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Mob Lynching as Hate Crime: Legislative Gaps, Judicial Response, and Way Forward

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ABSTRACT

Mob lynching refers to the unlawful killing of individuals or groups by a crowd taking action without legal endorsement. Lynching in India has become a more evident recently, especially in incidents related to accusations of cow slaughter or the consumption of beef, as well as within the contexts of religious and communal conflicts, caste discrimination, false accusations of commission of crimes and moral policing. The prevalent legal remedies are insufficient to prevent the violence and compensate the victims. The absence of specific laws, policies or reliable data relating to mob lynching reflects a systemic gap in the legal and administrative apparatus, resulting in limited prosecutorial success and a lack of deterrence. There is an exigency of a specific law for protection against the crime. This paper critically analyses the motives behind the mob violence by examining numerous incidents of mob lynching. It inspects the legislative framework at hand in India and its efficiency also evaluates the steps taken by the US to curb the mob violence. It examines the guidelines of the Supreme Court in the landmark judgment, also the legislative responses to it given by the states. This paper also explores the role of law enforcement agencies, media platforms and society. This paper seeks to highlight particular areas that need enhancement and to suggest practical solutions that ensure the law remains effective while protecting victims' rights.

Keywords: Mob lynching, Hate crimes, Identity-Based Violence, Human Rights, Rule of Law.

I. INTRODUCTION

"Mob law is the law of the jungle. It is anarchy and must be resisted at all costs"³

- Mahatma Gandhi

The one of the essential element to constitute an act as a crime, is "a human." But when group of people are involved in the violence the group is termed as "mob". The word "lynching" stretches back to the late 18th century in America and is speculated to have originated from the name of Charles Lynch, who, during the American Revolutionary War, engaged in

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³ M.K. Gandhi, *The Crime of Chauri Chaura*, **Young India** (Ahmedabad), Feb. 16, 1922, at 114.

extrajudicial action against suspected British loyalists by detaining, punishing, and occasionally executing them without following the proper legal procedures. Later, these acts were known as "Lynch's Law," leading to rise of the word "lynching."⁴ Mob lynching can be defined as, the illegal death of people or groups by a mob acting without legal endorsement. Numerous such instances have occurred around the country over the years, tragically taking the lives of innocent people and posing significant issues with respect to social harmony, law and order, and the rule of law. Mob lynching refers to extrajudicial execution of people based on various factors like race, caste, community, language etc.⁵

The term "lynching" was used to refer to any kind of extrajudicial punishment or summary justice. In contrast to its racial origins in the United States, mob lynching in India has deep-rooted socio-political, religious, and communal overtones. In India, the problem is not caused by a single historical figure or formal "lynch law," but rather by widespread vigilantism and the disintegration of the legal system in some situations. Historically, India has experienced forms of mob justice in rural and feudal system, with local communities often taking the law into their own hands because of an insufficiency of timely police intervention or a lack of confidence in the judicial process.⁶ However, in recent decades, lynching has emerged as a more visible and organized form of violence, particularly in cases involving cattle-related violence, religious and communal tensions, caste-based discrimination, honor killings, moral policing and political vigilantism. These incidents, which frequently lead to targeted violence against minorities, dalits, and marginalized communities, are fueled by political rhetoric, religious polarization, and social media rumors.⁷

II. BEYOND HATE: UNDERSTANDING THE ROOT CAUSES OF HATE CRIMES

A. Analyzing hate crime

Hate crimes always comprise two elements: a criminal offence committed with a bias motive.⁸



⁴ **Lynching**, *Encyclopædia Britannica*, <https://www.britannica.com/topic/lynching> (last visited May 03, 2025).

⁵ **Mob Lynching**, *iPleaders Blog*, <https://blog.ipleaders.in/all-you-need-to-know-about-mob-lynching-in-india/> (last visited May 03, 2025).

⁶ **The History of Mob Justice: Origins, Theoretical Perspectives, and Implications**, *Modern Ghana*, <https://www.modernghana.com/news/1384028/the-history-of-mob-justice-origins-theoretical.html> (last visited May 10, 2025).

⁷ **Mob Lynching in India: An Analytical Study**, *International Journal of Advanced Research in Science, Communication and Technology*, <https://ijarsct.co.in/Paper18861.pdf> (last visited May 11, 2025).

⁸ Hate Crime Law: A Practical Guide (Warsaw: ODIHR, 2009) pg 16

This means for any act to be termed as hate crime, two conditions must be satisfied: firstly, the act must be of criminal nature and secondly, it must be motivated by biasness that is the intention behind such act must be the outcome of hatred or biasness or prejudice towards the group of persons or community. The bias is mainly related to one of the following factors such as religion, race, caste, class, community, color, sexual orientation, national origin, region, minorities, political ideologies, etc.

