

Mob Lynching as a Distinct Offence under the Bharatiya Nyaya Sanhita, 2023: A Critical Appraisal

Nidhi

Assistant Professor, Sri Sukhmani College of Law, Dera Bassi, Punjab, India

Abstract

Mob lynching has emerged as a serious form of collective violence in contemporary India, threatening the rule of law, constitutional values, and human rights. Such incidents are often driven by religious intolerance, caste prejudice, vigilantism, misinformation, and social polarization. Vulnerable groups, including religious minorities, Dalits, marginalized communities, migrants, and individuals accused of crimes such as cow slaughter or child kidnapping, are frequently affected by mob lynching.

Before the enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS), India had no specific legal provision addressing mob lynching as a distinct offence. Consequently, such acts were prosecuted under general provisions relating to murder, rioting, unlawful assembly, and criminal conspiracy under the Indian Penal Code, 1860. Recognizing the growing incidence of mob violence, the BNS introduced Section 103(2), which specifically criminalizes murders committed by a group of five or more persons on certain discriminatory grounds and prescribes stringent punishment.

This article critically examines the causes, socio-legal implications, and legal framework governing mob lynching in India. It analyses the judicial response, particularly the preventive guidelines issued by the Supreme Court, and evaluates the effectiveness of Section 103(2) BNS. The study argues that while legal recognition of mob lynching is a significant reform, effective enforcement and broader social measures remain essential for protecting human dignity and justice.

Keywords: Mob Lynching; Bharatiya Nyaya Sanhita, 2023; Criminal Law Reform; Section 103(2) BNS; Collective Violence; Human Rights; Rule of Law; Vigilantism; Criminal Justice System; Constitutional Protection.

1. Introduction

The preservation of law and order is one of the primary responsibilities of a democratic state. The criminal justice system is designed to ensure that individuals accused of offences are subjected to legal processes and punished only in accordance with law. However, in recent years, India has witnessed an alarming increase in incidents of mob lynching, where groups of individuals take the law into their own hands and inflict violence upon persons suspected of having committed certain acts or belonging to particular communities. Such incidents represent a direct challenge to the rule of law and undermine the constitutional principles of equality, liberty, and human dignity.

Mob lynching refers to the act of a crowd or group of persons causing physical harm, serious injury, or death to an individual without legal authority, often based on suspicion, prejudice,

rumours, or communal sentiments. These incidents are frequently fueled by religious intolerance, caste-based discrimination, vigilantism, misinformation spread through social media, and political polarization. The growing prevalence of mob violence has raised serious concerns regarding the effectiveness of existing legal mechanisms in preventing collective acts of violence and ensuring accountability of perpetrators.

The phenomenon of mob lynching is not entirely new to India; however, its frequency and visibility have increased significantly in the digital age. Several incidents involving allegations of cow slaughter, child kidnapping, interfaith relationships, and caste-based disputes have attracted national and international attention. The rapid dissemination of unverified information through social media platforms has often contributed to the formation of violent mobs, resulting in tragic consequences. Such acts not only violate the rights of victims but also create fear and insecurity among vulnerable communities.

Prior to the enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS), India did not have a specific law dealing exclusively with mob lynching. Offenders involved in lynching incidents were prosecuted under various provisions of the Indian Penal Code, 1860 relating to murder, culpable homicide, rioting, unlawful assembly, and criminal conspiracy. While these provisions provided a legal basis for punishment, they failed to recognize the distinctive nature of mob violence as a collective crime motivated by prejudice, discrimination, or vigilantism. Consequently, legal scholars, human rights organizations, and judicial authorities repeatedly emphasized the need for a separate statutory framework to address this growing menace.

The judiciary has played a significant role in highlighting the seriousness of mob lynching. In *Tehseen S. Poonawalla v. Union of India* (2018), the Supreme Court described mobocracy as an unacceptable threat to constitutional governance and directed both the Central and State Governments to adopt preventive, remedial, and punitive measures against lynching incidents. The Court stressed that no citizen or group of citizens could assume the role of law enforcers and that any act of mob violence constitutes a grave violation of constitutional values.

Responding to these concerns, the Bharatiya Nyaya Sanhita, 2023 introduced a significant reform by recognizing mob lynching as a distinct offence. Section 103(2) of the BNS specifically addresses murders committed by a group of five or more persons on grounds such as race, caste, community, sex, language, personal belief, or similar factors. The provision prescribes stringent punishment, including death penalty or imprisonment for life, thereby acknowledging the exceptional gravity of such offences. This legislative development marks an important shift in India's criminal law framework and reflects an effort to strengthen the protection of life and personal liberty against collective violence.

Against this backdrop, the present article critically examines the concept and causes of mob lynching, analyses the legal position before and after the enactment of the Bharatiya Nyaya Sanhita, 2023, and evaluates the effectiveness of the newly introduced provision in addressing the challenges posed by mob violence. The article also explores judicial responses, constitutional implications, and practical challenges associated with the implementation of anti-lynching measures in India.

2. Concept and Meaning of Mob Lynching

Mob lynching refers to an act of violence committed by a group of individuals against a person or a group of persons without any legal authority, often resulting in serious injury or death. It is generally characterized by the participation of a crowd acting on suspicion, prejudice, anger, rumours, or a perceived sense of justice. Unlike ordinary crimes committed by individuals, mob lynching involves collective action where responsibility is diffused among multiple participants, making identification and prosecution of offenders particularly challenging.

The term “lynching” originated in the United States during the eighteenth century and is commonly associated with extrajudicial killings carried out by groups without the sanction of a lawful court. Over time, the term has acquired a broader meaning and is now used to describe acts of collective violence committed outside the framework of legal procedures. In contemporary India, mob lynching often occurs when individuals are accused of offences such as cow slaughter, child kidnapping, theft, interfaith relationships, witchcraft, or other activities perceived as unacceptable by a section of society.

