breaking traditional Indian values. When asked by one of the prestigious media, the founder of this group was unequivocal about this incident, stating that why should girls go to pubs, consume alcohol, and dress in westernised clothing. The campaigners were later acquitted due to a lack of evidence a few years later, in 2018.

## **3. Dadri Mob Lynching:**

This incident occurred on 28th September 2015 at Bisara, a village near Dadri in Uttar Pradesh. After one of his neighbours accused him of stealing and murdering his missing calf, a mob of villagers assaulted the home of Mohammed Akhlaq, 52. Local locals assaulted Akhlaq's house at night, brandishing sticks, bricks, and knives, accusing his family of devouring beef and storing it in the refrigerator. Even though the family repeatedly denied the fact, the crowd dragged and abused Akhlaq and his son. It was regarded as one of the earliest instances of mob lynching in the name of a cow or beef ( The Hindu, 2016).

## **4. Dimapur Lynching:**

The Dimapur Lynching in Nagaland startled the world when a mob of roughly 7000-8000 broke into the Dimapur Central Jail and dragged Farid Khan, a suspect in a rape case. He was paraded naked, stoned, thrashed, and beaten to death in the name of vigilante justice, and was widely regarded as a model of justice-serving. Additionally, the incident reported that the accused was an illegal Bangladeshi immigrant. Lynching was also blamed to the state's weak justice system, which had gotten extremely few convictions in rape cases.

## **5. Jharkhand Lynching, 2016:**

In Jharkhand's Chatra district, a mob dubbed 'gaurakshak' mercilessly battered and killed two Muslim community members, who were then hung from a tree in a forest near Jhabar village. Mazloom Ansari and Imtiaz Khan were their route to a cattle show in Chatra District to sell a batch of oxen and cows.

## **6. Alwar Lynching:**

Pehlu Khan, 55, was a dairy farmer from Haryana's Nuh district. On 1st April, he was thrashed viciously by a group of 200 cow vigilantes while carrying cows for his dairy farm. He was accused of cattle smuggling, however he really purchased a cow for milking with a receipt. While police were unable to apprehend those mentioned in Khan's dying proclamation, they were able to apprehend vigilantes after a video of the incident went viral.

## **7. Delhi Lynching:**

A rickshaw driver stopped a group of college students from peeing on a public wall, which was prohibited. In an outburst of rage, the college students became enraged and lynched the rickshaw driver. The Lynching claimed the life of the rickshaw driver.

## **8. The Jharkhand Lynching, 2019:**

This incident came to light after a video of it went viral, eliciting public outrage. On 17th June 2019, a crowd attacked Tabrez Ansari, 24, in Jharkhand. He was pummeling and beaten mercilessly on suspicion of bike theft. He was chained to the tree and made to sing Hindu proverbs by Ansari, a Muslim. Ansari was arrested and imprisoned, and when a relative went to visit him, he discovered him seriously damaged. The relative's appeal to the prison's medical officer was likewise denied, and he was later admitted to the hospital when his condition deteriorated. Several days later, he died.

## **9. Palghar Mob Lynching:**

A recent example of mob lynching occurred on 16th April 2020, when a vigilante group lynched two Hindu Sadhus and their driver. The incident in Gadchinchale Village in Maharashtra's Palghar district was sparked by Whatsapp allegations about robbers operating in the region during the coronavirus lockdown. The vigilante squad mistakenly executed the two sadhus and the driver as robbers. They even assaulted the police officers who intervened.

## 2. LAW AND ORDER ON MOB LYNCHING

### 2.1 Legislations:

Although mob lynching is a horrific crime and a flagrant violation of human rights, there is no national law against it, despite India's long history of lynching. National legislation, on the other hand, such as the Indian Constitution, the Indian Penal Code, and the Protection of Human Rights Act, 1993, can be linked to lynching offences. The National Crimes Records Bureau (NCRB), the primary source of official crime statistics in India, does not keep track of specific lynching cases. Section 223(a) of the 1973 Code of Criminal Procedure specifies that "individuals or a mob charged with the same offence committed in the same act" may be prosecuted simultaneously.

Lynching incidents are often reported under the Indian Penal Code's sections 302 for murder, 307 for attempted murder, 324 for causing bodily harm, and 147 for rioting. Sections 153A (promoting enmity between groups and acts prejudicial to maintaining harmony); 153B (acts prejudicial to maintaining national integration); 295A (acts intended to outrage religious feelings); and 295B (words intended to incite religious feelings) of the Indian Penal Code are considered to be the country's hate crime laws. It is noteworthy that these provisions were not included in the majority of lynching incidents in police First Information Reports against the accused. Furthermore, even when hate crimes are documented under these provisions, data are not disaggregated by identification group. There is no way to tell who is the 'victim' and who is the 'perpetrator' in these instances (Citizens against hate, 2017).

