

MOB LYNCHING IN INDIA
A CRITICAL ANALYSIS OF CONSTITUTIONAL RIGHTS AND THE RULE
OF LAW

by

BHARATHIKANNAN. S.,B.B.A.,
S.THANGAPAZHAM LAW COLLEGE
VASUDEVANALLUR
&
K. RAJESHKUMAR, B.COM.,M.L.,
ASSISTANT PROFESSOR
S.THANGAPZHAM LAW COLLEGE
VASUDEVANALLUR

1.ABSTRACT

Mob lynching has become a serious threat to India's democratic order, human rights commitments, and constitutional governance. Though equipped with a strong legal system, India has experienced a concerning escalation of mob justice crimes, especially against marginalised groups, most notably in the post-2015 era. This paper critically explores the root causes, socio-political consequences, and legal and enforcement failures driving mob lynching in modern India. Taking a doctrinal and case-law approach, this study attempts to fill a very important lacuna in the existing law literature. The paper examines whether India's existing legal provisions is covered by Section 103(2) of Bharathiya Nyaya Sanhita 2023(it specifically covers murder committed by a group of five or more persons acting in concert on specified grounds) and the Constitution are sufficient to dissuade and punish such actions effectively and the need for legal reforms to address the increasing digital incitement, hate-based violence, lynching cases, incorporating the use of digital platforms in instigating violence as a legally responsible element. It contends that mob lynching should be classified as a distinct offence, with tighter enforcement mechanisms, technological monitoring, and nationwide awareness campaigns to curb this crisis.

Keywords: Mob Lynching; Rule of Law; Article 21; Vigilantism; Bharatiya Nyaya Sanhita.

2.INTRODUCTION

Mob lynching, characterised by the extrajudicial and collective use of violence resulting in grievous injury or death, has become a serious and alarming form of violence in India. It is a symptom of a more significant law enforcement crisis, communal polarisation, and the failure of democratic protections. Lynchings usually stem from religion, caste, or ethnicity-based biases, frequently fuelled by rumour-mongering or digitally disseminated misinformation. It is often justified by upholding cultural or moral principles ,e.g., saving cows, opposing interfaith relationships ("love jihad"), or maintaining regional identity.

In the last decade, particularly since 2015, India has witnessed a significant increase in incidents of mob lynching. The Dadri lynching of Mohammad Akhlaq in 2015, the Alwar lynching of Pehlu Khan in 2017, and the Jharkhand lynching of Tabrez Ansari in 2019 are some of the most prominently reported and reprehensible instances of this violent trend.

With the introduction of the Bharatiya Nyaya Sanhita (BNS) in 2023, India has taken a big leap forward. Section 103(2) of the BNS now directly deals with mob lynching by criminalising murder by a group of five or more individuals on the grounds of race, caste, community, sex, place of birth, language, personal belief, or other such grounds. This provision comes with penalties that include life imprisonment up to the death penalty and is a legal acknowledgement of the exceptional nature of the crime. Even with this parliamentary advancement, however, enforcement is still haphazard, and the impunity culture of such violence has not drastically altered.

3.DISCUSSIONS

3.1.Key constitutional safeguards include:

Article 14: Equality before law – The States shall not deny to any person equality before the law or the equal protection of laws within the territory of India.

Articles 15 & 16: Prohibit discrimination and guarantee equal opportunity in public employment regardless of religion, race, caste, sex, or place of birth.

- Articles 15 and 16 embody the constitutional principles of equality and non-discrimination, which are relevant when examining discriminatory patterns

surrounding mob violence, while neither provision directly addresses mob lynching as a distinct offence.

Article 21: Protection of life and personal liberty – No person shall be deprived of his life and personal liberty except according to procedure established by law.

3.1.1. Mob Justice

- Article 21 should be given greater emphasis because mob lynching directly threatens the **right to life, personal liberty, and human dignity**. While Articles 15 and 16 are relevant through the broader constitutional principles of equality and non-discrimination, Article 21 provides the more direct constitutional framework for understanding the harm caused by mob violence.