A mob may be defined as a crowd of persons who assemble with a common intention and engage in unlawful conduct. When such a crowd inflicts violence upon a victim without following due process of law, the act amounts to mob lynching. The defining feature of mob lynching is that punishment is imposed by the crowd itself rather than through the established criminal justice system. In this sense, mob lynching represents a form of vigilantism where private individuals assume the role of law enforcement authorities.

Mob lynching is not merely a criminal offence against an individual victim; it is also an attack on constitutional governance and the rule of law. The practice undermines the presumption of innocence, denies victims the right to a fair trial, and weakens public confidence in legal institutions. In many instances, victims belong to socially or economically vulnerable communities, making mob lynching a matter of both criminal justice and human rights concern. The phenomenon has gained particular prominence in the digital era due to the widespread use of social media platforms. False information, rumours, manipulated videos, and inflammatory messages can spread rapidly among large groups of people, often provoking collective violence before authorities are able to intervene. Consequently, mob lynching has emerged as a complex socio-legal problem requiring legal, administrative, and social responses.

Recognizing the seriousness of the issue, the Bharatiya Nyaya Sanhita, 2023 has for the first time acknowledged mob lynching as a distinct criminal offence. This legislative recognition reflects an understanding that mob violence possesses unique characteristics that distinguish it from ordinary offences of murder or rioting and therefore warrants specific legal treatment.

3. Historical Background and Growth of Mob Lynching in India

Although the expression “mob lynching” gained prominence in recent years, collective violence by crowds has existed in different forms throughout history. In many societies, including India, communities occasionally resorted to extrajudicial punishment against persons accused of wrongdoing when formal legal institutions were weak or inaccessible. Such

practices were often justified in the name of maintaining social order, protecting community interests, or enforcing prevailing social norms.

During the colonial period, India witnessed numerous incidents of communal violence, caste-based attacks, and collective punishment carried out by groups against perceived offenders. While these incidents shared certain characteristics with modern mob lynching, they were generally addressed under laws relating to rioting, unlawful assembly, and homicide. The Indian Penal Code, 1860 did not recognize mob lynching as a separate offence, reflecting the fact that the phenomenon had not yet emerged as a distinct legal category.

Following independence, India adopted a constitutional framework based on the principles of equality, liberty, secularism, and the rule of law. Despite these constitutional commitments, incidents of collective violence continued to occur in various forms. Communal riots, caste conflicts, honour-based violence, and attacks against marginalized groups periodically challenged the effectiveness of legal institutions in maintaining social harmony.

The twenty-first century witnessed a significant transformation in the nature and frequency of mob violence. Increased access to mobile phones, internet services, and social media platforms enabled information to spread rapidly among large sections of the population. Unfortunately, misinformation and rumours also circulated with unprecedented speed. Numerous incidents were reported in which individuals were assaulted or killed on mere suspicion of child kidnapping, cattle smuggling, theft, or religious offences. In many cases, subsequent investigations revealed that the allegations against the victims were false or unsubstantiated.

The period between 2015 and 2023 witnessed a marked increase in public concern regarding mob lynching. Several high-profile incidents attracted national and international attention and generated intense debate regarding religious intolerance, vigilantism, hate crimes, and the failure of law enforcement agencies. Civil society organizations, human rights groups, legal scholars, and the media repeatedly called for the enactment of a specific anti-lynching law. Concerns were also raised regarding the role of social media in spreading misinformation and facilitating the formation of violent mobs.

The judiciary played a crucial role in addressing the growing menace. In *Tehseen S. Poonawalla v. Union of India* (2018), the Supreme Court observed that mob violence and lynching constituted serious threats to the constitutional order and emphasized that no individual or group could take the law into its own hands. The Court issued detailed guidelines requiring governments to adopt preventive, remedial, and punitive measures to combat mob violence.

The increasing incidence of lynching incidents and the demand for stronger legal protection eventually influenced legislative reforms. Recognizing the inadequacy of existing legal provisions in addressing the unique nature of mob violence, Parliament introduced specific provisions under the Bharatiya Nyaya Sanhita, 2023. By expressly criminalizing mob lynching under Section 103(2), the legislature sought to provide a stronger deterrent against collective violence and reinforce the principle that punishment can only be imposed through lawful judicial processes.

The historical development of mob lynching in India demonstrates that while collective violence is not a new phenomenon, its contemporary manifestations have become more organized, visible, and dangerous due to technological advancements, social polarization, and the rapid dissemination of misinformation. Consequently, addressing mob lynching requires not only effective legal provisions but also broader social, educational, and institutional reforms aimed at strengthening public trust in the rule of law.

4. Constitutional and Human Rights Dimensions of Mob Lynching

Mob lynching is not merely a criminal act resulting in physical injury or death; it represents a direct assault on the constitutional framework and human rights regime of India. The Constitution guarantees fundamental rights that protect every individual from arbitrary treatment, discrimination, and unlawful deprivation of life and liberty. When a mob assumes the role of judge, jury, and executioner, it undermines these constitutional guarantees and threatens the very foundation of democratic governance.

4.1 Article 14: Right to Equality

Article 14 of the Constitution guarantees equality before the law and equal protection of the laws to all persons within the territory of India. The principle embodies the concept that every individual, regardless of religion, caste, race, gender, language, or social status, is entitled to equal treatment under the legal system.

Mob lynching violates Article 14 by targeting individuals on discriminatory grounds and denying them equal protection of law. Victims are often selected because of their religious identity, caste affiliation, ethnicity, or perceived social status. Such acts reflect prejudice and intolerance rather than lawful adjudication. Moreover, when authorities fail to prevent mob violence or prosecute offenders effectively, the state's obligation to ensure equal protection is compromised.

The Supreme Court has repeatedly emphasized that the state bears a positive obligation to protect all individuals from violence and discrimination. Therefore, preventing mob lynching is essential for preserving the constitutional guarantee of equality.

4.2 Article 19: Protection of Fundamental Freedoms

Article 19 guarantees various freedoms, including freedom of speech and expression, freedom of movement, and freedom to reside and settle in any part of India. The existence of mob violence creates an atmosphere of fear that restricts the exercise of these freedoms.

