



Mob Lynching and Vigilantism in India: Analyzing Bharatiya Nyaya Sanhita, 2023

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ABSTRACT: *Lynching in the US, especially after Reconstruction, symbolises racial injustice and white domination. Lynching was not limited to African Americans, although they were disproportionately targeted. Lynching began as frontier justice during the Revolutionary War but became a tool of racial terror and social manipulation in the late 19th and early 20th centuries. In lynching analysis, the "frustration-aggression" hypothesis suggests that economic hardship, demographic shifts, and political discontent may exacerbate mob violence. When people or organisations are irritated by perceived threats to their social or economic status, they may behave aggressively, including lynching. The term "lynching" comes from Revolutionary War Virginia colonel Charles Lynch. Lynch and other local landowners created an informal court system to combat governmental power breakdown and protect their communities from theft and other crimes. Under "Lynch's law," criminals were captured, prosecuted, and punished without due process. Lynch's law expanded to include other forms of extrajudicial vengeance in the US. Vigilance committees, popular in areas without strong law enforcement, sought to quickly impose extralegal vengeance.*

As lynching became a means of racial terror, especially in the South, it became ceremonial and prominent to establish white power and frighten African Americans. In contrast to well-structured vigilance committees, late 19th and early 20th century lynchings were often unplanned and unorganised. They were terrifying because they might come abruptly and for a wide range of





perceived transgressions, real or imagined. With no written rules or institutional conventions, each lynching may be severe depending on crowd rage and local conditions. Since lynchings were rare in a given location, most participants had little experience, which made them disorganised and occasionally violent. Unpredictability and excessive violence fuelled African American terror, suppressing civil rights agitation and developing a 20th-century system of racial subordination¹. Accordingly, lynching the details of their operations. The victims might the crimes punished might be serious or apparently might be extended or perfunctory. While a constant framework in most turn-of-the-century and while the following description could apply this description in no way encompasses peculiarities that particular events may have displayed.² American history's intricate relationship between racism and mob violence is complicated by the changing definition of "lynching". This concept's ambiguity affects history and racial inequality arguments. Academic study from the late 19th and early 20th centuries defined lynching as a collective death of at least three people to enforce majority moral or social standards. It differentiated lynching from other homicides and separated racial violence. Please note that this academic notion emerged in a culture where racial hierarchies were well-established and marginalised people's perspectives were often ignored in scholarly discourses. In their battle against Jim Crow laws and institutionalised racism, civil rights activists and groups recognised the symbolic and rhetorical power of "lynching". As a result, they broadened the idea to blur the line between racially motivated killings and approved unlawful executions. The notion was expanded to stress the ubiquitous nature of racial violence and society's role in it, even if it wasn't committed by huge organisations. In recent years, "lynching" has come to mean a wider range of situations including perceived injustice or minority victimisation. For decades, the phrase has been used to describe a wide range of situations, including police shootings of minorities and media criticism of public personalities. This phrase is becoming more popular as a way to emphasise fundamental racial inequities and power misuse, as

¹ As with many terms, the origin of "lynching" is a matter of some dispute. It has been traced back to a number of people, including the Charles Lynch mentioned here, a contemporary named William Lynch, and a 16th-century British nobleman named Lynch Fitzhugh. Cutler (1969) analyzes the various theories, and settles upon Charles Lynch as the most likely source for the term in America; Webster's Unabridged Dictionary and the Oxford English Dictionary concur.

² Because of this variability, the lynching process general way rather than through a single specific case. from Cutler (1969), McGovern (1952), Raper (1969), Commission (1931), Smead (1986), and White (1969), accounts in the New York Times





well as questions about its limitations and precision in the past and present.³ It is the degree of public support, however, that not only distinguishes lynching from various forms of group murder but also makes this particular type of violence of interest to the widest range of historians. Lynching, when defined as an extralegal execution endorsed by the local community, offers a window into the values and thoughts of ordinary people who rarely leave behind the types of written documents most valued by scholars.⁴ For early researchers, the problems with the definition of lynching were twofold. First, scholars found it difficult to assess the criteria earlier researchers had used when collecting data about lynching. Second, and more troublesome, was how the word's definition varied throughout time, mainly due to ideological and political dispute. Such changes, which had begun long before the first researchers began collecting data, made it difficult for scholars to apply their own definitions because the appearance of the word “lynching” in the source material greatly affected the likelihood that the crime would be reported in the press.⁵ Mob lynching and vigilante violence are a major social and legal collapse with far-reaching effects. Extrajudicial violence undermines justice by violating constitutional rights and legal procedures. Lynching undermines the court system's credibility and public trust in its fairness and impartiality. Confidence loss can lead people to administer justice alone, weakening social cohesion and fostering a lawless culture. Mob violence, often fuelled by racial animosity or moral outrage, generates an environment of fervour and instability in communities, substituting rational deliberation and legal procedures with emotive deeds. This "private justice," whether through lynching, blood feuds, or vigilantism, weakens public laws and institutions. In a well-organised society, judicial systems that prioritise public well-being evaluate criminal activity, not angry mobs or revenge-seekers. Lex talionis is enforced informally, returning society to a simpler state when people or groups execute their own justice without legal frameworks. Civil society relies on common norms, institutions, and legal systems to ensure stability and individual liberty, therefore