3.1.2. Factors

- The discussion should then examine the social, political, and institutional factors that contribute to mob lynching, including prejudice, misinformation, social tensions, and failures in law enforcement.

Article 29: Safeguards the right of minorities to conserve their language, script, and culture.

Article 30: Grants minorities the right to establish and manage their own educational institutions.¹

3.2. Rising Concern of Mob Justice in India

Mob justice—where individuals or groups take law enforcement into their own hands—has been on the rise. Particularly alarming is the targeting of vulnerable groups under the pretext of nationalism, religious outrage, or cow protection.

Lynching incidents: Many victims—often from Muslim or Dalit backgrounds—have been lynched over unfounded accusations of cow slaughter or beef possession.

Role of social media: Platforms like WhatsApp and Facebook have become breeding grounds for misinformation, spreading rumours that incite mob action. Lack of accountability: Frequently, those responsible evade punishment, and political leaders either remain silent or

¹ CONSTITUTION OF INDIA(Bare act)

respond selectively, further deepening the crisis. Legal and Judicial Response India's legal system includes strong provisions under the BNS ,BNSS, and the Constitution. However, enforcement has been inconsistent. In a significant 2018 ruling, the Supreme Court strongly denounced mob lynching and recommended:

Establishing fast-track courts for mob violence cases.

Offering compensation schemes for victims and their families.

Enforcing police accountability where officers fail to intervene².

The scale of this violence is substantial. According to a 2019 report by Human Rights Watch, between May 2015 and December 2018, at least 44 people, including 36 Muslims, were killed in cow-vigilante attacks across India, with approximately 280 others injured in more than 100 separate incidents. The report further documented that in nearly a third of such cases, police filed complaints against the victims or witnesses rather than the perpetrators, reflecting a systemic pattern of institutional failure.³

3.3.FACTORS CONTRIBUTING TO MOB LYNCHING IN INDIA

The roots or place of origin of lynching may be disputed and ambiguous, but most of the time, the reasons for committing lynching are almost homogeneous or common in every society. There are social, cultural, or even political reasons behind the causation of incidents of horrific lynching. There are numerous reasons for rising mob lynching, communal animosity between the different sects of society, and the celebration of lynching by the rest of the supporting section of society. A kind of "symbolic or virtual support" by the public representatives to the offenders for personal polarization. Sometimes the majority (population) is so frightened by the ideas of the minority that it will supplant their social position and suppress them. Lynching occurred for a variety of reasons, including suspicions of cattle theft or smuggling, rumours of child lifting, and so on. In many cases, particularly those perpetuated by self-styled 'gaurakshaks', Muslims and Dalits have been the victims." The communal attitudes of offenders and illegal cow vigilante groups, the use of inflammatory rhetoric and hateful statements by elected representatives, deliberate police inaction, rumours concerning child

² *Tehseen S. Poonawalla v Union of India*, (2018) 9 SCC 501, Supreme Court of India, Judgment dated 17 July 2018.

³ Human Rights Watch, 'Violent Cow Protection in India: Vigilante Groups Attack Minorities' (Human Rights Watch, 19 February 2019) <<https://www.hrw.org/report/2019/02/19/violent-cow-protection-india/vigilante-groups-attack-minorities>> accessed 2 September 2026.

lifting or witchcraft, and religious or racial animosity are among the major factors contributing to mob lynching. Such incidents significantly affect communal and social relations and cause geographical, political, social, and economic harm to individuals and the State. These crimes against humanity continue to be inadequately addressed due to gaps in prevention, law enforcement, and institutional response. Furthermore, attacks against defenders of the anti-lynching movement intensify hatred, undermine public trust, and deepen the sense of insecurity and distress experienced by victims.⁴

Compounding the enforcement challenge is the absence of reliable official data. The National Crime Records Bureau, which normally publishes annual crime statistics, collected data on mob lynching and hate crimes in 2017, but this exercise was subsequently discontinued on the ground that the data was deemed unreliable. As confirmed in a government reply to a parliamentary question in December 2022, no separate category for mob lynching is maintained in official crime records, making it impossible to quantify the true scope of the problem from state data alone.⁵

