

# **A CRITICAL STUDY ON VIGILANTISM AND CRIMINAL JUSTICE SYSTEM IN INDIA**

*A Thesis Submitted*

IN PARTIAL FULFILLMENT OF THE REQUIREMENTS  
FOR THE DEGREE OF

## **DOCTOR OF PHILOSOPHY IN LAW**

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## CANDIDATE'S DECLARATION

I hereby certify that the work which is being presented in the thesis, entitled “**A Critical Study on Vigilantism and Criminal Justice System in India**” in fulfillment of the requirements for the award of the degree of **Doctor of Philosophy in Law** and submitted in School of Law, Galgotias University, Greater Noida is an authentic record of my own work carried out during the period October 2018 to August 2022 under the supervision of **Dr. Shweta Thakur** and Co-Supervisor **Prof. (Dr.) Kiran Gardner**.

The matter embodied in this thesis has not been submitted by me for the award of any other degree of this or any other University/Institute.

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This is to certify that the above statement made by the candidate is correct to the best of our knowledge.

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## ABSTRACT

Supremacy of law, predominance of spirit of justice and equality before law are the three pillars of the concept of rule of law. These three pillars articulate that ‘a government should be based on principles of law and not of men’. Thus, rule of law safeguards against State arbitrariness, anarchy and allows people to plan the legal consequences of their action. However, it is not the function of the government alone to uphold the majesty of law. In theory, the acts of the governed and the governing are guided by this sacrosanct rule. Rule of law enjoins the citizens too, to adhere to the law of the land. It requires the citizens to function within the boundaries of law. Non adherence to the rule of law creates situations leading to anarchy and gnaws at the very existence of the society and the State.

Crime and conflicts exist in every society. It is the desideratum of every society to live in peace. It is the desideratum of every society to punish the offenders for infractions of law threatening its peace. A man can be punished for infractions of law, not for perceptions of violation of law, not for perceptions of violation of social norms. State alone has the monopoly of ‘legitimate’ use of physical force. The power to punish the infractions of law vests with the courts of law. Private citizens neither have the power to punish infractions of law nor have the power to punish infractions or perceptions of infractions of social norms. Law alone defines the infractions of law and punishes infractions of law. When private citizens take law into their own hands it leads to anarchy.

India has witnessed 355 incidents of mob lynching since 2015. These incidents spanned across the length and breadth of the country. The primary reasons of these mob lynching incidents have been commission or suspicion of commission of offences against cows like, cow slaughter, cattle smuggling, consumption, possession, transportation or sale of beef. Commission or suspicion of commission of crimes like kidnapping, theft, murder, rape and drug peddling have also been the other reasons for mob lynching in India. These incidents posed a new challenge to the criminal justice system in terms of containment and punishment.

Mob lynching is an extreme form of vigilantism. Vigilantism, as a criminological concept has been less explored in India. The Research Scholar, therefore undertook the study of mob lynching incidents in India which had left the law-and-order machinery at the mercy of the savage mobs. To understand the underlying reasons and to find solutions to prevent and combat mob lynching incidents in India, doctrinal and non-doctrinal methodologies were adopted by the Research Scholar. The doctrinal research entailed a detailed exposition of vigilantism as a criminological concept, an in-depth study of various incidents of mob lynching, analysis of the existing substantive and procedural laws and examination of the administration of criminal justice system. A non-doctrinal study was carried out with the intent to understand the ground realities faced by the administration of justice system and the society. To this end, opinion of the various stakeholders of the criminal justice system, namely, the police, lawyers, judges and academicians from the field of law was sought. For the said purposes, a questionnaire method was employed.

The study has revealed that the inherent problems of the criminal justice system in the form of high incidence of crime, poor conviction rate, lengthy trial proceedings, have led the people to lose faith in the criminal justice system. Apart from this, socio-political and religious factors have been the major cause of cow vigilantism in India. Unenlightened citizenry has played a pivotal role in orchestrating and perpetrating mob lynching incidents. The analysis of the existing substantive and procedural laws have exposed their insufficiency and inefficacy to combat mob lynching incidents in India. A need for a special and nuanced law has been underlined. The examination of administration of criminal justice system spells out the necessity of overhauling it and bringing about the police reforms recommended by the various Law Commissions and Committees.

In the endeavour to tackle the problem of vigilantism, the Research Scholar concluded the study by proposing steps to make the administration of criminal justice system a well-oiled machine, suggesting amendments to the existing substantive and procedural laws and has made an attempt to draft a Model Legislation to combat mob lynching in India.

## ACKNOWLEDGEMENT

*'It is the beacon of light that guides a researcher in the quest for one's goal'.*

*And I am indeed fortunate to have found that beacon of light.*

*I am immensely thankful to my Guide, Dr. Shweta Thakur, Associate Professor, School of Law, Galgotias University, for her patience, attention to detail and able guidance. It has helped me to strive hard and bring about this work to fruition. In face of dilemma, it has been her logical deliberations that have brought about a solution.*

*I am also deeply indebted to my Co-Guide, Prof. (Dr.) Kiran Gardner, Dean, Alliance School of Law, Alliance University, for encouraging me to think beyond the books and look at the society through the prism of human rights. It is my bond with her through the past eighteen years that has developed my thinking and given me courage to undertake the present study.*

*I am grateful to Prof. (Dr.) Namita Singh Malik, Dean, School of Law, Galgotias University, for keeping us, Research Scholars, enthused throughout the process and for inspiring us to deliver to the best of our abilities.*

*I extend my heartfelt gratitude to Prof. (Dr.) Bhavna Mehta, Dean, Faculty of Social Work and Former Dean, (O.S.D), Faculty of Law, The Maharaja Sayajirao University of Baroda, Vadodara. It is her support and encouragement that has made it possible for me to undertake this academic journey.*

*I am grateful to Prof. (Dr.) Uma Iyer, O.S.D., The Maharaja Sayajirao University of Baroda, Vadodara, for creating an environment conducive to academic research which enabled me to tread this arduous path unhindered.*

*I humbly bow to Late Prof. Syed Maswood, Dr. Ghanshyam Solanki, Dr. Archana Gadekar, Dr. Rajendra Parikh and Dr. Namrata Solanki, my teachers at the Faculty of Law, The Maharaja Sayajirao University of Baroda, for the knowledge that they have imparted to me. It is the foundation of this knowledge that has whetted my interest in law and shaped my career.*

*I would also like to thank Dr. Kavita Goel, Assistant Professor, Faculty of Law, The Maharaja Sayajirao University of Baroda and all my colleagues and administrative staff for always being there for me.*

*This work would be incomplete, if I missed this opportunity to thank my friend, guide and philosopher, my husband, Dr. Dineshkumar Bulusu. His unquestioning support and motivation have enabled me to embark on a journey which many would hesitate to take. I thank my children, Shashwat and Sripriya for their patience and putting up with my quirks and for being a constant source of motivation throughout my study. I extend my heartfelt gratitude to my parents and parents-in-law for supporting me in all my endeavours and showering me with their blessings.*

*I also take this opportunity to thank Ms. Dirgha Nanavati, Mr. Bhavik Gadhvi, Mr. Siddhant Gujarathi, Ms. Meghna Patel, Ms. Nitu Chaturvedi, Mr. Hitesh Gupta, Mr. Sushil Jethmalani, Mr. Gaurav Lakhwani and all my friends for their unwavering support and help.*

***Tarakeshwari D. Bulusu***

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## LIST OF CASES

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- 2 AIIMS Students' Union v. AIIMS and Ors., (2002) 1 SCC 428.
- 3 Bhupendra Singh v. State of Uttar Pradesh AIR 2009 SC 3265.
- 4 Charles Sobraj v. The Suptd., Central Jail, Tihar, New Delhi, AIR 1978 SC 1515.
- 5 Chida Nand v. Emperor, AIR 1930 Lah 350.
- 6 Francis Coralie Mullin v. Union Territory of Delhi, AIR 1981 SC 746.
- 7 Haji Usmanbhai Hasanbhai Qureshi v. State of Gujarat, 1986 AIR 1213.
- 8 Hashmattullah v. State of M.P. & Ors., AIR 1996 SC 2076.
- 9 Hinsa Virodhak Sangh v. Mirzapur Moti Kuresh Jamat and Ors. AIR 2008 SC 1892.
- 10 Kishore Singh Ravinder Dev v. State of Rajasthan, AIR 1981 SC 625.
- 11 Maneka Gandhi v. Union of India, AIR 1978 SC 597
- 12 Mohd. Faruk v. State of M.P and Ors., 1970 AIR 93.
- 13 Mohd. Hanif Quareshi & Others v. State of Bihar, 1958 AIR 731.
- 14 Mubbi alias Mubin v. State of Haryana
- 15 Musa Khan v. State of Maharashtra, AIR 1976 SC 2566.
- 16 Nandini Sundar and Ors. v. State of Chhattisgarh, (2011) 7 SCC 547.
- 17 Rabindra Kumar Pal @ Dara Singh v. Republic of India, (2011) 2 SCC 490.
- 18 S. Selvagomathy v. The Union of India
- 19 Shaikh Zahid Mukhtar v. State of Maharashtra and Ors., AIR 2017 (NOC 518) 169.
- 20 Shambhu Nath Singh v. State of Bihar, AIR 1960 SC 725, 727.
- 21 State of Assam v. Sanjay Rajowar and Others
- 22 State Of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat & Ors., AIR 2006 SC 212.
- 23 State of Karnataka v. Subhash Padil and Others
- 24 State of Madras v. I.G. Row
- 25 State of Rajasthan v. Vipin Yadav and Others
- 26 State through Mariyam Khatoon w/o Late Md. Alimuddin v. Deepak Mishra and Others
- 27 Sunil Batra v. Delhi Administration, AIR 1978 SC 1976.

## LIST OF PAPERS PUBLISHED

- 1) Tarakeshwari Bulusu, A Lynch Mob State: *The New Identity of Indian Democracy?* March Vol II, Lex Et Societatis: Contemporary Legal Issues (2019).
- 2) Tarakeshwari Bulusu, Witch hunting in India: *The Sordid saga of superstition, greed and vigilantism*, Vol 127 Part 1455, Criminal Law Journal (2021).
- 3) Tarakeshwari Bulusu, Rational Sentencing: *Reposing the faith in the Administration of Criminal Justice System*, LEX ET MUTATIO, (2021).
- 4) Tarakeshwari Bulusu & Dr. Shweta Thakur, Legislative Overreach of Cow Protection Laws and mob Lynching in India, GJLS Vol. VIII, No.2, Galgotias Journal of Legal Studies (2020).
- 5) Tarakeshwari Bulusu & Dr. Shweta Thakur, The New Narrative of Mob Lynching in India: *Beyond the Lens of Caste and Religion*, International Journal of Mechanical Engineering (2022).
- 6) Tarakeshwari Bulusu & Dr. Shweta Thakur, Assessing the need for a Central Legislation to combat Mob Lynching in India: An Empirical Study, AIP Conference Proceeding (Accepted for Publishing).

## **LIST OF PAPERS PRESENTED IN CONFERENCES**

- 1) Tarakeshwari Bulusu, A Lynch Mob State: *The New Identity of Indian Democracy?*, International Conference, organized by School of Law, Galgotias University on March 9, 2019.
- 2) Tarakeshwari Bulusu, Rational Sentencing: *Reposing the faith in the Administration of Criminal Justice System*, National Conference, organized by Alliance School of Law, Alliance University, Bengaluru on 6 March 2021.
- 3) Tarakeshwari Bulusu, *Assessing the need for a Central Legislation to combat Mob Lynching in India: An Empirical Study*, 9<sup>th</sup> International Conference on Advanced Research and Innovation 2022, organized by C T University, Punjab on 4 & 5 March 2022.

## LIST OF ABBREVIATIONS

A.	–	Article
Aa.	–	Articles
AIR	–	All India Reporter
AJCR	–	African Journal on Conflict Resolution
BJP	–	Bharatiya Janata Party
BNP	–	British National Party
BSF	–	Border Security Force
CAPF	–	Central Armed Police Forces
CBI	–	Central Bureau of Investigation
CCTV	–	Closed Circuit Television
CD	–	Compact Disk
CDR	–	Call Data Records
CISF	–	Central Industrial Security Force
CJTF	–	Civilian Joint Task Force
CRPC	–	Criminal Procedure Code, 1973.
CRPF	–	Central Reserve Police Force
CSDS	–	Centre for the Study of Developing Societies
DGP	–	Director General of Police
DPSP	–	Directive Principles of State Policy
FIR	–	First Information Report
GoM	–	Group of Ministers
IMA	–	Indian Medical Association
IPC	–	Indian Penal Code, 1860.
IRA	–	Irish Republican Army
ITBP	–	Indo Tibetan Border Police Force
KKK	–	Ku Klux Klan
MASUKA	–	Manav Suraksha Kanoon
MEND	–	Movement for the Emancipation of the Niger Delta
NAACP	–	National Association for the Advancement of Colored People
NCAL	–	National Campaign Against Mob Lynching
NDLF	–	Niger Delta Liberation Front
NDPVF	–	Niger Delta People's Volunteer Force

NDV	–	Niger Delta Vigilantes
NGO	–	Non-Governmental Organisation
NOC	–	Notes on Cases
NSG	–	National Security Guards
OPC	–	Oodua People’s Congress
PAGAD	–	People Against Gangsterism and Drugs
PLA	–	The Protection from Lynching Act, 2017.
POC	–	Patriots of the Constitution
Prof.	–	Professor
s.	–	Section
SCC	–	Supreme Court Cases
SCJ	–	Supreme Court Journal
SCR	–	Supreme Court Reports
SUV	–	Sport Utility Vehicle
SP	–	Superintendent of Police
SPOs	–	Special Police Officers
SPs	–	Superintendents of Police
ss.	–	Sections
SSB	–	Sashastra Seema Bal
u/A.	–	under article
u/Aa.	–	under articles
u/s.	–	under section
u/ss.	–	under sections
UCP	–	United Constitutional Patriots
UK	–	United Kingdom
US	–	United States
USA	–	United States of America
VHP	–	Vishwa Hindu Parishad

## **CHAPTER 1**

# **INTRODUCTION TO THE STUDY ON VIGILANTISM AND CRIMINAL JUSTICE SYSTEM IN INDIA**

# CHAPTER 1

## INTRODUCTION TO THE STUDY ON VIGILANTISM AND CRIMINAL JUSTICE SYSTEM IN INDIA

### 1.1 INTRODUCTION

*‘No man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land’.*

*- A. V. Dicey*

A society free from crime. A society free from clash of interests. A society free from conflicts is nothing but a utopia. Crime and conflicts exist in every society. It is the desideratum of every society to live in peace. It is the desideratum of every society to punish the offenders for infractions of law threatening its peace. A man can be punished for infractions of law, not for perceptions of violation of law, not for perceptions of violation of social norms. The power to punish the infractions of law vests with the courts of law. Private citizens neither have the power to punish infractions of law nor have the power to punish infractions or perceptions of infractions of social norms. Law alone defines the infractions of law and punishes infractions of law. This power of law, according to A. V. Dicey is one of the principles of Rule of Law.

‘Rule of Law’ as conceived by Dicey is deeply enshrined in the Indian Constitution. Supremacy of law, paramountcy of the spirit of justice and equality before law are the three pillars of the concept of rule of law. These three pillars articulate that ‘a government should be based on principles of law and not of men’. Thus, rule of law safeguards against State arbitrariness, anarchy and allows people to plan the legal consequences of their action. However, it is not the function of the government alone to uphold the majesty of law. Rule of law enjoins the citizens too, to adhere to the law of the land. It requires the citizens to function within the boundaries of law.

It does not imply that rule of law dictates blind conformation to law or submission to law. Rule of law does not exclude dissent or disagreement. It mandates that dissent and disagreements too, should be expressed in the manner specified by the law. Rule of law requires that in face of threat to one's rights, legal means alone should be employed to protect them. Law does not authorize private citizens to enforce their rights by means of force or violence. When the rights of one citizen comes into conflict with that of the other, recourse to the legal remedies alone should be made for their determination. The judicial pronouncement as to the rights and duties determined by the courts should be accepted and respected, even in face of disagreement. Thus, rule of law warrants that the acts of the governed and the governing should be guided by this sacrosanct rule. Not upholding the rule of law creates situations leading to anarchy and gnaws at the very existence of the society and the State.

It is only on the edifice of social and economic justice and rule of law that a society becomes a nation and a nation becomes a democracy. How so ever, one cherishes to achieve social and economic justice, it has remained a distant dream and a mirage in India. Much to the consternation, the failure in achieving social and economic justice, has led to dissatisfaction and disharmony of the masses and the classes. The stark reality of this disharmony is reflected in the spiralling crime rate and in the audacity with which crimes are being committed.

It is access to justice and delivery of justice that reassures citizens of the majesty of law. When law fails and the offenders escape punishment, citizens lose faith in the justice delivery system and take law into their own hands. The inability of the criminal justice system to curb crime and punish the guilty has sown seeds of disenchantment towards law, law makers and law upholders in India. This disenchantment has been further fostered by lengthy and cumbersome trial procedures, high cost of litigation and poor conviction rate leading to vigilante acts in the form of mob lynching.

Incidents of mob lynching have been reported from across the country since 2015. The attacks by mobs on alleged cattle smugglers, cow slaughterers, transporters or sellers of beef, child lifters, thieves, rapists and murderers has led to grievous injuries in some cases and death in many cases. The birth and rise of vigilante justice has



posed a new and serious threat to the rule of law and to the administration of criminal justice system in India.

The Research Scholar, therefore, undertook the study of mob lynching incidents in India which had left the law-and-order machinery at the mercy of the savage mobs. While trying to understand the underlying reasons of mob lynching, the study also tried to define and analyze the terms ‘mob lynching’ and ‘vigilantism’ as criminological concepts. In the present study, an endeavour has been made to gauge the sufficiency and efficacy of the existing laws in curbing vigilantism and to find out whether there is a need for a special legislation. Likewise, the Research Scholar endeavoured to study the criminal justice system in the present form and suggest measures to improve its functioning and efficiency.

## **1.2 STATEMENT OF RESEARCH PROBLEM**

Nine States, twenty-seven killings, fifteen cases of lynching by frenzied mobs were reported by the various newspapers in the year 2018 alone. The Research Scholar compiled the data of the incidents reported in various newspapers, print as well as online between the period 1999 and 31 December 2021 and has found that 3,240 mob lynching incidents have occurred in India. Of the stated figure, 355 mob lynching incidents have occurred between 2015 and 31 December 2021, due to kidnapping, suspicion of kidnapping, commission of theft and cattle smuggling. Apart from these, possession, transportation, sale or consumption of beef or suspicions thereof have triggered mob lynching incidents across the country. From the lynching of Bharat Kalicharan in Nagpur District Court to Dimapur lynching and from Dadri lynching to Hapur lynching, the length and breadth of the country has been writ large with blood and gore. The saga of this blood and gore only reflects the distrust of the people in the criminal justice system. The sporadic to intermittent to frequent occurrences of mob lynching incidents spanning across the country stand testimony to the fact that anarchy is on the rise and there is a systematic failure of the criminal justice system to check this anarchy.

The very fact that the private citizens have taken law into their hands and the audacity with which these killings have taken place poses a threat to the rule of law. The extra judicial killing by mobs have led to the infringement of the victims’ right to life guaranteed by the Indian Constitution. Even where, a mob apprehends a perpetrator

red-handed, its duty is to merely hand him over to the police. The task of prosecuting and punishing an offender is that of the State and its organs. The State alone has monopoly over use of force. The Indian Constitution has guaranteed the 'right of fair trial' to every person accused of committing an offence. Mob justice, thus, infringes this right of the accused person. Thus, mob lynching violates the various fundamental guarantees of a victim.

However, sight must not be lost that the incidents of lynching have been triggered due to a perception amongst the masses that the administration of criminal justice system has failed. The poor conviction rate and spiralling crime rate have been decried upon by the perpetrators of mob lynching. Thus, at the heart of this problem lies the fact that the criminal justice system has failed as people have lost faith in law.

Mob lynching is nothing but an extreme form of vigilantism. Vigilantism, whether positive or negative has no place in a civilized society, more so in a democracy. The rise of vigilante groups is a warning to the State that it has failed. The newspaper reports have revealed that the police failed in preventing and containing the lynchings. Inaction against such groups will not only legitimize them but also create a parallel State organ.

In the light of the above, the Research Scholar formulated the following statement of the Research Problem:

**'Failure of the Criminal Justice System has led to the birth and rise of vigilantism in India.'**

### **1.3 LITERATURE REVIEW**

The Research Scholar has reviewed the various theses, both doctoral as well as master's degree on the research topic. These theses are pertaining to vigilantism in various countries like Netherlands, Hungary, South Africa and Nigeria. Since the incidents of mob lynching having manifested as a threat to the law-and-order situation in recent times in India, literature in India on vigilantism is available only in the form of newspaper reports and articles by academicians and scholars. As a criminological concept too, it has not been much explored. Therefore, it may be noted that the **Research Scholar has so far not come across any doctoral thesis on vigilantism in India.** Various articles, opinions or anecdotes, conceptual papers by eminent

academicians, jurists and scholars in print as well as electronic media have been analyzed in an attempt to study the birth and rise of vigilantism and to find viable solutions to stem failure of the State in curbing vigilantism.

### **1.3.1. Review of Doctoral Theses and Dissertations**

The incidents of vigilantism in India, though sporadic between 2000 and 2010, it became intermittent and more frequent from 2010 onwards. The literature between the period 2000 and 2020 has been selected for the purpose of the study with regard to the Indian scenario. Literature from 1976 to 2020 has been reviewed with regard to other countries. A brief review of the same is presented hereunder:

**1.3.1.1 Jiman Timchang Lar ‘Vigilantism, State and Society in Plateau State Nigeria: A History of Plural Policing (1950 to present)’.**<sup>1</sup> - As the title suggests, the Research Scholar limited the study to the Plateau State of Nigeria. The study advocated the socialization, institutionalization and legitimization of vigilante groups which fought against insurgency in North East Nigeria. It has been concluded that plural policing did not imply failure of the State in maintaining law and order in Nigeria. However, the research did not delve upon the means by which the vigilante groups can be institutionalized and regulated.

**1.3.1.2 Marlies Hoekman, ‘Conceptualizing the relationship between State Failure and Vigilantism’.**<sup>2</sup> - The Research Scholar has focussed on the aspect that it is the failure of the State that has led to vigilantism. The Research Scholar through the case studies of Gulabi Gang, a vigilante group in Uttar Pradesh, India which was formed as a reaction to violence against women and People Against Gangsterism and Drugs (PAGAD), a vigilante group in Cape Town, South Africa has expounded the concept of legal pluralism and has concluded that multiple legal systems can co-exist peacefully in a State.

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<sup>1</sup> Lar J. T., *Vigilantism, State and Society in Plateau State Nigeria: A History of Plural Policing* (1950 to present) (Nov. 2015), UNIVERSITAT BAYREUTER BAYREUTH INTERNATIONAL GRADUATESCHOOLOFAFRICANSTUDIES, [pub.unibayreuth.de/2798/1/Jimam%20Lar%20Thesis%20Final%20Copy%20%282016-04-11%29.pdf](http://pub.unibayreuth.de/2798/1/Jimam%20Lar%20Thesis%20Final%20Copy%20%282016-04-11%29.pdf) 2016/04/11 (Last visited on Dec. 12, 2018).

<sup>2</sup> Hoekman, M., 2014. *Conceptualizing the relationship between State Failure and Vigilantism* (online), <https://edepot.wur.nl/313205/2014/08/28> (Last visited on Dec. 15, 2018).

**1.3.1.3 Manuel Mireanu, ‘Vigilantism and Security: State, Violence and Politics in Italy and Hungary’.**<sup>3</sup> - The doctoral thesis explored the relationship between the State and vigilante groups in Italy and Hungary. It explored the viability of employing non-state actors (vigilantes) for carrying out policing functions. The study was restricted to Milan Central Train Station and the Hungarian Village of Gyongyospata which illustrated non-state and intentional act of security. The Research Scholar argued that though vigilantism emerged out of the need for security of the society and involved voluntary participation of private citizens, it often led to oppressive practices. The Research Scholar concluded that it was the demand and need for security that catalysed the social legitimisation of vigilantes.

**1.3.1.4 Nicole Eveline Haas, ‘Public Support for Vigilantism’.**<sup>4</sup> - Nicole Eveline, the Research Scholar, in his doctoral thesis conducted two studies employing empirical methodology to understand as to why the general public supports vigilantism and vigilantes in Netherlands. The findings of both the studies indicated that an automatic presumption could not be made that support for vigilantism is a sign for lack of faith in the criminal justice system. The Research Scholar has also pointed out that situational characteristics have an independent influence on support. It has been concluded that while people feel little empathy for the victim of vigilantism but they desire that a vigilante should not go unpunished. The study concluded that vigilantism had found less support in Netherlands as the people had faith in the judiciary and criminal justice system.

**1.3.1.5 Safiya Ahmed, ‘Vigilantism in Moral Philosophy’.**<sup>5</sup> - The Research Scholar in her thesis (M.A.) has put forward a proposition that though there are objections to vigilantism in the form of modern democratic principles, right to due process, autonomy, consent, negative social prejudices, psychological damage, it (vigilantism) can be morally justified. In her opinion, vigilantism can be justified in circumstances where there is a breakdown of the legal system for the protection of vulnerable

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<sup>3</sup> Mireanu, M., *Vigilantism and Security: State, violence and Politics in Italy and Hungary*, CENTRAL EUROPEAN UNIVERSITY (2014), <https://dsps.ceu.edu/sites/pds.ceu.hu/files/attachment/basicpage/478/mireanumanuelir.pdf/2014/12> (Last visited Dec. 20, 2018).

<sup>4</sup> Haas, N. E., *Public Support for Vigilantism*, LEIDEN UNIVERSITY (2010), <https://openaccess.leidenuniv.nl/handle/1887/16171/2010/11/23> (Last visited Dec. 20, 2018).

<sup>5</sup> Ahmed, S., *Vigilantism in Moral Philosophy*, MCMASTER UNIVERSITY (2017), [https://macsphere.mcmaster.ca/2017/08/bitstream/11375/22213/2/ahmad\\_safiyya\\_sultana\\_201708\\_maphil.pdf](https://macsphere.mcmaster.ca/2017/08/bitstream/11375/22213/2/ahmad_safiyya_sultana_201708_maphil.pdf)

individuals, for the advancement of justice and to mend the larger social issues. This has been substantiated by the Research Scholar by citing the birth of Gulabi Gang in Uttar Pradesh, India. The thesis only provides a cursory examination of vigilantism and it is more of a discussion from the stand point of moral philosophy.

### **1.3.2. Review of Research Papers**

**1.3.2.1 Avinash Patel, ‘Is Mob Lynching a Contemporary Social Problem in India?’.**<sup>6</sup> - The writer studied the various incidents of mob lynching between the period 2013 and 2019 with the object of understanding the nature of mob lynching in the socio-cultural context of India and to examine the linkage between social media and mob lynching. While finding a strong co-relation to the misuse of social media and the lynchings, the writer has concluded that mob lynching is a major social issue in contemporary India and that it poses a challenge to the Indian Constitution as the rights of the minorities and dalits are being violated.

