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Regulatory vacuum in area of mob lynching In India

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Abstract

Mob lynching, a heinous crime where a mob takes the law into its own hands to brutally assault and often kill individuals based on their perceived identity, has become a disturbing reality in India. While the Indian Penal Code (IPC) addresses murder and assault, there's a significant regulatory vacuum when it comes to specifically addressing the crime of mob lynching, its motivations, and its unique characteristics. This lack of specific legislation creates challenges in effectively preventing, investigating, and prosecuting these crimes. The IPC, while containing provisions for murder, culpable homicide, and assault, does not explicitly define mob lynching. This makes it difficult to establish the specific intent and elements that constitute this crime. Additionally, the existing laws often fail to capture the underlying motives behind mob lynching, such as *जाति*, religion, or regional identity, which are crucial for understanding and addressing the root causes of this violence. A dedicated law against mob lynching is essential for several reasons. A specific law with stringent punishments would act as a strong deterrent, sending a clear message that such acts will not be tolerated. A clear legal definition of mob lynching would aid in the effective investigation and prosecution of perpetrators, ensuring justice for the victims. A dedicated law would facilitate the systematic collection of data on mob lynching incidents, enabling better analysis of the problem and the development of targeted interventions.

Keywords: Mob, lynching, law, court

Introduction

In India, mob lynching has become a disturbing trend, often fueled by prejudice and misinformation. While there isn't a single, comprehensive federal law specifically addressing mob lynching, several legal provisions and measures exist to combat this heinous crime. (Bhaswat, 2022)

Various sections of the IPC can be applied in mob lynching cases, including those related to murder, attempt to murder, grievous hurt, unlawful assembly, and rioting. The CrPC provides powers to the police to prevent cognizable offenses, including mob lynching, and to disperse unlawful assemblies. Some states, like Manipur and Rajasthan, have enacted specific laws against mob lynching, prescribing stricter punishments and addressing specific aspects of the crime.

The Supreme Court of India, in the case of *Tehseen S. Poonawalla vs. Union of India*, issued guidelines to prevent and address mob lynching incidents. Each district should have a senior police officer as a nodal officer to monitor and take preventive measures against mob violence. Identifying areas prone to mob violence and taking proactive steps to prevent incidents. Fast-track courts should be designated to try mob lynching cases and ensure timely justice. Providing adequate compensation to victims and their families. Taking strict action against officials who fail to prevent mob lynching incidents.

A comprehensive legislation should address the underlying factors that contribute to mob lynching, such as caste -based discrimination, religious intolerance, and the spread of misinformation. A precise definition of mob lynching, encompassing its elements, motives, and the involvement of a group of individuals.

Punishments that are proportionate to the severity of the crime, acting as a deterrent for potential perpetrators. Fast-track courts dedicated to handling mob lynching cases, ensuring swift justice for the victims. Measures to protect witnesses from intimidation and threats, encouraging them to come forward and testify (Ali, 2022) ^[6].

Provisions to hold accountable police officers and other officials who fail to prevent or investigate mob lynching incidents. Public awareness campaigns to educate people about

the illegality and inhumanity of mob lynching, promoting tolerance and respect for diversity.

Despite these legal provisions and guidelines, mob lynching remains a challenge. Issues like delayed justice, witness intimidation, and lack of proper implementation of laws hinder effective deterrence. A comprehensive central law against mob lynching can provide uniformity and strengthen the legal framework.

Proper implementation of existing laws and guidelines is crucial. Sensitizing and training police personnel to handle mob lynching situations effectively. Raising awareness about the illegality and consequences of mob lynching. Promoting tolerance and social harmony to address the root causes of mob violence.

Mob lynching is a grave violation of human rights and a blot on our society. By strengthening the legal framework, ensuring effective implementation, and promoting social harmony, we can strive to deter this heinous crime and uphold the rule of law

Mob lynching, a heinous crime where a mob takes the law into its own hands and brutally assaults or kills an individual suspected of wrongdoing, has become a disturbing trend in India. While there is no specific central law defining and addressing mob lynching, the Indian Penal Code (IPC) and the Criminal Procedure Code (CrPC) contain provisions that can be applied in such cases. However, these provisions are often inadequate in addressing the unique nature of mob violence.

The Supreme Court of India has, in several instances, expressed its concern over the rising incidents of mob lynching and has issued guidelines to the state governments to prevent and deal with such cases effectively. The court has emphasized the need for swift investigation, trial, and punishment of the perpetrators. Some states have also enacted specific laws to tackle mob lynching, but their implementation has been inconsistent. (Shivam, 2022)

Review of Literature

Agrawal *et al.* (2022) ^[1]: Mob violence often involves a large number of individuals, making it difficult to pinpoint the specific culprits. The fear of reprisal can also deter witnesses from coming forward. The chaotic nature of mob attacks often leaves behind little physical evidence. Relying solely on eyewitness testimony can be problematic, as witnesses may be hostile or influenced.

