



MOB LYNCHING IN INDIA: LAW, GAPS, AND REFORMS

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INTRODUCTION

Mob lynching stands as one of the most alarming socio-legal phenomena in contemporary India, an expression of collective violence that undermines both individual rights and institutional authority. It refers to the act of a group of people violently attacking an individual or a set of individuals, often based on unverified accusations, social prejudice, or communal incitement. What makes mob lynching distinct from other forms of violent crime is not merely the brutality involved, but the breakdown of law and order it signifies: where the mob becomes judge, jury, and executioner, and the legal system is sidelined or rendered powerless.

THE RISE AND PATTERN OF LYNCHING IN INDIA

Historically, India has witnessed communal and caste-based violence, but lynching as a recurring pattern has gained prominence over the past decade. This surge is partly attributable to the amplification of rumours on digital platforms, the politicisation of identity, and a growing sense of impunity among perpetrators. Many incidents have been driven by false news of child abduction, cow slaughter, theft, or inter-community relationships. A disturbing trend is the viral spread of videos capturing such acts, showcasing not just the violence but also public apathy or tacit endorsement. These incidents reveal deeper concerns—erosion of civic responsibility, weakening of constitutional norms, and widespread mistrust of institutions. The lynching phenomenon is further complicated by the socio-political context in which it occurs. Victims often belong to marginalised communities, especially religious minorities, Dalits, or tribal groups, which raises concerns about systemic discrimination and targeted violence.

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THE LEGAL VACUUM

Despite the grave nature of lynching, India does not have a specific law addressing it. Instead, existing legal remedies fall under the Indian Penal Code, the Code of Criminal Procedure, and the Indian Evidence Act, all of which are designed to tackle general criminal acts and fail to adequately account for the collective and spontaneous nature of mob violence. Because these provisions treat crimes as isolated acts rather than coordinated group offences, prosecutions are often ineffective or diluted. This legal vacuum has invited calls for reform, including the demand for a standalone anti-lynching legislation that defines and criminalises mob lynching distinctly. The Supreme Court's intervention in the *Tehseen Poonawalla v. Union of India* case marked a significant step towards building judicial accountability and structural response. Still, implementation of its guidelines has remained patchy.

CONSTITUTIONAL CONTEXT AND DEMOCRATIC CONCERNS

Mob lynching is not just a challenge to public order—it is a direct affront to India's constitutional democracy. The Constitution guarantees every citizen the right to equality (Article 14), freedom from discrimination (Article 15), and protection of life and liberty (Article 21). When a mob acts on impulse and prejudice, denying these fundamental rights through physical violence, it essentially replaces legal justice with mob justice. The consequences are devastating—not only for victims and their families, but also for the democratic fabric of the nation.

WHY THIS ISSUE DEMANDS URGENT ATTENTION?

Ignoring the trend of mob lynching risks legitimising anarchy, indicating a failure of preventive mechanisms, legal accountability, and societal norms. Moreover, the lack of a strong legislative framework contributes to impunity. Victims rarely receive justice, perpetrators often walk free, and communities remain traumatised and divided.

LEGAL BACKGROUND: FRAGMENTED FRAMEWORKS

Indian Penal Code (IPC) –

While the IPC does not recognise Mob lynching as a distinct offence, a patchwork of sections as defined below is typically applied;

Section 302: It deals with murder and applies when lynching results in death. However, proving individual intent in a crowd is a challenging task.

Section 304: It deals with the culpable homicide not amounting to murder and is used when the intent to kill is not established. It may reduce punishment, but it dilutes justice.

Sections 147 to 149: They deal with rioting and unlawful assembly and allow prosecution of individuals participating in a violent group, even without direct involvement.

Section 120B: It deals with Criminal conspiracy and is useful when lynching is premeditated or organised via messaging platforms.

Sections 153A and 295A: Promoting communal hatred, and these sections address the motivation behind lynching, especially when it's communal or caste-driven. However, in many cases, police either undercharge or misapply these sections. Moreover, collective culpability is not well-defined.

Code of Criminal Procedure (CRPC) –

CRPC lays out criminal procedure, but its effectiveness in mob lynching cases is limited by structural gaps.

Section 154: It deals with FIR registration and is often delayed or denied in lynching cases, especially when victims belong to marginalised communities.

Sections 149 to 151: They deal with preventive actions, and these are meant to empower police to prevent such gatherings, but poor intelligence and apathy render them ineffective.