³ Chapter 8 of Christopher Waldrep, *The Many Faces of Judge Lynch: Extralegal Violence and Punishment in America* (New York: Palgrave, 2002).

⁴ Joyce King, *Hate Crime: The Story of a Dragging in Jasper, Texas* (New York: Anchor, 2011) and Ricardo Ainslie, *Long Dark Road: Bill King and Murder in Jasper, Texas* (Austin: University of Texas Press, 2004).

⁵ The Strange Career of Judge Lynch: Why the Study of Lynching Needs to Be Refocused on the Mid-Nineteenth Century Author(s): WILLIAM D. CARRIGAN Source: *Journal of the Civil War Era*, Vol. 7, No. 2 (JUNE 2017), pp. 293-312 Published by: University of North Carolina Press Stable URL: <https://www.jstor.org/stable/10.2307/26070518>





this reversal undermines them. Mob violence hinders key parts of justice and progress towards just and impartial administration and law enforcement.⁶

Minority mob lynchings in India have increased. The general pattern of multiple mob violence acts and the need for a defined rule defining mob lynching and its consequence are examined in this investigation.⁷ Indian mob violence and Civil War lynching of African-Americans have a mob attitude despite cultural distinctions. This study method shows how communal aggression maintains social hierarchy and morality. Lynchings are commonly used to punish disadvantaged populations and social threats. Mob violence, regardless of history or geography, governs society and communicates common concerns with comparable goals and methods. This comparison shows how the media perpetuates violence. In the American South, lynching news was shared by archaic methods, but now social media and messaging platforms foment hatred and mob violence in India. The study examines "public torture lynchings," the most brutal mob violence. Torture and mutilation are publicly reported for numerous reasons. They exhibit authority and reveal disadvantaged communities lacking legal protection. These public lynchings foster unity between perpetrators and onlookers while marginalising the targeted populace. These severe types of lynching question norms about modern society and criminal systems, especially in India. It makes us acknowledge that ancient community violence persists and adapts to new technology and social situations, even as legal institutions and social standards improve. This comparative method shows mob violence's historical trends and helps address its present manifestations.

CONCEPTUAL MEANING

Changes in lynching meanings demonstrate this. Between the American Revolution and the 1830s, "lynching" meant nonlethal or lethal punishment. Beginning in the 1830s and continuing through the 1880s, the world's use shifted to refer to extralegal executions supported by the general

⁶ The Political and Ethical Aspects of Lynching Author(s): Alfred Pearce Dennis Source: International Journal of Ethics , Jan., 1905, Vol. 15, No. 2 (Jan., 1905), pp. 149- 161 Published by: The University of Chicago Press Stable URL: <https://www.jstor.org/stable/2376381>

⁷ Mob Violence And Vigilantism In India Author(s): ISHAN GUPTA Source: World Affairs: The Journal of International Issues , WINTER 2019 (OCTOBER-DECEMBER), Vol. 23, No. 4 (WINTER 2019 (OCTOBER-DECEMBER)), pp. 152-172 Published by: Kapur Surya Foundation Stable URL: <https://www.jstor.org/stable/10.2307/48566204>





populace, when it was believed that local courts would not deliver justice. By the last decade of the nineteenth century, the definition had shifted again. Until 1920 or so, the word meant an extralegal murder committed by a group of individuals with widespread community support and designed to uphold local social mores, often related to race and ethnicity, as well as to exact punishment for a particular crime. During the 1920s and the 1930s, researchers deemphasized the requirement of widespread community support, defining a lynching instead as a murder that enforced local social mores and was committed by a “group” often defined as three or more individuals.⁸