Bajpai *et al.* (2022) ^[2]: Witnesses in mob lynching cases are often under immense pressure and face threats to their lives. Ensuring their safety and security is crucial for successful prosecution. In some cases, police officers have been accused of being complicit in mob violence or of deliberately botching investigations. Addressing police apathy and ensuring accountability is essential.

Yadav *et al.* (2022) ^[3]: Even when perpetrators are identified and evidence is collected, securing convictions can be challenging due to various factors, including political influence and societal biases. A comprehensive central law that defines mob lynching as a distinct offense and prescribes stringent punishment is needed. This law should also address issues like witness protection, police accountability, and compensation for victims.

Saldanha *et al.* (2020) ^[4]: The police must be trained and equipped to handle mob lynching cases effectively. Special investigation teams should be formed to ensure impartial and speedy investigations. A robust witness protection

program is crucial to encourage witnesses to come forward and testify without fear.

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Mob lynching is a grave violation of human rights and a blot on our society. It is imperative that the government, law enforcement agencies, and the judiciary work together to ensure that perpetrators are brought to justice and that victims receive the justice they deserve.

Previously, such acts were prosecuted under general provisions like murder or culpable homicide. However, this often failed to capture the unique elements of mob violence, especially its communal or prejudiced motives. The BNS seeks to rectify this by introducing specific provisions with enhanced punishments for mob lynching.

Section 103 (2) of the BNS criminalizes murder committed by a group of five or more persons acting in concert on grounds of race, caste, community, sex, place of birth, language, personal belief, or any other similar ground. Each member of such a group is liable for death or imprisonment for life, along with a fine. This provision is significant because it recognizes the gravity of the crime when committed by a mob with discriminatory intent.

The BNS also addresses instances where mob violence results in grievous hurt rather than death. Section 117 (4) makes this a specific offense, punishable with imprisonment up to seven years and a fine. This provision recognizes the severe physical and psychological trauma inflicted even when the victim survives the attack.

These stringent penalties under the BNS aim to serve as a deterrent and send a strong message that such acts of violence will not be tolerated. The law seeks to break the cycle of impunity that often emboldens perpetrators of mob violence.

However, the efficacy of the law depends not just on its existence but also on its implementation. Issues such as police bias, witness intimidation, and delays in judicial proceedings often hinder the prosecution of these cases. Therefore, alongside legal reforms, there is a need for comprehensive measures to address the root causes of mob lynching, such as social prejudices and lack of awareness about the law.

In conclusion, the BNS provides a robust legal framework to combat mob lynching by introducing specific offenses and stringent penalties. However, its effectiveness hinges on its proper implementation and the willingness of society to address the underlying causes of this heinous crime.

In 2023, India enacted the Bharatiya Nyaya Sanhita (BNS), which for the first time, introduced specific provisions for mob lynching. Section 103 (2) of the BNS deals with the offense of murder committed by a group of five or more persons acting in concert on the grounds of race, caste, community, sex, place of birth, language, personal belief, or any other similar ground. Each member of such a group can be punished with death or imprisonment for life and is also liable to a fine.

In addition to the specific law, the Supreme Court of India, in the case of *Tehseen S. Poonawalla vs. Union of India*, laid down guidelines to prevent and deal with mob lynching incidents. These guidelines included the setting up of special courts or fast-track courts in each district to try mob lynching cases. The aim is to ensure speedy trials and justice for the victims.

Public awareness campaigns should be conducted to educate

people about the illegality and inhumanity of mob lynching. Designated courts should be established to expedite the trial of mob lynching cases and ensure timely justice.

Despite the new law and the guidelines, challenges remain in effectively addressing mob lynching. Ensuring that the law is effectively implemented and that the police and other authorities take prompt action to prevent and investigate such incidents. Protecting witnesses from intimidation and threats, which can hinder the prosecution of cases. Raising awareness about the issue and promoting tolerance and respect for diversity to prevent such crimes from occurring in the first place.

To effectively combat mob lynching, a multi-pronged approach is needed, including strict enforcement of the law, strengthening witness protection mechanisms, and promoting social awareness and education. It is also crucial to address the root causes of such violence, such as social and economic inequalities and prejudices.

The enactment of a specific law against mob lynching and the setting up of special courts are significant steps in addressing this heinous crime. However, it is essential to ensure that these measures are effectively implemented and that a comprehensive approach is adopted to tackle the underlying causes of mob violence. Only then can India hope to create a society where such incidents are a thing of the past.

Conclusion

Mob lynching is a grave violation of human rights and a blot on India's social fabric. Addressing this menace requires a multi-pronged approach, including legislative measures, law enforcement reforms, and societal changes. By enacting a specific law against mob lynching, India can take a significant step towards ensuring justice for the victims and creating a society where such heinous crimes have no place.

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