4. REVIEW OF LITERATURE

Mob violence has emerged as one of the most serious threats to social harmony and the rule of law in India. It refers to acts of collective aggression where a group of individuals resorts to violence against a person or property, often driven by suspicion, prejudice, misinformation, or ideological motivations. In recent years, incidents of mob violence, including lynching, have drawn national and international attention due to their frequency and brutality. The impact of such violence extends far beyond the immediate victim, affecting society, governance, constitutional values, and democratic institutions. One of the most severe consequences of mob violence is the loss of human life and bodily integrity. Victims are often subjected to extreme physical brutality without any opportunity to defend themselves or seek legal protection. In many cases, those targeted are innocent individuals falsely accused of crimes such as theft, cow slaughter, or child abduction. The irreversible harm caused by such acts highlights the dangerous consequences of allowing collective anger to override legal procedures. The psychological trauma suffered by survivors and the families of victims further deepens the

⁴ <https://legaleagleweb.com/articalsdetail.aspx?newsid=77>

⁵ Ministry of Home Affairs, Reply to Rajya Sabha Unstarred Question No 55 (Parliament of India, 7 December 2022) <<https://www.mha.gov.in/MHA1/Par2017/pdfs/par2022-pdfs/RS-07122022/55.pdf>> accessed 2 September 2026.

human cost of mob violence. Mob violence has a disproportionate impact on marginalized and vulnerable communities. Religious minorities, lower castes, tribal populations, migrant workers, and economically disadvantaged groups are often the primary targets. Repeated incidents create an atmosphere of fear and insecurity among these communities, making them feel unsafe in public spaces and hesitant to assert their rights. This sense of insecurity undermines the constitutional guarantee of equality and dignity and reinforces existing social hierarchies and discrimination.⁶

The challenge of institutional accountability in responding to mob violence is further illuminated by the Status of Policing in India Report 2025, published by Common Cause in collaboration with the Lokniti Programme of the Centre for the Study of Developing Societies. Based on a survey of 8,276 police personnel across 17 states and union territories, the report found that one in four police personnel strongly justified mob violence in cases of child abduction or sexual harassment. Among IPS-level officers, more than a quarter expressed strong support for mob violence. These findings raise serious questions about the capacity of law enforcement institutions to prevent and investigate lynching incidents impartially and effectively.⁷

5.LANDMARK CASE LAW AND RELATES TO RESEARCH

In the landmark case of **Tehseen S Poonawalla vs. Union of India(2018) 9 SCC 501** the Supreme Court strongly opined that mob lynching is against rule of law and the act of lynching was officially categorised by the court as a manifestation of unadulterated mob violence. The Hon'ble court consisting of Chief Justice Misra and Justices A.M. Khanwilkar and D.Y. Chandrachud, asserted in judgement about the increasing desensitisation of the average Indian citizen towards the frequent occurrences of lynchings taking place within a society that upholds the principles of the rule of law. The court emphasised that both the Centre and the States had a responsibility to ensure that individuals refrain from taking the law into their own hands or assuming the role of a self-appointed authority.¹⁷ The court additionally noted on the rise of mob vigilantism stating that when a particular group possessing a shared ideology assumes authority outside the legal framework, it precipitates a state of anarchy, leading to chaos,

⁶ <https://www.lawyersclubindia.com/articles/lynching-and-mob-violence-a-threat-to-indian-democracy--14081.asp>

⁷ Common Cause and Lokniti-CSDS, 'Status of Policing in India Report 2025: Police Torture and (Un)Accountability' (Common Cause, March 2025) <https://www.commoncause.in/wotadmin/upload/Executive_Summary_SPIR_2025.pdf> accessed 2 September 2026.