All lynching shared four criteria, namely: first, there must be a dead body (i.e., a person can’t just be missing and assumed dead); second, the corpse must have been killed illegally (i.e., legal executions or accidental deaths could not be lynching); third, the murderers must be a “group” (but the attendees could not agree on the minimum size of a group); and fourth, the murderers must have acted under pretext of service to justice, race, or tradition (i.e., the killing must have at least a grander justification and could not be a personal killing).⁹

Vigilante violence and mob lynching fracture society and legal governance, with serious repercussions. A fair society is undermined by extrajudicial violence, which undermines constitutional rights and legal processes. Lynching degrades criminal procedures and undermines public trust in courts to handle people fairly. Trust erosion may create a hazardous cycle in which people feel driven to administer justice independently, undermining societal cohesion and fostering lawlessness. Mob violence, often motivated by bias or morality, disrupts society by substituting rational debate and legal procedures with emotional responses. This "private justice," whether through lynching, blood feuds, or vigilantism, weakens public laws and institutions. Civilized societies define crimes by legal procedures that evaluate public well-being, not by angry mobs or revenge-seekers. Informally enforcing *lex talionis* (retaliation law) returns society to a "broken down into its fundamental components" where people impose their own justice. Civil

⁸ Waldrep, Many Faces of Judge Lynch, 1–12. This brief history is, of course, a simplification that does not account for regional variations and idiosyncratic usage outside the mainstream press.

⁹ The Strange Career of Judge Lynch: Why the Study of Lynching Needs to Be Refocused on the Mid-Nineteenth Century Author(s): WILLIAM D. CARRIGAN Source: *Journal of the Civil War Era*, Vol. 7, No. 2 (JUNE 2017), pp. 293-312 Published by: University of North Carolina Press Stable URL: <https://www.jstor.org/stable/10.2307/26070518>





society relies on common norms, institutions, and legal systems to ensure stability and individual liberty, therefore this reversal undermines them. Mob violence hinders justice and progress towards just and equitable governance by undercutting these aspects.¹⁰

BASIS OF MOB LYNCHING OR RACIAL TERROR

Detailed historical and contemporary research undermines the usual view of public torture lynchings. Instead of spontaneous violence, these episodes were well-organised public spectacles with a clear structure and sequence. Lynchings followed a quasi-ritualistic form, including normative discourse to justify the brutality. The orchestrated structure of public torture lynchings suggests premeditation and communal consent, meaning that they were deeply ingrained in local culture. These acts were frequently motivated by serious charges. Lynching advocates and opponents often depicted these instances as hastened judicial punishment, underlining the complex relationship between vigilante violence and fairness in these civilisations. History contradicts the claim that lynchings occurred due to a lack of criminal justice. Mass torture lynchings were common and preferable to judicial proceedings. The preference for extrajudicial violence over legal proceedings shows a deep dissatisfaction with the formal justice system and a yearning for a more immediate and emotional justice. Regularity disproves the idea that these episodes were rare or remarkable. The regularity of public torture lynchings in certain places and historical periods shows that they were a systematic part of society and maintained social hierarchies and racial borders.¹¹

BRIEF HISTORY OF AMERICA

¹⁰ The Political and Ethical Aspects of Lynching Author(s): Alfred Pearce Dennis Source: International Journal of Ethics , Jan., 1905, Vol. 15, No. 2 (Jan., 1905), pp. 149- 161 Published by: The University of Chicago Press Stable URL: <https://www.jstor.org/stable/2376381>

¹¹ An indication of this is the fact that the majority of lynch victims were already in official custody when they were seized by the mob and would most likely have been rapidly tried and executed (Brundage 1993:39). Tolnay and Beck show that "the majority of black victims-more than two thirds-were accused of crimes that were frequently punished by legal execution" (1995:92). This percentage would be closer to 100% for victims of public torture lynchings.