**1.3.2.2 Dr. Radhey Shyam Jha, Dr. Vipin Jain and Dr. Chanchal Chawla, ‘Hate Speech & Mob Lynching: A Study of its Relations, Impacts & Regulating Laws’.**<sup>7</sup> - In the above titled research paper, the researchers explored the relation between hate speech and mob lynching in India. The researchers analyzed the various incidents of mob lynching and found that hate speeches circulated through various social media apps galvanized mobs in a few minutes to lynch the victims. To curb and combat mob lynching, the researchers have emphasized the need for a special legislation on the subject. Besides, advocating regulation and restrictions on the use of social media apps, the researchers have highlighted the need for literacy training to its users so as to avoid becoming a source of rumours, misinformation and disinformation.

**1.3.2.3 Akankshit Jha and Aditya Agrawal, ‘Mob-Lynching and Massacre, Threats to The Nation: Can Masuka Address the Issue?’.**<sup>8</sup> - The writers, in the above-titled Paper had traced the incidents of mob lynching and massacres in India and while at it; had drawn comparisons and differences between the two. In the wake of mob lynching incidents, the writers made a case for the enactment of a special law

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<sup>6</sup> Avinash Patel, Is Mob Lynching a Contemporary Social Problem in India, 9 INTERNATIONAL JOURNAL OF CRIMINOLOGY AND SOCIOLOGY, 315-324 (2020).

<sup>7</sup> Radhey Shyam Jha, Vipin Jain & Chanchal Chawla, Hate Speech & Mob Lynching: A Study of its Relations, Impacts & Regulating Laws, 22 (3) THINK INDIA, 1401-1411 (2019).

<sup>8</sup> Akankshit Jha, Aditya Agrawal, *Mob-Lynching and Massacre, Threats to The Nation: Can Masuka Address the Issue?* IV (II) Rostrum’s L. R. (2018), <https://rostrumlegal.com/journal/nob-lynching-and-massacre-threats-to-the-nation-can-masuka-address-the-issue/> (Last visited on Jan. 1, 2019).

to combat the same. A critical analysis of the Protection from Lynching Act, 2017 (Manav Suraksha Kanoon), drafted by National Campaign against Mob Lynching, an N.G.O was made by the writers. The writers concluded with a suggestion to make the draft law more stringent.

**1.3.2.4 Okoli Al Chukwuma, ‘Nigeria: Volunteer Vigilantism and Counter-Insurgency in the North-East’.**<sup>9</sup> - Dr. Okoli Al Chukwuma in his paper described how the unconventional violence perpetrated by Boko Haram necessitated the adoption of unorthodox counter-measure operations by the State in the form of setting up a task force comprising of private citizens to fight the insurgency. The writer pointed out that though the involvement of volunteer vigilantes in counter-insurgency operations had yielded productive results in fighting the insurgency, it posed serious threats to the law-and-order situation in Nigeria. The writer submitted that their involvement in the aftermath of counter-insurgency operations had led to abusive outcomes as the volunteer vigilantes had shown a manifest negative attitude towards human rights.

**1.3.2.5 Kelly D. Hine, ‘Vigilantism Revisited: An Economic Analysis of the Law of Extra-Judicial Self-help or why can’t Dick shoot Henry for stealing Jane’s truck?’.**<sup>10</sup> - The author, Kelly D. Hine made an economic analysis of the Law and Criminal Justice System by using the social wealth maximisation model to answers questions as to why vigilantism occurred, why law prohibited certain vigilante acts and why it allowed other vigilante acts. Also, the author tried to elucidate the incongruity between vigilantism and legally justified self-help. The author advocated that law should permit ‘justified vigilantism’ as a defence as it maximised the social wealth by lowering the cost of judicial resources. It was also pointed out that where the criminal justice system fails ‘justified vigilantism’ leads to the welfare of the society. The paper concluded with an exhortation from the author that criminal justice system or law should relook its current position on extra-judicial self-help, namely, vigilantism.

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<sup>9</sup> Okoli Al Chukwuma, *Nigeria: Volunteer Vigilantism and Counter-Insurgency in the North-East*, (20), CONFLICT STUDIES QUARTERLY 34-55 (2017).

<sup>10</sup> Hine, K. D., *Vigilantism Revisited: An Economic Analysis of the Law of Extra-Judicial Self-help or why can’t Dick shoot Henry for stealing Jane’s truck?* 47 THE AMERICAN UNIVERSITY LAW REVIEW, 1222-1254 (1998).

**1.3.2.6 Les Johnston, ‘What is Vigilantism?’.**<sup>11</sup> - Prof. Les Johnston through this conceptual paper has tried to establish ‘vigilantism’ as a criminological concept and define it by identifying the six characteristics which help in demystifying the confusion surrounding it. Prof. Les Johnston was first in point of time to discuss vigilantism as a criminological concept. The conceptual analysis has paved way for further empirical research in the United Kingdom which was sparse prior to this paper. The present paper serves as a genesis in understanding ‘vigilantism’ as a criminological concept.

### **1.3.3. Review of Articles**

**1.3.3.1 Mahtab Alam, ‘Why do Mob Lynchings still Continue Unabated?’.**<sup>12</sup> - Highlighting the fact that mob lynching has become a national phenomenon in India, the writer, Mahtab Alam delved into the reasons as to why mob lynchings continued even after the directives issued by the Supreme Court of India in July 2018. Mahtab Alam cited the report of Common Cause, an NGO in New Delhi and CSDS on Policing in India wherein the survey showed that an overwhelming number of police personnel feel that mob lynching is natural in cases of cow slaughter and rape. He opined that such an attitude shown by the upholders of law only encourages lynching. According to him, the problems of police and judiciary in the country have led to a perception amongst the masses that culprits go unpunished and that there is a chance that the accused in heinous crimes like rape, child lifting and cow-slaughter would go scot-free. This perception of injustice, according to the writer, is being ventilated in the form of mob lynching which ensures ‘instant justice’. Thus, the article highlighted the shortcomings of policing and lack of faith in the administration of justice by the people as the reason for the continuance of mob lynching in India.

**1.3.3.2 Prof. Upendra Baxi, ‘The Global Itineraries of Lynch Justice’.**<sup>13</sup> - Prof. Upendra Baxi in the above titled article has observed that mob lynching is not merely a problem of a Nation or State but is a universal problem that needs to be dealt with stringent laws. However, the writer has also pointed out that law should not be used as

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<sup>11</sup> Les Johnston, *What is Vigilantism?* 36 ed.2 BRIT.J. CRIMINOL, 220-236 (1996), <https://www.jstor.org/stable/23638013?seq=1> (Last visited on Oct. 26, 2018).

<sup>12</sup>M. Alam, *Why do Mob Lynchings still Continue Unabated?*, THE WIRE (Sep. 7, 2019) <https://thewire.in/communalism/mob-cow-lynching-vigilante> (Last visited on Oct. 10, 2019).

<sup>13</sup> U. Baxi, *The Global Itineraries of Lynch Justice*; LAW AND OTHER THINGS. BLOG (Sep. 14, 2018, 07:09 PM), <https://lawandotherthings.com/2018/09/the-global-itineraries-of-lynch-justice>.

an escape-hatch for vigilantes. The solution to the social problem, according to the writer, lies not merely in drafting a law but also in political as well as social fields. Prof. Upendra Baxi has exhorted the Legislature to revive the Communal Violence and Targeted Killings Bill, 2011 and to also consider the Private Member's Bill while enacting a law to combat mob lynching.

**1.3.3.3 Manash Firaq Bhattacharjee, 'The Lynching of a Nation'.<sup>14</sup>** - The writer, an Adjunct Professor at Ambedkar University, New Delhi, in the wake of mob lynching incidents that rocked the nation during the year 2017, lamented the fact that mobs had taken over civic spaces and lynching had become a modern form of tribalism in India. The article also highlighted that the victims of mob lynching were more often from the minority religion or community. The writer contended that State inaction against mob lynching had not only legitimized it but is also posed a threat to the democracy.

**1.3.3.4 Prof. Upendra Baxi, 'Re-arming the Law'.<sup>15</sup>** - Prof. Upendra Baxi, while condemning the lynchings that spanned across the country in the name of cow protection declared that most of these killings were in fact mini ethnic wars, casteist attacks against dalits and violence against muslims. The writer rued the fact that these attacks were politically tolerated. He further opined that mob lynching should be designated as collective political violence and that the Communal Violence and Targeted Killing Bill, 2011, should be passed. Through this article, the writer has pointed out the superiority of the Communal Violence and Targeted Killing Bill, 2011 over the bill titled MASUKA (Manav Suraksha Kanoon) proposed by National Campaign against Mob Lynching, an NGO. The writer has warned that if the idea of private citizens donning the mantle of a judge, jury, and executioner gathers momentum, the Indian State's monopoly over force would be jeopardised.

**1.3.3.5 Rashmi Venkatesan, 'Laws Prohibiting Cow Slaughter Are Creating Both Vigilantes and Victims'.<sup>16</sup>** - In the above-mentioned article, the writer, Rashmi Venkatesan attributed vigilantism to the laws which prohibit cow slaughter in the

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<sup>14</sup> M. F. Bhattacharjee, *The Lynching of a Nation*, THE WIRE (Jun. 25, 2017), <https://thewire.in/2017/06/25/communalism/the-lynching-of-a-nation> (Last visited on Mar. 5, 2019).

<sup>15</sup> U. Baxi, *Re-arming the Law*, THE INDIAN EXPRESS (Jul. 21, 2017), <https://indianexpress.com/2017/07/21/re-arming-the-law-targeted-killings-bill-bjp-lynching-4760192>.

<sup>16</sup> R. Venkatesan, *Laws Prohibiting Cow Slaughter Are Creating Both Vigilantes and Victims*, THE WIRE (Sept. 15, 2017), <https://thewire.in/2017/09/15/politics/cow-slaughter-laws-vigilantes-victims> (Last visited on Mar. 5, 2019).



various States of India. According to her, the widened ambit of the cow protection laws has led to criminalisation of incidental acts like transportation of cattle and/or beef, sale and possession of beef in addition to slaughter. As a result of which more and more individuals were falling into the dragnet of cow slaughter prohibition laws. She has pointed out that in most of the State legislations, the burden of proof is cast on the accused persons and the offences have been made non-bailable. The writer through incisive analysis has found a very strong co-relation between vigilante violence and stringent laws. The writer concluded that challenging the draconian and arbitrary cow protection laws was a necessary step to end anarchy in the name of cow protection and to uphold constitutional and democratic values.

**1.3.3.6 Satya Prasoon and Praveen Kashyap, ‘From Salwa Judum to Gau Rakshaks, Indian Laws are giving Vigilantes an out’.**<sup>17</sup> - The writers, Satya Prasoon and Praveen Kashyap while analyzing incidents of mob lynching and the role played by the cow vigilantes (Gau Rakshaks) in the present article, draw parallels with Salwa Judum (a civilian vigilante group) and Special Police Officers appointed under the Chhatisgarh Police Act 2007. The writers argued that when the Supreme Court of India declared Salwa Judum as unconstitutional in *Nandini Sundar v/s. Union of India*,<sup>18</sup> then in the same vein, the cow vigilantes should also be declared illegal. According to the writers, the appointment of cow vigilantes violates Article 14 of the Indian Constitution as it treats two unequal groups – police and civilians – equally. The writers warned through their discourse that the cow protection legislations in various States have not only led to legitimisation of vigilantism but also have ensured their continuance.

### **1.3.4 Review of Books**

**1.3.4.1 Ziya Us Salam, ‘Lynch Files: The Forgotten Saga of Victims of Hate Crimes’.**<sup>19</sup> - This book by Ziya Us Salam, a journalist and author, is the first of its kind on the subject of mob lynching in India. The author traced the cases of mob lynching that have occurred in India from 2015 to 2018. The narrative delved into the minds of the perpetrators of mob lynching and analysed the link between lynch mobs

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<sup>17</sup> S. Prasoon & P. Kashyap, *From Salwa Judum to Gau Rakshaks, Indian Laws are giving Vigilantes an out*, (Sept.18, 2017), <https://thewire.in/law/2017/09/18/law-vigilante-powers-impunity> uploaded on 18 Sept 2017

<sup>18</sup> *Nandini Sundar v/s. Union of India* (2011) 7 SCC 547. (Supreme Court of India).

<sup>19</sup> ZIYA U. SALAM, *LYNCH FILES: THE FORGOTTEN SAGA OF VICTIMS OF HATE CRIMES*, (2019).

and organs of the State. The author cautioned the stakeholders that the emergence of mobocracy had put India's secularity and democratic constitution to test. However, the author reiterated his faith in the Indian Judiciary and exhorted the general public to do the same.

**1.3.4.2 Tore Bjorgo and Miroslav Mares (Editors), 'Vigilantism against Migrants and Minorities'.<sup>20</sup>** - This book is a comparative study of vigilantism against migrants and minorities in various countries like United States of America, United Kingdom, Canada, Russia, Bulgaria, Slovakia, Czech Republic, Germany, Sweden, Finland, Hungary, Norway, India, etc. A case study methodology has been adopted to discern typologies of various forms of vigilantism that is evidenced against the migrants and minorities and the circumstances under which vigilante activities flourish or fail. The Editors, Tore Bjorgo and Miroslav Mares have identified Vigilante Terrorism/Pogroms/Lynchings, Paramilitary Militia Movements, Border Patrols and Street Patrols as four typologies of vigilante activities. Widespread perception of crisis and threat to the society and lifestyle (whether real or imagined), threat of crime identified with specific groups making them objects of hatred and fear, shocking specific events (rape of women by men belonging to a particular community or ethnicity), perception that the police and other authorities are either unable or unwilling to protect the citizens from threats to their safety, lack of faith in the governmental institutions and permissive legislation for armed self-defence or civil patrols have been identified as the five major factors giving birth to vigilantism by the editors of this book.

**1.3.4.3 William E. Burrows, 'Vigilante!'.<sup>21</sup>** - William Burrow's in his book titled 'Vigilante' has analyzed the issue of vigilantism that has been prevalent in the American Society since the colonial days. He attributed the rise of vigilantism in the United States of America to rise in crime rate and decline in law and order. While describing the various vigilante groups like the San Francisco Committee, Plummer Gang, Sicilians in New Orleans, et al, the author studied the psychology of the vigilantes. William Burrows concluded that vigilantism was a reaction of the American population to the escalating crime rate and failure of the criminal justice system in curbing crime. This lack of faith in the formal law and order had led

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<sup>20</sup> TORE BJORGO ET AL., VIGILANTISM AGAINST MIGRANTS AND MINORITIES (2019).

<sup>21</sup> WILLIAM E. BURROWS, VIGILANTE! (1st edn.1976).

credence and quasi-respectability to the various vigilante groups in the United States of America.

### **1.3.5 Highlights of Literature Review in the area of Research**

The analysis of literature review has enabled the identification of the key strands in the area of research. These have been further analyzed and divided into two segments by the Research Scholar and they are as under:

1.3.5.1. The first segment relates to highlights of Literature Review in countries other than India.

1.3.5.2 The second segment relates to the highlights of Literature Review in India.

**1.3.5.1. Highlights of Literature Review in countries other than India** - The highlights have been discussed as under:

i) In most of countries which have been the subject of study, namely, Italy, Hungary, Nigeria and Netherlands, it has been found the failure of the administration of criminal justice system has led private citizens to group themselves and arm against the violators of law. This in turn has given birth to vigilantism which in itself is transgression of law.

ii) Studies by Marlies Hoekman, Okoli Al Chukwuma have advocated for plural policing as the State has failed in maintaining the law-and-order situation. The author, Okoli Al Chukwuma, has suggested that the civil vigilante task force created with the backing of the State of Nigeria should be institutionalized and the civil vigilantes should be absorbed into the regular police force.

iii) While there is a movement in the countries like Nigeria, Italy and Hungary for plural policing or state-backed vigilantism, the research scholars and writers have pointed out that such civil vigilantes have violated human rights and have in turn become violators of law.

**1.3.5.2 Highlights of Literature Review in India** - As stated earlier in the preliminary part of literature review, there is presently no doctoral thesis on the topic of vigilantism in India. However, various articles, and research papers by academicians, social activists and jurists have been reviewed and the following

thoughts common to them have been identified. The common thread of thought is presented as under:

- i) People have lost faith in the criminal justice system which has led to birth and rise of vigilantism.
- ii) The incidents of mob lynching are posing a challenge to the rule of law.
- iii) Cow Protection Laws which are in force in twenty-two States and seven Union Territories in India have led to the rise in vigilantes and vigilantism. These laws have legitimised vigilantism by widening the ambit of its reach.
- iv) Every paper or article reviewed has only reiterated the fact that there is a need for a special legislation to combat vigilantism and that mob lynching should be defined as a specific offence.

#### **1.4 OBJECTIVES OF THE STUDY**

The present study had set the following objectives:

- 1.4.1. To understand the challenges faced by the State and Criminal Justice System due to vigilantism and its extreme form of mob lynching in India.
- 1.4.2 To identify the underlying causes leading to vigilantism in India.
- 1.4.3 To analyze the sufficiency and efficacy of the existing laws in tackling vigilantism.
- 1.4.4. To study and analyze the various judgements and judicial attitude on vigilantism and mob lynching vis-a-vis punishment.
- 1.4.5 To find out the necessity of enacting a special legislation to combat mob lynching in India and suggest a draft legislation on it.

#### **1.5 SCOPE OF RESEARCH**

The Research Scholar has discussed the conceptual, criminological, historical, legislative and judicial perspectives of the study. Apart from the theoretical framework, the study has been further supplemented by empirical research to have insights into the ground realities of the socio-legal problem faced by the Indian

society. A brief description of the various perspectives included in the study is given hereunder:

1.5.1 The conceptual genesis of vigilantism was explored from the criminological perspective.

1.5.2 The historical background, origin and growth of vigilantism in the United Kingdom, the United States of America, Nigeria and India was traced.

1.5.3 Vigilantism as a concept being too wide, the Research Scholar limited the study to cow vigilantism and mob lynching incidents emanating from commission of crime or suspicion of commission of crime in India.

1.5.4 The relevant provisions of the laws mentioned below were critically analysed to determine their efficacy and sufficiency in combating vigilantism in India:

1.5.4.1 The Indian Penal Code, 1860.

1.5.4.2 Cow Protection Laws of twenty-two States and seven Union Territories of India.

1.5.4.3 The Code of Criminal Procedure, 1973.

1.5.4.4 The Indian Evidence Act, 1872.

1.5.4.5 The Constitution of India, 1950.

1.5.4.6 Protection from Lynching Act, 2017, a law drafted by an NGO, National Campaign against Mob Lynching (NCAL).

1.5.4.7 The Manipur Protection from Mob-Violence Ordinance, 2018, The Rajasthan Protection from Lynching Bill, 2019, The West Bengal (Prevention of Lynching) Bill, 2019 and The Jharkhand (Prevention of Mob Violence and Mob Lynching) Bill, 2021.

1.5.5 The judicial attitude towards vigilantism was studied by analyzing the judgements of the Trial Courts, High Courts and the Supreme Court of India.

1.5.6 Empirical research on the problem of mob lynching vis-à-vis Criminal Justice System was conducted to find out the causes leading to vigilantism and to find solutions to contain it. Due to the outbreak of the pandemic and the three waves of Covid19, the study was restricted to the State of Gujarat.

## **1.6. SIGNIFICANCE OF THE RESEARCH**

Vigilantism is a new challenge faced by the criminal justice system in India. It is a threat to the society and the State. The existing provisions of the general laws have failed in curbing vigilantism. There is a need to understand the motivations of the mobs in taking law into their own hands. Other than the newspaper reports and scholarly articles, research in India on this topic is wanting and is also the need of the hour.

1. 6.1 Through the present study, the Research Scholar by exploring the concept of vigilantism has contributed to the existing criminological knowledge. This theoretical exposition will also aid the academia and the students in understanding the concept.

1.6.2 By analyzing the existing laws vis-à-vis mob lynching, the various limitations have been highlighted which would help the legislature in bringing about suitable amendments. This will also help in identifying the weak linkages between law and the administration of criminal justice system.

1.6.3 The Research Scholar drafted a model legislation to tackle mob lynching in India. This draft legislation will aid the legislature in enacting a special law which is the need of the hour.

1.6.4 The Research Scholar adopted, both, doctrinal and empirical methodologies to find a solution to the problem of vigilantism. While the theoretical exploration would aid the academia, the interface with the stakeholders of the administration of criminal justice system, namely, the police, lawyers and judges, through empirical research would not only draw their attention to the problem at hand but would acquaint them with the ground realities.

1.6.5 The present study would not only help the students in understanding the concept but also aid them in analyzing the existing laws and in further understanding of the functioning of the criminal justice system. This would open doors for further research on this topic thus, contributing to the field of criminology and ensuring consistent examination of the administration of criminal justice system to make it a well-oiled machine.

1.6.6 Law being the reflection of the needs of the society, research is necessary to gauge its needs. An imbalance of power in the society only poses a threat to the rule

of law and to the State. The present study aimed to understand the forces that disrupt the society in the form of mob lynching, to suggest measures and make an attempt to draft a model law to end this disruption. The object was to devise mechanisms to uphold the majesty of law and prevent lynching of the State and democracy itself. Thus, the study will help in restoring peace and balance of power in the society.

## **1.7. RESEARCH QUESTIONS**

The Research has answered the following questions:

- 1.7.1 What are the causes of vigilantism in India?
- 1.7.2 How can the criminal justice system in India become more efficient in curbing vigilantism?
- 1.7.3 Are the existing laws sufficient to combat vigilantism?
- 1.7.4 Is there a need for drafting a special law to combat vigilantism?
- 1.7.5 What remedial measures should be adopted to prevent vigilantism?

## **1.8. HYPOTHESES**

The Research Scholar formulated the following hypotheses for the purpose the study:

- 1.8.1 Inadequate laws and lacunae in implementation of existing laws have led to people losing faith in the criminal justice system, leading to rise in cases of vigilantism.
- 1.8.2 Laws prohibiting cow slaughter have led to legitimization of vigilantism.
- 1.8.3 Vigilantism not only violates the right of the victim to fair trial but also right to life and equality as guaranteed by the Indian Constitution.

## **1.9. RATIONALE**

1.9.1 In India 2,170 Incidents of mob lynching and vigilantism have been reported between 2000 and 2018 and the perpetrators have either not been punished adequately or have escaped punishment altogether.<sup>22</sup>

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<sup>22</sup> S. Baksi, A. Nagarajan, NEWSLAUNDRY (2017), <https://www.newslandry.com/2017/07/04/mob-lynchings-in-india-a-look-at-data-and-the-story-behind-the-numbers> (Last visited on Jan. 16, 2019).

1.9.2 The existing laws have proved to be inadequate to punish vigilantes. There is a need to treat and define ‘Mob Lynching’ and ‘Vigilantism’ as substantive offences.

1.9.3 There is a need for a special legislation to tackle the problem of vigilantism.

1.9.4 Not much research or study on vigilantism has been carried out in India. It needs to be explored from the criminological perspective which is proposed to be done in the present study.

1.9.5 Vigilantism is a far greater threat to the society and a democracy. Therefore, there are compelling reasons to stem the failure of the State.

1.9.6 Beyond the ken of criminal justice system, there is an underlying need to protect the human rights of individuals and viewing every individual through the prism of humanity and equality.

## **1.10. RESEARCH METHODOLOGY**

The Research Scholar has adopted both doctrinal and non-doctrinal research methodologies in carrying out the study.

Various primary and secondary sources were relied upon in carrying out the present study.

### **1.10.1 Secondary Sources**

Various statutes pertaining to the study, case laws, laws, draft bills, books, articles, newspaper reports, journals and e-resources were referred by the Research Scholar to explore the concepts, analyze the existing laws, and study the incidents of mob lynching. An analytical approach was adopted to achieve this end.

### **1.10.2 Primary Sources**

To gain insight into the causes of mob lynching in India, to assess the sufficiency and efficacy of the existing laws to combat mob lynching and to find remedies to tackle the problem, empirical research was conducted by the Research Scholar. To achieve this objective, Police Officers, Lawyers, Judges and Academicians from the field of law were approached using the questionnaire method.



### 1.10.2.1 Selection of Sample

**1.10.2.1.1 Universe of the study** - Since the study pertains to the examination of the criminal justice system vis-à-vis vigilantism, various stakeholders of the former (criminal Justice system) were selected. Police Officers, Lawyers, Judges and Academicians from the field of law form the universe of the study. Considering the various challenges posed by the three waves of Covid-19, the fact that various incidents of vigilantism have occurred in Gujarat and the fact that the Research Scholar resides in Gujarat, the empirical study was carried out in the State of Gujarat.

**1.10.2.1.2 Sampling Method and Technique** -The Research Scholar had adopted the Non-Probability Sampling Technique. Considering that the study pertains to the criminal justice system, respondents having experience and expertise in the field of criminal law were selected. Thus, a Purposive Sampling Method was employed to define the universe and the sample size of the empirical study.

**1.10.2.1.3 Sample Size** - A Pilot Study was conducted by using 10% of the one hundred (100) respondent Police Officers, Judges, Lawyers and Academicians in the field of law. However, in the actual study, the sample size was increased by 20%, i.e., to one hundred and twenty (120) respondents so as to reduce the chance of error. To have a uniform representation, an equal number of respondents were drawn from each category of respondents and the same is depicted in the form of Table 1.1 given below.

**Table 1.1:** Sample Size vis-à-vis Respondents

<b>Sr. No.</b>	<b>Respondents</b>	<b>Size</b>
1	Police	30
2	Lawyers	30
3	Judges	30
4	Academicians	30
<b>Total</b>		<b>120</b>

### **1.10.2.2 Tools of data collection**

A Questionnaire was developed by the Research Scholar based on the objectives of the present study and responses were collected for the same. The questionnaire so developed has been used as a tool for data collection.

Considering the objectives to be achieved, a single questionnaire was developed to collect responses from the respondent Police Officers, Judges, Lawyers and Academicians.

Considering the challenges posed by the three waves of the pandemic in the form of Covid-19 and difficulty in approaching the respondents, the questionnaire was made in the form of an Online form and was circulated through email and social media. Open-ended as well as close-ended questions were incorporated in the Questionnaire.

The questionnaire has been appended to the study in the form of **Appendix XIII**.

This was further supplemented by interviewing some of the respondents telephonically and face-to-face in order to seek clarifications vis-à-vis open-ended questions.

### **1.10.2.3 Analysis of Data**

The Research Scholar employed the following methods to analyze the data:

1. Quantitative data was analyzed by using the percentage method.
2. Analytical method was employed for drawing conclusions from the Qualitative data.