Victims and vulnerable communities may alter their behaviour, avoid public spaces, or refrain from exercising their lawful rights due to fear of collective violence. Individuals engaged in legitimate activities may become targets merely because of rumours or societal prejudices. Consequently, mob lynching creates a chilling effect on the enjoyment of constitutional freedoms and weakens democratic participation.

The spread of misinformation through social media has also complicated the relationship between freedom of expression and public order. While freedom of speech is constitutionally protected, the deliberate dissemination of false information that incites violence cannot be justified under Article 19 and may be subjected to reasonable restrictions.

4.3 Article 21: Right to Life and Personal Liberty

Article 21 guarantees that no person shall be deprived of life or personal liberty except according to procedure established by law. This provision is regarded as one of the most significant safeguards under the Constitution and has been interpreted expansively by the Supreme Court to include the right to live with dignity, security, and freedom from arbitrary violence.

Mob lynching constitutes one of the gravest violations of Article 21. Victims are deprived of life or liberty without any legal process, investigation, or trial. The actions of a mob completely disregard the principles of natural justice and due process that form the basis of the criminal justice system. In many instances, innocent individuals have been assaulted or killed solely on the basis of suspicion or misinformation.

The Supreme Court has consistently held that the state has a constitutional duty not only to refrain from unlawful interference with individual liberty but also to take proactive measures to protect citizens from threats posed by private actors. Accordingly, failure to prevent mob lynching may amount to a violation of the state's obligations under Article 21.

4.4 Rule of Law and Human Dignity

The rule of law is a fundamental feature of the Indian Constitution. It requires that all actions affecting individuals be governed by legal norms rather than arbitrary decisions or acts of violence. Mob lynching directly challenges this principle by replacing legal processes with collective vengeance.

Human dignity is equally central to constitutional governance. Every individual possesses inherent worth and is entitled to respect and protection regardless of allegations made against them. Mob violence strips victims of their dignity, subjects them to humiliation and fear, and often results in irreversible physical and psychological harm.

The Supreme Court has repeatedly emphasized that constitutional democracy cannot tolerate "mobocracy." A society governed by the rule of law cannot permit crowds to determine guilt or impose punishment. Therefore, combating mob lynching is essential for protecting both constitutional values and internationally recognized human rights standards.

5. Legal Framework Prior to the Bharatiya Nyaya Sanhita, 2023

Before the enactment of the Bharatiya Nyaya Sanhita, 2023, India did not have a specific law dealing exclusively with mob lynching. Incidents of collective violence were prosecuted under various provisions of the Indian Penal Code, 1860 (IPC). Although these provisions provided mechanisms for punishment, they did not specifically address the distinctive characteristics of lynching as a collective and often discriminatory crime.

5.1 Relevant Provisions under the Indian Penal Code, 1860

Several provisions of the IPC were commonly invoked in cases involving mob lynching:

Section 302 – Murder:

Where a lynching incident resulted in death, participants could be prosecuted for murder and punished with death or life imprisonment.

Section 304 – Culpable Homicide Not Amounting to Murder:

This provision applied where the circumstances of the case did not satisfy all elements of murder but nevertheless resulted in death.

Sections 141–149 – Unlawful Assembly and Rioting:

These provisions addressed offences committed by groups of persons sharing a common object. Section 149 imposed vicarious liability upon members of an unlawful assembly for offences committed in furtherance of the common object.

Sections 323, 325 and 326 – Voluntarily Causing Hurt and Grievous Hurt:

These provisions were applicable where victims suffered injuries but survived the attack.

Section 120B – Criminal Conspiracy:

Where evidence demonstrated prior planning or coordination among participants, prosecution could be initiated for criminal conspiracy.

Section 34 – Common Intention:

This provision enabled courts to attribute criminal liability to individuals acting together with a shared intention.

Collectively, these provisions allowed law enforcement agencies to prosecute perpetrators of mob violence. However, they were designed to address general criminal conduct rather than the unique phenomenon of mob lynching.

5.2 Limitations of the IPC Framework

Despite the availability of multiple penal provisions, the IPC framework suffered from significant limitations when applied to mob lynching cases.

First, the IPC did not define mob lynching as a separate offence. As a result, the unique characteristics of collective violence, including prejudice-based targeting and vigilante justice, were not adequately recognized by the law.

Second, investigation and prosecution often became difficult because large numbers of individuals participated in the violence. Identifying specific offenders and proving individual roles posed substantial evidentiary challenges.

Third, the absence of a dedicated anti-lynching provision limited the symbolic and deterrent value of the law. Treating mob lynching as an ordinary offence failed to acknowledge its broader social and constitutional implications.

Fourth, existing provisions did not impose specific responsibilities upon authorities to prevent mob violence or protect vulnerable communities. Consequently, preventive mechanisms remained weak and inconsistent across different states.

These shortcomings led legal scholars, human rights organizations, and judicial bodies to advocate for the creation of a separate legal framework specifically addressing mob lynching.

6. Judicial Response to Mob Lynching in India

In the absence of dedicated legislation, the judiciary played a crucial role in addressing mob violence and emphasizing the need for stronger legal safeguards. Indian courts consistently recognized that mob lynching poses a serious threat to constitutional governance and public order.

6.1 Tehseen S. Poonawalla v. Union of India

The landmark decision in *Tehseen S. Poonawalla v. Union of India* (2018) represents the most significant judicial intervention concerning mob lynching. The case arose from increasing incidents of violence committed by self-styled vigilante groups in different parts of the country. The Supreme Court observed that mob lynching constituted an affront to the rule of law and described such acts as manifestations of "mobocracy." The Court unequivocally declared that no citizen or group of citizens has the authority to take the law into its own hands. The responsibility for determining guilt and imposing punishment belongs exclusively to legally constituted institutions.

The judgment emphasized that protection of life and liberty is a constitutional obligation of the state and that governments must take effective measures to prevent acts of mob violence.