B. The bias beneath the mob

Lynching has been gaining prominence in India since last few years. The motives behind the incidents that have been apparent in recent years can be broadly classified in a number of recurrent themes. The bias motives involved in such incidents reflect underlying social, political, cultural, and psychological factors:

Religious and Communal Bias: A significant number of mob lynching incidents are driven by religious or communal bias, particularly targeting minority communities. Such acts are often premised on perceived threats to religious identity or nationalism and are reflective of deeply entrenched prejudices. The victims are frequently attacked not for their actions, but for their identity, highlighting the dangerous potency of religious polarization. These acts of violence, often incited by rumors or minor altercations, have led to a climate of fear and vulnerability among minorities. The absence of swift justice and the frequent politicization of these events exacerbate the problem, undermining the pluralistic fabric of Indian democracy.

Cow Vigilantism: Another prominent driver of lynching in India has been cow vigilantism. Rooted in religious reverence for the cow, this form of violence is often perpetrated by self-proclaimed protectors of faith who target individuals accused often falsely of slaughtering cows or engaging in the illegal transport of cattle. These vigilante groups often operate with impunity, emboldened by a perceived alignment with dominant political ideologies or by the lack of legal consequences. Despite victims often possessing legal documentation or lacking any evidence of wrongdoing, these attacks persist, reflecting a toxic intersection of religious sentiment and mob justice.⁹

Caste-Based Violence: India's deeply entrenched caste system continues to manifest in violent ways, with lynching being used as a tool of social subjugation and humiliation. Marginalized communities, particularly Dalits and tribal groups, often find themselves at the receiving end of caste-based mob attacks. These incidents are not only instances of physical

⁹ **Human Rights Watch**, *India: Vigilante 'Cow Protection' Groups Attack Minorities*, <https://www.hrw.org/news/2019/02/19/india-vigilante-cow-protection-groups-attack-minorities> (last visited May 13, 2025).

brutality but also reflect long-standing societal hierarchies and discrimination. Often masquerading as moral or vigilante justice, these acts reinforce exclusion and oppression, challenging constitutional guarantees of equality and human dignity.¹⁰

Misinformation and Child Kidnapping Allegations: A more recent and alarming trend in lynching incidents has been the role of misinformation and rumor-mongering, particularly through social media platforms such as WhatsApp. False alarms regarding child kidnappings and organ trafficking have led to widespread panic and violent mob actions. These incidents frequently involve innocent individuals being targeted by villagers or residents who act on unverified claims. The viral nature of such rumors, often accompanied by doctored videos and voice notes, highlights the vulnerability of societies lacking digital literacy and robust mechanisms to counter fake news.¹¹

Witchcraft Accusations in Tribal and Rural India: In tribal and rural parts of the country, lynching incidents are often linked to accusations of witchcraft. Women, particularly from marginalized backgrounds, are targeted based on superstitions, often as a cover for personal enmity, land disputes, or to assert male dominance. These acts are deeply gendered and reflect the dangerous intersection of patriarchy, ignorance, and lawlessness. Despite legal provisions against witch-hunting, enforcement remains weak, and victims continue to suffer brutal public executions without due process.

Theft Allegations and Extrajudicial Violence: Mob lynching under the guise of punishing suspected thieves illustrates a perilous trend of citizens taking the law into their own hands. Often based on little or no evidence, these attacks highlight a broader societal distrust in formal legal mechanisms. Such extrajudicial violence bypasses due process and poses a serious threat to the rule of law. In many cases, the presence of police or lack of intervention further reflects institutional complicity or incapacity, reinforcing public disillusionment with state institutions.¹²

Political and Ideological Motivations: Political and ideological extremism also plays a significant role in mob lynching. Individuals have been targeted based on their perceived political affiliations, ideological stances, or even associations with state institutions. In

¹⁰ **The Times of India**, *Dalit Groom 'Pulled Off Chariot Over DJ Music' in Mathura*, <https://timesofindia.indiatimes.com/city/agra/dalit-groom-pulled-off-chariot-over-dj-music-in-mathura/articleshow/121353293.cms> (last visited May 20, 2025).

¹¹ **BBC News**, *India 'WhatsApp Child Abduction Rumours': Five More Lynched*, <https://www.bbc.com/news/world-asia-india-44678674> (last visited May 21, 2025).

¹² **The Indian Express**, *Man Lynched in UP's Aligarh Over Theft Suspicion; 6 Held*, <https://indianexpress.com/article/cities/lucknow/muslim-man-mob-lynching-up-aligarh-theft-9401538/> (last visited May 20, 2025).

politically polarized environments, such attacks often gain symbolic meaning, serving as expressions of dissent or domination. Unfortunately, these incidents are frequently politicized, with accountability diluted along party lines, making justice even more elusive.