## **1.11. LIMITATIONS OF THE STUDY**

1.11. Mob lynching has not been defined as a specific offence in any of the existing laws. As a result of which the National Crime Records Bureau (NCRB) has not published the data of the number of mob lynching incidents that have occurred so far. In the aftermath of the Tehseen Poonawalla v/s. Union of India and others<sup>23</sup> in July 2018, the NCRB had conveyed that a record of mob lynching cases would be compiled by it. The data was compiled by NCRB, but the same has not been

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<sup>23</sup> Tehseen S. Poonawalla v Union of India and Ors, (2018) 9 SCC 501 (Supreme Court of India).

published by it. Consequently, the Research Scholar had to rely upon the leading national newspaper reports and e-sources to ascertain the number of mob lynching incidents that took place in India. The possibility of more incidents having occurred cannot be ruled out as some of the incidents may have been reported in local newspapers of which the Research Scholar has not had access to.

1.11.2 Due to the sensitivity of the issue and the three waves of Covid-19, the Research Scholar could not reach out to the victims and perpetrators of mob lynching and include them in the empirical study.

1.11.3 Keeping in view the time frame within which the research had to be completed, the Research Scholar could not carry out a field study of the various incidents of mob lynching.

## **1.12. SCHEME OF THE STUDY**

The research was divided into eight chapters and the same are discussed hereunder:

### **1.12.1 Chapter 1: Introduction to the Study on Vigilantism and Criminal Justice System in India**

This chapter sought to introduce the research problem and the need for undertaking research on the said topic. Besides these, it includes the hypotheses formulated, research questions raised, the scope of the study, significance and utility of the study, methodology adopted in conducting the research and the limitations of the study.

### **1.12.2 Chapter 2: Theoretical Exposition of the Concept of Vigilantism**

In the first segment of Chapter 2, terms like collective violence, cow vigilantism, child-lifting, criminology and others relevant to the study have been operationalized. In the second segment of the chapter, the Research Scholar explored the etymological origin of the term ‘Vigilantism’ and analyzed the definitions of vigilantism given by Rosenbaum and Sederberg, Prof. William E. Burrows and Prof. Les Johnston. The rationale for adopting Prof. Les Johnston’s definition of vigilantism as the basis of the research study was explained. Likewise, to determine whether mob lynching was a form of vigilantism, an analogy and difference was drawn between the two concepts. This enabled the Research Scholar to conclude that mob lynching was an extreme form of vigilantism. In the last segment of the chapter, the Research Scholar pointed out how mob lynching was different from other forms of collective violence prevalent

in India like rioting and massacres. The conceptual exploration led to the conclusion that vigilantism exists in India for the purposes of social control as well as crime control.

### **1.12.3 Chapter 3: Origin, History and Growth of Vigilantism**

The third chapter traced the origin, history and growth of vigilantism in the United Kingdom, the United States of America, Nigeria and India. Vigilante acts, especially, mob lynching found a fertile ground in the United States of America. However, the roots of vigilantism in the United States of America lie in the United Kingdom. The immigrants from British Isles and Ireland formed groups to tackle cattle thieves and other crimes as they did not have faith in the American Criminal Justice System. Therefore, the Research Scholar found it pertinent to trace the origin, birth and rise of vigilantism in the United Kingdom in the first segment and the United States of America in the second segment of Chapter 3. The State of Nigeria was a British colony like India and comprised of various indigenous ethnic groups. Self-help groups (vigilante groups), tripartite policing involving self-help groups and the support of the State of Nigeria led to gross violation of human rights. The Nigerian context has lessons for India. It has been found that there are a thousand vigilante groups operating in the State of Nigeria. Therefore, the Research Scholar has included the Nigerian context in the third segment of this chapter. In the last segment of this chapter the Research Scholar has dealt with the origin, and rise of vigilantism in India. The polity, social organisation and administration of justice system during the ancient, medieval, colonial, and post-independence periods were discussed to trace incidents of vigilantism in India.

### **1.12.4 Chapter 4: Vigilantism in India – The Present Position & Causes**

In this chapter, the Research Scholar has described the various incidents of vigilantism that have taken place in India between 1999 and 2021 and the various groups that have emerged as vigilante groups. The extent of the problem of mob lynching in India has been pointed out as well. An analysis of 235 incidents of mob lynching that had occurred in India vis-à-vis the victims, their religion, caste and the triggers of mob lynching has been made. The trajectory of the mob lynching incidents that occurred between September 2015 and 31 December 2021 has been traced besides elaborately delving into the causes of mob lynching in India. In the last segment of Chapter 4, the impact of mob lynching on the victims, the State and the society has been highlighted by the Research Scholar.

### **1.12.5 Chapter 5: The Contours of Law and Vigilantism**

In the first segment of Chapter 5, the relevant articles of the Indian Constitution have been analyzed. The Research Scholar has critically analyzed the existing substantive and procedural laws, namely, The Indian Penal Code, 1860, The Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 invoked for punishing vigilante acts. Since, the genesis of cow vigilantism lies in the various cow protection laws that are in force in India, the Research Scholar has analyzed the cow protection laws of twenty-two States and seven Union Territories. The relevant provisions of Prevention of Cruelty to Animals Act, 1960 have also been analyzed. Besides these, a contrast and comparison has been made of anti-mob lynching bills passed by the States of Manipur, West Bengal, Rajasthan and Jharkhand and the Protection of Lynching Act, 2017, proposed by National Campaign against Mob Lynching (NCAL), an NGO.

### **1.12.6 Chapter 6: Analysis of Judicial Attitude vis-à-vis Vigilantism**

The Research Scholar studied and analyzed the judgements of the Trial Courts, High Courts and the Supreme Court of India to discern the attitude of the judiciary towards vigilantism. The chapter was divided into two segments. In the first segment, landmark judgements pertaining to the constitutional validity of the cow protection laws have been discussed as a live link between cow vigilantism and the cow protection laws has been found by the Research Scholar. In the second segment, various judgements pertaining to other forms of vigilantism have been studied and discussed.

### **1.12.7 Chapter 7: Analysis and Interpretation of data of the Empirical Study on incidents of Mob Lynching**

Since empirical research was carried out by the Research Scholar using the questionnaire method, the analysis and interpretation of the responses given by the Police officers, Lawyers, Judges and Academicians in the field of law was made in this chapter. Also, the conclusions drawn from the said interpretation have been discussed.

### **1.12.8 Chapter 8: Conclusion and Suggestions**

The Research Scholar has summarised the conclusions drawn from the various chapters as well as that of the entire research study in Chapter 8. Significantly, the

inferences as to the objectives set and the hypotheses formulated have been discussed. The Research Scholar has elaborately delved upon the amendments that need to be brought about to the existing laws and the administration of criminal justice system to combat and curb vigilantism. The chapter concludes with a Model Legislation drafted by the Research Scholar to prevent and punish acts of mob lynching in India.

**CHAPTER 2**  
**THEORETICAL EXPOSITION OF THE CONCEPT OF**  
**VIGILANTISM**

## **CHAPTER 2**

# **THEORETICAL EXPOSITION OF THE CONCEPT OF VIGILANTISM**

### **2.1 INTRODUCTION**

Historical literature has revealed that India has witnessed collective violence in the forms of riots and massacres emerging from caste and communal divides since the medieval period. The emergence of vigilantism in the form of mob lynching incidents in the recent times, spanning the length and breadth of India is a new challenge faced by the society as well as the criminal justice system. The vigilante justice manifested by the lynch mobs is a threat to the rule of law. Vigilantism, as a criminological concept has been less explored in India. Therefore, before embarking on the study of vigilantism in India, it is imperative to have an understanding of the term and concept of 'vigilantism'. Literature review has revealed various definitions of vigilantism given by Sociologists, Criminologists and Political Scientists which vary in their scope and in the context in which they have been defined. The Research Scholar in the present chapter discerns the meaning and contours of the terms, 'vigilantism' and 'mob lynching' and shows the inter-relation between the two. Besides this, how mob lynching differs from other manifest forms of collective violence in India, namely, Massacres and Riots, has been highlighted in the present chapter. While at it, various other terms relevant to the study have been operationalized in the present chapter.

### **2.2 OPERATIONALIZATION OF TERMS**

The concept of vigilantism entails a detailed discourse. Considering the in-depth analysis required, it is dealt with as a distinct segment of this chapter. Therefore, before embarking on a discussion of the concept of vigilantism, the Research Scholar has defined and operationalized various other terms pertinent to the study in this segment of the present chapter.

For the purpose of the present study, the below-mentioned terms have to be understood as per the definitions given hereunder:



### **2.2.1 Child Lifting**

Various incidents of mob lynching have occurred wherein the offender was caught kidnapping a child or on suspicion of kidnapping a child. The act of kidnapping has been labelled as ‘Child Lifting’ by the media. Therefore, the term, child lifting has been assigned the meaning of kidnapping given in s. 361<sup>24</sup> of the Indian Penal Code, 1860 (I.P.C).

### **2.2.2 Collective Violence**

‘Collective violence is the instrumental use of violence by people who identify themselves as members of a group – whether this group is transitory or has a more permanent identity – against another group or set of individuals, in order to achieve political, economic or social objectives’.<sup>25</sup>

Thus, use of force by a group of persons is termed as collective violence.

### **2.2.3 Cow Vigilantism**

‘Violence perpetrated by self-professed cow protectors and/or those appointed as such under the cow protection laws in India on those believed or suspected to be cow slaughterers, cow smugglers and those believed or suspected to transport, sell, possess or consume beef’.<sup>26</sup>

### **2.2.4 Criminology**

‘Criminology includes the study of: the characteristics of criminal law; the extent of crime; the effects of crime on victims and on society; methods of crime prevention; the attributes of criminals; and the characteristics and workings of the criminal justice system’.<sup>27</sup>

### **2.2.5 Criminal Justice System**

‘The system of law enforcement, the bar, the judiciary, corrections, and probation that is directly involved in the apprehension, prosecution, defense, sentencing, incarceration, and supervision of those suspected of or charged with criminal offenses’.<sup>28</sup>

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<sup>24</sup> See, Section 361, The Indian Penal Code, 1860 (Appendix II).

<sup>25</sup> World Health Organization, World Report on Violence and Health (2002), <https://www.who.int/violence> (Last visited on Feb. 3, 2021).

<sup>26</sup> A humble attempt has been made by the Research Scholar of the present study to define the term in absence of an appropriate definition.

<sup>27</sup> KATHERINE S. WILLIAMS, TEXTBOOK ON CRIMINOLOGY (7th ed. 2012).

<sup>28</sup> THE FREE DICTIONARY BY FARLEX, *Criminal Justice*, <https://www.thefreedictionary.com/Criminal+justice+system> (Last visited on Feb. 4, 2021).

### **2.2.6 Gau Rakshak**

Gau Rakshak is a Hindi word derived from Sanskrit language. It literally means, ‘Cow Protector’. Gau Rakshaks or Cow Protectors are referred to those persons who volunteer to protect the cows.

In various incidents of mob lynching relating to cow vigilantism, Gau Rakshaks have attacked persons suspected to have committed cow slaughter, cow smuggling, transporting or selling beef or have been found in possession of beef. A Gau Rakshak is referred as a ‘Cow Vigilante’ by the media.

### **2.2.7 Witchcraft**

‘The practice of magic, especially black magic; use of spells’.<sup>29</sup>

### **2.2.8 Witch–hunt or Witch–hunting**

‘A witch-hunt or witch-purge is a search for people labelled as “witches” or evidence of witchcraft, often involving moral panic or mass hysteria’.<sup>30</sup>

## **2.3 VIGILANTISM – ETYMOLOGICAL ORIGIN AND DEFINITIONS**

Etymologically, the word ‘vigilante’ has been derived from the Spanish word ‘vigilante’ which meant ‘watchman’ or ‘guard’ in the Spanish language. The Spanish word, ‘vigilante’ can be traced to the Latin word, ‘vigilare’ which means, ‘to keep awake’. The word ‘vigilante’ made way into the English language in the nineteenth century and was used to refer to members of the vigilance committees who organized themselves to punish offenders summarily when they found the law enforcement to be inadequate in curbing crime.<sup>31</sup>

The term ‘vigilante’ refers to keeping a ‘watch’ or ‘vigil’ in the society so as to keep it safe. It is, thus, a positive act. So long as private citizens keep a vigil for the purposes of protecting the society without transgressing the power given by the law, it remains a positive action. The moment the power vested by law is transgressed, it

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<sup>29</sup> LEXICO DICTIONARY, *Witchcraft* (2019), <http://www.lexico.com/en/definition/witchcraft> (Last visited on Feb. 3, 2021).

<sup>30</sup> LOIS MARTIN, *A BRIEF HISTORY OF WITCHCRAFT* 5(2010).

<sup>31</sup> MERRIAM-WEBSTER, *Vigilante* (2019), <https://www.merriam-webster.com/dictionary/vigilante> (Last visited on Feb. 3, 2021).

becomes negative. It is in this context that vigilantism is associated with in the present study.

For a proper comprehension of the concept of vigilantism, various definitions of vigilantism need to be analyzed and the same is presented hereunder:

‘Vigilantism is law enforcement undertaken without legal authority by a self-appointed group of people’.<sup>32</sup>

The above definition by Oxford Dictionary is a very generic definition of vigilantism. It implies that when groups of private citizens get together to discharge the functions of law enforcement without the sanction or authority of the State, the said acts amount to vigilantism.

Rosenbaum & Sederberg define vigilantism from the perspective of political science and state that,

‘Vigilantism is simply establishment violence. It consists of acts or threats of coercion in violation of the formal boundaries of an established sociopolitical order which, however, are intended by the violators to defend that order from some form of subversion’.<sup>33</sup>

The above definition emphasizes that vigilantism is an act or coercion exercised by private citizens (vigilantes) to defend the socio-political order prevailing in the society from those who threaten its structure. However, in the use of the coercive force, the private citizens (vigilantes) themselves transgress the very boundaries laid down by the socio-political structure of the society.

Prof. William E. Burrows spells out the characteristics of classic vigilantes. According to him, they

(1) are members of an organized committee; (2) are established members of the community; (3) proceed for a finite time and with definite goals; (4) claim to act as a last resort because of a failure of the established law enforcement system; and (5) claim to work for the preservation and betterment of the existing system.<sup>34</sup>

From the above it can be inferred that vigilantes are those members of a society who organize themselves into groups for preservation and betterment of the society

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<sup>32</sup> OXFORD DICTIONARY, *Vigilantism* (2019), <https://en.oxforddictionaries.com/definition/vigilantism>, (Last visited on February 10, 2021).

<sup>33</sup> H. J. Rosenbaum, P. C. Sederberg, *Vigilantism: An Analysis of Establishment Violence*, 6 (4) *Comparative Politics* 541, 542 (1974).

<sup>34</sup> *Supra* note 21.

because the law enforcement system has failed. These groups are formed for a specific duration of time to achieve definite goals.

Prof. Burrows' definition portrays vigilantism evinced in the United States of America wherein, people at various periods of time organized themselves either to fight cattle and horse-thieves on the eve of the American war of independence or fight crime due to inadequacy of police in patrolling and protecting commuters in the subways of New York in the form of Guardian Angels in the twentieth century. Burrows' definition being limited to crime control cannot include the attack on African Americans in the wake of civil rights movement in the form of Ku Klux Klan as it emanated from the desire to maintain social control. The fear of the members of Ku Klux Klan that equal rights to the African Americans would threaten the social structure of the American society and status of the White Americans propelled attacks against the former. Such acts having emanated from the desire for social control can also be termed as vigilantism.

This definition focusses on organized vigilantes and does not include in its ambit the acts of semi-organized groups or lone vigilantes. It emphasizes crime control to be the object of vigilante acts. Barring these technical trappings, it gives a fair insight in understanding the concept of vigilantism.

According to Prof. Les Johnston,

‘Vigilantism is a social movement giving rise to premeditated acts of force: —or threatened force—by autonomous citizens. It arises as a reaction to the transgression of institutionalized norms by individuals or groups—or to their potential or imputed transgression. Such acts are focused upon crime control and/ or social control and aim to offer assurances (or 'guarantees') of security both to participants and to other members of a given established order’.<sup>35</sup>

In conceptualizing vigilantism from the perspective of criminology, Prof. Les Johnston has suggested six components to vigilante behaviour and they are as under:

(i) it involves planning and premeditation by those engaging in it; (ii) its participants are private citizens whose engagement is voluntary; (iii) it is a form of ‘autonomous citizenship’ and, as such, constitutes a social movement; (iv) it uses or threatens the use of force; (v) it arises when an established order is under threat from the transgression, the potential transgression, or the imputed transgression of institutionalized norms; (vi) it

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<sup>35</sup> Supra note 11.

aims to control crime or other social infractions by offering assurances (or 'guarantees') of security both to participants and to others.<sup>36</sup>

Summarizing the components of vigilantism given by Prof. Les Johnston, vigilantism involves a situation where private citizens without the sanction of the State authorities organize themselves to control crime or social infractions which are seen as threats to the established norms of the society by use of force or threat of use of force against the transgressors. Thus, the definition encompasses both, crime control and social control as objectives of vigilantism.

**The definition of vigilantism from the criminological perspective given by Prof. Les Johnston, forms the basis of the present study undertaken by the Research Scholar.** The various elements of vigilantism are analyzed to understand the full import of the term and the same is presented in the ensuing part of the chapter. While at it, the Research Scholar not only explains the elements with incidents of vigilantism from other countries but also from those that have occurred in India. The object being to show how the incidents of vigilantism in India exhibit the various attributes specified in Prof. Les Johnston's definition.

**(i) Existence of prior plan and design** - Prior planning and design are the essential ingredients of vigilantism. Such a planning need not be elaborate, it can be minimal. The perpetrator should have made preparations which could be in the form of keeping a watch on the subject, carrying out a recce of the area where the subject lives, etc.<sup>37</sup> Since the object is to prevent crime and afford a sense of security, private citizens may organize into groups to keep a vigil or watch. Likewise, these groups may function with a modus operandi.

#### **Illustrations:**

(i) If there is a spate of thefts occurring in a particular locality, citizens of that locality may form groups to not only keep a watch but also to apprehend the thief. Thus, this provides a sense of security to citizens living in that particular locality.

(ii) In 1979, residents of New York City organized themselves into a group called Guardian Angels to protect commuters of New York Subways from violent crimes. These Subways were dangerous and considered unpatrollable by the Police. The

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<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

Guardian Angels comprised of young men who were unarmed but were trained in making arrests and martial arts so that they could employ them in case of altercations. This organization and preparation, especially in effecting arrests and training in martial arts is a feature which characterises the Guardian Angels of New York as a vigilante group.<sup>38</sup>

For an act to be designated as vigilantism, there must be some semblance of planning whether minimal, elaborate or spontaneous. Thus, a vigilante act involves predisposition and premeditation.

For example, lynching due to suspicion of cow smuggling, transportation or sale of beef has seen elaborate planning by the cow vigilantes in India. However, lynching in India vis-à-vis suspicion of cow slaughter, suspicion of theft, child lifting, commission of crimes, etc. have occurred within a span of few minutes without much planning and rehearsal. Messages from the loudspeakers from temples and social media apps have galvanized mobs in a matter of few minutes to attack the alleged transgressors or offenders. The dissemination of message also constitutes planning and pre-meditation.

iii) Women in Uttar Pradesh, India, organised themselves to form a voluntary group called ‘Gulabi Gang’ to fight domestic violence perpetrated by men. On receiving information or complaint of domestic violence, the members clad in ‘Pink sarees’, wielding sticks, reach the homes of the culprits to name and shame them and sometimes use force. Thus, the acts of the members of ‘Gulabi Gang’ are planned and pre-meditated.<sup>39</sup>

**(ii) It is a private and voluntary act** - To designate a particular act as vigilantism, the participants must be private citizens who act autonomously without the sanction of the State. The participant may be a private individual or a group comprising of private citizens. The participation of such members should be voluntary. Since the premise of vigilantism is the inadequacy of State authorities in curbing crime or quelling threats to societal norms, the private citizens take law enforcement and protection of social norms into their own hands, voluntarily.

In mob lynching cases related to suspicion of theft or kidnapping in India, the private citizens mobilized themselves without the support of public authorities and attacked

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<sup>38</sup> <http://guardianangels.org/> (Last visited on Feb. 1, 2021).

<sup>39</sup> <https://gulabigang.in/> (Last visited on Feb. 1, 2021).

the alleged thief or kidnapper. In some cases, the mobs attacked the police when it intervened to prevent the lynching.

**(iii) It is a form of autonomous citizenship** - According to Les Johnston, vigilantism is a voluntary act of private citizens. It does not have the support and backing of the State. Thus, it is an autonomous body of individuals acting autonomously.<sup>40</sup>

**Illustration:**

Gulabi Gang, a group of women in Uttar Pradesh, India, got together to fight against men perpetrating domestic violence against women in 2006. This organisation which comprises of 10,000 members functions autonomously.

However, concern has been expressed that if a police officer joins such a group would the act of such an officer fall within the scope of vigilantism or would the act be considered to be State backed. The Research Scholar is of the opinion that there is no confusion as to the afore-mentioned situation. If the Police Officer joins a group which is acting extra-legally, as a private citizen and not in the capacity of a Police Officer, he would be considered to be a vigilante. The acts of the group will still be deemed to be vigilantism.

**(iv) It employs threat or force** - Vigilantism envisages use of actual force or threat of using violence in achieving the aims of the vigilante(s). Thus, a vigilante may either use weapons or use brute physical force against the alleged transgressor. Force or violence is used with the intention of punishing the transgressor.

Threatening to use violence so as to desist the transgressor from committing future infractions of either societal norms or of law also constitutes vigilantism.

**Illustrations:**

(i) Death threats were issued by Islamic Fundamentalists, against the writers, Salman Rushdie and Tasleema Nasrin for their works titled ‘Satanic Verses’ and ‘Lajja’, respectively. Their work had condemned the deep-rooted practices and prejudices prevalent in Islam.

(ii) The members of Vishwa Hindu Parishad (VHP) and Bajrang Dal had issued threats to young couples to vacate the Sabarmati riverfront in Ahmedabad, Gujarat, so as to dissuade them from celebrating Valentine’s Day.<sup>41</sup>

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<sup>40</sup> Tarakeshwari D. Bulusu, *Vigilantism: The Frankenstein of the Failed criminal justice system*, 4 SCJ (2016) at 17, 20.

(iii) A leader of Bajrang Dal in Guwahati, Assam, in his speech warned the Hindus that they would be beaten up if they visited churches and took part in the Christmas celebrations.<sup>42</sup>

**(v) It is a response to prevalence of crime or infraction of social norms -** According to Prof. Les Johnston, vigilantism is a reaction to crime. It seeks to control crime. The inadequacy or failure of the law enforcement agency to curb crime and a fear that the offenders would escape punishment mobilizes private citizens to devise means of crime control wherein extra-legal measures are adopted by them to punish the former.

**Illustration:**

Syed Farid Khan, an alleged rapist, who was being held in Dimapur Central Jail was dragged out by an unruly mob, disrobed and pelted with stones, leading to his death on 5 March 2015 in Dimapur, Nagaland.<sup>43</sup> One of the reasons for this reaction was the fear of the people that Syed Farid Khan would escape with lesser punishment or go scot free. Their lack of faith in the police and administration of justice made them lynch Syed Farid Khan.

Vigilantism can also result from infraction of any societal norms or if any act is perceived to be a threat to the societal norms, even where these norms have not attained the status of law or custom.

**Illustrations:**

Bajrang Dal Activists, harassed young couples found in parks and zoos on Valentine's Day in Kanpur.<sup>44</sup> Likewise, they chased young couples away in Odisha and Hyderabad on 14 February, 2015 and hurled tomatoes at them in Ahmedabad on 14 February, 2014. They vandalized shops in Telangana on 14 February 2020 which were decorated on account of Valentine's Day.<sup>45</sup> The reason for such attacks have

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<sup>41</sup> Culture, Politics, Society, THE WIRE (February 14, 2018), <https://thewire.in/> (Last visited on Feb. 14, 2018).

<sup>42</sup> R. Choudhury, *Will Be Beaten": Right-Wing Group's Christmas Threat For Hindus In Assam*, THE NDTV, (Dec. 5, 2020.), <https://www.ndtv.com/> (Last visited Feb. 5, 2021).

<sup>43</sup> S. G. Kashyap, *Nagaland: Angry mob raids Dimapur Central Jail, lynches 35-year-old rape accused alleged to be 'Bangladeshi infiltrator'*, THE INDIAN EXPRESS, (Mar. 6, 2015), <https://indianexpress.com/> (Last visited February 5, 2021).

<sup>44</sup> F. R. Siddiqui, TNN, *Bajrang Dal activists thrashed, humiliated several young couples on Valentine's Day*, THE TIMES OF INDIA (Feb. 15, 2015), <https://timesofindia.indiatimes.com/city/kanpur/bajrang-dal-activists-thrashed-humiliated-several-young-couples-on-valentines-day/articleshow/46249364.cms> (Last visited February 5, 2021).

<sup>45</sup> NEWSMETER NETWORK, (February 14, 2020), <https://newsmeter.in/> (Last visited on February 5, 2021).



been attributed to a perception that celebrating Valentine's Day was a threat to the Indian society and culture.

Vigilantism based on the notion of perceived threat to the societal norms is far more dangerous than the one resulting from the commission of crime. Societal norms and their perception vary from person to person and from one group to that of another. Thus, what constitutes righteous conduct and what conduct is an infraction of societal norm is subjective.<sup>46</sup>

**(vi) It affords a sense of personal and collective security** - Vigilantism is born out of a perception that the Criminal Justice System has failed in preventing crime and that it is inadequate to protect the society from crime. This perception leads to a sense of fear and insecurity. To quell this fear, groups or individuals mobilize themselves to protect the society and punish the offender. This mobilization of groups gives the society a sense of security. This sense of security may be collective in case of groups and personal in case of a lone vigilante.

**Illustrations:**

i) The formation of 'Gulabi Gang' to fight domestic violence in Uttar Pradesh, India, in 2006 and the presence of its members in pink sarees wielding bamboo sticks has lent solace and courage to many women facing domestic violence in rural Uttar Pradesh.

ii) The presence of Guardian Angels in New York in their red berets gave respite to commuters using the various subways. This contributed to the collective sense of security of the people of New York City.

The above analysis has demonstrated that the definition of vigilantism given by Prof. Les Johnston is wider in scope than the one given by Prof. William E. Burrows, as it encompasses all forms of vigilantism, namely, organized, semi-organized as well lone vigilante acts. It attributes crime control as well as social control to be the aims of vigilantes. According to Prof. Les Johnston, it is not merely the actual transgression

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<sup>46</sup> Supra note 40.

that leads to vigilantism but also, potential and perceived threats of transgression to the established norms of the society give rise to vigilante acts.

### **2.3.1 Types of Vigilantism**

Vigilantism may manifest in various forms. Typology based on the level of organization and number of participants has been made by Mark Button and the same warrants a discussion. According to Mark Button, vigilantes or vigilante groups can be divided into three types and they are:<sup>47</sup>

**(i) Lone vigilante** - As the nomenclature suggests, a lone vigilante operates alone to fight against the actual or suspected offenders or those whom he perceives to be a threat to the norms of the society. A lone vigilante may arm himself with weapons or simply use brute force to carry out a vigilante act.