disorder, and ultimately the emergence of a 14Section 22 of The Protection from Lynching Bill, 2017, Bill Of XLIV Of 2017. 15Section 101 of THE BHARATIYA NYAYA SANHITA, 2023Bill No. 121 of 2023 16Tehseen S Poonawalla v. Union of India(2018) 9 SCC 501 17Priyadarshini Mukhopadhyay, “ The Epidemic of Mob Lynching in India: Analysing Tehseen S. Poonawalla v. Union of India”, CCLSNLUJ (2023The act of lynching is a violation of the principles of the rule of law and the esteemed values enshrined in the Constitution, regardless of its motivation or origin, has the consequence of eroding the authority of legal and established state institutions, thereby disrupting the constitutional framework. The court emphasised on the unbreakable essence of nation stating that the fundamental unity of a nation remains unbroken by the divisive barriers of caste, class, and religion, it is the responsibility of governments to prevent mob lynching and violence through the implementation of stringent measures. The Bench also emphasised the significance of diversity and acceptance as fundamental elements of a true liberated and democratic society and underscored the necessity of safeguarding these principles. The statement asserts that a modern democracy based on constitutional principles must strongly emphasise the inclusion of diverse perspectives and approaches in order to maintain harmony and unity. The manifestation of intolerance stemming from a rigid and inflexible mindset gives rise to societal unrest and significantly inhibits the exercise of intellectual autonomy and the ability to freely articulate ideas. Therefore, it is imperative to cultivate and implement tolerance, ensuring that it is not compromised in any way.⁸

Journal of Multi-Disciplinary
Legal Research

6. Loopholes in this Provision

- This gains importance in the light of other sections involving hate crime such as inciting violence and promoting enmity between social-cultural groups, where any act committed on the grounds of religion has been recognized as crime.
- The sections against inciting violence and promoting enmity penalizes those who, “on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, [promote] disharmony or feelings of enmity, hatred or ill-will

⁸ Suraj Kumar, “‘Vigilantism Not Permissible’: Supreme Court Seeks Data from Govts on Action Taken to Stop Mob Lynching”, LIVELAW, July 11, 2023.

between different religious, racial, language or regional groups or castes or communities”

- The Jharkhand High Court division bench consisting of Justice Ananda Sen and Justice Subhash Chand Suo moto took cognizance of a major discrepancy in Section 103(2) where the phrase “any other ground” was printed instead of “any other similar ground”. According to the Court, such omission will have serious implications for the interpretation and application of law. The Court directed the publisher to rectify this error without any delay⁹.
- The Jharkhand High Court has taken notice of a serious printing error in the Bharatiya Nyaya Sanhita, a newly introduced legal text, issued by a prominent publishing company. Justices Ananda Sen and Subhash Chand, in a Suo motu move, identified a crucial mistake in Section 103 (2) of the book, which deals with penalties for murder based on certain grounds. As per the Gazette Notification: "When a group of five or more persons acting in concert commits murder on the ground of race, caste or community, sex, place of birth, language, personal belief, or any other similar ground each member of such group shall be punished with death or with imprisonment for life, and shall also be liable to fine."
- The error, as highlighted by the court, involves the omission of a keyword, "similar," from the published version, potentially altering the interpretation of the law.
- The court has directed the publishing house, M/s Universal LexisNexis, to immediately rectify the error in all printed copies and halt further distribution until the issue is resolved. This directive follows concerns raised by the court about the accuracy of legal publications, stressing that any mistake, no matter how small, could lead to significant misinterpretations with serious consequences for justice and legal proceedings.
- The matter is scheduled for a hearing before the Acting Chief Justice to address the implications of the error and ensure corrective measures are swiftly implemented.¹⁰

⁹ <https://indialegallive.com/constitutional-law-news/supreme-court-news/mob-lynching-loopholes-in-the-law/>

¹⁰ <https://www.frontlist.in/public/jharkhand-high-court-takes-action-against-publishing-error-in-new-law-book>

7.Social Media Abduction Rumours and Public Safety: A Legal Analysis of Misinformation, Mob Violence, and State Responsibility