The Role of Technology and the Breakdown of Law and Order: The broader context of these incidents is one of institutional failure and erosion of public confidence in the legal system. The proliferation of mob violence points to a significant breakdown in the enforcement of law and order, where the absence or inefficacy of policing allows mobs to assume the role of judge, jury, and executioner. The Indian WhatsApp lynchings, which gained notoriety after a series of murders triggered by false messages circulated on the platform, underscore the dangers of digital misinformation in a low-literacy environment. While tech platforms like WhatsApp have taken steps such as labeling forwarded messages and supporting anti-fake news campaigns, these measures have had limited impact in preventing violence on the ground.¹³

III. LEGAL SAFEGUARDS AGAINST MOB VIOLENCE IN INDIA

The Indian Penal Code, did not include the crime of mob lynching. Although the newly enacted Bharatiya Nyaya Sanhita does include the offence of lynching. In light of these incidents in the society, it was necessary to create such an offense. The inclusion of mob lynching as a specific offence in the Bharatiya Nyaya Sanhita marks a significant legislative development aimed at addressing the growing menace of collective violence in India.

A. Bharatiya Nyaya Sanhita 2023

Section 103(2)¹⁴ of the BNS criminalizes acts wherein a group of five or more individuals, acting in concert, commit murder on discriminatory grounds such as race, caste, community, sex, place of birth, language, personal belief, or any other similar basis. This provision prescribes stringent punishment either death or life imprisonment along with a fine for each participating member of such a group. A parallel provision is found in Section 117(4)¹⁵, which similarly penalizes grievous hurt caused by such groups, prescribing imprisonment for a term which may extend to seven years and a fine. Both sections emphasize the collective nature of mob violence, recognizing the complicity of every group member regardless of individual degrees of participation, as long as the act is committed in furtherance of a common discriminatory motive. However, certain interpretative and drafting ambiguities have been

¹³ **The Washington Post**, *How Misinformation on WhatsApp Led to a Mob Killing in India*, <https://www.washingtonpost.com/politics/2020/02/21/how-misinformation-whatsapp-led-deathly-mob-lynching-india/> (last visited May 20, 2025)

¹⁴ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 103(2) (India).

¹⁵ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 117(4) (India).

identified that may compromise the effective enforcement of these provisions. A particularly notable omission is the absence of the term “religion” among the listed grounds in both Section 103(2) and Section 117(4), despite the fact that religious identity has been a frequent motivating factor in recent lynching incidents. While it may be argued that religion can be subsumed under “personal belief” or “any other similar ground,” the lack of explicit reference introduces an avoidable vagueness. This is especially concerning given the specificity with which religion is recognized as a protected ground in other legal provisions that address communal and group-based violence.

The interpretative challenges are further compounded by a textual discrepancy observed by the Division Bench of the Jharkhand High Court, where Section 103(2) was printed using the phrase “any other ground” instead of the legislatively intended “any other similar ground.” The court rightly observed that such a deviation could substantially alter the scope of the provision, leading to misapplication or undue restriction of its intended coverage. Accordingly, the court directed the publisher to rectify the error, highlighting the importance of precision in legislative drafting. Section 3(5)¹⁶ of the BNS reinforces the principle of joint liability in the context of criminal acts carried out by a group with common intent.¹⁷ This provision serves as a foundational doctrine that underpins Sections 103(2) and 117(4), establishing that once a shared intent is demonstrated, each individual in the group is equally culpable for the resultant offence, as though they had executed it alone. Taken together, these provisions represent an important step towards the codification of anti-lynching norms in Indian criminal law. However, their efficacy will largely depend on how ambiguities in language are resolved through judicial interpretation and legislative refinement. It is imperative that these provisions be harmonized with broader constitutional values of equality, secularism, and the right to life, ensuring robust protection against all forms of identity-based collective violence.

B. MASUKA 2017

The Manav Suraksha Kanoon (MASUKA), or the Protection from Lynching Bill, 2017¹⁸, emerged as a landmark civil society initiative aimed at confronting the rising tide of mob lynching incidents across India. Drafted in the backdrop of widespread public anxiety and moral outrage, MASUKA represents a focused attempt to address the inadequacies of the

¹⁶ Bharatiya Nyaya Sanhita, No. 45 of 2023, § 3(5) (India).

¹⁷ Jharkhand High Court, Order dated Jan. 25, 2024, in *In re: Suo Motu Correction of Legislative Text in Bharatiya Nyaya Sanhita*, 2024 SCC OnLine Jhar 35.