#### **Illustration:**

Tony Martin used to live on his farmhouse in a remote area in Norfolk, United Kingdom. A group of young men used to repeatedly break into his home. Tony Martin had made many complaints to the police but the latter did not take them seriously. In order to defend himself, he set up traps at various places on the farmhouse and equipped himself with a gun. His farmhouse was yet again broken into by two young men on one night. He shot at them in the dark which led to the death of one of the intruders and injured the second.<sup>48</sup>

**(ii) Semi-organized Groups** - When groups of citizens come together with little organizational structure to take law into their own hands, the groups are referred to as semi-organized groups. Such groups have no clear or definite lines of hierarchy, membership or modus operandi. There is very little planning involved in carrying out the acts. The acts of such groups are more or less spontaneous.

#### **Illustration:**

On 28 September 2015, in Dadri district of Uttar Pradesh, on hearing the rumours of beef consumption and storing of beef by Mohd Akhlaq, a mob gathered outside his house, dragged him and his son out of their house and beat them. Mohd Akhlaq

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<sup>47</sup> RAY BULL ET AL., CRIMINAL PSYCHOLOGY 134 (1st ed. 2010).

<sup>48</sup> Ibid.

succumbed to his injuries and his son was grievously injured.<sup>49</sup> The gathering of mob within a few minutes of hearing the rumours and orchestrating the attack on Mohd Akhlaq without much planning is consonant to the semi-organized vigilante group. The mob had no clear or well-defined hierarchy. It was a group of people belonging to the majority community who perceived that Mohd Akhlaq had violated not only the anti-cow slaughter law but also committed a social taboo.

**(iii) Organized groups** - When groups of citizens are formed with well-defined hierarchical lines, formal membership, organization and modus operandi to fight offenders or suspected offenders, these are referred to as organized groups.

#### **Illustrations:**

Guardian Angels has well-defined organisational structure and formal memberships. They are trained to effect arrests and are also trained in martial arts. Likewise, Gulabi Gang has a formal organisational structure with a clear chalked out modus operandi to counter domestic violence against women.

## **2.4 MOB LYNCHING- A FORM OF VIGILANTISM?**

The analysis of the definitions interspersed with the illustrations from the Indian context has also demonstrated that vigilantism in India **exists with the twin objectives of crime control as well as social control**. Though the subsequent chapters would be dealing at the length, the birth, rise and growth of vigilantism in India, it is pertinent to mention that vigilantism is evident more so in the form of mob lynching in recent times. Forty-eight incidents of mob lynching resulting into the twenty-five deaths spanning nine states have occurred in 2019.<sup>50</sup> Post the direction of the Supreme Court of India in July 2018 in Tehseen S. Poonawalla v/s. Union of India & Others<sup>51</sup> to curb incidents of mob lynching, eighty-seven incidents have occurred till 31 December 2021.

The point of consternation is how mob lynching is juxtaposed with vigilantism. To understand the same, it is imperative to analyze the various definitions of ‘mob’ and ‘mob lynching’. Further, an analogy and difference between vigilantism and mob

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<sup>49</sup> P. Agarwal, *The Dadri Truth: A Personal Grudge Twisted Into a Communal Killing*, THE QUINT (Sep. 28, 2019), <https://www.thequint.com/> (Last visited on Feb. 5, 2021).

<sup>50</sup> The Research Scholar has compiled the data on the basis of incidents reported in the newspapers & websites like Times of India, Indian Express, The quint.com, IndiaSpend, Factchecker.in.

<sup>51</sup> Supra note 23.

lynching needs to be made to have a conceptual clarity. The same ensues in this segment of the chapter.

### 2.4.1 Definitions of Mob and Mob Lynching

The various definitions of ‘Mob’, ‘Lynching’ and ‘Mob Lynching’ have been defined and discussed below.

According to Cambridge Dictionary,

‘Mob is a large, angry crowd, especially one that could become easily violent’.<sup>52</sup>

According to Oxford Dictionary,

‘A large crowd of people, especially one that is disorderly and intent on causing trouble or violence’.<sup>53</sup>

Thus, a mob is a crowd of people which is volatile and can easily perpetrate violence.

According to Encyclopedia Britannica,

‘Lynching is a form of violence in which a mob, under the pretext of administrating justice without trial, executes a presumed offender, often after inflicting corporal punishment or mutilation’.<sup>54</sup>

According to Manfred Berg,

‘Lynching is an extralegal punishment by mobs claiming to represent the will of the larger community, thereby distinguishing lynching from other forms of collective violence’.<sup>55</sup>

According to Cutler,

‘Mob Lynching is the practice where mobs capture individuals suspected of crime or take them from officers of law or break open jails and punish convicted criminals with impunity’.<sup>56</sup>

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<sup>52</sup> CAMBRIDGE DICTIONARY, *Mob*, (2019),

<https://dictionary.cambridge.org/dictionary/english/mob>, (Last visited on Feb. 09, 2021).

<sup>53</sup> DICTIONARY.COM AND OXFORD UNIVERSITY PRESS, *Mob* (2019), <https://www.lexico.com/definition/mob>, (Last visited on Feb. 9, 2021).

<sup>54</sup> G. Abbot, *Lynching: Mob Violence*, ENCYCLOPEDIA BRITANNICA, (Aug. 13, 2019), <https://www.britannica.com/topic/lynching>, (Last visited on Feb. 9, 2021).

<sup>55</sup> A. Riffel, S. Lorenz, *Towards an International History of Lynching*, HEIDELBERG UNIVERSITY (Feb. 6, 2019), <https://www.hsozkult.de/conferencereport/id/tagungsberichte-3210> (Last visited Feb 9, 2021); C. Knauer, *African American History*, (May 1, 2022), [https://translate.google.com/website?sl=de&tl=en&hl=en&prev=search&u=http://docupedia.de/zg/Knauer\\_afroamerikanische\\_geschichte\\_v2\\_de\\_2022](https://translate.google.com/website?sl=de&tl=en&hl=en&prev=search&u=http://docupedia.de/zg/Knauer_afroamerikanische_geschichte_v2_de_2022) (Jun. 19, 2022)

<sup>56</sup> HELEN TAYLOR GREENE & SHAUN L. GABBIDON, *AFRICAN AMERICAN CRIMINOLOGICAL THOUGHT*, 16 (2000).

From the above, the following attributes of Mob Lynching can be discerned and they are as under:

- i) The participants are private citizens who constitute a mob.
- ii) Violence is perpetrated on offenders or suspected offenders of law or those who violate the norms of the society.
- iii) The object of perpetrating violence is to administer justice or protect the social norms.
- iv) The act of punishing the offender or suspected offender is extra-legal in nature. It does not have the sanction of the State.

#### **2.4.2 Mob Lynching and Vigilantism - An Analogy**

An analogy between the two, shows the following attributes common to vigilantism and mob lynching and they are as under:

- i) Participants are private citizens, and it is voluntary in nature.
- ii) The victims are offenders or suspected offenders of law or transgressors of social norms.
- iii) In both vigilantism and mob lynching, participants use extra-legal methods in punishing the offenders.

The attributes common to Vigilantism and Mob Lynching have been depicted in Figure 2.1

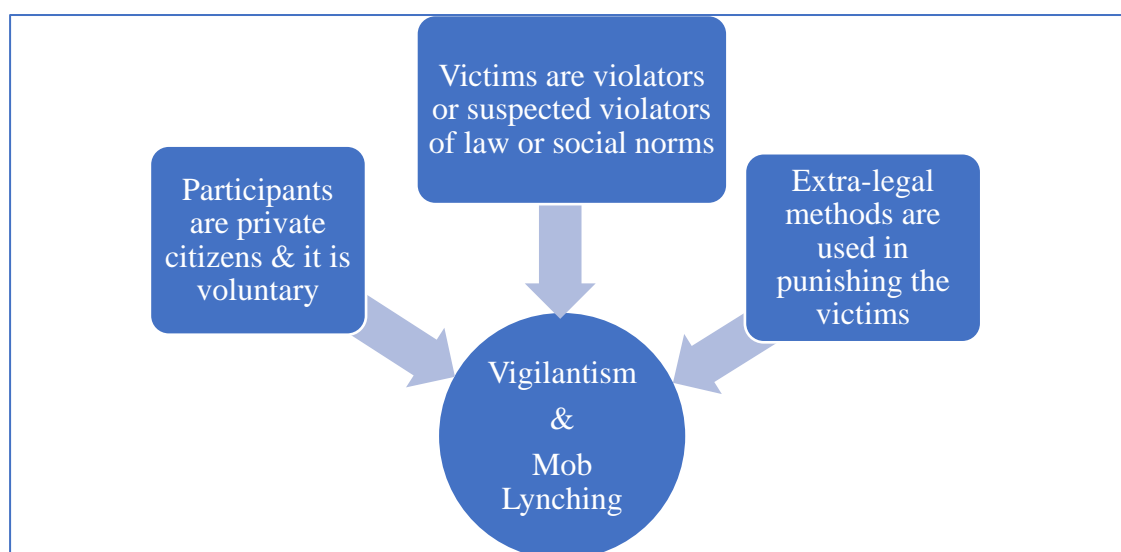


Figure 2.1 Attributes common to Vigilantism and Mob Lynching

### 2.4.3 Mob Lynching and Vigilantism – A difference

The difference between the two has been summarized as under:

**Table 2.1:** Difference between Vigilantism & Mob Lynching

<b>Points of differentiation</b>	<b>Vigilantism</b>	<b>Mob Lynching</b>
<b>Number of participants</b>	Participants are private citizens. The vigilante acts can be carried out by a lone vigilante or by two or more vigilantes.	Participants are private citizens who constitute a mob. Atleast two participants are required to form a mob.
<b>Use of violence &amp; Objective of the participants</b>	Vigilantism need not in all cases use violence. Private citizens may come together to prevent a crime.  <b>Example:</b> Watch groups may be formed in a locality to prevent thefts.	In Mob lynching, use of violence is a necessary attribute. It is always reactive. It is a reaction to a crime or infraction of a social norm.  <b>Example:</b> A thief caught red-handed is beaten up by the people living in the locality.

Source: Research Scholar's own compilation

Thus, mob lynching is an extra-legal process of punishing a suspected offender or an offender by use of violence by mobs comprising of private citizens. In this respect, mob lynching is vigilantism. From the perspective of level of organization, mob lynching can take the form of semi-organized or organized vigilantism. Vigilantism can be preventive and/or reactive. Preventive vigilantism implies measures taken to prevent infractions of law or social norms. Reactive vigilantism is inflicting punishment (corporal) as a reaction on the transgressors of law or social norms. When mobs employ violence as a reaction to crime or infraction to social norms it can be referred to as reactive vigilantism.

**It can be concluded that Mob lynching is reactive vigilantism, an extreme form of vigilantism.**

## **2.5 MOB LYNCHING, RIOTS, MASSACRES – DISCERNING BOUNDARIES**

As mentioned in the beginning of this chapter, India has experienced collective violence in the form of riots and massacres based on the lines of caste and religious divide, since the medieval period. The boundaries between mob lynching and other forms of collective violence like riots and massacres may seem blurry, but they are real. The same needs to be discerned for conceptual clarity as well as defining the scope of the study. An examination of the same ensues hereunder:

### **2.5.1 Rioting & Mob Lynching**

When a group of people use force or violence to achieve their common object, it is termed as rioting. The offence of rioting is defined u/s. 146<sup>57</sup> of I.P.C. According to it when an unlawful assembly uses force, the act of rioting is committed.

Section 141<sup>58</sup> of I.P.C designates an assembly as unlawful, if it comprises of five or more individuals who have gathered to carry out any of the illegal objects laid down in it.

Thus, to constitute an offence of rioting in India, the members or any of the member of an unlawful assembly must use force or violence to achieve its common object.

**An act will amount to rioting in India only if the unlawful assembly espouses any of the five objectives mentioned in s. 141.** Indian society is a witness to agrarian riots, communal riots and those arising out of personal reasons.

#### **Illustrations:**

‘A’ wants to take possession of land owned by ‘B’, he along with other members attacks ‘B’ and his farm hands to take possession of the land.

‘X’ has a longstanding enmity with ‘B’, he along with others members, attacks ‘Y’ and his family members.

Members of community ‘P’ attack members of community ‘Q’.

Though, Mob Lynching and Rioting involve multiple perpetrators, there is a difference between the two. Since the Indian society has witnessed many communal riots, agrarian riots, etc. there seems to be a conceptual overlap between rioting and

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<sup>57</sup> See, Section 146, The Indian Penal Code, 1860 (Appendix II).

<sup>58</sup> Id. at s. 141.

mob lynching. The Research Scholar has explained the various points of distinction between the two and the same is presented as under:

**(i) Genesis** - Riots, have genesis in hatred and enmity between two groups, whether religious or otherwise. The members belonging to one group are targeted by members belonging to another group. Whereas, in mob lynching, administering justice or inflicting punishment to the one who transgresses law or social norms as the law enforcement is inadequate, forms the genesis.

**(ii) Victims** - Violence is perpetrated on all the members of the group, irrespective of the victims' innocence or guilt. Collective punishment is meted out during riots. However, in case of mob lynching, the targets are particular individuals who are declared to have committed a crime or a wrong by the mob.<sup>59</sup>

**(iii) Planning and Preparation** - In case of riots, whether, agrarian, personal or communal, planning and preparation is necessary. Mob lynching usually occurs spontaneously, with very little planning and organization. Planning and preparation are not mandatory in case of mob lynching.

In case of riots which occur with any of the motives laid down in section 141 of the Indian Penal Code, 1860, the differences between such riots and mob lynching would be in terms of the genesis (motive), victims and the planning and preparation involved in committing the acts.

Thus, the above analysis shows that rioting is different from mob lynching.

## **2.5.2 Massacres & Mob Lynching**

The Research Scholar uses the term 'Massacre' to denote killing of people belonging to an identifiable group, whether based on caste, religion or any other denomination.

According to Collin's Dictionary,

'A massacre is the killing of a large number of people at the same time in a violent and cruel way.'<sup>60</sup>

The above-mentioned definition of massacre implies killing a large number of people belonging to an identifiable group.

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<sup>59</sup> I. Engineer, *Mob lynching is the latest pattern of low intensity communal violence*, UMMID.COM, (Jul. 11, 2018), <https://ummid.com/news/2018/July/11.07.2018/mob-lynching-let-us-act-now.html> (Last visited on Feb. 8, 2021).

<sup>60</sup> COLLINS ENGLISH DICTIONARY, *Massacre* (2019), <https://www.collinsdictionary.com>, (Last visited on Feb. 8, 2021).



The differences identified between massacres and mob lynching are pointed out as under:

**(i) Genesis** - The object of killing in massacre is hatred or feeling of enmity towards the members of a particular caste or religion or an identifiable group. Whereas, extra-legal execution for violation of law or prevention of an infraction of a social norm is the aim of Mob lynching as the perpetrators perceive that the law enforcement agencies are inadequate.

**(ii) Victims** - The victims in case of massacre are all the members belonging to a particular caste or religion or an identifiable group. Whereas victims of mob lynching are those declared by the mob to have committed a crime or violated a social norm. Thus, in case of mob lynching, the number of victims is fewer.

**(iii) Outcome** - Massacre leads to death of the victims as its object is to kill all the members of a particular caste, religion or identifiable group. Whereas, mob lynching may or may not result into the death of a victim.

**It may be summarized that in Mob Lynching, a victim may be targeted for violation of law or social norms, irrespective of caste, creed or religious considerations. And, therefore it differs from rioting and massacres.**

## **2.6 CONCLUSION**

The discourse on the definition and concept of vigilantism leads to an inference that vigilantism is an act wherein private citizens take law into their own hands to control crime or infractions of social norms when they perceive that the law enforcement agencies are inadequate to punish infractions of law or social norms. In the Indian context, vigilante acts are visible with the twin objectives of controlling crime as well as infractions of social norms. Therefore, the Research Scholar basis the present study on the criminological definition given by Prof. Les Johnston which is reproduced here again and it reads as under:

*'Vigilantism is a social movement giving rise to premeditated acts of force:—or threatened force—by autonomous citizens. It arises as a reaction to the transgression of institutionalized norms by individuals or groups—or to their potential or imputed transgression. Such acts are focused upon crime control and/ or social control and aim to offer assurances (or 'guarantees') of security both to participants and to other members of a given established order.'*<sup>61</sup>

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<sup>61</sup> Supra note 11.

Further, the conceptual analysis of vigilantism has also shown that mob lynching is a form of reactive vigilantism.

Caste-based violence and communal violence in India may be deemed to be vigilantism from the social control perspective. Such violence is perpetrated out of fear that the social structure faces a threat from the members belonging to lower castes or from those belonging to another religion. The fear of violation of social norms and the threat to social hierarchy has propelled and still propels caste-based and communal violence in India. Studies on caste-based and communal violence abound in India. Legislative, Executive and Judicial initiatives from time-to-time have been made to combat these forms of violence. Therefore, the Research Scholar has not included caste-based and communal violence within the scope of the present study.

Lynching of victims on suspicion of practising witchcraft has its roots in superstition, greed and fear of challenge to the social norms. At first blush, superstition as a cause may seem to place witch hunting outside the bounds of social control perspective of mob lynching. However, if one delves deep, then superstitions also are the beliefs that are held by the members of the society and these beliefs form the basis for setting the behavioural norms of the society. In most of the cases of witch hunting, women have been victimized. It has been found that where women inherited the property because of the death of the husband or father, the other male relatives have branded the former as 'witches' and lynched them so as to obtain the property. Inheritance and control of property by women has been seen as a threat to patriarchal system existing in India, especially in rural and tribal areas. The Indian society is predominantly organized on patriarchal lines. Inheritance and control of property by women is viewed as a threat to the social structure and its norms. Likewise, where women have questioned the practices of the society, they have been branded as witches and lynched as they were perceived to be a threat to the male-dominated society. The very act of branding and lynching the victim is ritualistic wherein large number of villagers or perpetrators are involved which points to pre-meditation and planning. **Witch hunting, thus, is a form of vigilantism born out of a desire for protecting the social norms.** Witch hunting is not a new phenomenon in India, literature reveals of its practice since the ancient period. To combat the rising number of cases, eight out of twelve States in

which it is rampant, have passed a special legislation to prevent and punish witch hunting. These legislative initiatives have been ushered since 1999. However, these State legislations have proved to be inadequate to curb this evil practice and cases of witch hunting continue unabated. Besides, in the States where no special legislation has been passed, provisions of the Indian Penal Code, 1860 are being applied which have been woefully inadequate in deterring the crime. Need for a central legislation on the subject has been emphasized by academicians and scholars. The NCRB maintains a record of deaths caused due to witch hunting as a specific head. Witch hunting has been a subject of exclusive research and much research is available on it in India. It is a subject too wide to be included in the scope of the present study. Therefore, the Research Scholar has focussed on the recent incidents of mob lynching due to cow slaughter, suspicion of theft, rape, murder, etc. as research is wanting in this area.

The recent incidents of lynching of victims out of suspicion of cow slaughter, beef consumption or possession, cattle smuggling, child lifting (kidnapping), theft and rape, by unruly mobs is a new phenomenon witnessed by the Indian society. Apart from these, lynching of victims on suspicion of practicing witchcraft, though not new, continues unabated. Mob lynching poses a new challenge not only to the criminal justice system but also to the existence of the democracy and the State. The various mob lynching incidents relating to thefts and child lifting have emanated with the object of crime control. The cow related lynching incidents have resulted partly out of the perception that the law enforcement agencies have not been able to prevent cow slaughter, cattle smuggling, beef consumption though specific laws have been passed and partly from the desire to enforce the social norms of the majoritarian segment of the society. Twenty-two States and seven Union Territories in India have passed legislations which have criminalized cow slaughter. Apart from this, some States have also criminalized sale, possession and consumption of beef, transportation of cows and cattle trading. Thus, these acts being crimes, members of the majoritarian population, namely, Hindus have felt that the law enforcement agencies have failed to punish infractions of the various provisions of the cow protection laws. This perception has led the Hindus to orchestrate attacks against the violators of the cow protection laws in the form of mob lynching. These acts of Hindus can be attributed to

crime control. However, the cow protection laws and the mob lynching acts have their genesis in the social and religious norms of the Indian society. From this perspective, mob lynching has social control attributes.

This new challenge posed to the criminal justice system and the Indian democracy in the form of mob lynching is the focus of the present study. Though in the historical context, the Research Scholar would illustrate vigilantism from social control perspective in the form of caste-based, communal violence and witch hunting, the thrust of the study would be mob lynching emanating out of suspicion of cow slaughter, beef consumption or possession, cattle smuggling, child lifting (kidnapping), theft and commission of other crimes.

**CHAPTER 3**  
**ORIGIN, HISTORY AND GROWTH OF VIGILANTISM**

## **CHAPTER 3**

### **ORIGIN, HISTORY AND GROWTH OF VIGILANTISM**

#### **3.1 INTRODUCTION**

Vigilantism is synonymously referred to as Lynch Law, Mob Justice, Popular Justice and Summary Justice in various parts of the world. In a generic sense, when private individuals take law in to their own hands to punish an alleged offender for infraction of law or for violation of a social norm, it is termed as vigilantism. Also, the analysis of the concept of vigilantism in Chapter 2 of the present study led to an inference that vigilantism emerges with the objective of social control and crime control. Vigilantism as a means to control crime and prevent infractions of societal norms forms the genesis in tracing the origin, history and growth of vigilantism in the present chapter. Though vigilantism is a global phenomenon, the Research Scholar has limited the study to that of the United Kingdom, the United States of America, Nigeria and India. Though, vigilantism did not originate in the United States of America, it became a fertile ground for it and gained notoriety for lynching African Americans between Mid-eighteenth and Mid-twentieth centuries. It is thus, important to study the vigilante movement or the lynch mob culture of the United States of America. However, the history of vigilantism witnessed in the southern and western parts of the United States of America has its roots in the British colonial rule. The migration of Irish-Catholics and other Europeans to escape from the British and transportation of those considered to be the offenders of the British Empire to the United States of America brought in a cultural change in the American society which to a certain extent influenced its lynch mob culture. The historical background of the United Kingdom is the starting point to understand the vigilante movement in the United States of America. Thus, the present chapter begins with the historical account of vigilantism in the United Kingdom followed by that of the United States of America.

The State of Nigeria has a history of self-protection groups or vigilantes, pre-dating the State of Nigeria which forms the genesis for the present-day vigilantism. The rise of the vigilante groups, especially after the independence from Britain with sometimes tacit support and most of the times with the open support of the local governments has

seen gross violation of human rights. The vigilante groups emerged in Nigeria with the aim of preventing crime as the State fell short in protecting its citizens. State failure in equitable development and distribution of the resources amongst the various ethnic groups has also emerged as a major reason for the emergence of vigilante groups. The support of politicians to the various vigilante groups has only left a trail of violence, gore and blood. Presently, there are around thousand vigilante groups in Nigeria, probably, the highest in the world. The rise and emergence of vigilantism in Nigeria has some lessons for India. Therefore, the Research Scholar has included the Nigerian context in the study of vigilantism and failure of the criminal justice system in India.

This chapter traces the origin of vigilantism, charts its historical background and its growth in the United Kingdom, the United States of America, Nigeria and India.

## **3.2 THE UNITED KINGDOM**

There is little evidence to show that mob violence or lynching occurred in England. Summary collective executions occasionally occurred in the seventeenth century in England and the British Atlantic when people perceived certain situations to have led to political, legal or social injustice. Two well documented incidents of crowd violence in England illustrate the point made and the same are discussed hereunder:

### **3.2.1 Lynching of John Lambe (1628)**

In 1628, John Lambe, a magical healer and counsellor in his eighties was charged for practicing witch craft and for the rape of a young girl. He received a royal reprieve and pardon from the King and escaped gallows. This angered the Londoners. On 13 June 1628, the citizens gathered together and murdered John Lambe with stones, cudgels and other weapons. This execution or lynching of John Lambe was felt justified by the citizens. However, Charles I, the King of England angered by the political disorder, ordered the City of London to punish the rioters who participated in the murder of John Lambe and those who failed to prevent the act. The city jailed many law officers who failed in their duty but did not arrest any individual from the

crowd that participated in the lynching. The King sued the City of London and the court imposed a fine of £1,000.<sup>62</sup>

### **3.2.2 Lynching of Captain John Porteous (1736)**

On 14 April 1736, Andrew Wilson was executed for smuggling and for trying to rob an excise official in Edinburgh. Public sympathy was high for the smugglers in Edinburgh and they had contempt for the Excise Officials. The crowd that gathered at the execution became tumultuous and a riot ensued. Captain John Porteous was ordered to control the riot. When he reached with the city guard, the mob started attacking them with stones. Captain John Porteous ordered the city guard to open fire into the crowd. Six people died in the firing and twenty were injured. Captain Porteous was charged for murder and was found guilty by the jury. He was sentenced to death on 8 September 1736. However, the Prime Minister of England, Mr. Robert Walpole arranged for a royal pardon. This infuriated the public. On 7 September 1736, a mob of 4000 people armed with weapons broke into the prison where Captain Porteous was held, dragged him to the market and lynched him. No one was arrested or convicted for lynching Captain Porteous. The City of Edinburgh was fined with £2,000 over the incident.<sup>63</sup>

### **3.2.3 Rise of Private Prosecution Societies in England (Mid-Eighteenth & Nineteenth Centuries)**

The Mid-Eighteenth Century England saw a transformation of the society from agricultural capitalists and rural labourers to industrial capitalists and urban factory workers. Large number of people from the rural areas moved to the urban centres which were already overcrowded. This resulted into social disorganisation and led to rise in crimes. The traditional modes of informal social control and the formal system of justice proved inadequate in containing the crime. Besides, the economic costs of prosecution too were high for those who sought to prosecute offenders under the law. The total cost of prosecution until the mid-eighteenth century was borne by the private citizens. A legislation passed in 1752 made some provisions to meet the

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<sup>62</sup> Michael J. Pfeifer, *Extralegal Violence and Law in the Early Modern British Isles and the Origins of American Lynching*, in *GLOBALIZING LYNCHING HISTORY: VIGILANTISM AND EXTRALEGAL PUNISHMENT FROM AN INTERNATIONAL PUNISHMENT* 22 (1st ed. 2011).

<sup>63</sup> History Time Line, <https://www.undiscoveredscotland.co.uk/usbiography/p/johnporteous.html> (Last visited on May 22, 2020).



prosecution costs. However, it proved to be highly inadequate.<sup>64</sup> Till the nineteenth century, criminal prosecution was available to the wealthy. Due to rapid industrialisation and increase in number of agricultural capitalists, the propertied classes were interested in having a vigorous enforcement of criminal law as crime increased between mid-eighteenth and mid-nineteenth centuries. To mitigate the exorbitant cost of prosecution and enable people to have recourse to criminal justice system, private prosecution societies were formed.<sup>65</sup> Between 1744 and 1856, at least 450 private prosecution societies were created and operating.<sup>66</sup> Wakefield Society for Prosecuting Felons, 1786 assisted the constables with burglaries, arson, rustling, cutting of tenters or taking wool out of yards.