Similarly, 'community violence' is mentioned in NCRB reports, with little information about who was the victim and who were the perpetrators. Finally, the foregoing are conservative laws that produce offence when order and peace are disturbed and religious sentiments are injured. There is little legislation that penalises actions motivated by 'hatred' and indirectly including crimes committed by majority groups against a vulnerable community. "Hate crimes are acts of violence and intimidation directed mostly towards groups who are already stigmatised and oppressed."

Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination also addresses incitement and actions motivated by concepts of racial superiority or hatred. Finally, the Indian Constitution guarantees equality before the law and equal protection under the law in Article 14, prohibits discrimination on the basis of religion, ethnic origin, or gender in Article 15, and guarantees life and liberty to all people in Article 21.

### 2.2 Manav suraksha kanoon

The National Campaign Against Mob Lynching prepared a law in 2017. Manav Suraksha Kanoon (MASUKA) is the bill's name, and it seeks to start a legal conversation against a group of people participating in lynching. By altering Article 21 of the Indian Constitution, Prakash Ambedkar, a grandson of B.R. Ambedkar, and activist Tehseen Poonawalla have developed a law to accommodate new rules on mob violence. According to the bill, the area's SHO (State House Officer) will be suspended until a time-limited court investigation clears him of all charges. Furthermore, this bill would assist in offering relief to those who have been affected as well as the rehabilitation of the victim's families.

### 2.3 Judicial Approach:

#### 2.3.1 Supreme Court on mob lynching

In the case of *Tehseen S. Poonawalla v. Union of India & others*, (2018) 9 SCC 501, the Hon'ble Chief Justice of India, Dipak Mishra, and the three-judge bench denounced recent occurrences of mob lynching and mob attacks on Dalits and members of other communities. On July 17, 2018, he asked the parliament to draught and enact laws that would make mob lynching a separate crime and set punishments that would serve as a deterrent to future lynchings.

Furthermore, the bench argued that no one or group of individuals can take the law of the land into their own hands and impose punishment that they are not obligated to impose. Furthermore, the Chief Justice of India underlined the necessity of issuing orders for punitive, rehabilitative, and preventative measures.

These actions are being taken in response to the social activist's Writ Petition, which was filed under Article 32 of the Indian Constitution. He advocated swift and decisive action against the mob lynchings perpetrated by cow protection organisations that engage in excessive violence. The petition even demanded that violent content shared by the groups be removed from social media.

Governments must take stringent steps to avoid mob violence and vigilantism, and citizens should report incidents of people taking the law into their own hands.

### SC guidelines:

1. Lynching will be treated as a "separate offence," and trial judges will be required to impose the maximum punishment upon conviction of the accused person in order to make a strong example in incidents of mob violence.
2. State governments will be required to appoint a senior police officer in each area to take preventative measures against mob violence and lynching.
3. The state governments must identify districts, subdivisions, and villages where recent reports of lynching and mob violence have been made.

4. Any inter-district coordination concerns should be brought to the attention of the DGP so that a strategy to combat lynching and mob violence may be devised.
5. Every police officer is responsible for dispersing a mob that has a history of causing violence, whether under the pretence of vigilantism or not.
6. The federal and state governments must broadcast information about the terrible repercussions of mob lynching and mob violence on radio, television, and other media platforms.
7. Regardless of the procedures taken by the State Police, if a lynching or mob violence occurrence is brought to the attention of the local police, the jurisdictional police station must immediately file a FIR.
8. Within one month of the date of this judgement, the state governments must prepare a lynching/mob violence victim compensation programme based on the requirements of Section 357A of the CrPC.
9. It will be considered willful negligence if a police officer or a district administration officer fails to perform his duties.

In the Poonawalla case, the court ruled that "with regard to innumerable incidences of lynching and mob violence that do not require explicit mention because we are going to issue certain directives encompassing the arena of preventive, remedial, and punitive actions." The Central government has moved the Supreme Court of India in the aforementioned case in order to execute the rules for the crime of mob violence. As a result of the interim order, the Supreme Court's full bench has directed specific actions in order to deal with this particular matter. The following are the measures:-

#### ● Preventive Measures

According to the court, each district shall have a Nodal Officer, a senior police officer with at least the rank of Superintendent of Police, who is responsible for preventing mob violence and lynching. A dedicated task force should be established to gather intelligence on occurrences, victims, and offenders of hate speech and fake news. The locations of recent mob violence must be treated with care.