¹⁸ Manav Suraksha Kanoon (MASUKA), The Protection from Lynching Bill, 2017 (Draft), available at <https://www.stopmoblynching.com/masuka> (last visited May 23, 2025).

Indian Penal Code. In dealing with the unique nature of mob-based, hate-driven violence. Recognizing that existing laws were fragmented and not specifically equipped to handle the collective, targeted, and often premeditated character of such crimes, a coalition of legal experts, activists, and civil society members spearheaded the formulation of this draft legislation under the banner of the National Campaign Against Mob Lynching. MASUKA proposed a comprehensive legal framework to criminalize mob lynching and reinforce the constitutional guarantees under Articles 14¹⁹ and 21²⁰, which ensure equality before the law and the right to life, respectively. The draft law emphasizes the creation of a separate legal category for lynching, distinct from generic offences such as murder or rioting, thereby acknowledging its socio-political and communal underpinnings. One of MASUKA's key innovations lies in its incorporation of a "hate crime and prejudice" clause, which underscores the ideological motivations behind mob violence and seeks to hold perpetrators accountable not merely for the act, but also for the discriminatory intent that drives it.

MASUKA outlines institutional response mechanism. It mandates the registration of First Information Reports, the appointment of nodal officers at the district level to monitor and prevent incidents, and the establishment of fast-track courts to expedite trials. It further provides for victim compensation schemes, rehabilitation measures for survivors and their families, and protection for witnesses elements that are often neglected in the aftermath of communal or identity-based violence. Importantly, it places a legal duty upon police and administrative officials to act promptly and impartially, holding them criminally accountable for any willful negligence or complicity. Despite its strong legal and moral rationale, MASUKA has yet to receive legislative sanction. It remains a draft bill and has not been introduced or passed in Parliament. Nevertheless, its influence is discernible in the legislative efforts of several states. Jurisdictions such as Manipur, Rajasthan, and West Bengal have enacted state-level anti-lynching laws that borrow heavily from the structure and principles articulated in MASUKA, thereby reflecting its normative and jurisprudential impact.

IV. TEHSEEN S. POONAWALLA V. UNION OF INDIA (2018): A CONSTITUTIONAL BLUEPRINT AGAINST MOB LYNCHING

The Supreme Court's decision in *Tehseen S. Poonawalla v. Union of India*²¹ represents a judicial milestone in contemporary Indian constitutional jurisprudence, particularly for its proactive role in addressing the rising phenomenon of mob lynching. This judgment came at a

¹⁹ INDIA CONST. art. 14.

²⁰ INDIA CONST. art. 21.

²¹ *Tehseen S. Poonawalla v. Union of India*, (2018) 9 S.C.C. 501 (India).

time of heightened concern over the growing frequency and brutality of lynching incidents acts often rooted in communal hatred, vigilante justice, and misinformation, and directed disproportionately at religious and caste minorities. In this context, the Court's intervention was not merely legal but symbolic of a broader defence of the secular and democratic ethos of the Indian Constitution.

At the heart of the litigation was the argument that the Indian state had failed in its fundamental duty to protect life and equality under Articles 14, 15²², and 21²³ of the Constitution. The petitioners, including civil society activist Tehseen Poonawalla, called upon the Court to acknowledge lynching as a distinct criminal phenomenon that the existing penal framework was ill-equipped to handle. The petition also sought judicial direction to ensure that victims of such violence were not left without institutional recourse or compensation, and that perpetrators did not enjoy impunity due to administrative indifference or complicity. The Court, responding with remarkable clarity, acknowledged that mob lynching represents not only a breakdown of public order but a fundamental affront to constitutional morality. Terming such acts as “mobocracy,” the Court strongly denounced them as violations of the rule of law, a cornerstone of the constitutional scheme. It observed that such extrajudicial actions cannot be permitted in a society governed by law, and any tolerance or inaction in the face of such violence risks normalizing a culture of illegality and fear.²⁴

The Court did not stop at rhetorical condemnation. Recognizing the legislative void and the ineffectiveness of general criminal laws to prevent or adequately respond to lynching, it issued a detailed set of binding guidelines categorized under preventive, remedial, and punitive measures. The preventive guidelines mandated the appointment of nodal officers in each district to monitor and curb mob violence, directed sensitization of law enforcement agencies, and called for proactive public awareness campaigns to counter the rumors and prejudices fueling such violence. In terms of remedial steps, the Court emphasized time-bound investigation and prosecution, legal aid to victims, and measures for victim and witness protection. These recommendations acknowledged the systemic barriers victims face in accessing justice ranging from police apathy to social ostracization and attempted to rectify them through institutional interventions. Perhaps most notably, the Court made a strong legislative recommendation urging Parliament to enact a separate law against lynching. While it was careful to acknowledge the limits of judicial power in legislative matters, it nonetheless emphasized that such a law was necessary to address the specific and growing threat that

²² INDIA CONST. art. 15.