The rapid expansion of digital communication has fundamentally transformed the architecture of information dissemination, enabling both unprecedented connectivity and the accelerated spread of misinformation. Social media platforms, while democratizing access to speech and participation, have simultaneously facilitated the viral circulation of unverified, misleading, and often incendiary content. Among the most dangerous manifestations of this phenomenon are rumours relating to child abduction, which evoke deep emotional responses and frequently culminate in panic, vigilantism, and mob violence. This emerging pattern raises complex legal questions at the intersection of constitutional freedoms, criminal liability, and state responsibility. At its core lies a fundamental tension within constitutional democracies: the imperative to safeguard freedom of speech and expression under Article 19(1)(a), while simultaneously ensuring public order, individual safety, and the protection of life under Article 21. The transformation of private suspicion into collective violence—often mediated through digital platforms—reveals systemic vulnerabilities in both informational ecosystems and institutional responses¹¹.

The severity of this problem was starkly demonstrated in 2018, when a wave of killings fuelled by WhatsApp rumours about child kidnapping swept across India. According to reporting by Al Jazeera, at least 27 people were killed in incidents directly linked to child abduction rumours circulating on the platform between May and July 2018 alone, prompting the Indian government to formally demand action from WhatsApp. In legislative response, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 imposed due diligence obligations on significant social media platforms, including requirements to appoint a grievance officer, a chief compliance officer, and a nodal contact person for law enforcement coordination, and to publish monthly compliance reports. Critics have nonetheless argued that these measures fall short of preventing incendiary content from triggering real-world violence, given the speed at which misinformation spreads through encrypted messaging services.¹²

¹¹ . <https://www.legalserviceindia.com/Legal-Articles/social-media-abduction-rumours-and-public-safety-misinformation-mob-violence-state-responsibility>

¹² Al Jazeera, 'In India, WhatsApp Stirs Up Deadly Rumours' (Al Jazeera, 17 July 2018) <<https://www.aljazeera.com/features/2018/7/17/in-india-whatsapp-stirs-up-deadly-rumours>> accessed 2 September 2026; Ministry of Electronics and Information Technology, Press Release on Information

8.CASE LAW ANALYSIS

Tehseen S. Poonawalla V Union Of India and Others

Citation: (2018) 9 SCC 501

Court: Supreme Court of India

Judges: Dipak Misra, D.Y. Chandrachud, Ajay Manikrao Khanwilkar

Theme: Cow Vigilantism and Lynching.

Subject: Constitutional law

Writ Petition (Civil) No. 754 of 2016, decided on July 17, 2018

With

Writ Petition (Civil) No. 764 of 2016, Writ Petition (Civil) No. 768 of 2016, Writ Petition (Civil) No. 732 of 2017 and Writ Petition (Criminal) No. 122 of 2017

9.1.FACTS OF TEHSEEN S. POONAWALLA V UNION OF INDIA AND OTHERS

- After a spate of incidents of lynching in Dadri, Jharkhand and more by cow protection groups, distressed activists filed writ petitions in the Apex Court.
- Tehseen Poonawalla, a social activist, filed a writ petition under Art. 32 of the Constitution against the Respondent States.
- Tushar Gandhi filed the second PIL to initiate State responsibility for such mob incidents.
- The petitions were heard together by a three judge bench.

9.2.ISSUES IN TEHSEEN S. POONAWALLA V UNION OF INDIA AND OTHERS

1. Whether the States and Centre should come up with effective and immediate action plans to be undertaken against these violent cow protection mobs?

2. Whether the States and Centre should issue a further direction to remove the violent social media content uploaded by these groups?

3. Whether certain sections of acts which provide for the protection of cows such as Section 12 of the Gujarat Animal Prevention Act, 1954, Section 13 of the Maharashtra Animal Prevention Act, 1976 and Section 15 of the Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964 are unconstitutional?

9.3.IMPORTANT ARGUMENTS

Petitioners:

Mr. Hegde in the 2016 petition argued that no individual can engage themselves in such action on the mere perception of a crime and that legal procedure should be followed. Stress was laid on remedial, punitive and preventive measures.