Regular meetings between Nodal officers, intelligence units, and police personnel must be held to ascertain the likelihood and trends of vigilantism and mob violence in the district and to take actions to prevent such incidents. Additionally, the Nodal Officer will work to remove a hostile climate toward any community or caste targeted in such occurrences. Through regular meetings with the nodal person, the Director General of Police/Secretary of the Home Department of the affected States must be informed about the initiatives for preventing lynching.

The Court stated that "it shall be the duty of every police officer to disperse a mob by exercising his authority under Section 129 of the CrPC if he believes that the mob has a tendency to inflict violence or wreak havoc through lynching disguised as vigilantism or otherwise." The Government of India's Home Department must take the lead in implementing the constitutional goal of social justice and the Rule of Law. Patrolling should be taken seriously so that anti-social individuals participating in such crimes are discouraged and stay within the bounds of the law, fearful of even contemplating taking the law into their own hands.

#### ● Remedial Measures

The Court stated that if an instance of lynching or mob violence occurs despite preventive measures, a FIR must be filed immediately and the protection of the victim's family members must be safeguarded. The investigation of mob lynchings must be conducted by the Nodal Officer in particular. State governments must design the victim compensation programme, including interim remedy under section 357A of the Criminal Procedure Code, 1973. A special court must be established for incidents of lynching and mob violence, and the maximum punishment must be imposed as a deterrent to instil fear of the law among the accused. Protecting the case's witnesses must be the court's and police's primary responsibility. Daily updates on the trial must be provided to the victims and their families. Victims must be presented with the options set out in the Legal Services Authorities Act, 1987, for selecting a legal assistance advocate.

#### ● Punitive Measures

The court stated that whenever "a police officer or district administration officer fails to comply with the aforesaid directions, the act shall be considered an act of deliberate negligence for which appropriate action must be taken against him/her, including departmental action under the service rules."

### 2.4 Other Important Judgments

Because of the ongoing armed Maoist insurgency, the State of Chhattisgarh alleged a number of human rights abuses for the inhabitants of Dantewada District and its neighbouring territories in the case of *Nandini Sundar and others v. State of Chhattisgarh* 2011 Latest Caselaw 459 SC. To combat this, the government of Chhattisgarh employed a local tribal youth organisation as Special Police Officers (SPOs) and armed them to battle the Maoists. The authorities said that arming tribal people in compliance with the Indian Constitution is the proper thing to do in order to combat "extreme Maoists." In this decision, the Supreme Court stated that it is the State's duty to strive, continuously and consistently, to create fraternity among all people so that each citizen's dignity can be maintained, promoted, and nurtured. As a result, it is the state's responsibility to prevent crime in the state in order to maintain complete social harmony.

A writ petition was filed at the Supreme Court in the case of *Mohd. Haroon and others v. Union of India and others* (2014) 2 SCC CRI 680, in regard to the riots in District Muzaffarnagar, Uttar Pradesh. There was communal tension in the city, and people were forced to flee their houses due to anxiety and terror. In this instance, the petitioners argued that instead of enforcing the law, the

local government carelessly permitted the congregation to take place and neglected to monitor its operations. It was also decided that victims of mob lynching cannot be discriminated against based on their ethnicity or religion. Communities must get assistance in the form of rehabilitation and compensation. The Supreme Court further stated that it is the responsibility of the State Administration, in collaboration with relevant intelligence agencies from both the Center and the State, to avoid communal violence in all parts of the State. Any officer in charge of preserving peace and order in the state who is proven to be careless will be penalised according to the law.

Furthermore, in the case of *Archbishop Raphael Cheenath S.V.D v. the State of Orissa and another*, 2016 SCC OnLine SC 761, a Writ Petition was filed before the court to highlight the State of Orissa's failure to deploy police force to maintain law and order in Kandhamal District of Orissa and to protect its people when Swami Laxmananda Saraswati was assassinated by Maoists. In this case, the court stated that the state government must investigate and determine the reasons of communal riots, as well as reinforce the police infrastructure, in order to prevent communal unrest. The court emphasised the state's peace-building efforts.