²³ INDIA CONST. art. 21.

²⁴ Supra Note 19.

lynching posed to the constitutional order. The absence of a statutory framework, the Court argued, had contributed to a culture of impunity and institutional neglect.²⁵

The judgment's influence extended beyond the courtroom. It galvanized civil society efforts, such as the drafting of the Manav Suraksha Kanoon, which sought to provide a comprehensive legal response to mob lynching. Moreover, a few states namely West Bengal, Rajasthan, and Manipur enacted anti-lynching legislation, drawing both inspiration and substantive content from the Court's directives. However, the implementation of the Court's guidelines has remained uneven. Despite their binding nature under Article 141²⁶ of the Constitution, several state governments have shown reluctance or negligence in carrying out the mandated measures. The lack of political will, institutional inertia, and societal complicity have all contributed to continued incidents of lynching, thereby underscoring the limitations of even the most well-intentioned judicial interventions.

What the *Poonawalla* judgment reveals is both the strength and the constraints of judicial activism in a constitutional democracy. The Court was able to fill a legal vacuum, reaffirm fundamental rights, and provide an immediate normative framework for action. Yet, the enforcement of its vision depends on the cooperation of the legislative and executive branches of government, along with civil society. Without such cooperation, judicial guidelines no matter how progressive remain aspirational rather than transformative.

V. STATE-LEVEL LEGISLATIVE RESPONSES TO MOB LYNCHING: POST-*TEHSEEN POONAWALLA* JUDICIAL PUSH

The Supreme Court's landmark judgment in *Tehseen S. Poonawalla v. Union of India* (2018)²⁷ did not merely censure the phenomenon of mob lynching; it presented a normative and legal architecture for how the State must respond. Central to this decision was the Court's categorical call for legislative action both at the central and state levels invoking the constitutional mandates of Articles 14, 15, and 21. Although the Union Parliament has yet to enact a comprehensive anti-lynching statute, several states have stepped into the breach, translating judicial directions into legislative drafts and statutory frameworks. These state-level laws mark the early stages of a decentralized but vital experiment in combating the extrajudicial violence plaguing Indian society.

²⁵ Supra Note 19.

²⁶ INDIA CONST. art. 141.

²⁷ Ibid.

A. Manipur: Pioneering Legal Infrastructure

Manipur emerged as the first Indian state to codify a specific anti-lynching law with the *Manipur Protection from Mob Violence Act, 2018*.²⁸ Noteworthy for its structural fidelity to the Supreme Court's guidelines, the legislation stands as the most comprehensive legal response to mob lynching thus far. It offers statutory definitions of "lynching" and "mob violence," and prescribes severe penalties, including life imprisonment in cases where lynching leads to death. Institutional reforms embedded in the law such as the mandatory appointment of nodal officers, timeline-bound investigations, victim compensation, and witness protection reflect an earnest attempt to operationalize the tripartite strategy of prevention, remedy, and punishment outlined by the Court. Manipur's legislation thus sets a high watermark in terms of legislative alignment with judicial vision.

B. Rajasthan: Legislating Against Impunity

Rajasthan followed suit with the *Rajasthan Protection from Lynching Bill, 2019*.²⁹ The Bill criminalizes not just the act of lynching but also its ancillary components abetment, conspiracy, and obstruction of justice. Its punitive framework mirrors that of Manipur, incorporating life imprisonment and hefty fines, and it calls for special courts to ensure expedited justice. Importantly, it includes compensatory provisions for victims, an element critical to restoring trust in the legal system. However, the bill remains stalled due to the Governor's withholding of assent a reminder that political and constitutional bottlenecks continue to constrain progressive legislative intent. Nonetheless, the Rajasthan bill is a significant milestone in embedding the Court's directives into statutory form.

C. West Bengal: Balancing Enforcement and Political Perception

West Bengal's legislative effort the *West Bengal (Prevention of Lynching) Bill, 2019*³⁰ reflects a similarly robust attempt to align with the judicial roadmap. It proposes life imprisonment for perpetrators of fatal lynching, alongside institutional innovations such as special courts and nodal officers. Provisions for victim rehabilitation and financial compensation further bolster its remedial approach. Yet, the bill's journey has been marred by political contestation, with detractors claiming that it may be used selectively to suppress dissent. Pending gubernatorial approval, the bill underscores both the political sensitivities and the legal urgency surrounding

²⁸ The Manipur Protection from Mob Violence Act, 2018, No. 10 of 2018, MANIPUR GAZETTE EXTRAORDINARY, July 25, 2018 (India)

²⁹ The Rajasthan Protection from Lynching Bill, 2019, Bill No. 24 of 2019, RAJASTHAN LEGISLATIVE ASSEMBLY, Aug. 5, 2019 (India) (pending assent).