Ms. Indira Jaising argues that law enforcement agencies of States have a duty to register the FIR and prevent such incidents, argued for patrolling on highways and stated that under Art. 256 and 257 of the Constitution it is the Central Government's responsibility to issue directions to the States to keep cooperative federalism intact.

She further submitted that it is the duty of both the State and the Centre to ensure that minorities are not targeted due to misinformation and hatred and stringent actions are taken especially when approached by family members.

Respondents:

Mr. Ranjit Kumar, Solicitor General, submitted that the Union of India does not support vigilantes and these incidents were a State matter.

The State of Gujarat and Jharkhand submitted that appropriate legal action had already been undertaken against the persons involved in these incidents.

9.4.JUDGEMENT: TEHSEEN S. POONAWALLA V UNION OF INDIA AND OTHERS

CJI Dipak Misra delivered the judgement enforcing that private citizens cannot take justice into their own hands. The judgement observed that every individual should "remain obeisant to the command of law". The Court issued interim orders for appointment of Nodal officers and Highway patrolling. State Governments should enquire into the causes of communal unrest

should foster the spirit of tolerance in order to uphold the spirit of diversity and unity. Lynching is in direct violation of the Constitution and the rule of law. The rights of citizens cannot be interfered with unlawfully under Art 21. The Court did not deal with the third issue of whether certain acts were unconstitutional.¹³

9.5.The court issued certain guidelines to curb vigilantism:

Preventive Measures: State Governments should appoint nodal officers, directions are given for their functioning, police should disperse mobs under S.149 of BNSS, initiate FIRs under S.193(3) IN BNS, Central and State governments should stop spread of information and broadcast the serious consequences of law for lynching and mob violence.

Remedial Measures: In case of any incidents, FIRs should be filed, and the Nodal officer informed, effective processing through fast track courts, victim compensation scheme and free legal aid.

Punitive Measures: Departmental action should be taken against officers who do not comply with the above measures as it will be seen as a case of misconduct or negligence and the action to be taken should reach a conclusion within six months.

The Court, as a parting conclusion, gave a recommendation to the Parliament to constitute a separate offence for lynching with adequate punishment.

9.6.PRESENT STATUS

Still applicable. The Court continues to monitor the implementation of the guidelines as it ordered compliance reports to be submitted by all the States. In the first hearing after the judgement, the court reprimanded the states who had not submitted the compliance report and gave them a deadline and strict consequences to be faced.

9.7.CONCLUSION OF CASE LAW

A lynching took place in Alwar just days after the judgement, the Supreme Court initiated contempt proceedings for negligence immediately. However, Akhlaq's case is still stuck in court. Rajasthan and Manipur have passed Anti-Lynching Bills, but they have not yet received the President's consent. West Bengal passed similar legislation in August 2019, and Jharkhand

¹³ *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501, 16, 40; Supreme Court of India, Judgment dated 17 July 2018.

followed in December 2021, though the bills of both states also remain pending assent.¹⁴ Though the Court laid down stringent directives to curb the problem, there are still issues with its implementation.¹⁵

10.IMPACT AND RELEVANCE TO THE RESEARCH

The judgment in *Tehseen S. Poonawalla v. Union of India* is highly relevant to this research because it establishes that mob lynching and vigilantism are serious violations of the rule of law and constitutional values. The Supreme Court made it clear that private individuals cannot take the law into their own hands or assume the role of law-enforcement authorities. This directly supports the central argument of this research that mob lynching undermines constitutional governance, individual liberty, and the authority of legal institutions.

The judgment is particularly significant in relation to Article 21, as mob lynching directly threatens the right to life, personal liberty, and human dignity. The Court also recognised the responsibility of State Governments to prevent such violence and directed them to adopt preventive, remedial, and punitive measures. These included the appointment of nodal officers, police intervention, registration of FIRs, fast-track trials, victim compensation, free legal aid, and departmental action against negligent police officers.

The judgment further strengthens the research argument that preventing mob violence requires not only punishment after an incident but also effective preventive mechanisms. The Court's directions concerning misinformation, social media content, highway patrolling, and public awareness are particularly relevant to the research finding that rumours and digitally circulated misinformation can contribute to mob violence.