The US saw notorious lynchings between 1890 and 1940, marked by broad attention, massive groups, ritual features, and brutality. Most of these "public torture lynchings" happened in the Deep South.¹²

Lynching increased significantly in the American South after the Civil War, a dark period known as "the lynching era." Extrajudicial cruelty, mainly against African American men, was common in the late 19th and early 1930s. The rise in lynchings during this time shows the severe social, economic, and political upheaval after slavery's abolition and the subsequent struggles to maintain white control in reaction to African American emancipation and political rights. The bulk of lynching victims were African American men, highlighting its racialised nature. Lynchings were cruel ways to preserve racial hierarchies and squash black civil rights and equality hopes. Scholars and social scientists attribute the pre-Civil War South's low lynching rate to economic causes. Plantation owners and other Southern aristocrats valued African Americans throughout enslavement. The economic incentive to safeguard this "investment" deterred lethal violence, despite other heavy punishments. The economic case for curbing fatal violence against enslaved people contrasts with the post-war period, when liberated African Americans were recognised as economic and social rivals rather than property. Lynching increased significantly when slavery was abolished, removing an economic limit on violence. These changes highlight the economic roots of racial oppression, where extrajudicial violence was used to maintain social control and economic superiority without legalised slavery.¹³

Western historians dispute vigilantism's significance in the American frontier's rapid economic and population expansion, which outpaced courts. Weak political structures made frontier villages prone to anarchy and upheaval in fast growing countries. Pioneers sometimes utilised vigilante justice to handle disputes and crimes, forming self-governance without legal authority. Extralegal violence was sometimes used to maintain order and defend the society from livestock theft, robbery, and violent disputes that may destabilise these new civilisations. Settlements developed vigilante organisations to prevent crime and uphold justice, safeguarding

¹² Penal Excess and Surplus Meaning: Public Torture Lynchings in Twentieth-Century America Author(s): David Garland Source: Law & Society Review, Dec., 2005, Vol. 39, No. 4 (Dec., 2005), pp. 793-833 Published by: Wiley on behalf of the Law and Society Association Stable URL: <https://www.jstor.org/stable/3557638>

¹³ Lynching of slaves did occasionally occur (for case studies, see, e.g., Cashin 1997; Dyer 1997).





their riches without police enforcement. It is believed that vigilantism helped establish legal structures rather than just responding to border disorder. Communities are stable and structured, reducing the need for self-governance and allowing legal systems. While troublesome, vigilantes established standards and expected conduct that would eventually be codified into law, creating a more orderly and respectable society. This technique emphasises the complicated interplay between law, order, and communal self-sufficiency in the American West, showing how frontier existence frequently required non-legal activity.¹⁴ This interpretive approach is well known by historian Richard Maxwell Brown. He considered vigilantism a beneficial aspect of American life. Many new frontier communities gained order and stability as the result of vigilantism that reconstructed the community pattern and values of the old settled areas, while dealing effectively with crime and disorder.”¹⁵

The changing and contested definition of the word “lynching” itself is part of the challenge of studying lynching and other kinds of mob violence. Late 19th- and early 20th-century scholars defined lynching as mob violence where three or more individuals murder someone. This was typically portrayed as preserving societal norms. Lynching targeted societal violators or threats, mainly African Americans in the US after the Civil War. This term emphasised the community and public aspect of these murders. Lynching showed fear and racial power, not simply murder. In the fight against Jim Crow laws and racial injustice, civil rights advocates broadened the concept of lynching to encompass other racist crimes. This intentional misinterpretation obscured the gap between individual racist violence and law enforcement and municipal officials' implicit support for extrajudicial retaliation. These movements expanded the concept to emphasise society's responsibility in systematic racial brutality. Police killing minorities and media criticism of celebrities have been termed "lynching" for years. This expanded application recognises the battle against racial injustice and the necessity to identify numerous types of violence and oppression.

¹⁴ Ray Abrahams, *Vigilant Citizens: Vigilantism and the State* (Cambridge, 1998), 53-54, 67, 72.

¹⁵ Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (New York, 1975), 96-97, 118,126.





Maintaining the phrase's historical validity and persuasive power is difficult because its meaning varies in contemporary discourse.¹⁶

The first US lynching and mob violence investigations began in the late 19th and early 20th centuries. Both tacitly and openly, they sought to expose and dismantle the culture that supported illegal racial violence in the American South. A brief review of the works of these women and men helps us understand how the approaches, definitions, methods, and patterns they established focused the study of mob violence on this period, and not earlier eras, for generations that followed. The first landmark date in the study of lynching was 1882. In that year, the *Chicago Tribune*, under the editorial leadership of former Chicago mayor Joseph Medill, began compiling statistics on lynching. Medill's reasons for publishing these are not clear, but he was a Republican who believed in democracy and the importance of informing the masses with statistics and data.¹⁷ The *Tribune* was not the first newspaper to cover lynching cases. The *New York Times* had done so in some fashion since the 1850s, but the *Tribune*'s compilation was more comprehensive and influential. In particular, its reliable publication of annual statistics on or near January 1 of each year proved valuable to contemporary antilynching activists (as well as future historians of lynching). The *Tribune*'s project irrevocably shaped the study of lynching. Those researching lynching often began their studies with the year 1882, as it was the first to be included in the *Tribune*'s statistics. The outcome, unintentional and not obvious until well after the *Tribune* began collecting data, was to portray lynching as a late-19th- and early-20th-century crime.¹⁸