³⁰ The West Bengal (Prevention of Lynching) Bill, 2019, WEST BENGAL LEGISLATIVE ASSEMBLY, Aug. 30, 2019 (India) (pending gubernatorial assent).

anti-lynching measures. Despite its challenges, the bill reflects a faithful adherence to the structural framework envisaged in *Tehseen Poonawalla*.³¹

D. Jharkhand: Legislative Response Amid Public Outcry

In Jharkhand, the lynching of Tabrez Ansari in 2019 provoked widespread national condemnation and prompted legislative action. The *Jharkhand Mob Violence and Lynching (Prohibition) Bill, 2021*³² defines mob lynching as a standalone offense and prescribes punishments up to life imprisonment. The bill also mirrors the preventive and remedial elements found in other state statutes, including nodal officer appointments, time-bound trials, and compensation for victims. However, like in several other states, the bill remains a draft and has not yet been enacted. This signals the continued gap between legislative articulation and statutory execution.

VI. ODIFYING MEMORY: HOW AMERICA CONFRONTED ITS LEGACY OF LYNCHING

The legal history of lynching in the United States underscores the disturbing intersection of racial violence, societal complicity, and institutional inaction. Historically, lynching in the U.S. was not merely an act of extrajudicial killing it was a tool of racial subjugation, a public spectacle that reinforced white supremacy and terrorized African-American communities, particularly in the southern states. Between 1877 and 1950, as documented by the Equal Justice Initiative, more than 4,400 African-Americans were brutally lynched, often with community endorsement and near-total impunity.³³ What is perhaps even more disturbing is the century-long failure of the U.S. Congress to legislate against this barbaric practice. Despite the introduction of over 200 anti-lynching bills throughout the 20th century, none succeeded in passing, largely due to fierce resistance from Southern legislators. This chronic legislative paralysis reveals the deeply entrenched racial biases within American political institutions and the broader unwillingness of the federal government to confront racial violence head-on.³⁴

It was only in March 2022 over six decades after the lynching of 14-year-old Emmett Till in Mississippi that the U.S. finally enacted a federal anti-lynching law.³⁵ Named in his memory,

³¹ Supra Note 19.

³² The Jharkhand Mob Violence and Lynching (Prohibition) Bill, 2021, JHARKHAND VIDHAN SABHA, Mar. 4, 2021 (India) (not yet enacted).

³³ EQUAL JUSTICE INITIATIVE, *LYNCHING IN AMERICA: CONFRONTING THE LEGACY OF RACIAL TERROR* (3d ed. 2017), available at <https://eji.org/reports/lynching-in-america/>.

³⁴ NAACP, *History of Anti-Lynching Legislation*, <https://naacp.org/resources/history-anti-lynching-legislation> (last visited May 23, 2025).

³⁵ Devery S. Anderson, *Emmett Till: The Murder That Shocked the World and Propelled the Civil Rights Movement* (Univ. Press of Mississippi 2015).

the *Emmett Till Antilynching Act*³⁶ marks a long-overdue but deeply symbolic corrective to this historical inaction. The Act formally recognizes lynching as a federal hate crime, and criminalizes any conspiracy to commit hate crimes that result in serious bodily harm or death. It carries penalties of up to 30 years in prison, along with the imposition of fines. More than a legal milestone, the Act is a moral acknowledgment of the systemic racism embedded in America's past. It reaffirms that acts of mob violence targeting individuals based on their race, identity, or social group affiliation are not merely criminal they are constitutional violations that undermine the very principles of democracy and human rights.³⁷

The American experience serves as a vital comparative lens for other democracies grappling with similar patterns of targeted mob violence. India, where lynching has increasingly targeted minorities, Dalits, and marginalized communities under the guise of cow protection or other communal pretexts, must take heed. The U.S. example emphasizes the importance of recognizing lynching as a distinct offense rooted in prejudice and collective failure. It illustrates the necessity of enacting national legislation that goes beyond generic provisions of criminal law to address the unique societal harm caused by such crimes. While the Emmett Till Act cannot undo the horrors of the past, it serves as a legal and symbolic stand against impunity, and as a critical precedent for other nations. Recognizing lynching as a hate crime is not merely about retribution it is about historical redress, social reckoning, and the reassertion of state responsibility to protect the dignity and life of every citizen.