The Court's recommendation to Parliament to create a separate offence for lynching is also important in the context of the present research. The subsequent introduction of Section 103(2) of the *Bharatiya Nyaya Sanhita, 2023*, which specifically addresses murder committed by a group of five or more persons on specified grounds, represents an important legislative

¹⁴ 'Anti-Lynching Bills Passed by Rajasthan & Manipur Still Waiting for Presidential Assent' (National Herald India, 17 August 2021) <<https://www.nationalheraldindia.com/politics/anti-lynching-bills-passed-by-rajasthan-and-manipur-still-waiting-for-presidential-assent>> accessed 2 September 2026; Legacy IAS Academy, 'Anti-Lynching Bills' <<https://www.legacyias.com/anti-lynching-bills/>> accessed 2 September 2026.

¹⁵ <https://lawbhoomi.com/case-brief-tehseen-s-poonawalla-v-union-of-india-and-others/>

development. However, the research also identifies continuing concerns regarding effective enforcement and the need for further legal and institutional reforms.

Thus, *Tehseen S. Poonawalla* provides the constitutional and judicial foundation for the research argument that mob lynching must be addressed through strong legal enforcement, police accountability, victim protection, prevention of misinformation, and respect for the rule of law.

11.CRITICAL ANALYSIS

11.1.Judicial Affirmation of Rule of Law and Supremacy of Legal Authority

The judgment in *Tehseen S. Poonawalla v. Union of India* is a significant judicial intervention in addressing mob lynching and vigilantism in India. One of its major strengths is that the Supreme Court clearly reaffirmed the **supremacy of law over private justice**. By stating that individuals cannot take the law into their own hands, the judgment protects the authority of legal institutions and strengthens the rule of law.

11.2.Comprehensive Preventive, Remedial and Punitive Framework

Another important strength is the Court's comprehensive approach. The judgment did not focus only on punishment after a lynching occurred. It provided **preventive, remedial and punitive measures**, including the appointment of nodal officers, police patrolling, prompt registration of FIRs, fast-track courts, victim compensation, free legal aid, and disciplinary action against negligent police officers. This makes the judgment practically relevant for preventing future incidents as well as providing remedies to victims.

11.3. Recognition of Constitutional Values and Article 21 Protection

The judgment is also significant because it recognised that mob violence affects fundamental constitutional values, particularly the **right to life and personal liberty under Article 21**. It further emphasised tolerance, diversity and unity, demonstrating that the problem of lynching is not merely a criminal-law issue but also a constitutional and social concern.

11.4. Implementation Challenges and Enforcement Gaps

However, the major limitation of the judgment lies in its **implementation**. Although the Supreme Court issued detailed directions, subsequent incidents and difficulties in obtaining

compliance demonstrate that judicial guidelines cannot by themselves eliminate mob violence. Your research paper itself notes continuing implementation problems and the need for stronger institutional mechanisms.

Empirical research reinforces this assessment of systemic institutional failure. A study by Jindal Global Law School's legal clinic on hate crimes, published in the Jindal Global Law Review in 2020, found through detailed interviews with police officials that law enforcement personnel exercised broad discretion to avoid registering FIRs, delay investigations, and shield perpetrators from prosecution in mob lynching cases. Available data obtained through right to information applications further revealed that several states had not submitted the compliance reports ordered by the Supreme Court, or had submitted incomplete ones, confirming that judicial directions alone are insufficient without robust monitoring and enforcement mechanisms.¹⁶

11.5. Absence of Specific Anti-Lynching Legislation at the Time of Judgment

Another limitation is that the Court had to rely substantially on existing legal provisions and constitutional principles rather than having a specific comprehensive anti-lynching statute at that time. Recognising this gap, the Court recommended that Parliament create a separate offence for lynching. The later introduction of **Section 103(2) of the Bharatiya Nyaya Sanhita, 2023** represents an important legislative development by specifically addressing murder committed by a group of five or more persons on specified grounds.