LYNCHING AS POWER PLAY

Lynchings allowed conservative groups to exert their power, dominate, and separate themselves from more moderate or compromise factions. By collecting a large crowd and lynching, these guys established themselves as community leaders with popular support. When this brutality seemed to work, regional elites supported the lynchers instead of questioning their qualifications and

¹⁶ Chapter 8 of Christopher Waldrep, *The Many Faces of Judge Lynch: Extralegal Violence and Punishment in America* (New York: Palgrave, 2002).

¹⁷ Waldrep, *Many Faces of Judge Lynch*, 112

¹⁸ Hubert Howe Bancroft, *Popular Tribunals—Volume 1*, vol. 36 of 38 of *The Works of Hubert Howe Bancroft* (San Francisco: History Company, 1887).





devotion (McGovern 1982). Public lynchings changed the power relations between black and white people and swayed white local opinion towards populism and racism (Cox 1945:581). After a lynching, the society negotiated new status hierarchies and political accords in editorials, conversations, and pronouncements (So Relle 1983).¹⁹

POSITION IN INDIA²⁰

Lynching is a complicated societal phenomena in India that sometimes has a purpose. Lynchings, whether religious or not, demonstrate plans to control and terrorise people. In-depth analysis demonstrates that many of these incidents are intentional social or political messages rather than random outbursts. The execution and narrative management of these murders generally demonstrate premeditation. Mobs may oppress minorities as well as enrage them. Lynchings usually target Muslims and Dalits to preserve social structures and control the poor.

Social media incites hate and lynching in India. WhatsApp and Facebook are used to promote misinformation about minority groups as dangers. These messages accuse crowds of kidnapping, cow slaughter, and criminality, inciting violence. These viral messages, often unverified, instill fear and distrust in the community. India has around 200 million WhatsApp and 250 million Facebook users, making disinformation management difficult. Rapidly spreading sensitive and disputed content may turn internet hostility into violence. Gandhi's judgement that crowds are illogical and furious highlights mob mentality's danger. Social media's rapid expansion fuels this frenzy, enabling provocation and organisation. A diversified strategy is needed to tackle this. This includes stronger social media restrictions, public education initiatives to enhance critical thinking and media literacy, and community peace and understanding campaigns.²¹

¹⁹ Penal Excess and Surplus Meaning: Public Torture Lynchings in Twentieth-Century America Author(s): David Garland Source: *Law & Society Review*, Dec., 2005, Vol. 39, No. 4 (Dec., 2005), pp. 793-833 Published by: Wiley on behalf of the Law and Society Association Stable URL: <https://www.jstor.org/stable/3557638>

²⁰ Mob Violence And Vigilantism In India Author(s): ISHAN GUPTA Source: *World Affairs: The Journal of International Issues*, WINTER 2019 (OCTOBER-DECEMBER), Vol. 23, No. 4 (WINTER 2019 (OCTOBER-DECEMBER)), pp. 152-172 Published by: Kapur Surya Foundation Stable URL: <https://www.jstor.org/stable/10.2307/48566204>

²¹ Mob Violence And Vigilantism In India Author(s): ISHAN GUPTA Source: *World Affairs: The Journal of International Issues*, WINTER 2019 (OCTOBER-DECEMBER), Vol. 23, No. 4 (WINTER 2019 (OCTOBER-DECEMBER)), pp. 152-172 Published by: Kapur Surya Foundation Stable URL: <https://www.jstor.org/stable/10.2307/48566204>