The Research Scholar would be discussing only two prominent private prosecution societies operating in England between mid-eighteenth to mid-nineteenth centuries in detail. The same are discussed as under:

### **3.2.3.1 The Halifax Charter**

A group of concerned citizens in Halifax, North England took the initiative of putting up notices in public places so as to convene a public meeting for the purposes of setting up a prosecution society. The notice underlined the need for setting up a prosecution society and spelt out that it would investigate crimes, apprehend criminals and bring them before the courts. Its objective was to improve enforcement of the existing laws. It was impliedly assumed that a greater likelihood of prosecution would deter offenders. A membership or subscription fees was sought from those who wished to join the prosecution society. The said fees were to be utilised for meeting the costs of the prosecution societies. Definite concern for the cost of prosecution and efficient enforcement of law were the two points which were emphasized by the Halifax Prosecution Society. There was never a question raised as to the concept of law or the content of law. To achieve its objective, the members signed a formal charter.

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<sup>64</sup> Craig B. Little, Christopher P. Sheffield, *Frontiers of and Criminal Justice: English Private Prosecution Societies and American Vigilantism in the Eighteenth and Nineteenth Centuries*, AMERICAN SOCIOLOGICAL REVIEW, 796, 797 (1983).

<sup>65</sup> Id. at 798.

<sup>66</sup> Ibid.

**Membership** - The membership of the Halifax Private Prosecution Society comprised of merchants, attorneys, weavers, dyers, clergy, renters of the land. A significant portion of members were from the textile industry.

**Functions** - The committee members would screen each case brought before it and had the authority to grant or refuse any claims made upon the society for matters connected with the prosecution of an offence. The committee would examine all intended prosecutions and decide whether, and in what manner to proceed with the cases brought before it.<sup>67</sup> The functions of the prosecution society would be guided by clearly defined rules. In 1821, a significant development was made to the Halifax Charter wherein reference was made to the manner in which the expenses were to be defrayed and it further stated that crimes committed against the members outside the boundaries of the township would also be covered.

### **3.2.3.2 Skircoat Prosecution Society (1811-1891)**

Skircoat Prosecution Society in Yorkshire was formed in the year 1811 and remained active till 1891. The prosecution society was well organised with clearly defined hierarchy. The object of the society was to prosecute offences of theft of woollen goods, livestock, personal property, robbery, damage to property, crop, fences and other property.<sup>68</sup> This society was more active between 1826 and 1840 in the form of increased number of committals to prosecution. The society functioned as a deterrent to political miscreants. They functioned as organs for apprehending offenders and prosecuting offences against their members. The proceedings followed by the Skircoat were quasi-legal in nature. After 1845, the recorded activities of the society dealing with criminal cases dropped sharply. The functions of the society changed from prosecutorial to sociable aims. From 1848 onwards the emphasis on private prosecution and initiatives with regard to criminal justice waned as the government became more responsible for public safety, welfare and the protection of property.<sup>69</sup>

Apart from the above, there were almost 500 or more private prosecution societies functioning between 1826 and 1855. To name a few, Eyam Prosecution Society in Derbyshire, the Ambleside Association for the Prosecution of Felons in the Lake District, the Heptonstall Prosecution Society formed in 1816 brought in private action

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<sup>67</sup> Ibid.

<sup>68</sup> <https://discovery.nationalarchives.gov.uk/details/c/F82882> (Last visited on May 22, 2020).

<sup>69</sup> Supra note 64 at 800.

when the local constabulary seemed inert. From 1829 onwards with the setting up of the police force, streamlining of the court procedures and the criminal justice system, the private societies seized from prosecuting felons. There has been no evidence to suggest that the private prosecution societies wanted to usurp the powers and authority of the regular courts as quasi-legal procedures mimicked the regular court proceedings.<sup>70</sup>

### **3.2.4 Twentieth and Twenty-first Century Vigilantism in England**

The inadequacy of state law enforcement acted as a catalyst in formation of the Private Prosecution Societies in the mid-eighteenth and mid-nineteenth centuries. The same reason can be attributed to the vigilante acts perpetrated by individuals, small groups and mobs in the twentieth and twenty-first centuries in England. The fear that criminal justice system would fail and the perpetrators would escape punishment galvanised private citizens to take law into their hands. Some of the accounts are discussed hereunder:

**3.2.4.1 Maidstone, May 1992** - A truck driver ran over Stephen Owen's twelve-year old son which led to his death. Apart from not holding a driving license, the driver had been involved in vehicular and other violent acts in the past. He was sentenced to eighteen months imprisonment but had served only twelve months. This enraged Stephen Owen and he shot at the driver. The latter survived and the former was charged with attempt to murder. However, the jury acquitted Stephen Owen.<sup>71</sup>

**3.2.4.2 Neighbourhood Watchgroup, Herefordshire, May 1993** - To prevent burglaries in the Herefordshire, people mobilized to form neighbourhood patrol groups. The Eardisley Neighbourhood Watchgroup in Herefordshire got together to patrol the streets and prevent burglaries. The Home Office was opposed to the idea of citizen patrol groups. The members of citizen patrol groups committed to the State that they would limit their functions to watching and reporting crime to the police. They committed themselves from exerting force or threatening to use force against miscreants during their patrols.<sup>72</sup>

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<sup>70</sup> Supra note 64 at 801.

<sup>71</sup> Supra note 11 at 223.

<sup>72</sup> Ibid.

**3.2.4.3 Norfolk, June 1993** - A young boy suspected of committing a spate of burglaries in Norfolk was kidnapped by two men from a street. The two men questioned him and threatened to stab him before setting him free. The two men were convicted for kidnapping and threatening the young boy. They were sentenced to a five-year prison term. Due to a public campaign for the release of the two men, the Court of Appeal reduced their sentence to six months.<sup>73</sup>

**3.2.4.4 Swansea, July 1993** - A teenager was found lying on the ground with both his legs broken in Swansea. He told the people who rescued him that he had met with an accident. However, the local press received an anonymous call wherein it was informed that the teenager was a victim of a vigilante attack. The local councillor had formed a group of thirty so as to punish 'joyriders'. Since the teenager was driving dangerously and recklessly, he was attacked by the vigilantes.<sup>74</sup>

**3.2.4.5 Paulsgrove Estate, Portsmouth, 2000** - Sarah Payne, an eight-year-old girl had gone missing from her paternal grandparents' home in West Sussex, while playing with her siblings. She was found murdered after a few days by a registered sex offender. Sarah's parents began a nationwide campaign demanding the publication of the sex offender register so that the general public would know about the paedophiles living in their neighbourhood. A national newspaper published names of convicted paedophiles which led to riots in Paulsgrove, Portsmouth. The locals descended onto the streets to protest against the paedophiles living in their neighbourhood. The riots led to five innocent families fleeing their homes and commission of suicide by two persons. It was later alleged that names published by the newspaper were incorrect. However, the misleading information led to victimisation of innocent persons.<sup>75</sup>

**3.2.4.6 Internet Vigilantism and Paedophile Hunters (2014 onwards)** - Paedophile Hunter Groups have been formed on social media to trap paedophiles. Guardians of the North, Dark Justice, Stinson Hunter, Silent Justice have been some of the popular vigilante groups operating in England to protect children from paedophiles.<sup>76</sup> Apart

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<sup>73</sup> Id. at p.227

<sup>74</sup> Ibid.

<sup>75</sup> Supra note 47 at 135.

<sup>76</sup> Neal Baker, *Vigilante Justice who are the vigilante Paedophile Hunters and what do they do? From TRAP to Dark Justice and Guardians of the North*, THE SUN (Apr. 10, 2018), <https://www.thesun.co.uk/news/4506205/paedophile-hunters-trap-dark-justice-guardians-of-the-north/> (Last visited on May 24, 2020).

from these, it is believed that there are seventy-five such groups operating across the country.<sup>77</sup> The members of these groups pose as a child below sixteen years when interacting online with a suspected paedophile. Messages exchanged and chats are saved as evidence. Once the suspect arranges for a meeting with the ‘child’, the paedophile hunters lay a trap and get the suspect arrested.<sup>78</sup> The evidence gathered from the paedophile hunters has been used to charge suspects in at least 150 cases. There was a seven-fold rise in use of evidence collected from the paedophile hunter groups by the police forces in England and Wales from 2015. The statistics for the year 2017 revealed that in almost 50% of the cases against people charged with meeting a child after sexual grooming, evidence collected from the Paedophile Hunters was used.<sup>79</sup>

**3.2.4.7 Britain First and Attacks on Immigrants, 2014** - Britain First was founded by James Dawson, a former member of British National Party (BNP) in 2011. Paul Golding, a former BNP councillor also joined hands with Dawson and launched Britain First in the same year.<sup>80</sup> The members of this group invaded mosques and conducted ‘Christian Patrols’ in the urban areas dominated by Muslims. In 2014, a video of ‘Muslim Patrol’ was streamed on YouTube which showed a street gang enforcing the Sharia Law in East London. As a response to the ‘Muslim Patrol’, ‘Christian Patrols’ were carried out by members of Britain First which led to Paul Golding dissociating with it. The vigilantes consumed alcohol or spoke scandalously of Prophet Muhammad so as to instigate, insult and intimidate the Muslims.

Britain First targeted immigrants and Muslims who posed a threat to the British economy and women. With the suspension of its Facebook and Twitter accounts and restrictions imposed by YouTube on some of its videos, the online presence and impact of British First has reduced in recent years. However, this is the beginning of vigilantism against immigrants and Muslims in the United Kingdom.

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<sup>77</sup> MARK BUTTON, *PRIVATE POLICING*, (2nd ed. 2019).

<sup>78</sup> *Supra* note 76.

<sup>79</sup> *Ibid.*

<sup>80</sup> Elizabeth Ralph-Morrow, *Vigilantism in the United Kingdom*, in *VIGILANTISM AGAINST MIGRANTS AND MINORITIES* 229 (1st ed. 2019).

### **3.2.5 Paramilitary Forces of Northern Ireland (1960 – 1998) and the Resurgence**

England, Scotland, Wales and Northern Ireland form the constituent parts of the United Kingdom (U.K). However, tensions have always persisted in U.K as England has been politically more dominant among the other three countries. England had brought all the States through conquest and political union. With Ireland becoming a dependant State of England in 1540s, the Crown of Ireland Act, 1542 declared the King of England as the King of Ireland.<sup>81</sup> The 1707 union with Scotland was used a model for forging England's Union with Ireland. The English union with Ireland did not last long but fell apart. The Irish Republican Army fought for independence from U.K between 1919 and 1921. The war led to the division of Ireland into Northern and Southern Ireland in 1922. Northern Ireland remained a part of U.K while the southern region became a free Irish State.<sup>82</sup> In 1937, it became a sovereign nation of Ireland and joined the European Union in 1973. After the Second World War, Wales, Scotland and Northern Ireland sought independence from U.K. This took a violent form of activism from the three States. The activism also aimed at reunification of Ireland. However, some factions were against the reunification. The loyalists of Northern Ireland, who were majorly Protestants, wanted to remain a part of the U.K. However, the Irish Nationalists, a majority of whom were Catholics wanted to unite with Northern Ireland. A campaign for equal rights to the minority Catholics in Northern Ireland by the Civil Rights Association led to conflicts between the loyalists and the minorities in Northern Ireland in the 1960s.<sup>83</sup> The police force was called in to suppress the movement which eventually turned violent. Likewise, the loyalists too, perpetrated violence against the minorities. With increased tensions, the British army was called in to contain the situation in 1969. Initially, the Catholic minorities welcomed the presence of the British army but it was soon realised that the latter was hostile and biased towards the former. The brutal killing of thirteen unarmed men at an anti-internment rally in Derry on 30 January 1972 by the British Security Forces gave birth to the various paramilitary forces like the Irish National Liberation Army,

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<sup>81</sup> Becky Little, *How Scotland, Wales and Northern Ireland became a part of the U.K.*, (May 21, 2020), <https://www.history.com/news/united-kingdom-scotland-northern-ireland-wales> (Last visited on May 24, 2020).

<sup>82</sup> *Ibid.*

<sup>83</sup> RICHARD ENGLISH, CHARLES TOWNSHEND, *THE STATE: HISTORICAL AND POLITICAL DIMENSIONS* 96 (1998).

Ulster Violence Force, Provisional Irish Republican Army, Ulster Defence Association which carried out guerrilla attacks on the British forces and bombings on infrastructure, commercial and political targets.<sup>84</sup> These attacks continued for the next three decades. The violence, though primarily took place in Northern Ireland, it spilled over into England and Wales too. More than 3500 people lost their lives in these attacks of which 52 percent of the victims were civilians, 32 percent belonged to the British Security Forces and 16 percent of the victims were from amongst the Paramilitary forces.<sup>85</sup> The conflict is deemed to have ended with the Good Friday Agreement in 1998. However, there are reports that claim the presence of the paramilitary forces since 2007.<sup>86</sup> The vigilantism that has been exhibited by the Paramilitary Forces is motivated by the discrimination that was being meted out to the minority Catholics in Northern Ireland by the majoritarian Protestants with the collusion of the British Security Forces. The present-day vigilantism has its roots in the socio-economic inequalities and high unemployment amongst the minority Catholics in Northern Ireland.

### **3.3 THE UNITED STATES OF AMERICA**

Vigilantism or Lynch Law, while not uniquely American, found its most fertile environment on the American soil.<sup>87</sup> Lynching in North America has its roots in England and Ireland as immigrants from the British Isles and Ireland brought with them community justice which was in opposition to the British Laws. The English and Irish immigrants had a distrust for the American Justice Delivery System and thus, relied on the tradition of community justice. This was more evident in cases where African Americans were suspected to have committed crimes against fellow Irishmen.<sup>88</sup> Thus, the saga of lynching in the United States of America has important linkages to England and Ireland.

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<sup>84</sup> Operation Banner: The British Army in Northern Ireland, ALPHA HISTORY (updated last on Mar. 7, 2022), <https://alphahistory.com/northernireland/Operation-Banner/> (Last visited on May 5, 2019).

<sup>85</sup> CAIN Web Service, *Malcolm Sutton: An Index of Deaths from the conflict in Ireland*, MALCOLM SUTTON, [https://cain.ulster.ac.uk/sutton/tables/Organisation\\_Summary.html](https://cain.ulster.ac.uk/sutton/tables/Organisation_Summary.html) (Last visited on May 24, 2020).

<sup>86</sup> Dan Haverty, *Paramilitaries are surging again in Northern Ireland* (May 24, 2019), <https://foreignpolicy.com/2019/05/24/paramilitaries-are-surging-again-in-northern-ireland/> (Last visited on May 24, 2020).

<sup>87</sup> Supra note 21 at 15.

<sup>88</sup> Supra note 62 at 20.

The eve of the American war of independence witnessed vigilantism in South Carolina's back country wherein the locals punished horse and cattle thieves, counterfeiters and gangs of desperadoes.<sup>89</sup> In late 1760s and early 1770s, the neighbourhood groups practised regulation, i.e., deviants and social enemies would be informally punished to impose their vision of order in the back country of South Carolina. This tradition of Crowd Violence, Lynch Law and Regulation spread to the south and the west which usually perpetrated violence to humiliate and wound and not kill the victims.<sup>90</sup>

The growth of vigilantism in the United States of America (U.S.A) can be studied in the following phases:

### **3.3.1 The American war of Independence (1775 – 1783)**

Though there are a few different accounts attributed to the origin of Lynch Law in the U.S.A, the version put forth by Prof. James E. Cutler finds a wider acceptance. The same has been documented by many historians, sociologists and academicians from varied fields of social sciences.

The Research Scholar after reviewing the various literature has culled the historical background which is in consonance to the documentation made by Prof. James E. Cutler.

**3.3.1.1 Colonel Charles Lynch and the problem of prosecution** - Vigilantism in the U.S.A took roots during the latter part of American war of independence against the British rule in Virginia. Colonel Charles Lynch of Bedford County, Virginia, led a battalion of riflemen at the Battle of Guilford Court House on 5 March 1781.<sup>91</sup> During the war, there were thieves who would steal the horses from the farmers and sell them to the British Army. Taking the offenders to regular courts and trying them proved to be cumbersome.<sup>92</sup> The criminal cases were examined by the county courts. Once the

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<sup>89</sup> Supra note 21 at 16.

<sup>90</sup> Supra note 62 at 24.

<sup>91</sup> Henry A. Rhodes, *“Lynch Law”: An American Community Enigma*, YALE-NEW HAVEN TEACHERS INSTITUTE (Sep. 1, 1989), <http://teachersinstitute.yale.edu/curriculum/units/1989/1/89.01.09.x.html> (Last visited on Apr. 3, 2019).

<sup>92</sup> Dwight D. Murphey, Murphey's monograph *“Lynching: History and Analysis,”* JOURNAL OF SOCIAL AND ECONOMIC STUDIES LEGAL-STUDIES MONOGRAPH SERIES, 5 (1995).



case was examined, it was bound over to the one single court for the final trial in Williamsburg, which was more than two hundred miles away from Lynchburg.<sup>93</sup>

The above-mentioned practice was beset with two major drawbacks. Firstly, the distance posed a problem in transferring the offenders and witnesses to Williamsburg for the final trial. Most of the witnesses found it uneconomical to testify in the court as they had to leave their farms and businesses, besides enduring the long journey to Williamsburg. Secondly, officers transferring the offenders were attacked by brigands due to which they were compelled to set the offenders free. Many a times, the officers themselves were captured by the British and were made prisoners.<sup>94</sup>

**3.3.1.2 Summary Justice and Lynch Law** - It was in the backdrop of the above-mentioned conditions that Charles Lynch and some of the persons in his neighbourhood came together to devise a course of action to deal with crime and criminals. They came to a conclusion that the interests of the community lied in taking law into their own hands. The home of Charles Lynch was declared as the court house by local consensus.<sup>95</sup> Charles Lynch was chosen to be the presiding justice while his neighbours, William Preston, Robert Adams, Jr., and James Calloway, served as associate justices.

An accused person was brought before the court to be tried wherein he was allowed to bring witnesses in his defence. He was also accorded an opportunity to put forward before the court, the mitigating or extenuating factors of the case. If the trial led to an acquittal, the accused was set free with the apologies of the court. If the case warranted, the acquitted person was awarded compensation.<sup>96</sup> If the trial led to the conviction of an accused person, then he would be punished with thirty-nine lashes on his bare back. Since most of the offenders were Tories, loyal to the British, they were made to shout 'Liberty Forever'. If the offender refused to do so, he would be hung by his thumbs until he did. After the war ended, the Virginian Legislature ratified the acts of Charles Lynch and enacted the 'Lynch's Law'. By virtue of this enactment, Charles Lynch and his associates were granted immunity from prosecution and civil suits.<sup>97</sup>

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<sup>93</sup> Supra note 91.

<sup>94</sup> Ibid.

<sup>95</sup> Supra note 92.

<sup>96</sup> Supra note 91.

<sup>97</sup> Supra note 92.

**3.3.1.3 Informers and Mob Justice** - Apart from the above, there were other forms of extra-legal justice that were administered during the colonial period. During this period, informers were considered to be in the service of the British. If an informer was discovered, the fellow townsmen would whip him, tar him and feather him. Sometimes they would ride him out of the town on a rail.

**3.3.1.4 Other Instances of Mob Justice** - In New England, newcomers to the town who were considered to be hostile squatters and whose credentials as to character, religion, goods, other local requirements were not found to be satisfactory, would be ordered out of the town by a vigilante group called 'Green Mountain Boys'. The newcomers would be given a period of five days to leave the town. If they disobeyed, they would be punished with whipping, tarring and feathering.<sup>98</sup> Summary punishment was also meted out to misbehaving Indians, wife-beaters, alcoholics, tobacco smokers and non-churchgoers. Between the period 1780 and 1830, summary or illegal methods of punishment meted out to offenders were known by different names. It has been mentioned by Prof. James Cutler that if a man was proclaimed as a thief by the general public or if an offender escaped punishment for want of proof, he would be tied to a sapling and scourged. If a second punishment became necessary, both the ears of the offender would be cut-off.<sup>99</sup>

### **3.3.2 The American Civil War and Lynching of African Americans (1861-1865)**

The movement for abolition of slavery was gaining momentum in the U.S.A. President Abraham Lincoln, though personally opposed to the practice of slavery, he rejected the idea of immediate emancipation. He was in favour of a gradual process of a compensated emancipation and voluntary colonization. This policy, according to Abraham Lincoln would enable the freed black people to emigrate to Africa. However, this ploy did not work. As a protest against the abolition of slavery, eleven Southern States seceded from the Union of America to form the Confederate States of America. The primary goal of this confederation was to preserve the institution of slavery. The secession led to the civil war in the year 1861.<sup>100</sup> The purpose of the war was to preserve the union. But the war dragged on. The enslaved African Americans

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<sup>98</sup> JOHN C. FREDRIKSEN, REVOLUTIONARY WAR ALAMANAC 683 (1st ed. 2006).

<sup>99</sup> JAMES E. CUTLER, LYNCH LAW: AN INVESTIGATION INTO THE HISTORY OF LYNCHING IN THE UNITED STATES 79 (1905).

<sup>100</sup> Equal Justice Initiative, Lynching in America: Confronting the Legacy of Racial Terror, <https://lynchinginamerica.eji.org/report/> (Last visited on May 14, 2020).

fled to the Northern States and the cause of emancipation became expedient. It was in this backdrop that President Abraham Lincoln issued the 'Emancipation Proclamation' that freed all the enslaved African Americans in the eleven Confederate States.<sup>101</sup> The said proclamation applied to the eleven states of the confederation but not to the other Southern States of Tennessee, Delaware, Kentucky, Missouri and Maryland or to States which were occupied by the union forces. As a result of this, 4,50,000 enslaved African Americans were left outside the scope of the proclamation. On the other hand, in the Confederate States, the proclamation was met with resistance from the White Americans and the federal forces did little to enforce it and ensure freedom for the African Americans. Also, the southern planters tried to hide the declaration of the proclamation from the slaves. As a result of this, slavery continued till the period of 1863. Even in face of defeat, the Confederate States claimed that the proclamation was illegal and slavery could be abolished only through a proper legislation. During this period, deception and violence was perpetrated against the slaves.<sup>102</sup>

In 1865, the thirteenth amendment to the American Constitution was made which ended slavery throughout the U.S.A. Delaware, Kentucky and Mississippi ratified the amendment only in 1901, 1976 and 1995, respectively. In spite of the fact that a law against slavery was passed in the U.S.A., the idea that a slave who was earlier the property of the White American was free and now equal to them did not find any acceptance. As a result of this the plantation owners attacked African Americans for claiming freedom. This period saw many African Americans being lynched.

With the end of the civil war, slavery ended, and the Reconstruction era began.

### **3.3.3 Reconstruction Era and the Continued of Lynching of African Americans (1865-1877)**

The Reconstruction era saw the use of federal troops and congressional authority to bring about emancipation of the African Americans by granting them civil rights and American citizenship. Post the assassination of President Abraham Lincoln in 1865, Andrew Johnson came into power. The policy of discrimination adopted against the African Americans by President Johnson ensured that the former would continue to remain subservient to the White Americans and would never be treated as equal citizens. It reduced them to landless labourers and pushed them into poverty. This

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<sup>101</sup> Ibid.

<sup>102</sup> Supra note 100.

perpetuated a feeling of superiority amongst the White Americans who continued to attack them. The reign of discrimination led to three days of violence against the African Americans in Memphis, Tennessee on 1 May 1866, wherein forty-six men lost their lives, ninety-one houses, four churches and twelve schools were burnt by white police officers and mobs comprising of White Americans. Five black women were raped and many fled the State permanently.<sup>103</sup> This led to mid-term elections in 1866, wherein the Republicans won a landslide victory gaining veto-proof majority and control of legislative agenda. With the ascendancy of the Republicans to power, the Civil Rights Act, 1866 was passed and the Fourteenth Amendment to the American Constitution was adopted in 1868. The said amendment guaranteed citizenship to all persons born in the U.S.A and the States in which they resided, irrespective of their race and colour and also declared that they would be equally entitled to privileges and immunities of citizenship, due process and equal protection of law.<sup>104</sup>

**3.3.3.1 Birth of Vigilante Groups** - The period of reconstruction and post it, saw the birth of vigilante groups like the Ku Klux Klan, White Camelia and the Pale Faces. The members of the Ku Klux Klan were convinced that the emancipated African Americans would tear the fabric of their society into even thinner shreds than the civil war had. Ku Klux Klan became the first line of defence of millions of White Americans against an imposed system which they thought threatened their social, economic, and in many cases, physical survival.<sup>105</sup> The primary objective of Ku Klux Klan which had thousands of White Americans as its members, was to re-establish the white supremacy. The members of this clan used intimidation and violence against White and Black Republican leaders and also resorted to bombing of Black schools and churches. Many black men and women were beaten, whipped, maimed and killed during the initial years of the Reconstruction era. Apart from the Ku Klux Klan, another paramilitary group known as the Red Shirts in Mississippi threatened black voters with violence and economic reprisals besides, disrupting political rallies and assassinating black leaders.

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<sup>103</sup> T. W. Gilbreth, The Freedmen's Bureau Report on The Memphis Race Riots Of 1866 (May 22, 1866), <http://teachingamericanhistory.org/library/document/the-freedmens-bureau-report-on-the-memphis-race-riots-of-1866/> (Last visited on May 14, 2020).

<sup>104</sup> Ibid.

<sup>105</sup> Supra note 21 at 14.

**3.3.3.2 Mass Killings and Multiple Lynchings of African Americans** - On 13 April, 1873 in Colfax, Louisiana when black protestors were staging a peaceful protest against the illegitimate election results at the town courthouse, white militia men called the White League, members of the Ku Klux Klan and former confederate soldiers attacked them which led to the death of 150 black protestors and three White Americans.<sup>106</sup> With the win of Ulysses S. Grant in the 1868 presidential elections, the Republican party came into power and the Ku Klux Klan initially retreated and called for its dissolution. However, various other local entities comprising of White Americans attacked the African Americans. Those African Americans who stood up to their white employers or had left the plantations or had achieved economic progress on their own were flogged and lynched by the vigilantes. The black men were often attacked for perceived sexual excesses against white women. If a black man complimented a white woman or expressed a romantic interest in her or cohabited with her, charges of rape would be levelled against him, and he would be lynched.

It is estimated that between 1868 and 1871, 400 African Americans were lynched.<sup>107</sup> The White Americans employed retributive measures by targeting the entire black community with violent, public and sexualized attacks for the alleged rapes. These included forcible disrobing of victims, fettering them in compromising positions, whipping of private parts. The African American women were raped, sometimes in front of their families. Punishments like genital mutilation and castration were widely used.<sup>108</sup> The white vigilantes unleashed violence against the African Americans so as to reclaim their power and ownership over the latter.<sup>109</sup> In all these cases of violence and lynching of African Americans, the perpetrators (White Americans) were acquitted even when guilt was clearly established. The failure of the criminal justice system and prejudice against the African Americans only emboldened the White Americans to continue lynching the former.