11.6. Dependence on State Machinery and Institutional Accountability

From a practical perspective, the judgment places significant responsibility on police and State authorities. Its effectiveness therefore depends upon proper implementation, police accountability, speedy investigation, prosecution, victim support, and prevention of misinformation. The research also identifies social-media misinformation as an important factor capable of contributing to mob violence, making institutional and technological responses increasingly important.

¹⁶ Mohsin Alam Bhat and others, 'The Crime Vanishes: Mob Lynching, Hate Crime, and Police Discretion in India' (2020) 7 Jindal Global Law Review 371.

11.7.Overall Impact: Strengthening Constitutional Governance

Overall, the judgment is a **landmark constitutional intervention** because it establishes that mob lynching is incompatible with the rule of law and constitutional governance. Its greatest contribution is the recognition that the State has a duty not merely to punish offenders after violence occurs, but also to take effective preventive and remedial measures. Nevertheless, its long-term success depends upon consistent implementation and stronger legislative and institutional mechanisms.

12.Recommendations for Reform

- **Parliamentary legislation:** A comprehensive anti-lynching law should be introduced and passed in Parliament without delay.
- **Data collection and reporting:** The National Crime Records Bureau (NCRB) must maintain separate data on lynching to assess patterns and ensure transparency.
- **Police reform:** Enhanced training, accountability mechanisms, and community policing are essential to prevent mob violence.
- **Social media regulation:** Stricter norms to prevent the spread of fake news and hate speech, which often instigate, **Public awareness:** Campaigns to promote constitutional values, tolerance, and legal literacy are vital to counter mob mentality.

13.CONCLUSION

Mob lynching is a serious threat to the rule of law, constitutional governance, and human dignity in India. This research establishes that mob violence cannot be justified on the grounds of religion, caste, community, rumours, or personal beliefs. As affirmed in *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501, the State has a positive duty to prevent mob violence and protect individuals from unlawful collective violence.

Article 21 of the Constitution guarantees the right to life, personal liberty, and dignity, making effective prevention of mob lynching a constitutional responsibility. Section 103(2) of the *Bharatiya Nyaya Sanhita, 2023* provides a specific legal framework for certain group-based murders committed by five or more persons on specified grounds, though it should not be treated as a general anti-lynching law.

The research further highlights the importance of **police accountability, preventive action, and effective enforcement**. Preventing misinformation and rumours is equally essential, as unverified claims can rapidly trigger mob violence. Therefore, addressing mob lynching

requires a coordinated approach based on **rule of law, Article 21, State responsibility, police accountability, effective enforcement of Section 103(2) BNS, and prevention of misinformation**. No individual or group should be permitted to replace lawful institutions with mob justice.

REFERENCES

- BHARATHIYA NYAYA SANHITA(Bare act)
- THE CONSTITUTION OF INDIA(Bare act)
- Tehseen S. Poonawalla v. Union of India and Others (2018) 9 SCC 501
- “Anti-Lynching Bills Passed by Rajasthan & Manipur Still Waiting for Presidential Assent.” NationalHerald, www.nationalheraldindia.com/politics/anti-lynching-bills-passed-by-rajasthan-and-manipur-still-waiting-for-presidential-assent.
- Vatsa, Aditi, et al. “Three Years after Akhlaq Was Lynched in Dadri, Case Is Stuck in ‘Fast-Track’ Court.” The Print, 25 Sept. 2018, theprint.in/india/governance/three-years-after-akhlaq-was-lynched-in-dadri-case-is-stuck-in-fast-track-court/123930/.
- <https://lawfullegal.in/blind-obedience-blinding-violence-the-psychology-of-mob-justice-in-india/>
- <https://lawpointonline.in/minority-rights-and-the-rising-concern-of-mob-justice-in-india-article-by-abhishek-m-s/>
- <https://lawboomi.com/>
- <https://blog.ipleaders.in>
- <https://lawrato.com>

Journal of Multi-Disciplinary
Legal Research