Although lynching perpetrators are penalised, those who spread harmful information to instigate crowds are rarely recorded. Criminal laws formalise punishment or trial and promote fear of the judicial system. In the Tehseen Poonawalla case, the Supreme Court said that in a civilised society, legal penalties prevent crime. Thus, a "anti-lynching law," or dedicated law, is necessary to discourage mob lynching.²² A thorough analysis is needed to understand the severity and intensity of mob violence in India. However, the National Crime Records Bureau does not report mob lynching or cow vigilantism, therefore data-driven knowledge is lacking. Monitoring these events and trends is challenging without official data. Therefore, researchers must rely on independent reports and media coverage. The absence of data hinders efforts to understand mob violence's scale, causes, and governmental solutions. Since Hindus revere cows and see them as mother figures, cow slaughter issues elicit strong emotions. Cow slaughter in India is contentious and governed by a complicated system of state laws that vary according to its various legal structures. State limitations range from draconian bans to permissive ones that allow killing under specific conditions. In order to respect regional cultural values, the Supreme Court of India has sometimes upheld cow slaughter bans and sometimes allowed breed-specific slaughter. The Supreme Court overruled a previous verdict and upheld a Gujarat state law banning bullheading in October 2005. These court verdicts show how cultural practices, religious beliefs, and legal systems conflict, causing arguments and even mob violence. In order to address the core causes of violence and create harmony among India's many populations, one must comprehend these dynamics.²³ Article 48 of the Indian Constitution requires the government to modernise and adopt scientific agriculture and animal husbandry. It must also safeguard and improve cows, calves, and other milk and work animals and ban their slaughter. According to the Directive Principles of State Policy, it is unenforceable. Today, India does not allow the export of beef, which comes from cows, oxen, and calves. However, water buffalo boneless meat (cababeef) may be exported.

²² Mob Violence And Vigilantism In India Author(s): ISHAN GUPTA Source: World Affairs: The Journal of International Issues , WINTER 2019 (OCTOBER-DECEMBER), Vol. 23, No. 4 (WINTER 2019 (OCTOBER-DECEMBER)), pp. 152-172 Published by: Kapur Surya Foundation Stable URL: <https://www.jstor.org/stable/10.2307/48566204>

²³ ("Supreme Court upholds Cow Slaughter Ban", *The Times of India*, 27 October 2005, online at <https://timesofindia.indiatimes.com>





A COMPARATIVE STUDY OF THE LYNCHING OF AFRICAN-AMERICANS IN POST- CIVIL WAR US AND MOB LYNCHING IN PRESENT DAY INDIA

When the Civil War in the United States of America (US) ended, millions of African American slaves were freed. However, from the late 1800s (post-Civil War era), the lynching of blacks by whites became common and this phenomenon continued until the 1950s. According to a report of the Equal Justice Initiative, the period from 1877 to 1950 saw the lynching of 4,084 African-Americans. The main objective of the lynching was to assert dominance over the African-American community and more than seventy per cent occurred in the Southern states. The victims were often hanged, as this facilitated easy public viewing and photography. Photographs of these horrific incidents were often printed on postcards and distributed as souvenirs. According to a recent study, the lynchings became more frequent around voting periods and were used as a means to influence elections.²⁴ Mob lynchings from 2014 to 2018 in India and those in post-Civil War US have certain obvious differences, primarily because the former had mainly religious overtones while the latter was racially motivated. There are differences in the legal implications of the crimes as well. Moreover, the two time-periods are separated by over a century and the two societies vastly different, almost incomparable. Nonetheless, this analysis compares the two cases in terms of mob objectives and methods rather than specific and legal technicalities.

The primary objective of the lynchings in the US was to assert dominance and “intimidate the blacks through racial terrorism” while as observed earlier, in the Indian lynchings (mainly cow protection and interfaith marriage related), the objective was to “send out a warning and set an example”. The motive of the mob behind these crimes is similar in that while both inflicted only individual physical harm, the underlying intention was to intimidate an entire community. The pattern of lynching in the US, particularly the manner in which the victims were hanged to be easily photographed and the images of their mutilated bodies publicized is similar to the way the virtual images of lynching victims in India were circulated on social media platforms with a similar objective. The use of lynching as an instrument to influence elections in the US was ideologically

²⁴ (Brad Epperly, Christopher Witko, Ryan Strickler and Paul White, “Rule by Violence, Rule by Law: Lynching, Jim Crow and the Continuing Evolution of Voter Suppression in the US”, *Perspectives on Politics*, March 2019, pp1–14, online at <https://www.cambridge.org>)





similar to the way Indian politicians on all sides draw political advantage and manipulate voters by invoking religious and often hateful sentiments through references to incidents of mob lynching.²⁵

ANTI-LYNCHING LAW IN THE US

The US Congress has introduced almost 200 anti-lynching bills since the late 1800s. Members from various Southern states always opposed the plan. Washington has tried for almost a century to make lynching a federal hate crime, but without success. The US Senate formally apologised for failing to adopt lynching laws at a crucial time in 2005.²⁶ In December 2018, Washington finally passed an Anti-Lynching Bill declaring lynching a federal hate crime. While it took the US—where lynching was once a common crime—a hundred years to enact an anti-lynching law, India still does not have a specific law dealing with the crime of lynching.²⁷