In *Kodungallur Film Society Vs Union of India (2018) 10 SCC 713* the petitioner no.1 is a registered film society and petitioner no. 2 is the member of the said film society. The petitioner filed these writ petitions to require the Supreme Court intervention in the increasing public disorder and mob violence against the films especially 'Padmaavat' movie against which the nationwide agitation were conducted, public properties were destroyed and mob lynching were committed. The petitioner contend that the film are lawfully certified under the Cinematograph Act but various groups wants to censor the films without any lawful authority and they commit violent protests against the films for hurting their religious and cultural sentiments. The petitioner contends that the illegal restriction upon the artistic piece of work by the mobs or violent groups violates the freedom of speech and expression of the individuals producing these artistic works. The petitioner prayed that the Supreme Court shall direct the central government to implement the guidelines of K.T. Thomas Committee provided in *Destruction of Public and Private Properties Vs Govt. of AP, (2009) 5 SCC 212* and to take strict action against the mob violent groups. The Supreme Court after taking into consideration various guidelines provided in *Tehseen Poonawalia case* and *re: Destruction of Public and Private Properties case*, issued the similar guidelines to control the turning of the peaceful protest into mob violence by the groups which could cause the deaths of individuals, damage to the public and private properties or fear in the minds of common people.

### 3. PUNISHMENTS FOR LYNCHING

In our country, there is no explicit law or legal provision dealing with lynching or mob violence. However, the following statutes, which are currently part of the Indian Penal Code, provide for the punishment of mob lynching:

1. **Section 302 of the Indian Penal Code** - This section of the IPC deals with the penalty for murder. It said that anyone who commits murder will be punished with either life imprisonment or death. In many circumstances, the convict may face further punishment.
2. **Indian Penal Code Section 304** -The punishment for culpable homicide that does not amount to murder is outlined in Section 304 of the IPC. The following punishments are possible:
  - i. Life imprisonment
  - ii. For the crime done or likely to cause the death of a person, the person can be sentenced to ten years in prison and fined accordingly.
3. **The Indian Penal Code, Section 325**—This clause establishes the penalty for intentionally inflicting grievous bodily harm on another person. Under the provisions of this section, a person who causes serious harm voluntarily, except in the case of provocation (as defined in section 335), is likely to be punished by imprisonment for a term of up to seven years and a fine.
4. **The Indian Penal Code, Section 34**—This section outlines the penalties for activities carried out by a group of people with a common goal. It states that when numerous people do a criminal conduct with the same intent, each of them is accountable in the same way as if the crime had been committed by him alone.
5. **The Indian Penal Code, Section 120 B**—This section explains how parties that are involved in a criminal plot together will be punished. It goes like this:
  - i. When conspiring to commit an offence punishable by life imprisonment, death, or a sentence of two years or more in prison, the offender is punished in the same way as if he or she abets the criminal while performing the offence.
  - ii. If the offender conspires to commit a crime that is not punishable by death, life imprisonment, or a sentence of more than two years in prison, the offender faces up to six months in prison, a fine, or both if the crime is not punishable by death, life imprisonment, or a sentence of more than two years in prison.

### 4. NEED FOR LAW ON MOB LYNCHING

There is a need for separate law on Mob lynching. However, no effort has been made in this regard at central level. On the other hand, some states have made attempts in this regard:

- The government of Manipur was the first to introduce a bill against lynching in 2018, which included certain logical and necessary elements.
- In August of this year, the Rajasthan government approved a measure prohibiting lynching.

- West Bengal, too, has passed a more stricter anti-lynching bill.

**Only Rajasthan and Manipur have passed legislation to prevent lynching:** Only Rajasthan and Manipur have passed statutes to punish people who participate in lynchings, but the legislations have yet to be approved by the President, according to information presented to the Lok Sabha on Tuesday.

Following a Supreme Court mandate, the Centre has issued two advisory to state governments to prevent lynchings, according to Union Minister of State for Home Nityananda Rai.

"In response to the Hon'ble Supreme Court's judgment on July 17, 2018, two advisories were issued to state governments and union territories administrations on July 23, 2018, and September 25, 2018, for taking measures to curb incidents of mob lynching in the country," he said in response to a written question.

On whether a number of states have passed laws making lynching a non-bailable offence and recommending life imprisonment for those who commit such violence, the minister said that two bills on the subject passed by state legislatures in Manipur and Rajasthan have been received by the governor for consideration by the President.

"The bills that have been received are assessed in cooperation with the central ministries concerned," he stated.

Mr. Rai added that the administration has also raised public awareness about the threat of lynching through audio-visual media.

The government has also warned service providers to take precautions to prevent the spread of false information and rumours that could inspire mob violence and lynching.

The Supreme Court stated in its decision that state governments must appoint a nodal officer in each district who is a senior police officer with a rank of Superintendent of Police or higher.