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<sup>106</sup> Danny Lewis, The 1873 Colfax Massacre Crippled the Reconstruction Era, SMITHSONIAN MAGAZINE (Apr. 13, 2016), <https://www.smithsonianmag.com/smart-news/1873-colfax-massacre-crippled-reconstruction-180958746/> (Last visited on May 16, 2020).

<sup>107</sup> Lisa Cardyn, Sexualized Racism/Gendered Violence: Outraging the Body Politic in the Reconstruction South, 100 MICH. L. REV. 676, 750 & n. 266 (Feb. 2002).

<sup>108</sup> Supra note 100.

<sup>109</sup> Ibid.

### **3.3.4 Post Reconstruction Era and Governmental attempts to curb lynching (1878 - 1968)**

The National Association for the Advancement of Colored People (NAACP) has reported that 2,522 African Americans were lynched during 1889 – 1919.<sup>110</sup> However, it was the gruesome lynching of Claude Neal, a young African American in 1934 in Marianna, Florida and a race riot that followed, outraged even the previously indifferent White American. This brought about a transformation in the policy of the government towards the prosecution of lynch mobs. An attempt at passing a Federal Anti-lynching Law was made. Though lynching persisted, the numbers decreased.<sup>111</sup>

Between 1882 and 1968, 4,743 lynchings took place in the United States of America. The statistics comprised of 3,446 African Americans and 1,297 White Americans. The African Americans accounted for 72.7% of lynchings that occurred during the period. The White Americans were targeted for their anti-lynching stance, for aiding the African Americans and for committing crimes.<sup>112</sup> Lynching of African Americans were more evident in the southern States of Mississippi, Georgia and Texas. The west saw a greater number of White Americans being lynched. The main reasons for lynching whites were murder or cattle theft. In New Mexico, Indiana, Michigan, California, Minnesota, Colorado, Montana, Iowa, Nebraska, Kansas, Washington, Oklahoma, Oregon, North Dakota, Wyoming and Utah, more White Americans were lynched than African Americans.<sup>113</sup> No lynching of African Americans took place in the States of Arizona, Idaho, Maine, Nevada, South Dakota, Vermont and Wisconsin. The American history is writ large with blood and gore of the lynchings that took place between 1882 and 1968. However, with condemnation of lynching by White Americans in other parts of the country, grant of voting rights to the African Americans saw them being elected to various public offices. Besides, they formed a large electoral base who could sway the fortunes of the political parties. This brought about a change in the attitude of the White Americans towards the African Americans.

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<sup>110</sup> The National Association for the advancement of Coloured People (NAACP), *Thirty Years of Lynching in the United States, 1889-1918* 7 (1969), *Thirty years of lynching in the United States, 1889-1918*. (archive.org) (Last visited on May 18, 2020).

<sup>111</sup> *Supra* note 91 at 21.

<sup>112</sup> NAACP, *History of Lynching in America*, <https://www.naacp.org/history-of-lynchings/> (Last visited May 16, 2020).

<sup>113</sup> *Ibid*.

The political landscape ushered in an era which stopped lynching of the African Americans.

### **3.3.5 State Failure and Birth of the Guardian Angels of New York (1979)**

If the American Revolution, the Civil War and the Reconstruction Era saw the lynching of African Americans on the grounds of race and prejudice, 1970s saw a different form of vigilantism which arose from the need to protect the members of the society from offenders as the Police failed in its duty.

The underground New York City Subway Line had opened in 1904 for commuters. It had become the chief mode of transportation of the New Yorkers. Due to the financial crisis in the mid-1970s, the transit police force was cut down to 2,200 from 3,600 and the subway line became a hub of criminality. The commuters were often mugged and robbed by young miscreants. The increased violence in the subways terrified the commuters and they dreaded travelling in the subways.<sup>114</sup> In early 1979, twenty-four-year-old Curtis Sliwa from Brooklyn formed a volunteer patrol called the Magnificent 13. The members of this patrol would ride the trains (subways) during the night to protect the commuters from muggers. They often warded off attacks on commuters and helped in effecting arrests of the miscreants. The presence of the members of Magnificent 13 in red berets gave respite and solace to the commuters. The crime rate too reduced. Later this group was rechristened as the Guardian Angels. By the end of the year, the membership of Guardian Angels burgeoned and it attracted many from the minority groups. The members of this group were trained in martial arts so as to employ its techniques in face of altercations. They were also trained to make citizen arrests. Soon the Guardian Angels were not merely patrolling the subways but also the New York Streets. However, their vigilante ways were condemned by the Ed Koch, the Mayor of New York City and he branded them as ‘paramilitaries’. A few skirmishes with the police garnered a voice among the politicians to stop the operations of the Guardian Angels.<sup>115</sup> However, the increase in crime rate in New York in the year 1981, saw a public support for the Guardian Angels which led Ed

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<sup>114</sup> Jerry Hester, The Early history of Guardian Angels and their controversial New York City Subway Patrols, NEW YORK DAILY NEWS (Aug. 14, 2017), <https://www.nydailynews.com/new-york/guardian-angels-started-protecting-nyc-subways-article-1.804336> (Last visited May 19, 2020).

<sup>115</sup> Ibid.

Koch to retract from his hostile stance. It was agreed upon by the mayor that though Guardian Angels would remain autonomous, police-issued identification cards would be provided to its members and that the police would co-operate with it.<sup>116</sup>

Presently, the Guardian Angels have created chapters in 130 cities in 13 countries.<sup>117</sup> Though the Guardian Angels is an autonomous entity comprising of private citizens, it has the backing of the state in policing function. This aspect throws open a debate as to the vigilante character of Guardian Angels.

### **3.3.6 Anti-Immigrant Vigilantism and United Constitutional Patriots (2018)**

The influx of illegal immigrants from Mexico into the U.S.A has triggered a hysteria amongst certain segments of the American society. The fear that the American State would be invaded by Mexicans and destroy the state machinery has galvanised large number of people into groups to prevent the immigrants from crossing the U.S-Mexico border and entering into the country. United Constitutional Patriots (UCP), led by Harry Mitchell Hopkins associated with Patriots of the Constitution (POC) and Mountain Minutemen in October 2018.<sup>118</sup> The troika co-ordinated to secure the border and prevent the migrants from entering into U.S.A from Honduras. It detains migrants attempting to cross into the U.S.A. UCP functions as a paramilitary organisation with a clear chain of command. Its members don combat fatigues, wear badges and carry firearms. It summons legitimate border patrol agents to apprehend the migrants.<sup>119</sup> Due to infighting, UCP broke up with POC and Mountain Minutemen but is continuing its operations independently. Members of UCP have claimed that they are working in collaboration with the State Border Patrols, but the latter have denied the same. The fear of influx of the illegal immigrants has found sympathisers for the UCP in the form of Patriot Movement AZ, Texas Minutemen and Three Percent Security Force, all committed to the cause of preventing the illegal immigrants crossing into U.S.A. These paramilitary organisations or groups are voluntary, armed and act with an object to oust or prevent the entry of illegal immigrants. They use violence or threaten to use violence against the immigrants. They do not have the backing of the

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<sup>116</sup> Ibid.

<sup>117</sup> <http://guardianangels.org/> (Last visited on May 19, 2020).

<sup>118</sup> Southern Poverty Law Centre, United Constitutional Patriots, <https://www.splcenter.org/fighting-hate/extremist-files/group/united-constitutional-patriots> (Last visited on May 21, 2020).

<sup>119</sup> Ibid.



State. These groups act on a perception or out of fear that the U.S.A faces a threat from the illegal immigrants from Mexico. All the attributes of the UCP, POC, Texas Minutemen, Three Percent Security Force are that of a vigilante group. The present-day U.S.A is witnessing vigilantism aimed at ousting the illegal immigrants. This being a deviance from vigilantism triggered by racial prejudice against the African Americans during the American Revolution, the Civil War and Reconstruction Era. Also, it differs from Guardian Angels in New York which was formed with the object of combating crime as the police had failed in its duty to protect the people of New York.

### **3.4 NIGERIA**

Nigeria, prior to its colonization, comprised of indigenous communities which had developed their own system of self-help groups, like the rest of the African kingdoms. The self-help groups in the today's vocabulary can be designated as vigilante groups. These self-help groups were formed by the village or community heads drawing members from amongst themselves to protect their cattle and property. The system of self-help known as the Night Guard System or Hunter Guard System functioned independent of the formal policing. The present-day vigilantism in Nigeria has its roots in the Night Guard and Hunter Guard System. The political upheavals from colonization to its independence in Nigeria has seen the emergence of newer vigilante groups fighting the regime for equitable resource distribution in Niger Delta Region to fighting crime in South-West Nigeria and South-East Nigeria. The violence perpetrated by Boko Haram in North-East Nigeria with the aim of implementing the Sharia saw the combined operations of the civilian youth and the State's official forces in wresting control of the territories seized by Boko Haram. The state-backed vigilantism in North-East Nigeria has not been without negative repercussions. Extortion, rape, violation of human rights by the civilian youth have been the outcome of this joint exercise. Vigilantism, to large extent in Nigeria has had the backing of the local governments. The short-term goals espoused by the various vigilante groups were achieved, which were primarily to prevent crime and or to protect the rights of their ethnic group. However, in the long run, these groups have been manipulated by local politicians for their personal cause and have become instruments of extortion and violation of human rights. This segment of the chapter tries to chronicle the birth, rise and development of vigilantism in Nigeria. For the purposes of the study, some of

the prominent vigilante groups only have been discussed in the backdrop of major political and historical changes that have occurred in Nigeria. The same is charted out in the three phases described below:

### **3.4.1 Vigilantism in Pre-Colonial Nigeria (12<sup>th</sup> Century to 1882)**

Vigilantism and vigilante groups pre-date the State of Nigeria.<sup>120</sup> Prior to colonization, Nigeria was divided into small kingdoms. These kingdoms had their own formal policing system by which it would guard the people. However, in villages, there were community groups which besides guarding the village would also perform the policing functions. Prior to colonization, in eastern parts of the present-day Nigeria, there existed vigilante groups called ‘Ndinche’ (community guards) which was constituted by the villagers.<sup>121</sup> The Ndinche was empowered to effect arrest and bring suspected criminals before the village councils known as the ‘Amala’ for trials. Similarly, in the western parts, the Hunters Guilds, known as the ‘Olodes’ and ‘Yan Banga’ in the northern parts oversaw public order management for centuries.<sup>122</sup> These groups were well structured and did not operate in vacuum but discharged policing functions chartered out by the community members. To illustrate this point, in the pre-colonial Ibadan, Yorubaland, lying in the southern-west part of Nigeria, the head of Ibadan, referred to as the ‘Olubadan’, and ‘Mogaji,’ head of extended families associated with the ‘Olubadan’ would issue orders to ‘Baale’, the head of each family living in the village with regard to keeping a watch on the neighbourhood. The Baale would then volunteer one or two members from their family to keep a watch in the neighbourhood.<sup>123</sup> Thus, the various groups operating during the pre-colonial rule in Nigeria, functioned as self-help entities in the peripheries of their communities and supplemented the State authorities (King’s police) in discharging the policing functions. Such patterns of dual policing were practised in the empires of Hausa and Ijebus.<sup>124</sup> The pre-colonial vigilantism or

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<sup>120</sup> David Pratten, *The Politics of Vigilance in South-Eastern Nigeria*, 37(4) *Development and Change* 707(2006).

<sup>121</sup> Adeniyi S. Basiru, Olusesan A. Osunkoya, *Vigilante Groups And Policing In A Democratizing Nigeria: Navigating The Context And Issues*, 4 (8) *BRAZILIAN JOURNAL OF AFRICAN STUDIES* 179, 184-185 (2019).

<sup>122</sup> *Ibid.*

<sup>123</sup> Laurent Fourchard, *A New Name for an Old Practice: Vigilantes in South-Western Nigeria*, Africa, February 2008, p.13 <https://www.researchgate.net/publication/236753160> (Last visited on May 25, 2020).

<sup>124</sup> *Supra* note 121.

community patrolling was not an outcome of failure of the King's police in the administration of justice but was complementary and supplementary to the latter so as to patrol and prevent crimes in the peripheries of the kingdoms.

### **3.4.2 Vigilantism during Colonization and Tripartite System of Policing (1882-1960)**

Britain's attempt at colonization of Nigeria began in 1807 under the guise of monitoring the slave trade. The British abolished slavery in 1807 and made legitimate efforts for establishing commerce in palm oil, cocoa and cotton.<sup>125</sup> It developed infrastructure in the northern parts of Nigeria and forged relations with the kings by 1820. With the discovery of quinine, it made a foray into the southern region by 1850s which was earlier considered intractable by the British due to the risk of malaria. During this period the British entered into various treaties and policies with the rulers in the northern and southern regions and soon used trade policies to influence African politics. It dethroned the rulers who were seen as a threat to the profitable palm oil business. In 1882, due to competition from the French colonial powers in Africa, the northern and southern protectorates were established by the British. The European leaders specified which countries had rights to the various regions of Africa in the Berlin Conference held between 1884 and 1885. In 1914, the two protectorates were merged to form a British colony giving birth to the protectorate of Nigeria.<sup>126</sup> The greed of the native rulers led to widespread corruption and poverty in Nigeria. Colonization led to differences in development of the various regions of Nigeria. The southern region saw rapid industrialization and urbanization while the northern region depended on agricultural production. The northern region had very little access to western education and consequently, it lay mired in rampant poverty. This skewed development led to increase in crime in the form of armed robberies and armed burglaries in the areas which were not covered by police like the outskirts of Lagos or in the under policed countryside. The King's police and the policing set up by the British were not sufficient to combat the escalating crime rate. To counter this problem, various vigilante groups enjoyed the patronage of the

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<sup>125</sup> Religion And Public Life, The Colonial Era (1882-1960) HARVARD DIVINITY SCHOOL (May 31, 2020, 9:16 PM), <https://rlp.hds.harvard.edu/for-educators/country-profiles/nigeria/colonial-era-1882-1960>.

<sup>126</sup> Ibid.

communities.<sup>127</sup> As an outcome of which, a tripartite system of policing structure was operating in the Colonial Nigeria. For example, the Night Guard System or the Hunter Guard System which was suppressed by the colonial officials were re-activated in 1948 in Ibadan and Yoruba communities. But these groups were later allowed to function under the strict supervision of the British officials.<sup>128</sup> In the several areas of Ibadan, the residents constituted themselves as ‘neighbourhood associations’ or ‘anti-thieve units’ wherein Police, referred to as ‘Olopa’ was asked to patrol their area. These ‘neighbourhood associations’, imposed curfew or issued guidelines for admitting strangers into their areas.<sup>129</sup> Till the independence of Nigeria on 1 October 1960, various vigilante groups discharged policing functions to arrest the escalating crime rate in the various parts of Nigeria, albeit under the supervision of the British officials.

### **3.4.3 Vigilantism in Independent Nigeria and rise in crime (1960 onwards)**

Nigeria became independent on 1 October 1960. The Muslim Hausas, a majority in the northern region of Nigeria started massacring the Igbo Christians, who were a minority in the region. Fearing for their lives, the Igbos fled to east where the Christians were a majority.<sup>130</sup> The Igbos did not trust the oppressive Nigerian military government in protecting their rights. Subsequently, on 30 May 1967, Lieutenant Colonel Odumegwu Ojukwu and other non-Igbo representatives of the eastern region formed the Republic of Biafra, which comprised of several States of Nigeria. Republic of Biafra sought to secede from the Republic of Nigeria. Diplomatic negotiations failed which led to the civil war in July 1967. Biafra civil war was waged between 1967 and 1970 which saw the death of one million civilians. The Nigerian military which was superior to the forces of Biafra conquered it on 11 January 1970.<sup>131</sup> From 1970s to 1998, Nigerian government passed between various military dictatorships. It was only after the death of General Sani Abacha in 1998 that the Chief of Defence Staff, Nigeria, Major General Abdulsalami Abubakar declared the transition of Nigeria from military dictatorship to democracy. Following the Nigerian

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<sup>127</sup> Supra note 121.

<sup>128</sup> Supra note 123 at 8.

<sup>129</sup> Id. at 9.

<sup>130</sup> History.com editors, *Civil war breaks out in Nigeria*, A & E TELEVISION PUBLISHERS (Jul. 27, 2019), <https://www.history.com/this-day-in-history/civil-war-in-nigeria> (Last visited on Jun. 2, 2020).

<sup>131</sup> Ibid.

independence, the formal political structures established by British, collapsed. Consequently, the Nigerians adopted the historical precedents to deal with the new environment in the wake of large-scale urbanization and breakdown of stable social structures in the form of Night Guard System or Hunter Guard System.<sup>132</sup> However, with escalating crime rate, inefficient and corrupt police, new type of vigilante groups emerged in late 1990s and early 2000. However, these groups differed from the traditional night guards or hunter guards as the members were not appointed from amongst the community. Membership to these groups was voluntary and they operated in urban spaces.

#### **3.4.3.1 The Birth and Rise of the Bakassi Boys in South-East Nigeria**

Bakassi Boys was formed with the intent to fight armed robbery and crime in the south-east Nigeria in the commercial city of Aba in Abia state. The Ariaria Market in Aba was plagued by lawlessness and armed robbery. Extortion and robbery were carried out by armed gangs. Between 1997 and 1999, two hundred people were killed in the city. The traders coming from various parts of the country to Ariaria Market stopped transacting and stayed away from the city out of fear of the armed gangs. The traders frustrated with the situation got together and unleashed violence against the armed gangs by hunting them down and killing them. The Shoemakers' Association, buoyed by the incident decided to form a vigilante group which would fight against the criminals.<sup>133</sup> The vigilante group hunted down and unleashed violence against the perpetrators. They killed and burned suspected criminals and their accomplices. The reign of terror by the vigilantes put an end to crime in the city of Aba. Economic activities began once more in the Ariaria Market. The traders opined that the vigilante group should be formally institutionalized and made into a permanent one. Permanent office space and salaries to the vigilantes was chartered out. The vigilantes abandoned their traditional avocations and became full time members of the group which came to be known as the Bakassi Boys.<sup>134</sup>

The success of Bakassi Boys in ridding Aba of crime, led to a clamour from other cities to extend the operations of Bakassi Boys and replicate the result in the cities of Umuahia, the capital of Aba State; Owerri, the capital of Imo State; and Onitsha, the

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<sup>132</sup>Human Rights Watch, Report on Vigilantism in Nigeria (2002), <https://www.hrw.org/reports/2002/nigeria0502=02.htm> (Last visited on May 25, 2020).

<sup>133</sup> Ibid.

<sup>134</sup> Ibid.

large market town in Anambra State.<sup>135</sup> The Bakassi Boys started operating in the cities named here-in-before. They were successful in eliminating crime and criminals, however, the violence perpetrated in meting out punishment and the manner in which extra-judicial killings were committed came under scanner of human rights agencies. The popularity of Bakassi Boys, especially in the face of failure of the State enforcement forces, earned protection and support from the State governments and political leaders. The State Governments of Abia, Anambra and Imo gave formal recognition to the group. In the wake of allegations against the Bakassi Boys for violation of human rights of the victims, the State governments passed a law to regulate the activities of the group. Though the group has to operate within the framework of regulations, the Bakassi Boys continue to function according to its own rules. The popularity and support from the public as well as the State has ensured the continuance of the group, though it has deviated from its original objectives of combating crime.

#### **3.4.3.2 Oodua People's Congress in South-West Nigeria**

Yoruba, one of the largest ethnic groups of Nigeria, post-independence from Britain, found itself pitted against the Hausa group and other ethnic groups for political control. Though south-west Nigeria was the homeland of Yoruba, after independence, its members had moved and settled across the country. The northern region was home to the Hausa ethnic group which was favoured by the British during their colonial reign in Nigeria. The members from the Hausa dominated the political and military elite.<sup>136</sup> To defend, protect and promote Yoruba interests, the Oodua People's Congress (OPC) was set up by Dr. Fredrick Fasehun, in August 1994. The agenda of this group was political in nature. Military suppression, political and economic marginalization of the Yoruba led to frequent clashes with the police and other ethnic groups. These clashes had led to large scale violence and killings of many civilians. Likewise, the members of OPC were victims of violence perpetrated by the police which often resulted into the deaths of its members. Internal factions and violence led to the banning of OPC by the federal government in the year 1999. The police crackdown on its members led to arbitrary arrests and killings. In spite of the ban, the

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<sup>135</sup> Ibid.

<sup>136</sup> Human Rights Watch, The O'odua People's Congress (OPC), Fighting violence with violence (February 28, 2003), <https://www.hrw.org/report/2003/02/28/oodua-peoples-congress-opc/fighting-violence-violence> (Last visited on Jun. 3, 2020).

group continues its operations. The OPC diversified itself into a vigilante group by fighting crime in 1999.<sup>137</sup> The OPC is funded and supported by the local levies collected by its members from the local government, businessmen, residents as well as bus drivers who seek protection from thieves.<sup>138</sup> It receives funds from membership fees as well as from influential sympathizers<sup>139</sup> In 2005 the leaders, Dr. Fredrick Fasehun and Gani Adams were arrested for killings that occurred when OPC clashed with rival factions in October. However, charges were dismissed against both of them in December 2005. After a spell of inactivity between 2005 and 2013, the organization started using violence again in 2013. Though, Dr. Fredrick Fasehun died in December 2018, the OPC is believed to be functioning even today.

#### **3.4.3.3 Civilian Joint Task Force in North-East Nigeria**

The emergence of Boko Haram in early 2000 led by Mohammed Yusuf, a radical Islamic cleric and its insurgency in North-East Nigeria to implement the Sharia saw unprecedented violence in the region. The attacks by Boko Haram saw frequent clashes with the police especially in Borno and Yobe. The arrest and death of Mohammed Yusuf in police custody in 2009 further radicalized the members of Boko Haram.<sup>140</sup> Initially, they made isolated attacks on public infrastructure, police stations, armed forces and government institutions. They launched attacks on schools, churches and other public places by using Improvised Explosive Devices between 2011 and 2013. A series of jail breaks were orchestrated by Boko Haram. By mid-2014, they started seizing and holding territories and soon declared the Islamic Caliphate in North-East Nigeria.<sup>141</sup> Around 15,000 people were killed by Boko Haram and around 2.8 million people were displaced due to the violence perpetrated by it. To counter the insurgency of Boko Haram, a Civilian Joint Task Force (CJTF) was formed in May 2013. It comprised of Borno Youth. The Borno Youth Vigilante Group assisted the official Task Force to curb the problem of insurgency by Boko Haram. The members of this group armed with cutlasses, knives, swords, etc. helped the government forces in providing intelligence, identifying and arresting Boko Haram suspects, monitoring

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<sup>137</sup> Ibid.

<sup>138</sup> Responses to Information Requests, Oodua People's Congress, GOVERNMENT OF CANADA (Feb. 16, 2016), <https://www.justice.gov/sites/default/files/eoir/legacy/2013/12/18/NGA101048.E.pdf> (Last visited on Jun. 3, 2020).

<sup>139</sup> Ibid.

<sup>140</sup> Supra note 9 at 41.

<sup>141</sup> Ibid.

the movement of people and controlling security checkpoints. It used firearms against Boko Haram to protect its own members and the communities in face of skirmishes. The CJTF along with the help of Neighbourhood Guards and Local hunters were able to defeat Boko Haram and took control of the seized territories by the latter. The threat from Boko Haram abated but, in its aftermath, the members of CJTF, the Borno Youth Vigilante Group resorted to extortion, violence, rape and abuse of human rights of suspected insurgents.<sup>142</sup> The abuse of human rights has caused concerns in the region. A proposal to institutionalize the vigilante group and absorb them in to the police force is being mooted to regulate them.

#### **3.4.3.4 Vigilante Groups in the Niger Delta**

The South-south zone of Nigeria comprises of Akwa Ibom, Edo, Rivers, Delta, Cross River and Bayelsa. The term ‘Niger Delta’ generally refers to these States but is sometimes also used to include Ondo, Imo and Abia States as they are also oil producers, albeit minor ones. The core ‘Niger Delta’ consists of Delta, Bayelsa and Rivers States. The discovery of oil and oil production in the Niger Delta region since 1956 has been the source of discontent amongst the local ethnic communities. The oil production in the Niger Delta region has become the lifeline of Nigeria’s economy earning hundreds of billions of US dollars for the country.<sup>143</sup> On one hand the region contributes to the wealth of the Nigerian State, the political elite and the multinational oil companies, but on the other hand the inhabitants of this region have continued to remain in poverty. The local ethnic groups have been excluded from the benefits of the oil boom. The environmental degradation due to oil exploration adversely affected the agricultural livelihood of the inhabitants.<sup>144</sup> The local ethnic groups like the Ijaws, Okrika and Eleme asserted that they should have a stake and ownership on the oil resources. This led to the birth of various vigilante groups like Egbesu Boys, Okrika Bush Boys and Niger Delta Vigilantes in early 1990s. Apart from protests against the multinational oil companies for environmental degradation, there has been a clamour for controlling the resources amongst these various groups. Initially, the protests were non-violent. However, clashes between the Okrika and Eleme Communities over land

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<sup>142</sup> Supra note 140.

<sup>143</sup> Angela Ajodo-Adebanjoko, *Towards ending conflict and insecurity in the Niger Delta region: A Collective non-violent approach*, 1 AJCR (2017), <https://www.accord.org.za/ajcr-issues/towards-ending-conflict-insecurity-niger-delta-region/> (Last visited on Jun. 4, 2020).

<sup>144</sup> Ibid.



ownership witnessed violence in Port Harcourt Refinery. Apart from this, violent clashes between Ijaw groups, Niger Delta People's Volunteer Force (NDPVF) and Niger Delta Vigilantes (NDV) have occurred.<sup>145</sup> Since 2003, the protests and clashes have been characterised by militancy. The manipulation by politicians of the NDPVF and NDV during the election campaign in using them against opponents, gave birth to the emergence of Movement for the Emancipation of the Niger Delta (MEND) and the Niger Delta Liberation Front (NDLF). These groups perpetrated violence in the region leading to militancy. Armed attacks, bombing of oil installations and abduction, especially of foreign oil workers were carried out by these groups.<sup>146</sup> For several years there was a state of insecurity in the region. Many citizens fled from their communities and foreign companies relocated their businesses. This led the Federal Government to launch the Amnesty Programme wherein many militants surrendered themselves in return for training by the State authorities. Peace returned to the region. However, it was only short-lived as new vigilante groups emerged in 2016. These new groups unleashed violence akin to the former militant groups by bombing oil installations and abducting of oil workers. Several militants as well as security officers lost their lives. The militant operations have led to permeation of insecurity and fear in the region.<sup>147</sup> Federal attempts to ban and disarm these groups has failed as the State governments continue to support them.