6.2 Supreme Court Guidelines on Preventive, Remedial and Punitive Measures

Recognizing the absence of specific legislation, the Supreme Court issued detailed guidelines categorized as preventive, remedial, and punitive measures.

Preventive Measures

- Appointment of nodal officers in every district.
- Identification of areas prone to mob violence.
- Intelligence gathering and monitoring of inflammatory activities.
- Measures to curb dissemination of false and provocative information.

Remedial Measures

- Immediate registration of FIRs.
- Timely investigation and prosecution.
- Provision of compensation and rehabilitation to victims and their families.
- Protection of witnesses and victims.

Punitive Measures

- Departmental action against officials who fail to prevent lynching incidents.
- Fast-track trials for lynching cases.
- Strict enforcement of criminal laws against perpetrators.

The Court further recommended that Parliament enact a separate law specifically addressing mob lynching.

6.3 Other Significant Judicial Decisions

Apart from *Tehseen S. Poonawalla*, several judicial decisions have emphasized the state's responsibility to maintain law and order and protect citizens from collective violence. Courts have consistently held that constitutional rights cannot be sacrificed to public sentiment, majority opinion, or vigilante action.

Judicial pronouncements have reinforced the principles of due process, equality before law, and protection of human dignity. These decisions collectively contributed to the development of legal discourse surrounding mob lynching and ultimately influenced legislative reforms culminating in the enactment of the *Bharatiya Nyaya Sanhita, 2023*.

The judicial response to mob lynching demonstrates the proactive role played by the courts in safeguarding constitutional values. While judicial guidelines provided an important framework for addressing mob violence, the need for a specific statutory provision remained evident. This gap has now been partially addressed through the introduction of mob lynching as a distinct offence under the Bharatiya Nyaya Sanhita, 2023.

7. Mob Lynching as a Distinct Offence under the Bharatiya Nyaya Sanhita, 2023

The enactment of the Bharatiya Nyaya Sanhita, 2023 (BNS) represents a significant development in India's criminal justice system. One of its most notable features is the express recognition of mob lynching as a distinct criminal offence. The inclusion of a specific provision dealing with lynching reflects the legislature's acknowledgment of the growing incidence of mob violence and the inadequacy of traditional criminal law provisions in addressing the unique nature of such offences. By specifically criminalizing lynching, the BNS seeks to strengthen deterrence, ensure accountability, and reaffirm the principle that punishment can only be imposed through lawful judicial processes.

7.1 Legislative Intent Behind the Reform

The decision to introduce a separate provision on mob lynching was influenced by several legal and social factors. In recent years, India witnessed numerous incidents in which individuals were attacked by mobs on allegations relating to cow slaughter, child kidnapping, theft, interfaith relationships, and other perceived offences. Such incidents generated widespread public concern and highlighted the limitations of the existing legal framework.

The Supreme Court in *Tehseen S. Poonawalla v. Union of India* emphasized the urgent need to combat mob violence and recommended legislative intervention. Civil society organizations, human rights groups, and legal scholars similarly argued that mob lynching possessed characteristics that distinguished it from ordinary offences such as murder or rioting.

The legislative intent behind Section 103(2) appears to be threefold. First, it seeks to recognize mob lynching as a unique form of collective violence. Second, it aims to create a stronger deterrent through the imposition of stringent punishment. Third, it seeks to communicate the state's commitment to protecting vulnerable groups from violence motivated by prejudice, discrimination, or vigilantism.

7.2 Analysis of Section 103(2) BNS

Section 103(2) of the Bharatiya Nyaya Sanhita provides that where a murder is committed by a group of five or more persons acting together on grounds such as race, caste, community, sex, place of birth, language, personal belief, or any other similar ground, each member of the group shall be liable for punishment.

The provision contains several important elements:

Existence of a Group:

The offence requires the participation of five or more persons acting together. The numerical threshold distinguishes lynching from individual acts of violence.

Commission of Murder:

The provision applies where the actions of the group result in the death of the victim. Thus, the offence is linked specifically to homicidal conduct.

Discriminatory Motivation:

The section identifies several grounds including race, caste, community, sex, language, place of birth, and personal belief. This reflects the legislature's recognition that lynching is frequently motivated by prejudice and social hostility.

Collective Responsibility:

Liability extends to each member of the group involved in the offence. This approach seeks to overcome evidentiary difficulties that often arise in identifying the specific role played by individual participants.

The provision therefore combines elements of murder, unlawful assembly, and hate-motivated violence into a single statutory framework.

7.3 Punishment and Scope of Liability

Section 103(2) prescribes severe punishment, including death penalty or imprisonment for life, along with fine. The stringent punishment reflects the legislature's view that mob lynching constitutes an aggravated form of homicide.

The scope of liability under the provision is broader than traditional murder provisions because it focuses on collective participation rather than solely on identifying the individual who caused the fatal injury. This approach recognizes the reality that mob violence often involves numerous participants acting simultaneously, making it difficult to determine the precise role of each offender.

The provision also serves an important symbolic function. By imposing enhanced punishment, the legislature conveys that mob violence represents not merely an offence against an individual victim but also an attack upon public order, constitutional values, and the rule of law.

7.4 Comparison with IPC Provisions

Under the Indian Penal Code, 1860, incidents of mob lynching were prosecuted through a combination of provisions relating to murder, rioting, unlawful assembly, common intention, and common object. While these provisions enabled punishment of offenders, they did not specifically recognize lynching as a distinct category of crime.

The BNS departs from the IPC framework in several respects. First, it expressly identifies lynching as a separate offence rather than relying on a combination of general provisions. Second, it recognizes the discriminatory and collective nature of such crimes. Third, it establishes a dedicated statutory basis for punishment, thereby reducing uncertainty in prosecution.

However, the new provision continues to draw upon concepts similar to common object and collective liability that existed under Sections 34 and 149 of the IPC. Consequently, while the BNS introduces a distinct offence, it also builds upon principles already familiar to Indian criminal law.