Section 223(a): It deals with Joint trials and allows prosecuting multiple accused together. But linking each accused to the actual act requires strong evidence, rarely available in lynching cases.

Indian Evidence Act –

Proving mob lynching is difficult due to the following;

Fear among Witnesses: Most are community members or even accomplices, reluctant to speak.

Video Evidence: Often destroyed or dismissed due to poor forensic capabilities.

Common Intention Doctrine: The idea that the group had shared intent is hard to prove unless premeditated communication exists.

Thus, despite basic legal tools, the lack of contextual provisions results in low conviction rates.

LANDMARK CASE LAWS

Tehseen S. Poonawalla v. Union of India (2018): This PIL led to a historic ruling. The Supreme Court acknowledged that lynching represents a “blot on constitutional values.”

Key Directives –

Nodal Officers: Senior police officers appointed in each district to monitor and prevent mob violence.

Vulnerable Areas Mapping: High-risk zones (near communal flashpoints or politically sensitive areas) to be closely surveilled.

Fast-Track Courts: For speedy trials—currently absent in most jurisdictions.

Compensation to Victims: Compensation to victims from state funds, recognising systemic failure.

Official Accountability: Negligence by police or administration to attract disciplinary action. Despite being binding, most states show poor compliance. Annual reports on implementation are either absent or superficial.

Mohd. Haroon v. Union of India (2014): though centred on communal violence, this case reinforced that group-targeted violence violates constitutional protections under Section 1 equality before the law, Article 15, which deals with the prohibition of discrimination **and** Article 21 right to life and personal liberty. It stressed that mob violence, regardless of the victim's identity, undermines India's secularism and rule of law.

REAL-LIFE EXAMPLES AND CURRENT AFFAIRS

Pehlu Khan Case (2017): Khan, transporting cows legally, was stopped and beaten to death by cow vigilantes. Police delayed filing FIRs and failed to collect forensic or video evidence properly. The acquittal of the accused raised public outrage and highlighted systemic failure. This case underscores the need for targeted prosecution strategies and institutional accountability.

Palghar Lynching (2020): In this two monks and their driver were lynched after child kidnapping rumours, and police were present, yet could not stop the mob. The politically charged aftermath raised questions about communal handling and inter-agency coordination. Unlike most lynching cases, victims here were Hindu, proving that mob mentality is not exclusively communal and it's systemic.

Moradabad (2024): In this scenario, BNS section 103(1) was used initially, meant for individual hate crimes. Allahabad High Court intervened, citing misapplication and hinted that lynching needed a collective context under 103(2). This case shows how legal adaptation must keep pace with changing crimes.

GAPS IN LEGAL FRAMEWORK

Absence of Specific Law: Without a dedicated law, victims remain reliant on general provisions. These laws don't capture group psychology, rapid escalation via rumours and Communal motives. Thus, lynching is treated like any other assault or murder, minimising its gravity.

Poor Implementation of SC Guidelines: Most states have either failed to appoint nodal officers or haven't set up fast-track courts. There's a lack of monitoring and public transparency about compliance.

Data Deficiency: NCRB doesn't publish lynching-specific stats, making it hard to assess prevalence. States rarely disaggregate mob violence data.

Witness Intimidation: Many are reluctant to testify due to Community pressure, the Police's reluctance to protect and the absence of a witness protection law. As a result, cases collapse in court.

Communal Bias: Victims often belong to vulnerable groups. Systematic biases may influence FIR delay, soft handling of the accused and Political silence.

SCOPE FOR REFORM AND IMPROVEMENT

Specific Anti-Lynching Law: There is a pressing need for a specific anti lynching law in India. It should begin with a clear definition of mob lynching to eliminate ambiguities. It must also include a presumption of common intent in group attacks. Furthermore, accountability clauses should be incorporated to hold police and administrative authorities responsible for inaction and or complicity. Provisions for compensation funds for victims should be incorporated. Crucially, the law must impose strict penalties for hate speech and rumour which trigger such acts. Some states have proposed bills (e.g., Rajasthan) but await Presidential assent, signalling political hesitancy.

Police Accountability: Failure to prevent or investigate lynching should trigger a Departmental inquiry, Suspension and Criminal charges, where applicable. Police reforms must go beyond infrastructure, into ethics and responsiveness.

Public Awareness: Public awareness initiatives shall be launched in schools, communities, and across social media to combat mob lynching and promote legal consequences of mob action, encourage tolerance and pluralism and teach how to handle Misinformation. Social change must complement legal reform.