According to the report, state governments must form a special task force to obtain intelligence reports on those who are likely to commit such crimes or who are active in spreading hate speeches, inflammatory statements, and fake news.

The highest court further stated that state governments must identify districts, subdivisions, and villages where lynching and mob violence have occurred in the recent past, such as in the last five years, among other things.

## 5. CONCLUSION

A large number of people agreeing to kill someone without a second thought demonstrates the intolerance that Indians have developed as a result of a lack of education and understanding. It has been discovered that the majority of victims of mob lynching are males, females, and even children who are impoverished, belong to a low caste, and belong to a minority population. It is quite clear that these are crimes committed against members of the society's marginalised communities, as demonstrated above. The current state of affairs in India necessitates the passage of a special law prohibiting mob lynching.

The advancement of the underprivileged and excluded elements of society has been the focus of all legal instruments, ranging from human rights to fundamental rights to moral rights. Despite this, the vast majority of crimes are committed against them. It is ironic that Indians' intolerance has reached such a level that they believe they are above the law and hence create adverse conditions for law and order to exist. Such conditions generate a fearful and terrorised climate in the society, which has the effect of limiting the society's ability to grow and develop in various ways. The belief in the caste system, naive faith in religion, and reliance on superstitions in and of themselves demonstrates the intellectual level of the Indian people.

Apart from enacting rigorous legislation, it is necessary to promote high-quality education and public awareness among the general public in order to resolve such issues. The police examination into the majority of mob attack incidents in rural India revealed a modus operandi that was practically identical to one another and had to be improvised. The right to life is the most important right an individual can have, and the state is responsible for ensuring that it is protected. The preventive, corrective, and punitive actions established by the Supreme Court must be adhered to to the letter and spirit. The role of the media, civil society, and non-governmental organisations (NGOs) must be expanded in a favourable direction. These kinds of incidents are a stain on the face of our democracy, which exists in India because we have a democracy, not a mobocracy.

Mob lynching is becoming more common in developing democracies such as India, which has a vast range of cultural and religious traditions. This demonstrates, first and foremost, that people have lost faith in the legislature, the court, and the administration to the point where they are willing to take the law into their own hands. The law is the most powerful, and no one has the authority to punish anyone for any reason, regardless of the circumstances. Making this hate crime community and engaging in the blame game will not result in any remedies, but will instead cause emotional distress to those who have been victimised by a mob's hatred. The passage of a strong law against mob lynching is urgently required, as it will help to reduce the threat to society. From filing a complaint to conducting an investigation without delay or forgery, the system's flaws should be filled, and delivering swift justice to the victims, all while keeping an eye on social media platforms where certain groups spread hate and manipulate people's opinions and beliefs. Making social media posts and messages that are shared through the messaging site responsible would only help to a limited extent unless we can increase digital literacy among the general public. In order to combat fake news, the government should enlist the assistance of mass media outlets such as newspapers, radio, and television. A legislation against lynching should be drafted by the state government in accordance with the Supreme Court's recommendations. Individually, such behaviour should be condemned, and any bogus news that is discovered should be reported by raising awareness among our friends and acquaintances.



## 6. RECOMMENDATIONS

There are numerous reforms that need to be considered in relation to mob lynching cases in India and around the world. India's government must take steps to ensure that justice is delivered more quickly.

- Registering a FIR without delay, quashing cases that may further victimise the weak and impoverished, and quashing bail petitions that may constitute a major threat to the victims and their families due to the associated hate crime.
- Furthermore, in order to ensure that victims of mob violence receive justice, the government should take appropriate steps to pass the Manav Suraksha Kanon (MaSuka) law, which stipulates that stringent laws should be enacted for mob violence, and that laws related to mob lynching must be non-bailable, cognizable, and non-compoundable, and must also invite life imprisonment as well as a time-limited trial of the perpetrator. In addition, recompense for victims' families and police action must be taken to secure the safety of witnesses. MaSuka must do the same for the victims of mob lynchings, just as the SC/ST (Prevention from Atrocities) Act of 1989 and the Protection of Women and Domestic Violence Act of 2005 are aimed to protect the group and secure the purposes of justice.
- The legislature can also play a significant role in improving legislation against mob lynching. The parliament should act in accordance with the Supreme Courts' directions and draught and approve a new law to deal with cases of mob violence, with the goal of punishing lynchers as well as officials who are directly or indirectly involved in mob lynchings to the utmost extent possible. Furthermore, the new law must define the word "mob lynching," which is not specified in any of the existing laws.

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