8. Critical Evaluation of the BNS Provision

The recognition of mob lynching as a distinct offence has been widely welcomed as an important step towards strengthening criminal justice administration. Nevertheless, the provision raises several legal and practical questions that warrant careful examination.

8.1 Strengths

One of the principal strengths of Section 103(2) is its symbolic significance. The provision acknowledges that mob lynching is qualitatively different from ordinary homicide and therefore deserves separate treatment under criminal law.

The section also enhances deterrence by prescribing stringent punishment. The possibility of life imprisonment or death penalty may discourage participation in collective acts of violence. Another strength lies in the recognition of discriminatory motives behind lynching incidents. By specifically referring to factors such as caste, race, community, language, and personal belief, the provision highlights the social realities underlying many instances of mob violence. The provision further facilitates prosecution by emphasizing collective liability. This may reduce difficulties arising from the inability to identify the individual responsible for the fatal injury within a large group.

8.2 Ambiguities and Challenges

Despite its strengths, the provision contains certain ambiguities. The expression "any other similar ground" is broad and may create uncertainty regarding the precise scope of the offence. Courts may be required to determine the meaning and limits of this phrase on a case-by-case basis.

Similarly, questions may arise regarding the level of participation necessary to establish liability. It remains unclear whether mere presence in a crowd is sufficient or whether active participation must be proved.

The provision also focuses on cases resulting in murder. Consequently, incidents of attempted lynching or severe mob violence that do not result in death may continue to be prosecuted under general criminal law provisions, thereby creating potential gaps in legal protection.

8.3 Issues of Investigation and Evidence

Investigation of mob lynching cases presents significant practical difficulties. Such incidents often involve large crowds, chaotic circumstances, and rapidly unfolding events. Witnesses may be reluctant to cooperate due to fear of retaliation, community pressure, or social stigma. Digital evidence such as videos, photographs, and social media communications may play a crucial role in prosecution. However, questions concerning authenticity, admissibility, and preservation of electronic evidence frequently arise.

Another challenge relates to identifying individual participants within a large crowd. While collective liability may assist prosecutors, courts must ensure that innocent bystanders are not wrongfully implicated merely because they were present at the scene.

8.4 Concerns Regarding Implementation

The effectiveness of any criminal law ultimately depends upon implementation. Even the most comprehensive legal provisions may fail to achieve their objectives if investigations are inadequate or prosecutions are ineffective.

Concerns have been expressed regarding possible delays in registration of complaints, political interference, witness intimidation, and inadequate victim compensation. In certain situations, local authorities may face difficulties in controlling large and emotionally charged crowds.

Effective implementation therefore requires specialized police training, technological support, witness protection mechanisms, prompt investigation, and public awareness campaigns. Without such measures, the practical impact of Section 103(2) may remain limited.

9. Comparative Perspective: Anti-Lynching Laws in Other Jurisdictions

A comparative examination of foreign legal systems provides valuable insights into different approaches adopted to address mob violence and hate-motivated crimes.

United States

The term "lynching" originated in the United States, where racial violence against African Americans was historically widespread. For many decades, anti-lynching legislation faced political resistance despite extensive advocacy efforts.

A significant development occurred with the enactment of the *Emmett Till Antilynching Act, 2022*, which recognizes lynching as a federal hate crime. The legislation reflects a commitment to addressing crimes motivated by racial hatred and collective violence. The American experience demonstrates the importance of explicitly acknowledging the historical and social dimensions of lynching.

South Africa

South Africa does not possess a specific anti-lynching statute; however, acts of mob violence are prosecuted under laws relating to murder, assault, public violence, and hate crimes. The constitutional commitment to equality and human dignity plays an important role in judicial responses to collective violence.

United Kingdom

The United Kingdom addresses mob violence through offences relating to murder, manslaughter, violent disorder, riot, and hate crimes. Although there is no separate offence of lynching, enhanced penalties may be imposed where crimes are motivated by racial or religious hostility.

International Human Rights Perspective

International human rights instruments emphasize the state's duty to protect individuals from arbitrary deprivation of life and discriminatory violence. The Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights recognize the right to life, equality before the law, and protection against arbitrary violence.

Comparative analysis reveals that legal systems adopt different approaches to addressing mob violence. Some jurisdictions rely upon general criminal law provisions supplemented by hate crime legislation, while others have introduced specific anti-lynching measures. India's

decision to create a distinct offence under the Bharatiya Nyaya Sanhita, 2023 places it among jurisdictions that have chosen explicit statutory recognition of the problem. While the effectiveness of the new provision will depend upon implementation, its enactment represents a significant step towards strengthening legal protection against collective violence and preserving the rule of law.

10. Major Mob Lynching Incidents and Emerging Trends in India (2013–2023)

Mob lynching has emerged as a serious challenge to the rule of law in India during the last decade. The phenomenon refers to the use of collective violence by a group of individuals against a person suspected of committing an offence or engaging in conduct perceived as objectionable by the crowd. Between 2013 and 2023, more than 300 incidents of mob lynching were reported across different states of India involving victims belonging to diverse religious, caste, tribal, and socio-economic backgrounds. The incidents were triggered by a variety of factors, including child-lifting rumours, allegations of theft, cattle transportation, cow slaughter, caste-based hostility, witchcraft accusations, and other forms of vigilantism.