Digital Regulation: Social media accelerates rumour cycles. Legal changes must hold admins accountable for incitement, monitor encrypted messaging platforms and penalise repeat offenders who use digital spaces for hate speech. The IT Act needs revamping to reflect the realities of modern crime.

Witness and Victim Protection: Without protection, key testimony is lost, trial collapses, and justice is denied. India must emulate systems like the US or UK, where anonymity, relocation, and legal support exist for vulnerable witnesses.

CRITICAL EVALUATION

In India, mob lynching is a sign of larger socio-political fault lines rather than a legal oddity. A powerful combination of historical injustices, internet disinformation, a lacklustre

institutional reaction, and sociocultural polarisation gives rise to the phenomenon. To objectively analyse this problem, some factors need to be looked at:

Weaknesses in Law Enforcement Structure: The incapacity of law enforcement to properly act during lynching episodes is indicative of a systemic malaise as well as operational failure. Local police are frequently either complicit or inactive, particularly when lynchings take place in politically sensitive or communal settings. Although the Tehseen Poonawalla verdict called for institutional monitoring, the actual situation frequently shows indifference or a lack of responsibility. Even forceful judicial statements lose their impact in the absence of enforcement measures that penalise negligence and compel action.

Legislative Will versus Judicial Intervention: India's courts have taken a strong stance, issuing historic verdicts to close legislative loopholes. Courts interpret and enforce existing laws; they are not intended to enact new ones. There is a crucial gap highlighted by the absence of legislative action following Tehseen Poonawalla. Political slowness or a reluctance to directly address communal fault lines is evident in the fact that, despite several states proposing anti-lynching legislation, none have gotten presidential approval. No matter how strong its voice, the judiciary cannot take the place of a long-term legislative commitment.

Caste and Community Prejudices: Lynchings frequently target individuals based on their caste, religion, or ethnicity. The selective indignation—silence in one instance, fury in another—shows how societal biases affect political debate, public response, and law enforcement. These trends demonstrate that mob lynching is an act of identity-based injustice rather than merely violence. This discriminatory targeting is rarely acknowledged by legal remedies, which leaves victims from vulnerable communities without a proper remedy.

Digital Environments as Breeding Grounds for Hatred: Twitter, Facebook, and WhatsApp have developed into unofficial forums where false information flourishes, frequently leading to lynchings motivated by false information. In restricted groups or encrypted networks, it is challenging to enforce government requirements for content moderation. Because of the absence of a strong internet policy, hate speech and rumours can instigate violence in the real world with minimal repercussions for their original spreaders.

Lack of the Doctrine of Collective Responsibility: Individual culpability is the primary element of Indian criminal law. However, because mob lynching is a collective act that is

frequently carried out in secret, it contradicts this framework. In the absence of a clear legal framework that acknowledges shared intent, courts find it difficult to assign culpability. The Bharatiya Nyaya Sanhita's new provision under Section 103(2) is a positive step, but its implementation will rely on the clarity of the inquiry and the interpretation of the courts.

Social Breakdown and Normalisation of Violence: Lynching is a symptom of a larger decay: the slow acceptance of violence in public life. People congregate, record the violence, share the footage, and frequently applaud the behaviour. Growing tribalism, where identification takes precedence above legality, and a decline in trust in institutions are the main causes of this desensitisation. Legal change by itself won't end mob violence unless this moral and civic deterioration is addressed.

CONCLUSION

Mob lynching is a glaring inconsistency with the principles of the Indian Constitution. It erodes the foundations of equality, due process, and individual freedom. The increase of these instances, particularly those with caste-based, political, or sectarian overtones, indicates a decline in civic duty and public trust. The current judicial system is insufficient. It ignores the intricate and frequently planned nature of mob lynching and portrays it as a common criminal offence. Furthermore, the lack of a federal anti-lynching law restricts accountability and hinders coordinated state-to-state action. A judicial landmark, the Supreme Court's intervention in the Tehseen Poonawalla case provided a framework for policy, but its recommendations have stagnated without legislative backing. Supplementary procedural measures are required for sporadic reforms, such as Section 103(2) of the Bharatiya Nyaya Sanhita, Technologically Controlling online forums to prevent hate speech and false information and by providing Public education initiatives aimed at fostering tolerance, re-establishing community trust, and countering mob psychology.