### **3.5 INDIA**

India has witnessed collective violence in the form of riots, caste-based violence and massacres during the various periods of time. Vigilantism and its extreme form, mob lynching has had some history in India in the form of witch hunting and continues to remain so. Apart from witch hunting, cow vigilantism, has emerged as one of the major causes of mob lynching in India, in the recent past. Cow vigilantism has its genesis in the religious beliefs and practices of the Hindus and their denigration by the Muslims in the Medieval period. This part of the chapter will trace the historical events leading to the practice of cow slaughter and how it emerged as a flash point

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<sup>145</sup> L. Spencer, Vigilantism is flourishing in Nigeria - with official support, THE CONVERSATION (Nov. 9, 2017), <https://theconversation.com/vigilantism-is-flourishing-in-nigeria-with-official-support-86867> (Last visited on Jun. 3, 2020).

<sup>146</sup> Supra note 143.

<sup>147</sup> Ibid.

between the Hindus and the Muslims. It will also demonstrate how the Mughals and the British rulers politicised it to maintain their hold on the Hindus and the Muslims.

It has been difficult to ascertain whether there were incidents of mob lynching in the ancient and medieval period due lack of reporting or documentation of such incidents. The available literature so far has not revealed the occurrence of such events. The problem of vigilantism, more so in the form of mob lynching has been a recent phenomenon. Incidents of mob lynching on suspicion of the victim being a kidnapper or thief have increased in the past few years. An analysis of the various incidents of mob lynching primarily indicates that people have lost faith in criminal justice system and the ability of the police in containing crime and delivering justice. An analysis of the same would be dealt with in the subsequent chapters of the study. During the British rule, both violent and non-violent means were adopted by the citizens of India in their fight for independence. Apart from the freedom struggle movement, the period also saw massacres, caste-based violence and communal violence. The initial years after the independence, India being an under-developed country had to battle with poverty, hunger and disease on one hand and usher in industrialization and development on the other hand. The mixed economy policy adopted by the then governments tried to ensure equitable resource distribution between the State and the private sector. However, this led to vesting of power in the hands of bureaucrats in granting licences to the private players in the market. Corruption and red-tapism were the outcome of this policy, leading to concentration of wealth in the hands of few. While Indian economy rapidly developed, advancements in the fields of science, technology and education were also made. However, this development was beset with inequities of income which gave birth to traditional crime and organized crime. Crime has always persisted at various periods of time. But the criminal justice system did seem to act as a deterrent in the ancient and medieval periods as well as during the British rule. The under-staffed police and courts have proved to be ill-equipped and inefficient in dealing with crime and punishing the perpetrators. This evident delay and failure of criminal justice system has led private citizens to take law into their own hands. Thus, vigilantism was born in India.

The birth and rise of vigilantism have been studied in the backdrop of the structure of the Indian society and administration of justice in India in the following phases:

### 3.5.1 Ancient India (4<sup>th</sup> Century B.C to 13<sup>th</sup> Century A.D)

#### 3.5.1.1 Polity and Administration of Justice

The Ancient India comprised of kingdoms ruled over by various princely dynasties such as the Mauryas, Guptas, intersected by Bactrian Greeks, the Pahlavas, the Sakhas and the Kushanas.<sup>148</sup> The formation of the State was completed around 500 B.C. during the reign of the Mauryas. The Mauryas ruled from 4th century B.C to 6th century B.C. India saw the political and cultural unification under the Mauryas and the Guptas. However, the political unity did not survive them. The polity and administration of justice was well developed and structured in ancient India. Evidence of the same is found from the scriptures like Arthashastra, and works of smritikars such as Manu, Yagnavalkya, Brihaspati, Narada and Katyayana. The kings used to follow 'Dharma' and the various smritis to administer justice. The king was the fountainhead of law and he administered justice. The growing needs of the society and the then prevailing structure of the society made it increasingly difficult for the king to carry out all the functions of the judiciary. This necessitated the delegation and entrustment of administration of justice to experts. Only crimes against the State and appeals were taken up before the King's Court. The rest of the matters were tried by other courts.

Brihaspati has mentioned various judicial institutions and has cited the following four courts:

- i) Pratisthita: Court established in a fixed place such as a town.
- ii) Apratisthita: Circuit court
- iii) Mudrita: Court presided over by a judge who is authorized to use the royal seal.
- iv) Sasita: Court presided over by the king himself.

Likewise, Brihaspati has also spoken about the various courts with different powers of jurisdiction like Kulani (village councils), Sreni (guided courts), Puga or Gana (assemblies).<sup>149</sup>

Thus, the judicial institutions were set up at various levels and their powers were well defined. At the village level, the village panchayats were invested with the judicial

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<sup>148</sup> H. V. SREENIVASA MURTHY, HISTORY OF INDIA, PART-I, 53 (Reprint 2014).

<sup>149</sup> H. V. SREENIVASA MURTHY, HISTORY OF INDIA, PART-I, 53 (Reprint 2014).

powers. The village court was presided over by the Gramavridha (the headman or the elder-most person in the village). The head of the village with the advice of five councillors strove to administer the polity as well as justice in a village. According to Yagnavalkya, the village courts had the sanction of the king to discharge judicial functions and settle disputes between the inhabitants of the village. The decrees of these courts were to be executed in a manner similar to that of any other court. In civil matters, the village courts had unlimited jurisdiction but in criminal cases, they had limited powers to dispose them. They dispensed off cases like accidental homicide, suicide, etc. The Arthashastra invested the Gramavridha with the power to punish thieves and adulterers.<sup>150</sup>

### **3.5.1.2 Social Organisation**

The varna system or the caste system was the cardinal feature of the Indian society in the ancient period. The society was divided into the four castes, namely, the Brahmanas, Kshatriyas, Vaishyas and Shudras. The later Vedic texts speak of the four social orders based on occupation. But these were not merely the social orders but also ritualistic ranks.<sup>151</sup> The Brahmins were placed on the highest rung of the social order followed by the Kshatriyas, Vaishyas and Shudras. The Brahmins carried out scholarly, priestly and ritualistic functions, while the Kshatriyas discharged the duty of protecting the kingdom. The Vaishyas carried out trade and commerce and the Shudras performed all manual and scavenging acts. They were excluded from religious learning and participation in the activities of the higher castes. This led to the oppression of the Shudras for centuries to follow. The caste system set the precursor for caste-based violence.

### **3.5.1.3 Vigilantism in Ancient India**

Glimpses of vigilantism in the Ancient India can be seen in the form of Caste-based violence and witching hunting. Cow slaughter which is the main reason for mob lynching of Muslims and members belonging to the minority community by the Hindus in the present times was not a flash point for caste-based or religion-based violence. Cow was sacrificed even by the Brahmins while performing yagnas.

A discussion of the same is presented as under:

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<sup>150</sup> Id. at 201.

<sup>151</sup> H. V. SREENIVASA MURTHY, HISTORY OF INDIA, PART-I, 92 (Reprint 2014).

**3.5.1.3.1 Caste-based violence** - Instances of caste-based violence can be attributed to vigilantism as the upper caste members perpetrated violence against the lower caste members to maintain the status quo and they feared that the social norms that were established would be threatened if the latter were allowed to carry out the functions of the former. Instances are not wanting when an upper caste member punished a lower caste member for entering temples or listening to the Vedas. Molten lead would be poured into the ears of a Shudra, if he was caught listening to the Vedas.<sup>152</sup>

In spite of the social order being structured on the caste system, the faith of people in the administration of justice did not wane. Adherence to the existing law and order was considered to be the dharma of the people. This does not imply that crime did not exist in the ancient India. Crimes were committed during this period too. However, trial of the offenders and the consequent punishment was meted out by the then existing judicial institutions according to law that was followed during the period. Vigilantism in the form of caste-based violence did exist during this period.

**3.5.1.3.2 Witch hunting** - Likewise, mention of witch hunting and witches is found in the ancient texts. A witch in most parts of India is called a ‘Daain’, ‘Daini’, ‘Dakin’, which is derived from the Sanskrit word ‘Dakini’ which means a female imp or female evil being.<sup>153</sup> According to the Puranas, Sanskrit literature, ‘Dakini’ means an evil spirit injuring children.<sup>154</sup> The term ‘Dakini’ has found a mention in the Bhagvata, Brahma and Markandeya Puranas, and the Kathasarita Sagara in North India. These treatises describe ‘Dakini’ as a female imp in the retinue of Goddess Kali who devours human flesh.<sup>155</sup> Apart from the mention of Dakini or witch in the puranas, the exact trajectory of witch hunting cannot be traced. There is a mention in the Dharmashastras of the warning issued by Sage Brihaspati to Kings that they should not come into conflict with sages and persons proficient in witchcraft. He advised that such conflicts should be settled by persons proficient in the three Vedas.<sup>156</sup> These references or mentions in the various scriptures indicate that the practice of witchcraft and witch hunting prevailed in Ancient India.

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<sup>152</sup> Jyotsana Morris, *We are like this only...violent*, QRIUS (Jul. 23, 2018), <https://qrius.com/we-are-like-this-only-violent/> (Last visited on Jun. 16, 2020).

<sup>153</sup> WISDOM LIBRARY, *Dakini* (2019), <https://www.wisdomlib.org/definition/dakini#sanskrit>.

<sup>154</sup> Ibid.

<sup>155</sup> Ibid.

<sup>156</sup> Supra note 148 at 170.

**3.5.1.3.3 Cow slaughter** - In the ancient period, the various texts reveal that the meat of a cow could be consumed even by Brahmins, especially during sacrifices. References of cooking the flesh of animals including the Ox and offering it to Lord Indra has been made in the Rigveda. In the Vedic yagnas (sacrifices) cattle were killed and their flesh was eaten. Reference to the statement by Sage Yagnavalkya that 'he would partake the flesh of cows and bullocks' has been made in the ancient texts.<sup>157</sup> The Manusmriti, too allows consumption of flesh of all domestic animals except the camel. Cow slaughter and consumption of its flesh not being a taboo amongst the upper and lower castes, did not lead to any skirmishes or violence during this period.

### **3.5.2 Medieval India (1206 A.D 13<sup>th</sup> Century A.D to 18<sup>th</sup> Century)**

Post the reign of the Mauryans and Guptas, the minor powers who succeeded the Guptas were so deeply involved in ambitious wars among themselves that the re-establishment of political unity remained a distant dream. It was under these politically torn circumstances that the Moghul invaders set their feet and established their rule in India which lasted for over five centuries.<sup>158</sup>

#### **3.5.2.1 Reign of Islamic Rulers in Medieval period and the Hindu-Muslim Divide**

The Medieval period saw the invasion and rule of Turks, Afghans and Mughals over India. In the year 1206 A.D., Qutbuddin Aibak laid the foundation of Delhi Sultanate. The throne of Delhi sultanate was shared by four dynasties in succession. The Aibak dynasty ruled between 1206 and 1290, the Khiljis between 1290 and 1320, the Tughlaks between 1320 and 1413, the Saiyyeds and Lodis ruled between 1413 and 1526.<sup>159</sup> The first three dynasties were of Turkish origin and the last two were Afghans. These rulers were tyrannical and tried to impose Islam on the Hindu majoritarian population. The invasion by Taimur which preceded the rule of Saiyyeds witnessed the destruction of Hindu temples and idols. There are instances of forced religious conversions too, during the medieval period. On the other hand, the oppression of lower castes Hindus by the upper castes led the former to voluntarily embrace Islam. There existed a wide rift and a general distrust between the Hindus

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<sup>157</sup> D. N. Jha, How the story of the cow in India is riddled with puzzles and paradoxes, INDIAN EXPRESS (Oct. 7, 2015), <https://indianexpress.com/article/opinion/columns/elusive-holiness-of-the-cow/> (Last visited on June 18, 2020).

<sup>158</sup> Supra note 148 at 54.

<sup>159</sup> Supra note 148 at 218.

and Muslims during this period. This led to frequent clashes between the two religious sects. It was only during the reign of Sikandar Lodi and Akbar, peace, prosperity and unity persisted in the kingdom. Religious tolerance and respect for all religions shown by Akbar brought various religions together. However, this was only short lived as the rulers apart from Sikandar Lodi and Akbar, pursued their agenda of imposing Islam. The Medieval period saw the widening of the gulf between the Hindus and Muslims. The Mughal rulers after Aurangzeb, Mohammad Shah (1719-1748) and Bahadur Shah II (1838-58) were mere figureheads and pale shadows of the past Mughal rulers. With the failure of the 1857 revolt against the British, the Mughal empire disintegrated and fell in to the hands of the British.

### **3.5.2.2 Polity and Administration of Justice during the Medieval Period**

The Turks, Afghans and Mughals set up their own institutions of administration. The details of the same under each of the dynasties that ruled India is not within the scope of this study. When the British took over the reign from the Moghuls, the institutions set up by the latter carried out the administration of the kingdom. Therefore, it is imperative to have a brief understanding of the administration of political institutions as well as judicial institutions.

The Moghul Emperor was the head of the executive, fountainhead of justice, the commander-in-chief of the army and the final arbiter in everything.<sup>160</sup> He had no regular council of ministers. In rank, the Wazir and the Diwan were directly below the emperor. The other officers below the emperor were secretaries rather than ministers. The work of the officers was liable for revision by the Wazir and Royal orders. The Wazir could act without the officers or against them. However, the functions of the Wazir and Diwan were not clearly defined. It was dependent on the temperament of the emperor. The overall administration of the kingdom was divided into various departments. These departments were looked after by noblemen but subsequently, with the appointment of the Prime Minister, these departments were entrusted to him.<sup>161</sup>

A significant feature of the working of the various departments during the Moghul rule was that everything had to appear sound on paper and copies of all papers going

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<sup>160</sup> Supra note 148 at 230.

<sup>161</sup> Id. at 231.

out of the departments had to be sent to the Prime Minister. This procedure suggests that the government appeared to be quite efficient on paper, although in practice there was no strict adherence to rules and regulations.

**3.5.2.2.1 Administrative Divisions** – The various administrative divisions are described as under:

**Subas** - The empire was divided into provinces called subas. These provinces or subas were administered by Subedar, who was the head of the suba. The subedar was also designated as Nizam or Sipahsalar. He was assisted by the provincial diwan who was directly appointed by the Emperor or the Imperial Diwan. The diwan was not subordinate to the Subedar but was to the Imperial Diwan. The other officers like Bakshi, Qazi, Kotwal, etc. assisted the Subedar in the administration of the province.

**Sarkars** - The provinces were further divided into districts called Sarkars. These districts were of two types:

- (i) Those which were ruled by officers appointed by the emperor and subject to the imperial regulations.
- (ii) Those in the territory of the Rajput or other tributary rulers, governed by their representatives according to ancient traditions.

Foujdar was the head of the district, and he was assisted by a Finance Officer referred to as Amal Gujar, Bitik Chi, who maintained the land records, Khanandar (Treasurer), Kotwal and Kazi.<sup>162</sup>

Districts were further divided into Paraganas and each Paragana comprised of numerous villages. The head of the Paragana was called the Shiqdar and he was assisted by an Amil (Finance Officer), Fotadar (Treasurer), Qanungo (who prepared all papers pertaining to agriculture and collection of revenue) and Karkuns (clerks).

**Village Administration** - The village administration was left undisturbed by the Mughals. They respected the Indian usages and institutions. They only realised taxes and left the people free to manage their affairs through the Village Panchayat.<sup>163</sup>

The towns were placed under the charge of a Kotwal. He was tasked to preserve peace and order, patrol the city at night, take note of newcomers and aliens, regulate commercial transactions by supervising weights and measures, coins, looking after the

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<sup>162</sup> Supra note 148 at 233.

<sup>163</sup> Ibid.



welfare of the labourers. He was also responsible for detecting theft and make good the loss irrespective of the apprehension of the thief. The Kotwal was assisted by the city army, spies and detectives, news writers, sweepers and scavengers in administering the towns.<sup>164</sup>

During this period, the provincial administration was criticised by European travellers and Muslim writers for mis-governance. However, they found the village administration was found to be more efficient and well managed. The village system was seen as an approach to modern municipal administration.<sup>165</sup>

### **3.5.2.3 Administration of Justice in the Medieval India**

Till the reign of Akbar, in the administration of justice, the Hindus were not treated at par with the Muslims because the different schools of Muslim laws recognised Muslims alone as citizens of an Islamic State. In order to emancipate and extricate India from the thralldom of the religion of the minority, Akbar repealed the Islamic Law concerning non-muslims. In 1562, Akbar repealed the law that converted the prisoners of war and their family members into slaves and Muslims. Akbar ushered in an era of religious comity and peace in the country. But the reforms brought in by Akbar in law and religion, did not survive him. On the eve of the colonisation of India by the British, all the Muslim laws operating prior to the rule of Akbar were restored.<sup>166</sup>

**3.5.2.3.1 Judicial Institutions in the Medieval Period** - Law and punishment under the Mughal rule in the Medieval period were classified into Diwani, which dealt with matters pertaining to revenue and civil justice and Nizamat, which dealt with military and criminal justice.

The various judicial institutions administering justice during the Medieval period were as under:

***The Royal Court*** - The Royal Court was presided over by the King or Emperor to hear the cases and deliver justice on specified days. The emperor was aided by the judicial officers like the Chief Qazi, Muftis and the Kotwal. The hearing of the cases would be conducted in open courts. The Royal Court was the highest appellate court and it also acted as the court of first instance in some cases. Both civil and criminal matters were heard by the Royal Court. Sometimes, Akbar would himself order the

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<sup>164</sup> Ibid.

<sup>165</sup> Ibid.

<sup>166</sup> Supra note 148 at 263.

transfer of civil cases of importance to his tribunal. Akbar was the only ruler to insist that while deciding cases of the Hindus, respect of their traditions should be accorded. He had appointed Hindu pandits to decide cases pertaining to Hindus. The Mughal emperors after Akbar, namely, Jahangir, Shah Jahan and Aurangzeb continued to personally hear cases in the open courts. However, Aurangzeb due to paucity of time, issued orders to the governors to dispense with justice or send for parties to the capital with their reports. Both Akbar and Aurangzeb made efforts to keep the judiciary honest, efficient, just and industrious. The rulers of this period did not permit judges to impose death penalty on any person without their concurrence. No person could be executed until the emperor had given his orders for the third time.<sup>167</sup>

***The Office of the Chief Qazi*** - Next to the emperor, the Chief Qazi, called Qazi-ul-Qazat, was the highest judicial officer of the country. Apart from judicial functions, he also discharged civil, religious and clerical duties. The office of the Chief Qazi entailed him to collect taxes, register sale deeds, mortgage deeds, conveyances, gift deeds. As a Magistrate, he accepted bail-bonds, surety-bonds, attestation of Furmans and documents. Though primarily, the court of the Chief Qazi was an appellate court, it also decided cases of first instance. His jurisdiction extended over the entire empire. Though the Qazi was a learned scholar of Islamic theology, he did not have the authority to lay down a legal principle, clarify an ambiguity in the Quran or supplement it by applying to cases not specifically provided for in the Quran.<sup>168</sup> The Qazi decided religious cases concerning the Muslim personal law and executed the judgements. He had to visit the prisons and assess the condition of prisoners. He was conferred with the power of releasing those who deserved freedom. It was on the recommendation of the Chief Qazi that the qazis of the provinces, districts, paraganas and qasbas were appointed. As long as the Qazi discharged his functions honestly and satisfactorily, no one interfered with his work. However, the Qazis were corrupt. The appointment of provincial qazis by the Chief Qazi were purchased by offering bribe to the latter. Most of them were greedy and avaricious, they gave wrong judgements in consideration of money. They delivered judgements according to their whims and showed scant regard for the provisions of law.<sup>169</sup>

***Secular Courts*** - Secular courts imply non-ecclesiastical courts. However, in the Medieval period there was no distinction made between secular, common law and

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<sup>167</sup> Id. at 270.

<sup>168</sup> Supra note 1481 at 271, Quoted in A. B. Pande op. cit., p.166.

<sup>169</sup> Id. at 272.

trial of political offences by the Muslim jurists. The reason for the same can be attributed to the fact that there were no clear distinctions between civil, penal and political divisions of law.<sup>170</sup> As a result of which the various judicial officers like the Subedars, Faujdars, Amils and Kotwals dispensed justice based on common law and equity which entailed adjudicating cases relating to political offences like rebellion, rioting, etc.

***The Village Panchayats*** - The village panchayats which looked after the administration of justice in ancient India continued with its role during the Medieval period too. The people of the village elected the members of the village panchayat and it wielded enormous influence in the village. The village panchayat had the jurisdiction to try petty criminal cases and the decisions given by them were more than often unanimous. The law administered by it was usually caste and tribal usage and customary law of the land. The punishment was inflicted in the form of fine, public humiliation, reprimand and ex-communication. Thus, the village panchayats acted as the lowest trial courts for criminal cases and usually there were no appeals against their verdict.<sup>171</sup> The fear of public opinion was one of the most potent factors responsible for prevention of crimes. The village panchayat system functioned efficiently and won the admiration of many a British administrator.

### **3.5.2.3.2 Defects in Judicial Administration**

The judicial administration in the Medieval period was beset with various problems. Some of the major problems faced by it are summarised as under:

- (i) ***Lack of codification of laws*** - This posed a major challenge to the administration of justice. The Muslim Law in India did not evolve and change as per the needs of the society and the changing circumstances. It merely reflected the juristic thought in Arabia and Egypt. However, some efforts were made in this direction by Akbar and Aurangzeb. The reforms ushered in by Akbar did not serve as a compendium of law for the guidance of judges. Aurangzeb's codification of Islamic Laws titled 'Fatwa-i-Alamgiri' was the most successful attempt in this direction. It proved to be of immense help to the judges of the empire.

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<sup>170</sup> Ibid.

<sup>171</sup> Supra note 148 at 273.

- (ii) ***Lack of uniformity in application of laws*** - In spite of the codification of Fatwa-i-Alamgiri, the judges frequently acted according to the dictates of custom or their personal prejudices. The punishment meted out to the offenders too, was discretionary and they assumed different forms. Lack of uniformity in application of law was a serious defect of the judicial system during this period.
- (iii) ***Absence of defined procedures in the working of the courts*** - There were three separate courts working at the same time and independent of one another with no unifying bond.<sup>172</sup> The legal procedures were also not rational and the relation between the courts too was not clearly defined. All the courts were courts of 'first instance'. For example, the Royal Court, the courts of the provincial qazis and governors were courts of appeal as well as courts of first instance. As a result, an aggrieved party could directly appeal before the Royal Court without approaching the court of first instance.
- (iv) ***Corruption and bribery*** - The judicial administration was plagued with corruption and bribery. An offender could escape with lighter or no punishment with the power of his purse. Bribery was an accepted institution and was not considered to be immoral or improper. Likewise, communal pressures were employed to secure annulment or mitigate unfair decisions. These practices defeated the ends of justice.

The Judicial administration during the Medieval period, viewed from the lens of modern ideas, was imperfect which led to dissatisfaction and discontent amongst the masses.

#### **3.5.2.4 Vigilantism in Medieval India**

**3.5.2.4.1 Caste-based violence** - The deep-rooted caste prejudices ensured the continuance of caste-based violence during the Medieval period too. As a result of which many attacks were made against the lower caste members by the upper caste members. Ironically, these attacks were one of the primary reasons for the lower caste members to embrace Islam and Christianity apart from forced conversions.

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<sup>172</sup> Ibid.

**3.5.2.4.2 Witch hunting** - Some evidence of witch hunting can be found in the Santhal witch trials in 1792.<sup>173</sup> The person accused of witchcraft and his family members, too were killed so that the latter would not take any revenge in Singhbhum District of Chhotanagpur during the British rule. The population of this region majorly comprised of tribals known as ‘Santhals’ who believed in the existences of witches and their power to cause illness, death and famine. The Santhals believed that killing the person so branded as a witch would end all their miseries.<sup>174</sup>

Those suspected of practising witchcraft would be compelled to consume human excrement and blood before they were thrown into flames. Thus, the practice of witch hunting adopted by the Santhals was brutal.<sup>175</sup>

**3.5.2.4.3 Communal and Religious Violence** -The Medieval period witnessed massacre of the hundreds of Hindus, Buddhists and Jains at the hands of the early Turkish and Afghan invaders. The desecration of temples, forced conversions, created a prejudice and distrust for the Muslims in the minds of the Hindus. This led to frequent communal and religious violence during this period.

**3.5.2.4.4 Cow slaughter** - Most of the incidents of communal violence emanated from cow slaughter which was used by the Mughals as a weapon to denigrate the Hindus. Some of the incidents of cow slaughter or forceable consumption of beef which was often used to denigrate the Hindus are described as under:

**1351-1388** - During his reign, Firoz Shah Tughlaq, the Sultan of Delhi, tied bags containing flesh of cows around the necks of the Brahmins and paraded them in his army at Kangra.<sup>176</sup>

**1645** - Aurangzeb, desecrated the Parashvanath Jain Temple near Sarashpur, Gujarat, by destroying the noses of the idols and killing a cow inside the temple. He later converted the temple into a Mosque.<sup>177</sup>

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<sup>173</sup> WILLIAM G. ARCHER, THE SANTALS: READINGS IN TRIBAL LIFE, (1979).

<sup>174</sup> S. Sinha, *Witch hunts, Adivasis, and the Uprising in Chhotanagpur*, Economic and Political Weekly: 42(19): 1672-1676 (2007) JSTOR 4419566 (Last visited on Jan. 22, 2021).

<sup>175</sup> D. Varma (2007, "Witch-Hunt among Santhals". *Economic & Political Weekly*. 42 (23): 2130. JSTOR 4419670. (Last visited on Jan. 22, 2021).

<sup>176</sup> Yaagnaseni, *Cow Slaughter and Hindu Persecution in the Indian Subcontinent: A Short History*, SWARAJYA (May 1, 2020), <https://swarajyamag.com> (Last visited on Jan. 22, 2021).

<sup>177</sup> Ibid.

1757 - Ahmad Shah Durrani attacked the Golden Temple at Amritsar during his invasion of India. He slaughtered many cows in the temple and filled its holy pool with their blood.<sup>178</sup>

1540 – 1812 - The Portuguese invasion brought Christianity to Goa. During the rule of the Portuguese, the native Hindus were forcefully converted to Christianity and were compelled to consume beef as a mark of renouncing Hinduism.<sup>179</sup>

### 3.5.3 Colonial India

With the discovery of India by the Portuguese sailor, Vasco da Gama in the year 1498, the Portuguese set up trade relations with India. The ambitious Portuguese rulers defeated the Indian kings and spread their tentacles to the various parts of the country. They established factories and forts at different places on the sea coast of India and soon captured Goa, Daman, Diu, Salsette, Bassien, Chaul and Bombay on the western coast of the country<sup>180</sup>. The Dutch followed the Portuguese in establishing trade relations with India. This checked the rise of the Portuguese. In 1615, Sir Thomas Roe secured permission from Emperor Jahangir to set up factories in Ahmedabad, Burma and Agra. The British got a foothold on the Indian soil in the form of trade and business. The British were able to rapidly establish trade in the other parts of the kingdom too. The weakened Mughal empire and the defeat of the Marathas in the third battle of Panipat in 1761, saw the British establishing a stronghold in India.<sup>181</sup> The advent of the British rule weakened the other European powers like the Portuguese, Dutch and the French who had established their colonies in various parts of India. The fall of the last Mughal Emperor, Bahadur Shah Zafar II to the British during the 1857 uprising helped the British annex India to its empire.