LEGAL PROVISIONS TO DEAL WITH LYNCHING IN INDIA

The Indian Penal Code of 1860 (ibid) does not address mob lynching or name "lynching" a crime. Those who commit lethal lynchings are usually charged with murder. The 2015 Dadri lynching case's initial information report included claims based on the Indian Penal Code, 1860:

- 147 – Rioting
- 148 – Rioting, armed with a deadly weapon
- 149 – Unlawful assembly
- 302 – Murder
- 307 – Attempt to murder
- 458 – Housebreaking

²⁵ Mob Violence And Vigilantism In India Author(s): ISHAN GUPTA Source: World Affairs: The Journal of International Issues , WINTER 2019 (OCTOBER-DECEMBER), Vol. 23, No. 4 (WINTER 2019 (OCTOBER-DECEMBER)), pp. 152-172 Published by: Kapur Surya Foundation Stable URL: <https://www.jstor.org/stable/10.2307/48566204>

²⁶ (Sheryl G Stolberg, "The Senate Apologises, Mostly", *The New York Times*, 19 June 2005, online at <https://www.nytimes.com>)

²⁷ Mob Violence And Vigilantism In India Author(s): ISHAN GUPTA Source: World Affairs: The Journal of International Issues , WINTER 2019 (OCTOBER-DECEMBER), Vol. 23, No. 4 (WINTER 2019 (OCTOBER-DECEMBER)), pp. 152-172 Published by: Kapur Surya Foundation Stable URL: <https://www.jstor.org/stable/10.2307/48566204>





- 504 – Intentional insult with intent to provoke breach of peace²⁸

Section 223 of the 1973 Code of Criminal Procedure allows mob violence defendants to be tried together. Lynchings commonly include Section 505 and Section 153A of the Indian Penal Code. The Supreme Court judgment on the Tehseen Poonawalla case, states: “Apart from the directions we have given hereinbefore and what we have expressed, we think it appropriate to recommend to the legislature, that is, the parliament, to create a separate offence for lynching and provide adequate punishment for the same. We have said so as a special law in this field would instil a sense of fear for law amongst the people who involve themselves in such kinds of activities”.²⁹

Several Indian governments have introduced legislation to combat the rising rate of mob violence and lynching in recent years. On December 22, 2021, the Jharkhand Assembly passed the Prevention of Mob Violence and Lynching Bill. Mob violence offenders get three to life sentences under this law. By giving clear legal consequences and punishing lynching with harsh penalties, this legislation makes a significant improvement. The Governor must approve the bill before it may be passed and enforced. This legislation is part of a larger trend in India to address the legal vacuum on mob violence with explicit laws that punish perpetrators and discourage future episodes. Other states also addressed lynching with legislation. August 5, 2019, the Rajasthan Assembly passed the Rajasthan Protection from Lynching Bill. This law imposes harsh punishments, including as life imprisonment and fines from ₹1 lakh to ₹5 lakh, on anyone involved in mob lynchings that result in victim deaths. By imposing heavy sanctions to deter mob violence, this legislation shows the state's commitment to the issue. August 30, 2019, the West Bengal Assembly passed the West Bengal (Prevention of Lynching) Bill. This bill defines "lynching" and "mob" and proposes three-to-life sentences for those who commit them. This legislation includes the West Bengal Lynching Compensation Scheme, which provides victims and their families with both punitive and supportive measures. These legislative attempts show an increased awareness of

²⁸ (“Temple Announcement about Beef Triggered the Lynching: Police”, 2 October 2017, *The Economic Times*, online at <https://economictimes.indiatimes.com>)

²⁹ Mob Violence And Vigilantism In India Author(s): ISHAN GUPTA Source: World Affairs: The Journal of International Issues , WINTER 2019 (OCTOBER-DECEMBER), Vol. 23, No. 4 (WINTER 2019 (OCTOBER-DECEMBER)), pp. 152-172 Published by: Kapur Surya Foundation Stable URL: <https://www.jstor.org/stable/10.2307/48566204>





the necessity for exact laws to address mob violence and the need of legal clarity and resolution in lynching cases.