Table 1: Representative Mob Lynching Incidents in India (2013–2023)

Year	Victim(s)	Community/Background	State	Alleged Cause
2013	Jhankar Saikia	Hindu	Assam	Public assault following a dispute
2018	Nilotpal Das	Hindu	Assam	Child-lifting rumours
2018	Abhijit Nath	Hindu	Assam	Child-lifting rumours
2020	Kalpvrksh Giri (Sadhu)	Hindu	Maharashtra	Child-lifting rumours
2020	Sushil Giri (Sadhu)	Hindu	Maharashtra	Child-lifting rumours
2020	Nilesh Telgade	Hindu	Maharashtra	Mob attack arising from rumours
2015	Mohammad Akhlaq	Muslim	Uttar Pradesh	Alleged cow slaughter
2016	Mazlum Ansari	Muslim	Jharkhand	Alleged cattle trade
2016	Imteyaz Khan	Muslim	Jharkhand	Alleged cattle trade
2017	Pehlu Khan	Muslim	Rajasthan	Alleged cattle transportation

Year	Victim(s)	Community/Background	State	Alleged Cause
2017	Junaid Khan	Muslim	Haryana	Religious hostility and mob violence
2018	Rakbar Khan	Muslim	Rajasthan	Alleged cow smuggling
2018	Qasim	Muslim	Uttar Pradesh	Alleged cow slaughter
2019	Tabrez Ansari	Muslim	Jharkhand	Alleged theft
2016	Four Dalit Youths (Una Incident)*	Dalit	Gujarat	Alleged cow-related activity
2018	Dalit youth (reported caste-based assault)	Dalit	Madhya Pradesh	Caste hostility and mob violence
2019	Srikant Mali	Dalit	Madhya Pradesh	Alleged theft accusation
2022	Dalit youth (reported local incident)	Dalit	Rajasthan	Theft allegation and caste prejudice
2021	Tribal victims (reported cases)	Tribal Communities	Madhya Pradesh	Witchcraft accusations
2022–23	Migrant labourers and unidentified persons	Mixed Communities	Various States	Child-lifting rumours and theft allegations

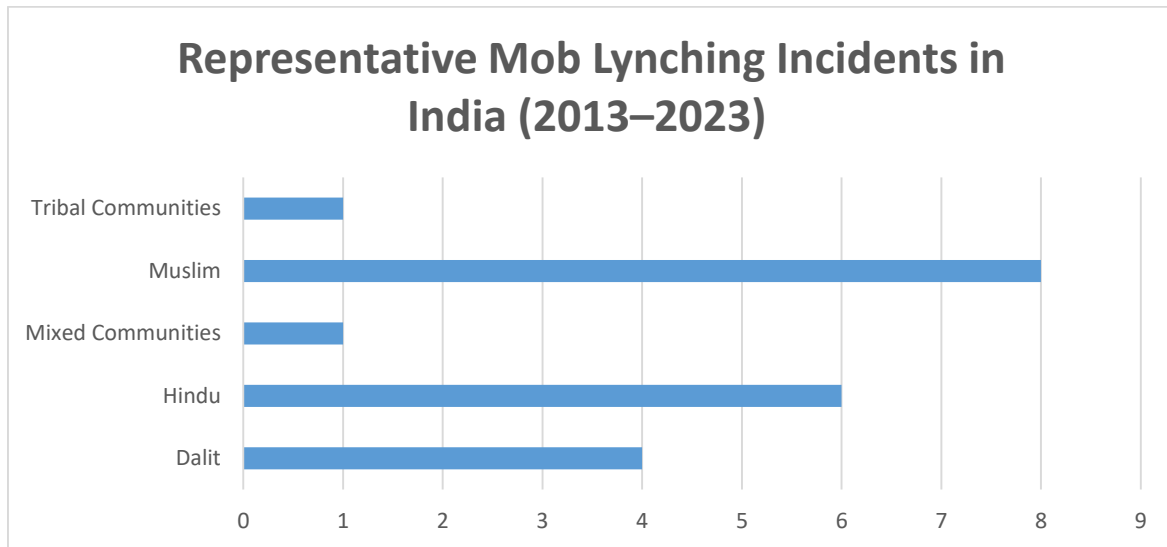


Figure 1: Broad Categories of Mob Lynching Incidents (2013–2023)

Category	Nature of Incidents
Child-Lifting Rumours	Victims attacked on suspicion of kidnapping children
Cow Protection/Cattle Transportation	Attacks linked to allegations of cow slaughter or cattle trade
Theft Allegations	Persons accused of theft assaulted by crowds
Caste-Based Violence	Attacks motivated by caste prejudice and discrimination
Religious or Communal Hostility	Violence arising from communal tensions
Witchcraft and Superstition	Lynching of persons accused of practising witchcraft
Vigilante Justice	Crowds taking law into their own hands without legal process

Analysis of Major Incidents

An examination of the above incidents reveals that mob lynching in India cannot be attributed to a single cause or confined to a particular community. Hindu victims were targeted in incidents arising from child-lifting rumours and public vigilantism, as evidenced by the Assam and Palghar cases. Muslim victims were disproportionately represented in cases involving allegations of cow slaughter and cattle transportation. Dalits have also been subjected to mob violence, often in the context of caste-based discrimination and social exclusion. Similarly,

tribal communities have faced violence arising from witchcraft accusations and superstitious beliefs.

The emergence of social media has further intensified the problem. False information relating to child kidnappers, organ traffickers, and criminal gangs has frequently spread through digital platforms, leading to panic and collective violence. In many instances, innocent individuals became victims merely because of rumours circulated through messaging applications and local social networks.

Regional Trends

The states most frequently associated with reported incidents include Uttar Pradesh, Rajasthan, Jharkhand, Bihar, Maharashtra, Madhya Pradesh, Haryana, Assam, and Gujarat. Although the causes varied across regions, common factors included communal polarization, caste prejudice, weak law enforcement responses, misinformation, and the growing tendency towards vigilante justice.

Human Rights and Constitutional Implications

Mob lynching represents a grave violation of the right to life and personal liberty guaranteed under Article 21 of the Constitution of India. It also undermines the principles of equality before law enshrined in Article 14 and the constitutional commitment to social justice. From an international perspective, mob lynching raises concerns under the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), both of which impose obligations on States to protect individuals against arbitrary deprivation of life and discriminatory violence.

The Supreme Court of India, in *Tehseen S. Poonawalla v. Union of India* (2018), characterized mob lynching as a manifestation of “mobocracy” and directed governments to implement preventive, remedial, and punitive measures. The Court emphasized that no citizen or group of citizens can assume the role of law enforcement authorities or judicial institutions.