VII. INSTITUTIONAL AND SOCIETAL COMPLICITY IN MOB LYNCHING: THE ROLE OF POLICE, MEDIA, AND SOCIETY IN INDIA

Mob lynching in India cannot be adequately understood as a mere lapse in law and order; it is a complex social pathology fueled by deep-rooted prejudice, institutional failure, and public apathy. The phenomenon is sustained not only by the actions of the perpetrators but also by the passivity, and at times complicity, of three critical actors: the police, the media, and society at large.³⁸

A. The Role of the Police: Enforcement or Evasion?

As the primary custodians of law and order, the police bear the constitutional and ethical duty to prevent mob violence and uphold the rights of every individual, particularly the vulnerable.

³⁶ Emmett Till Antilynching Act, Pub. L. No. 117-107, 136 Stat. 1111 (2022) (codified at 18 U.S.C. § 249).

³⁷ U.N. Human Rights Council, *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance*, U.N. Doc. A/HRC/38/52 (Apr. 25, 2018).

³⁸ Roopa Vijayvargiya, *Hate and Violence: The Story of Mob Lynching in India*, 8(1) Int'l J. L. Mgmt. & Humanities 1531, 1543 (2025), available at 1.

Yet, numerous cases have exposed disturbing patterns of police inaction, inefficiency, and even tacit endorsement of mob violence. The brutal killing of Pehlu Khan in 2017 and the lynching of Tabrez Ansari in 2019 reveal how delayed intervention, substandard investigation, and political pressure can distort the course of justice. In some instances, law enforcement officers were present during the lynching but failed to intervene either out of fear of community backlash or due to lack of institutional support. Investigations following such incidents are often marred by poor evidence collection and the dilution of charges, which results in acquittals and further erodes public trust in the criminal justice system.³⁹

B. The Media: Between Watchdog and Instigator

The media, envisioned as the fourth pillar of democracy, plays a dual role in the context of mob lynching. On one hand, it serves as a necessary check on state power exposing negligence, amplifying victim voices, and fostering accountability. On the other hand, certain media outlets and digital platforms have contributed to the very climate of hostility in which lynching thrives. Sensationalist reporting, communalized narratives, and irresponsible dissemination of unverified information have heightened public tensions. Moreover, social media platforms like WhatsApp and Facebook have become effective tools for the rapid spread of rumors particularly concerning cow protection or child abductions that often catalyze mob formation and violence. In regions with low digital literacy, such content is consumed uncritically, becoming an accepted basis for violent action.

C. The Societal Ethos: A Culture of Silence and Spectatorship

Beyond institutions, the societal dimension of mob lynching is perhaps the most disturbing. The choice of victims often Dalits, Muslims, and tribal communities exposes persistent caste and communal biases within Indian society. The silent complicity of onlookers, many of whom prefer to record such incidents on their phones rather than intervene, reflects a deep moral decay and normalization of violence. This spectatorship signals not merely apathy, but a tacit approval of the ideology that drives such violence. Furthermore, the widespread belief that the legal system is slow and ineffective fosters support for mob action under the guise of delivering “instant justice.”

³⁹ Roshni Shrivastava, *Mob Lynching in India: Desperate Need of Law Against Unnecessary Vigilantism*, NUJS J. Reg. Stud. (2023), available at 3.

VIII. TOWARDS A HOLISTIC FRAMEWORK FOR COMBATING MOB LYNCHING IN INDIA: POLICY RECOMMENDATIONS AND LEGAL REFORMS

The proliferation of mob lynching incidents in India necessitates a multidimensional and institutional response that addresses not only the legal vacuum but also the social, administrative, and technological enablers of such violence. Drawing on judicial guidance, especially from the Supreme Court's landmark judgment in *Tehseen S. Poonawalla v. Union of India*⁴⁰, this section outlines a set of comprehensive recommendations that aim to prevent lynching, punish perpetrators, and rehabilitate victims. The following proposals seek to operationalize both the preventive and punitive dimensions of state responsibility while fostering a culture of constitutional morality and public trust.

A. Enactment of a Central Anti-Lynching Law

A unified and robust central legislation specifically targeting mob lynching is imperative. The law must provide a clear legal definition of "mob lynching," distinguishing it from other forms of homicide by emphasizing its identity-based and collective nature. Enhanced punishment should be mandated in cases where lynching is motivated by caste, religion, ethnicity, or other markers of identity. Additionally, the law should incorporate provisions for **fast-track courts, special public prosecutors, and time-bound trials**, thereby preventing undue delays in justice delivery. Drawing inspiration from the guidelines laid down in *Tehseen S. Poonawalla*, the statute must mandate the appointment of **District Nodal Officers** responsible for preventing and monitoring mob violence. Victim compensation schemes should also be embedded in the legislation to ensure a rights-based approach to reparation and rehabilitation.