JUDICIAL STANCE

The most recent Supreme Court verdict on lynching in India is *Tehseen Poonawalla v. Union of India and Others* (2018). Former Chief Justice Dipak Misra, Justice AM Khanwilkar, and Justice DY Chandrachud called the crimes "atrocious acts of mob rule". The court advised parliament to create a lynching law and directed national and state governments to prevent, confront, and punish it. Due to its perverted nature, vigilantism cannot be justified, the court said.³⁰

BHARATIYA NYAYA SANHITA, 2023

Five years after the Supreme Court advised the government to consider lynching laws, the government has recommended ways to identify and categorize mob lynching and hate-crime murder. Minimum sentence: seven years in jail, maximum penalty: death. The *Bhartiya Nyaya Sanhita* defines mob lynching as murder or severe harm by five or more people for specified grounds. These grounds include race, caste, sex, language, or personal belief. The punishment for such murder is life imprisonment or death³¹

CONCLUSION

- Identifying lynchings involves studying variables that distinguish them from other violent crimes. Onlookers who silently watch or actively endorse the performance generate a sense of communal approval or acceptability. A hanging or mangled body in a public place emphasizes this situation's public nature. This dismal exhibition conveys dread or wrath to a bigger audience. Lynching, a public act, is typically followed by a thorough defense that blames the victim for murder, sexual assault, or other infractions. This rationale is

³⁰ Mob Violence And Vigilantism In India Author(s): ISHAN GUPTA Source: *World Affairs: The Journal of International Issues*, WINTER 2019 (OCTOBER-DECEMBER), Vol. 23, No. 4 (WINTER 2019 (OCTOBER-DECEMBER)), pp. 152-172 Published by: Kapur Surya Foundation Stable URL: <https://www.jstor.org/stable/10.2307/48566204>

³¹ Section 103 Clause (2), *Bharatiya Nyaya Sanhita*, 2023.





sometimes used to reinforce societal hierarchies or prejudices, making lynching both a personal act of violence and a social manipulation. Lynching can involve a large group of people, such as when twenty or more people shoot a victim. Crowd participation embodies mob justice, when anonymity and perceived legality empower individuals. Lynching also typically includes local authorities failing to investigate or prosecute the murderers. The absence of action may indicate implicit acceptance or cooperation, especially if local officials back the mob or allow convicts to be lynched. When someone is murdered in custody, complicity implies legal failure and tolerance of extrajudicial cruelty. Public collusion, cultural bias, and institutional failures perpetuate lynching, which is systemic.

- Understanding human behavior requires cultural and historical context. The complex network of linkages and the varied interpretations people give them form culture and reveal underlying intents. Investigators must study the victim-offender interaction, frequently within a social-psychological framework, to understand violence. To understand inter-racial violence, one must examine both their cultural and historical settings. We seldom have.
- Mob violence is defined differently by statute from "mob or riot". A mob is five or more persons who plan to perpetrate criminal violence against people or property. Even if the legislation doesn't say so, a minimum of three people must participate. The assembly's objective is vital since its members typically want to harm people or property. Unlawfulness is vital, although the level of illegality varies.
- Ancient Greek political thinkers correctly identified mobocracy as one of the three deadliest anarchy-related regimes. Mob rule is unacceptable in a society that values equality, fraternity, and justice. When mob lynchings are not punished, it encourages vigilantism and mobocracy. A criminal defendant is deemed innocent until a fair trial and conviction. However, vigilantes who regard themselves as moral law enforcers weaken the state's legal system. The state must protect everyone's rights, including minorities. Anti-lynching laws are needed to deter "extrajudicial justice" vigilantes. Along with murder, housebreaking, and other crimes, "hate speech" and "fake news" that inspire violence must be punished. Lynchings generally warn a group rather than target an individual.





- The similarities between American and Indian lynchings show that crowds in whatever society are vicious. This crime may increase in frequency and severity if not handled early.
32
- Mob lynching, racial violence, and vigilantism were addressed by adding Section 103 clause (2) to the Bharatiya Nyaya Sanhita of 2023. But the phraseology of this section is very vague and needs to be interpreted like “group”, “grounds” & “other similar grounds” because the penal provisions are always to be strictly interpreted and must be clear i.e. ambiguity or double meaning to be avoided.

³² Mob Violence And Vigilantism In India Author(s): ISHAN GUPTA Source: World Affairs: The Journal of International Issues , WINTER 2019 (OCTOBER-DECEMBER), Vol. 23, No. 4 (WINTER 2019 (OCTOBER-DECEMBER)), pp. 152-172 Published by: Kapur Surya Foundation Stable URL: <https://www.jstor.org/stable/10.2307/48566204>