The period between 2013 and 2023 demonstrates that mob lynching has affected individuals from diverse religious, caste, tribal, and socio-economic backgrounds. While allegations relating to cow protection, theft, and communal tensions accounted for several high-profile cases, incidents arising from child-lifting rumours, caste prejudice, and superstition were equally significant. The persistence of such violence highlights the urgent need for stronger legal safeguards, effective policing, public awareness initiatives, and comprehensive policy measures aimed at preserving the rule of law and protecting the fundamental rights of all citizens.

11. Suggestions and Recommendations

While the inclusion of mob lynching as a distinct offence under the Bharatiya Nyaya Sanhita, 2023 represents a significant step towards strengthening criminal justice administration, legal

reform alone cannot eliminate the problem. Effective prevention and control of mob violence require a comprehensive strategy involving legal, institutional, technological, and social measures. The following recommendations may contribute to the effective implementation of anti-lynching laws and the protection of constitutional values.

11.1 Strengthening Preventive Policing Mechanisms

Law enforcement agencies must adopt proactive measures to identify and address situations that may lead to mob violence. District administrations should establish specialized monitoring units to identify vulnerable areas and track activities likely to provoke collective violence. Police authorities should be trained to respond rapidly to emerging threats and intervene before violence escalates.

The appointment of dedicated nodal officers, as recommended by the Supreme Court in *Tehseen S. Poonawalla v. Union of India*, should be implemented effectively across all states and union territories. These officers should be responsible for coordinating preventive measures, monitoring communal tensions, and ensuring timely intervention.

11.2 Regulation of Misinformation and Social Media Abuse

A significant number of lynching incidents have been linked to rumours and misinformation circulated through social media platforms. Governments, technology companies, and civil society organizations must collaborate to prevent the dissemination of false and inflammatory content.

Social media platforms should strengthen mechanisms for identifying and removing content that incites violence. Public awareness campaigns should educate citizens about the dangers of forwarding unverified information. Digital literacy programmes may also help individuals critically evaluate information before sharing it with others.

11.3 Witness Protection and Victim Assistance

Successful prosecution of mob lynching cases often depends upon the willingness of witnesses to cooperate with investigating authorities. Fear of retaliation and community pressure frequently discourage witnesses from providing evidence.

A robust witness protection framework should therefore be implemented in lynching cases. Victims and their families should also receive adequate compensation, psychological counselling, legal assistance, and rehabilitation support. Such measures are essential for ensuring access to justice and restoring public confidence in the legal system.

11.4 Specialized Investigation and Fast-Track Trials

Mob lynching cases frequently involve complex evidentiary issues, multiple accused persons, and extensive digital evidence. Investigating officers should receive specialized training in handling such cases, including the collection and preservation of electronic evidence.

Fast-track courts may be established to ensure timely disposal of lynching cases. Delays in investigation and trial often weaken public confidence and reduce the deterrent effect of criminal law. Swift and fair adjudication can contribute significantly to accountability and justice.

11.5 Enactment of a Comprehensive Anti-Lynching Framework

Although Section 103(2) of the Bharatiya Nyaya Sanhita addresses lynching resulting in death, further legislative measures may be considered to address attempted lynching, grievous injuries caused by mobs, and other forms of collective violence.

A comprehensive anti-lynching framework could define preventive responsibilities of public officials, establish victim compensation schemes, provide witness protection mechanisms, and prescribe penalties for dereliction of duty by authorities who fail to prevent mob violence.

11.6 Community Awareness and Social Reform

Mob lynching is ultimately rooted in social prejudices, intolerance, and mistrust. Long-term prevention requires efforts aimed at promoting constitutional values, communal harmony, and respect for human dignity.

Educational institutions, media organizations, religious leaders, and community groups should actively promote awareness regarding the rule of law and the dangers of vigilantism. Public campaigns emphasizing tolerance, diversity, and peaceful dispute resolution can play a crucial role in preventing mob violence.

11.7 Ensuring Accountability of Public Officials

Authorities who fail to prevent foreseeable incidents of mob violence should be held accountable. Administrative and disciplinary action against negligent officials may encourage greater diligence in maintaining law and order.

Accountability mechanisms should be transparent and effective so that public officials recognize their constitutional responsibility to protect life and liberty.

12. Conclusion

Mob lynching represents one of the most serious threats to constitutional democracy, human rights, and the rule of law in contemporary India. It reflects a dangerous tendency among sections of society to bypass legal institutions and impose punishment through collective violence. Such acts not only result in the loss of innocent lives but also undermine public confidence in the criminal justice system and weaken the foundations of constitutional governance.

Prior to the enactment of the Bharatiya Nyaya Sanhita, 2023, incidents of mob lynching were addressed through general provisions of the Indian Penal Code relating to murder, rioting, unlawful assembly, and conspiracy. Although these provisions enabled prosecution of offenders, they failed to recognize the unique nature of lynching as a form of collective and often discriminatory violence. The absence of a specific legal framework created challenges in investigation, prosecution, and deterrence.

The introduction of Section 103(2) of the Bharatiya Nyaya Sanhita, 2023 marks a significant milestone in India's criminal law reforms. By recognizing mob lynching as a distinct offence and prescribing stringent punishment, the legislature has acknowledged the gravity of the problem and reaffirmed the state's commitment to protecting life, liberty, equality, and human dignity. The provision also reflects the concerns expressed by the judiciary, particularly in the

landmark decision of *Tehseen S. Poonawalla v. Union of India*, which emphasized that mobocracy has no place in a constitutional democracy governed by the rule of law.

Despite its significance, the effectiveness of the new provision will depend largely upon its implementation. Challenges relating to investigation, collection of evidence, witness protection, misinformation, and administrative accountability must be addressed through coordinated institutional efforts. Legal reform, while necessary, cannot by itself eradicate the social conditions that give rise to mob violence.