B. Accountability Mechanisms for Dereliction of Duty by Public Officials

One of the most disconcerting aspects of mob lynching cases is the **apparent inaction or complicity of public officials**, particularly the police and magistracy. To deter such institutional apathy, the law must include **specific penal provisions** against government officers who fail to prevent, report, or adequately investigate lynching incidents. Criminal and departmental liability for wilful negligence should be enforced, thereby reinforcing the principle of **command responsibility**. This would not only restore public confidence in state institutions but also emphasize that silence or inaction in the face of hate violence is a punishable breach of public duty.

⁴⁰ Supra Note 19.

C. Regulating Social Media and Digital Platforms

The role of social media in spreading misinformation, communal propaganda, and inflammatory content that often precedes mob lynching events cannot be overstated. Legislation should mandate **traceability of originators** of violent content without compromising individual privacy in good faith scenarios. Moreover, **platform liability** must be introduced, whereby companies that fail to promptly remove hate speech or fail to comply with takedown requests can be held legally accountable. Periodic audits, transparency reports, and collaborations with fact-checking organizations should also be institutionalized to prevent the weaponization of digital platforms.

D. Strengthening Police–Public Relations through Community Engagement

Preventive policing requires more than force it demands **trust, communication, and local participation**. To foster this, there is a need to promote **community policing** initiatives in sensitive and communally volatile areas. Police departments should actively collaborate with **NGOs, local community leaders, and social workers** to identify potential flashpoints and intervene early. Regular dialogues and peace-building workshops should be organized to foster mutual understanding between law enforcement agencies and the communities they serve, especially marginalized groups who are frequent targets of mob violence.

E. Educational Reforms to Promote Constitutional Morality

A long-term solution to mob violence lies in addressing the underlying **prejudices and biases** that drive it. Therefore, educational curricula at the school and collegiate levels must be revised to integrate **constitutional values of equality, fraternity, and secularism**. Citizenship education must be made an essential component of the syllabus, with practical modules on diversity, non-discrimination, and the importance of legal institutions. Public awareness campaigns led by the state should reinforce these values among adults through mass media, ensuring that constitutionalism becomes a lived and internalized principle across all social strata.

F. Establishment of a Central Fund for Victims of Mob Lynching

To ensure a responsive and humane system of reparative justice, the creation of a **centrally administered victim compensation fund** is necessary. This fund should be dedicated to providing **immediate medical assistance, psychological support, legal aid, and financial compensation** to survivors and the families of lynching victims. The allocation of such funds should be automatic upon verification of the incident and should not require the victims to navigate bureaucratic red tape during times of crisis. Furthermore, the fund should include

provisions for relocation, education, and livelihood support for families that are permanently displaced or traumatized by the incident.⁴¹

IX. CONCLUSION

The tragic persistence of mob lynching in India poses a direct challenge to the nation's foundational ideals of *unity in diversity*, *equality*, and *fraternity*. Far from being random acts of lawlessness, such incidents represent a deeper malaise an interlocking web of prejudice, systemic failure, administrative apathy, and societal complicity. The Constitution envisions a democratic society where justice is not contingent on identity, and dignity is not conditional on majoritarian approval. Yet, the rise in hate-driven violence undermines this vision, threatening to hollow out the very spirit of constitutionalism. While the inclusion of lynching in the Bharatiya Nyaya Sanhita is a nominal step forward, it falls short of addressing the structural and symbolic weight that lynching carries as a targeted act of collective punishment. The piecemeal state responses often diluted, inconsistently implemented, or politically compromised underscore the urgent need for a comprehensive and enforceable **central anti-lynching law**. Such legislation must not only criminalize the act but also institutionalize **preventive mechanisms, accountability measures, and victim-centric reparations**. In this constitutional journey against hate, every stakeholder must rise to the occasion. The **police** must act not as passive bystanders but as impartial enforcers of the rule of law. The **media** must reclaim its ethical responsibility to inform, not inflame. And the **public** must reject communal narratives and embrace the pluralist ethos that defines Indian democracy. The fight against mob lynching is not merely about law enforcement is a moral struggle for the soul of the republic. To win it, we must collectively reassert the values enshrined in the Constitution and ensure that justice, dignity, and humanity prevail over hate, fear, and silence.

⁴¹ National Policy on Victim Compensation, Ministry of Home Affairs, Government of India (2018), https://mha.gov.in/sites/default/files/NationalPolicyonVictimCompensation_08022019.pdf.