Therefore, a holistic approach combining effective law enforcement, judicial efficiency, public awareness, technological regulation, and social reform is essential for combating the menace of mob lynching. Only through such comprehensive measures can India ensure that justice is administered by courts of law rather than by violent crowds, thereby preserving the constitutional ideals of equality, liberty, dignity, and the rule of law.

References

Books

1. Gaur KD, *Textbook on Indian Penal Code* (7th edn, Universal Law Publishing 2022).
2. Jain MP, *Indian Constitutional Law* (9th edn, LexisNexis 2023).
3. Vibhute KI and Rao VN, *Criminal Law in India: Cases and Materials* (3rd edn, LexisNexis 2020).
4. Basu DD, *Introduction to the Constitution of India* (26th edn, LexisNexis 2021).
5. Baxi Upendra, *The Future of Human Rights* (3rd edn, Oxford University Press 2008).
6. Seervai HM, *Constitutional Law of India* (4th edn, Universal Law Publishing 2015).
7. Smith JC and Hogan B, *Criminal Law* (Oxford University Press 2018).
8. Chaturvedi AK, *Principles of Criminal Law* (Central Law Publications 2020).

Journal Articles

9. Apar Gupta and others, 'Mob Lynching, Hate Crimes and the Rule of Law in India' (2019) 54(34) *Economic and Political Weekly*.
10. Faizan Mustafa, 'Mob Lynching and Constitutional Governance in India' (2018) 6 *NUJS Law Review* 1.
11. Prakash Singh, 'Vigilantism and Criminal Justice Administration in India' (2020) 12 *Indian Journal of Law and Justice* 45.
12. Anumeha Yadav, 'The Rise of Mob Lynching in India: Legal and Social Perspectives' (2019) 11 *Journal of Indian Law and Society* 112.
13. Raj Kumar, 'Human Rights Implications of Mob Violence in India' (2021) 63 *Journal of the Indian Law Institute* 87.
14. Surabhi Chopra, 'Collective Violence and Criminal Accountability in India' (2020) 55 *Economic and Political Weekly* 23.

Newspaper Reports

15. The Hindu, "Assam mob lynching: Two youths killed over child-lifting rumours in Karbi Anglong," 9 June 2018.

16. Indian Express, "Karbi Anglong lynching: Nilotpal Das and Abhijit Nath beaten to death by mob," 10 June 2018.
17. The Hindu, "Two sadhus, driver lynched in Maharashtra's Palghar district," 17 April 2020.
18. Indian Express, "Palghar lynching case: Mob kills two sadhus and driver," 18 April 2020.
19. The Hindu, "Dadri lynching: Mohammad Akhlaq killed over beef rumours," 29 September 2015.
20. Human Rights Watch, *Violent Cow Protection in India: Vigilante Groups Attack Minorities*, 2019.
21. The Hindu, "Jharkhand cattle traders found hanging from tree," 19 March 2016.
22. Indian Express, "Mazlum Ansari and Imteyaz Khan lynching case," 2016.
23. The Hindu, "Pehlu Khan lynching: Rajasthan police file chargesheet," 2017.
24. Human Rights Watch, *India: Events of 2017, section on cow-related violence and lynchings*.
25. The Hindu, "Junaid Khan lynching case: Train murder sparks debate on intolerance," 24 June 2017.
26. Indian Express, "Rakbar Khan lynching: Rajasthan cow vigilantism case," July 2018.
27. The Hindu, "Hapur mob violence: Qasim beaten to death," June 2018.
28. The Hindu, "Tabrez Ansari dies after mob assault in Jharkhand," 24 June 2019.
29. The Indian Express, "Una flogging case: Four Dalit youths assaulted in Gujarat," July 2016.
30. National Campaign on Dalit Human Rights (NCDHR), *Annual Report on Atrocities Against Dalits*, various years.
31. The Hindu, reports on caste-based mob violence in Madhya Pradesh and Rajasthan (2018–2022).
32. National Human Rights Commission, *Advisories and Reports on Mob Violence and Lynching*, various years.
33. Amnesty International India, *Halt the Hate: Addressing Mob Violence and Lynching in India*, 2019.
34. Human Rights Watch, *Violent Cow Protection in India: Vigilante Groups Attack Minorities*, 2019.
35. Tehseen S. Poonawalla v. Union of India, (2018) 9 SCC 501.
36. IndiaSpend, "Lynching in India Database and Analysis Reports," various years (2015–2023).

Reports and Committee Documents

37. Law Commission of India, *Consultation Paper on Reform of Criminal Laws* (Government of India, 2020).
38. National Human Rights Commission, *Advisory on Prevention and Combating of Mob Violence* (2020).

39. Parliamentary Standing Committee on Home Affairs, *Report on Criminal Law Reforms* (2023).
40. National Campaign Against Mob Lynching, *MASUKA: Draft Manav Suraksha Kanon* (2017).

Statutes

41. Constitution of India, 1950.
42. Indian Penal Code, 1860.
43. Bharatiya Nyaya Sanhita, 2023.
44. Code of Criminal Procedure, 1973.
45. Bharatiya Nagarik Suraksha Sanhita, 2023.
46. Information Technology Act, 2000.

Cases

47. Tehseen S. Poonawalla v. Union of India (2018) 9 SCC 501.
48. Maneka Gandhi v. Union of India (1978) 1 SCC 248.
49. Francis Coralie Mullin v. Administrator, Union Territory of Delhi (1981) 1 SCC 608.
50. National Human Rights Commission v. State of Gujarat (2009) 6 SCC 767.
51. Vishaka v. State of Rajasthan (1997) 6 SCC 241.
52. People's Union for Democratic Rights v. Union of India (1982) 3 SCC 235.

International Instruments

53. Universal Declaration of Human Rights, 1948.
54. International Covenant on Civil and Political Rights, 1966.
55. United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990.

Foreign Legislation

56. Emmett Till Ant Lynching Act, 2022 (United States).
57. Hate Crime Prevention Laws of the United States.