**3.5.3.1 Social Organisation and conditions** - The Indian society was predominantly comprised of Hindus and Muslims. The Hindus were a majority in comparison to the Muslims. The caste system continued amongst the Hindus, though the rigidity in following specified avocations saw fluidity. With the establishment of the Portuguese, British, Dutch and the French colonies in India, Christian missionaries set their foot on the Indian shores and started preaching Christianity. This led to the conversion of

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<sup>178</sup> 8 Invasions of Siri Harmandir Sahib, GURMAT DISCUSSIONS, <https://www.gurmatbibek.com> (Last visited on Jan. 22, 2021).

<sup>179</sup> R. Kumar, *Goa Inquisition: Portuguese Massacre of innocent Hindus and Destruction of Temples*, <https://www.myindiamyglory.com> (Last visited on Jan. 28, 2021).

<sup>180</sup> DR. MATA PRASAD, *INDIAN HISTORY* 382 (1st ed. 2008).

<sup>181</sup> Id. at 381.

many lower caste Hindus into Christianity to escape the ill-treatment meted out by the members of the higher caste Hindus. Thus, this period saw the advent of Christianity in India. The life style and eating habits adopted by the converts were shunned by the Hindus. Though there were hostilities in the earlier part of the Medieval India between the Hindus and Muslims, the latter part of the period saw a reconciliation between the two communities. However, the British adopted the policy of ‘divide and rule’ also known as the ‘Two-Nation Theory’ by granting a separate electorate to the Muslims in 1909. This sowed the seeds of discontent in India between Hindus and Muslims.<sup>182</sup> Colonial India witnessed communal riots between the Hindus and the Muslims.

***Social Evils and Reforms by the British*** - The social evils like the Sati system, caste-based violence, female infanticide, gender discrimination, witch hunting, etc. continued during the British rule. The British brought in various changes to improve the condition of women in the form of law preventing the sati system and an enabling legislation allowing a widow to remarry. They enacted the Caste Disabilities Removal Act to end the caste-based violence. However, these reforms were viewed by the Hindus as an attack on their social system.<sup>183</sup> Between 1840 and 1850, the British banned the persecution of women in the form of witch hunting in Rajasthan, Chhotanagpur and Gujarat. Though the British had banned witch hunting, it was not viewed as a crime by the society. Consequently, very few cases were reported. The Santhals of Chhotanagpur presumed that the ban would allow the practice and continuance of witch craft. The ban saw a contrary effect and there was a surge in witch hunting between 1857 and 1858.<sup>184</sup>

Industrialisation, western education, social reforms brought in by the British bridged the gap between the western countries and India. However, the feeling of discontent and animosity far outweighed the positive changes brought in by the British.

**3.5.3.2 Administration of Justice System** - The seventeenth century saw the British East India Company making a foray into the administration of justice as it acquired more and more land in various parts of the country with the permission of the then kings. To resolve disputes relating to their commercial dealings, problems emanating from the factories set up by them and the British who were working in India, the English Laws were applied by the East India Company. The East India Company also

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<sup>182</sup> Id. at 384.

<sup>183</sup> DR. MATA PRASAD, INDIAN HISTORY 403 (1st ed. 2008).

<sup>184</sup> Supra note 174.

adjudicated on matters or disputes between the native Indians. The Charter of Charles II in 1661 led to the establishment of courts by the East India Company which were adjudicated by Englishmen.<sup>185</sup> The differences in religious, social and customary practices saw difficulty in administering justice in India as the British were not acquainted with them. The resulting milieu and chaos led to the British Empire taking over the administration of Justice. Various judicial reforms were ushered by the British from mid-eighteenth century till the Independence of India. Most of these reforms were ushered in the Presidency towns of Calcutta, Madras and Bombay.

Some of the important reforms brought in are described as under:<sup>186</sup>

1773 Regulating Act saw the setting up of Civil (Diwani) and Criminal Courts (Foujdari Adalats) in every district. The Foujdari Adalat was composed of Mohammedan Officers, viz., a Kazi, Mufti and two Maulvis. The criminal cases were tried in the presence of a collector, who was a European supervisor.

Likewise, a superior court of revision was set up in the form of Suddar Nizamat Adalat at Moorshedabad. This court was composed of a Daroga, the Chief Kazi, the Chief Mufti and three maulvis.

The Crown was authorised to establish a Supreme Court at Calcutta by the Regulating Act of 1773. This Court was to be presided over by a Chief Justice and three puisne judges.

More judicial reforms suggested by Lord Cornwallis were brought in 1793. In each district, a court comprising of a European Judge, a Hindu Law Expert and a Mohammedan Law Expert was set up. Four Appellate Courts were set up in Dacca, Moorshedabad, Calcutta and Patna. All these courts were subject to Suddar Nizamat Adalat or the Supreme Criminal Court at Calcutta. The Supreme Criminal Court comprised of the Governor-General and his council with principal native officers.<sup>187</sup> This court had the power to hear and determine all complaints against any British subjects residing in Bengal, Bihar and Orissa for any crimes, misdemeanours or oppressions committed by them.

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<sup>185</sup> R. K. Agarwala, *History of Courts and Legislatures* (Jan. 21, 2021 12:21 AM), [www.jspui/](http://www.jspui/).

<sup>186</sup> K. I. VIBHUTE, *PSA PILLAI'S CRIMINAL LAW* (12th ed. 2014).

<sup>187</sup> K. I. VIBHUTE, *PSA PILLAI'S CRIMINAL LAW* (12th ed. 2014).



Supreme Courts were set up at Madras in 1800 and in Bombay in 1823 on lines similar to those set up in Calcutta.<sup>188</sup>

The British tried to administer justice in India with the aid of the Hindu and Mohammedan legal experts and scholars. But it was dissatisfactory as English Laws were applied and these were not suitable to the Indian scenario. Besides, the laws and their application differed in various presidencies. This led to state of confusion and chaos. Dissatisfaction reigned amongst the masses not only with regard to the British rule but also as to the administration of justice.

Queen Victoria's declaration in 1858 made India a British dependency and with that judicial system was introduced in India. The Indian High Courts Act, 1861 was passed as a consequence of which the Supreme Courts and Suddar Adalats were abolished. These were replaced by High Courts in the presidency towns. Subsequently, high courts at others provinces were also set up. These high courts acted as the highest court of appeal in the provinces.<sup>189</sup>

By the Government of India Act, 1935 a Federal Court was established. This court heard appeals from the High Courts, if a certificate was issued by the latter that case involved a substantial question of law. An appeal from the decisions of the Federal Court could be preferred to the Privy Council.

**3.5.3.3 Vigilantism in Colonial India** – The various forms of vigilantism existing during the colonial period are described as under:

**3.5.3.3.1 Caste-based Violence** - The British highlighted the caste and religious identities in its provincial governance and policies. As a result of this, caste-based violence permeated the Indian sub-continent.

**3.5.3.3.2 Witch hunting** - There is a mention of incidents of witch hunting in the reports of British authorities. Captain John Brooke in his writings in 1856 has mentioned that some of the local leaders had admitted that around 40-50 women were punished as witches in some areas of India.<sup>190</sup> In 1830s, Captain T. Wilkinson, the Political Agent of Governor-General banned the practice of witchcraft and Sokhaism

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<sup>188</sup> Ibid.

<sup>189</sup> Supra note 185.

<sup>190</sup> C. Campbell, *How 'witches' were hunted and punished in 19th century India*, SCROLL.IN (Apr. 5, 2020), <https://scroll.in/article/957914/how-witches-were-hunted-and-punished-in-19th-century-india> (Last visited on Jan. 21, 2021).

and labelled it as a crime in Chhotanagpur. Between 1840 and 1850, the British enforced a ban on witch hunting in Gujarat and Rajasthan.<sup>191</sup> Dalton, declared the practice of Soka as a crime. However, the short prison term and hard labour did not act as a deterrent. The regulations passed by the British were met with resistance and witch hunting flourished.

There is literature available in India which mentions that the practice of witch hunting is said to have emanated hundreds of years ago in Mayong, a village in the Morigaon district of Assam.<sup>192</sup> This village used to be known as the 'Indian Capital of Black Magic'. As a result of which people from across the world came to learn black magic to Mayong. This practice slowly spread to the rest of the parts of India. Today, witch hunting is prevalent not just in Assam but is practised in many States of India. The social evil of witch hunting spans the length and breadth of the country.

**3.5.3.3.3 Cow Slaughter & its Repercussions** - Cow slaughter was a cause for communal tensions between the Hindus and the Muslims during the British Rule. During the rule of Scindias in the State of Gwalior, people were executed for slaughtering cows. Likewise, in the Sikh empire, death sentence was awarded for killing cows. Riots over cow slaughtering were witnessed in the Presidency of Bombay, Punjab, United Provinces, Bengal and Delhi between 1800 and 1947. Beef was consumed by the Muslims as well as the British. A large quantity of beef was supplied to the army to feed the British soldiers. There were movements against slaughtering of cows. There was no law which banned cow slaughter altogether during the British rule. However, The East India Company banned cow slaughter in some parts of the country where they had entered into treaties with the kings.<sup>193</sup> Restrictions were placed as to where and how cows were to be slaughtered. The slaughtering could be carried out in enclosed spaces away from the public view, without celebratory rituals. Though the period witnessed movements for legislations banning cow slaughter, it was not given effect to.

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<sup>191</sup> Supra note 174.

<sup>192</sup> S. Das, *Witch hunting in Assam—Capital of black Magic to National Shame*, TIMES OF ASSAM (Aug. 30, 2011), [https://www.timesofassam.com/headlines/witch\\_hunting-in-assam-capital-of-black-magic-to-national-shame/](https://www.timesofassam.com/headlines/witch_hunting-in-assam-capital-of-black-magic-to-national-shame/) (Last visited on Jan. 22, 2021).

<sup>193</sup> A. Chandrachud, *In Republic of Religion: The Rise and Fall of Colonial Secularism in India*, FIRSTPOST (Feb. 18, 2020), <https://www.firstpost.com/living/how-the-colonial-imposition-of-secularism-on-india-propheisied-its-erosion-with-the-end-of-british-rule-8029471.html> (Last visited on Jan. 22, 2021).

### 3.5.4 Post Independence

#### 3.5.4.1 Social Organisation and Conditions

India became independent in 1947 and with it a democratic form of governance was established. The social structure is not very different from that of the Colonial India. Indian society remains a potpourri of various religions, cultures and languages. Nine major religions, namely, Hinduism, Islam, Sikhism, Christianity, Jainism, Buddhism, Judaism, Zoroastrianism and the Bahai faith are practised in India.<sup>194</sup> The majority of the population comprises of Hindus. According to the Census report released in June 2018, there are 19,500 languages or dialects spoken in India. These have been rationalized to 121 languages, of which only twenty-two are included in the Eighth Schedule of the Indian Constitution. There are 705 ethnic individual groups notified as scheduled tribes in India.<sup>195</sup> The Constitution of India adopted in 1950 declares the Indian Republic to be a secular state. The aspirations of the founding fathers of the Indian Constitution to see the citizens of India as a united social fabric has largely been fulfilled. Threats to the claims of secularism have been time and again witnessed in the form of communal violence. Religious sentiments have in the past and even today continue to rock the country. Caste-based violence still permeates rural India even after seventy-five years of independence. On the economic front, the mixed economy policy adopted by the infant democracy to ensure equitable distribution of resources ushered in the licensing Raj. This has made a few private players rich while the majority of population was and is fighting to make ends meet. It also brought in corruption in public life. The cities and towns rapidly progressed in terms of infrastructure, industrialization, employment, healthcare, education and wealth generation but the rural India lags behind in all these parameters even today. Development has not touched rural India which comprises of the 64.61 percent of the population in India.<sup>196</sup> Education and healthcare which are fundamental rights of every citizen of India are being denied. The illiteracy rates and poor state of healthcare system has kept the majority of the population in the Dark Age. The inequalities in development between urban and rural areas and even within the cities

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<sup>194</sup> Indian Religions, CULTURAL INDIA, <https://www.culturalindia.net/indian-religions/> (Last visited on Jan. 25, 2021).

<sup>195</sup> PTI, *More than 19,500 mother tongues spoken in India: Census*, INDIAN EXPRESS (Jul. 1, 2018), <https://indianexpress.com> (Last visited on Jan. 25, 2021).

<sup>196</sup> UN (World Population Prospects 2019), *Demographics of India*, STATISTICS TIMES (Nov. 4, 2021), <http://statisticstimes.com/demographics/population-of-india.php> (Last visited on Nov. 18, 2021).

has led to a general feeling of discontent and distrust amongst the masses. Rise in crime has been one of the outcomes of inequitable resources of the country. Apart from the traditional crimes like murder, rape, theft, etc., white collar crimes are on the rise.

The last few years, the Indian society has been witnessing incidents of mob lynching. Reports of unruly and irate mobs attacking victims out of suspicion of being a thief or a Kidnapper or that cow has been slaughtered by the victim have made the headlines. Shockingly, these incidents are not restricted to a particular State or region of the country but have been reported from across its length and breadth.

### **3.5.4.2 Administration of Justice**

This segment of the study aims to introduce the machinery administering criminal justice system in India. A brief account of the Police Force and the Judiciary in India is presented hereunder.

**3.5.4.2.1 Police** - The primary task of maintaining peace and order and investigation of crimes in India is vested with the Police. Under the Indian Constitution, Police is the subject matter of State and therefore, it is governed by the States. Likewise, the Centre is allowed to maintain its police force. Thus, policing in India operates at two levels, namely, State and Centre. The State Police Forces are charged with the duty of maintaining law and order and investigating crimes. The Central Armed Police Forces (CAPF), namely, the Central Reserve Police Force (CRPF), Central Industrial Security Force (CISF), Border Security Force (BSF), National Security Guards (NSG), Sashastra Seema Bal (SSB), Assam Rifles, Indo Tibetan Border Police Force (ITBP) assist the State police forces with intelligence and internal security challenges.<sup>197</sup> The State governments exercise control over its police force while the Central Government exercises control over the Central police forces.

**Police Strength** - The latest data available on the subject was published in 2017. A total of 2.8 million positions in the police force were sanctioned against which only 1.9 million were appointed, rendering a vacancy of 30%.<sup>198</sup> This implies that there are only 144 policemen to police a population of 1,00,000 people. The Police-to-

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<sup>197</sup> A. Chaturvedi, Police Reforms in India, (Jun. 2017), <https://www.prindia.org/> (Last visited on Jan. 26, 2021).

<sup>198</sup> Ibid.

population ratio recommended by the United Nations is 222 policemen per 1,00,000 population. The Police-to-population ratio in India being low, directly impacts the policing functions. Adding to the woes, there are more than a lakh post lying vacant in the CAPF.

***Problems of the Police Force*** - The executive interference in policing functions, over-burdened and under-staffed police force, out-dated weaponry, lack of adequate training in criminal investigations, etc., plagues the Indian Police Force. These have directly impacted the crime and conviction rates, thus, rendering the criminal justice system handicapped. According to NCRB Report 2020, the crime rate was 487.8% and conviction rate was 38.08%.<sup>199</sup> These figures paint a very dismal picture in the Indian context.

#### **3.5.4.2.1 Judiciary**

***Sub-ordinate Judiciary or Lower Judiciary*** - The lower judicial structure in independent India remains materially the same as set up by the British. There is a separate and distinct machinery set up to administer civil and criminal justice in the State.

Every State has been divided into various districts. Each district has a District Court which acts a Principal Civil Court of original jurisdiction and also acts as a Sessions Court for criminal matters. Alternatively, a separate Court of Sessions may be set up. The Principal Civil Court and the Sessions Court act as court(s) of appeal and has supervisory powers over the courts below it. Below the District Court, the courts of the First-Class Magistrates and Second-Class Magistrates have been set up. These Magistrates are vested with adjudicatory powers defined in the Code Criminal Procedure, 1973 and the Code of Civil Procedure, 1908. However, the number of courts below the District Court differ from State to State. At the lowest rung of the administration of justice lie the Village Panchayat Courts. These courts have been in existence since the Medieval period in India. The Village Panchayat Courts comprise of elected members from amongst the villagers and have extremely limited jurisdiction in trying civil and criminal matters. These courts are not governed by the rigid technicalities of procedural laws.

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<sup>199</sup> The National Crime Records Bureau, Crime in India 2020 (September 2021), <https://ncrb.gov.in/> (Last visited on May 23, 2022).

The hierarchy of criminal courts at District Level in descending order is as under:

1. Sessions Court
2. Judicial Magistrate First Class
3. Judicial Magistrate Second Class

Apart from the above, for better administration in the Metropolitan areas, the following courts have been set up and these are subject to the jurisdiction and supervision of Sessions Court.

1. Chief Metropolitan Magistrate
2. Metropolitan Magistrate

***Appellate Judiciary*** – The Appellate Judiciary was constituted by the following courts:

***High Courts*** - According to Article 214 of the Indian Constitution, every State is required to set-up a High Court. Vide Article 231 of the Indian Constitution, a common High Court for two or more States or Union Territories can be established. Presently twenty-five High Courts have been set up in India out of which six have control over more than one State or Union Territory. The High Court is the supreme judicial body in a State. The High Courts are vested with original jurisdiction, appellate jurisdiction with regard to matters appealed against the orders of the subordinate courts and supervisory jurisdiction over the subordinate courts.

***Supreme Court of India*** - The Supreme Court of India is the highest judicial authority of the country. It was established as the highest court in the country on 26 January 1950. It replaced the Federal Court and Privy Council. With its establishment, India's link to the Privy Council came to an end. It is conferred with Original, Appellate and Supervisory Jurisdictions by the Indian Constitution. Apart from this, it also has the power of Judicial Review.

To combat the problem of disposing off burgeoning number of cases in the courts, Family Courts, Fast Track Courts, Special Courts and Tribunals have been set up.

### 3.5.4.3 State of administration of justice in India

The efficiency of any justice dispensing system is reflected in its ability to curtail the crime rate, increase the conviction rate and reduce the pendency of cases. According to NCRB Report 2020, the crime rate was 487.8% and conviction rate was 38.08%.<sup>200</sup>

The Indian Judiciary is plagued with pendency of cases in its all the levels of hierarchy. High pendency of cases in the various courts only adds to woes of the administration of justice in India.

The number of cases pending in all the courts of the country is depicted in Table 3.1 depicted below.

**Table:3.1:** Pendency of cases in various courts in India

<b>Court(s)</b>	<b>No. of cases pending</b>
Supreme Court of India	72, 062 <sup>201</sup>
High Courts	4.7 Million <sup>202</sup>
District or Taluka Courts	32.9 Million <sup>203</sup>

Source: Research Scholar's own compilation based on statistics of Supreme Court and Hindustan Times

The figures speak for themselves.

It is in this backdrop; the Research Scholar would be discussing the rise of mob lynching in India and examine the various causes for the same in the next chapter.

## 3.6 Conclusion

The narration and discussion of the birth and rise of vigilantism in U.K, U.S.A, Nigeria and India reveals that citizens taking law into their own hands is not a new phenomenon. The causes and forms, however, have varied from time to time and from country to country.

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<sup>200</sup> Supra note 199.

<sup>201</sup> Supreme Court of India, Summary, Types of Matters in Supreme Court of India, (Jul. 7, 2022), <https://main.sci.gov.in/statistics> (Last visited on Jul. 15, 2022).

<sup>202</sup> M. Krishnan, *3.7 million cases pending in courts for over 10 years: Data*, HINDUSTAN TIMES (Jun. 29, 2020), <https://www.hindustantimes.com> (Last visited on Jan. 26, 2021).

<sup>203</sup> Ibid.

In U.K, it has been observed that the underlying reason for vigilante acts in the seventeenth century was perception of injustice to the society and victim. The inadequacy of law enforcement and high cost of public prosecution which the complainants had to bear acted as a catalyst in formation of the Private Prosecution Societies in the mid-eighteenth and mid-nineteenth centuries. However, it is failure of criminal justice system in curbing crime that has led to the vigilante acts perpetrated by individuals, small groups and mobs in the twentieth and twenty-first centuries in England. The fear that criminal justice system would fail the society and the perpetrator would escape punishment galvanised private citizens to take law into their hands.

Vigilantism in U.S.A found a fertile ground in the eighteenth century when the immigrants from British Isles and Ireland formed groups to fight cattle thieves as they did not have faith in the American Criminal Justice System. The American war of independence saw the birth of lynch law, a term used to refer to the summary justice given to criminals by Colonel Charles lynch and his associates. A major part of the nineteenth century saw the White Americans galvanize attacks on African Americans as they perceived that granting civil rights to the latter would threaten the social structure of the American society. This era also saw the rise of Ku Klux Klan, and other vigilante groups which carried out bombings on schools and churches of African Americans and attacks on White Americans who advocated equal rights for the African Americans. The twentieth and twenty-first centuries have seen a rise in vigilante groups like Guardian Angels in New York to protect the citizens from crime as the law enforcement agencies had failed to protect the citizens from criminals. Also interspersed in the narrative is the birth of vigilante groups to tackle the problem of paedophiles on the internet and illegal immigrants into U.S.A. Thus, the American narrative points out to the failure of law enforcement agencies in protecting its citizens and racial prejudice as the primary cause of vigilantism. And in recent times it is the fear that illegal immigrants would destroy the American social structure that has led to emergence of new vigilante groups.

The Nigerian experience has shown how the Night Guard and Hunter Guard System prevalent in the indigenous ethnic societies pre-dating colonization, emerged as a partner in fighting the Boko Haram in the twentieth and twenty-first century along with the State agencies. Though parallel policing helped in subduing the Boko Haram,



it led to the excesses of the JCTF (Night Guards and Hunter Guards) in the form of extortion, rape and violation of human rights in their dealing with the civil population. Post-independence from the British, the inequitable distribution of wealth led to the emergence of various vigilante groups who protected the wealthy traders from being attacked and robbed by armed gangs. Likewise, vigilante groups also emerged against the beneficiaries of oil and trade boom in Nigeria.

The Nigerian saga is different from that of U.K and U.S.A as the State and the political leaders have supported the vigilante groups from time to time. However, the open support and sometimes, tacit support has only led to making the vigilante groups stronger and bolder in the use of power and violence.

While tracing the historical background of vigilantism in India, the Research Scholar has given a detailed account of the social organisation and administration of justice in the various periods of the country so as to understand the context which has led to the present-day vigilantism in the country. An insight into the same shows that attacks stemming from caste-based and religious prejudices by various groups has been a common narrative in the Indian history from the ancient period to the twenty-first century. The fear that lower caste members and members belonging to different religions would change the social structure of the Indian society has been the reason for vigilante acts. Violence perpetrated due to slaughter of cows which is considered to be holy to the Hindus has been on the rise in the present times. Superstitious beliefs leading to witch hunting is a common thread running throughout the Indian history from the ancient period to the present times. Fear of inaction of the law enforcement agencies has made mobs attack person(s) on the suspicion of the latter being thieves or kidnappers. Vigilantism in the form of mob lynching due to the perception that law enforcement agencies are not adequate to deal with perpetrators of crime has seen a rise in past four years.

The Indian narrative in the post-independence period ends with an account of the social organisation and an introduction to the form of administration of criminal justice system existing presently in India. The omission of incidents of mob lynching has been intentional as the Research Scholar seeks to present a detailed study in the next chapter which deals with incidents of vigilantism in the present times and the causes thereof.

**CHAPTER 4**  
**VIGILANTISM IN INDIA – THE PRESENT POSITION &**  
**CAUSES**

## CHAPTER 4

### VIGILANTISM IN INDIA – THE PRESENT POSITION & CAUSES

#### 4.1 INTRODUCTION

The third chapter dealt with birth, growth and rise of vigilantism in the United Kingdom, the United States of America, Nigeria and India. While discussing the Indian context, the Research Scholar tried to trace the birth of vigilantism in the backdrop of social organisation and criminal justice system existing in the ancient, medieval, colonial and post-independence era. Instances of vigilantism as a means of social control in the form of caste-based violence, communal violence and violence related to cow slaughter and witch hunting have been evidenced during the various periods of time. In the post-independence era, the Research Scholar, while briefly mentioning the existence of caste-based and communal violence, described the social organisation and criminal justice system in India at length so as to set the tenor for studying the incidents of mob lynching in the present chapter. **In the medieval, colonial and even in post-independence period, cow slaughter or suspicions thereof would spark riots. However, in the past few years, cow slaughter has triggered incidents of mob lynching. Likewise, caste-related issues which led to clashes between the members of the various castes and at times to massacres have now become more evident in the form of mob lynching.** The incidents of mob lynching due to suspicion of the victim committing cow slaughter, theft, rape, child lifting is a recent phenomenon. Therefore, these incidents of mob lynching have been discussed in the present chapter. Also, the various groups that have emerged as vigilante groups in India have been described in the present chapter. The causes of mob lynching have been identified and its impact on the victims, State and the society has been studied by the Research Scholar. A detailed analysis of the same has been presented in the present chapter.

#### 4.2 INCIDENTS OF MOB LYNCHING – THE TRAJECTORY

Between 1999 and 31 December 2021, 3240<sup>204</sup> incidents of mob lynching have occurred. Victims were suspected of having consumed beef, of having committed cow

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<sup>204</sup> The Research Scholar has compiled the data on the basis of incidents reported in the newspapers & websites like Times of India, Indian Express, The quint.com, IndiaSpend, Factchecker.in

slaughter, cattle smuggling, rape and theft. Victims who were suspected to be child lifters or practising witchcraft also formed part of the lynching narrative. Considering the high number of incidents that have occurred, it is not possible to discuss all the incidents of the mob lynching. The Research Scholar, in this segment has discussed some of the incidents which posed a new challenge to the criminal justice system and which shook the conscience of the nation. While at it, efforts were made to include mob lynching incidents emanating for various motives. The following segment discusses the various incidents of mob lynching.

#### **4.2.1 1999 – Graham Staines, Philip Staines and Timothy Staines, Khendujhar, Odisha**

Graham Staines, an Australian missionary was working in Manoharpur, Khendujhar District, Odisha, since 1965 for the welfare of tribals and lepers. On 22 January, 1999, a mob of sixty-seventy people torched the van in which Graham Staines was sleeping with his two minor sons, Philip and Timothy. They prevented the victims from getting out of the burning vehicle. As a result of which all the three were burnt alive. The mob believed that Graham Staines was converting the locals to Christianity under the garb of promoting education and providing healthcare to them. Life Imprisonment was awarded to the main accused.<sup>205</sup>

#### **4.2.2 2004 – Akku Yadav alias Bharat Kalicharan, Nagpur, Maharashtra**

Bharat Kalicharan alias Akku Yadav was lynched inside a Nagpur District Court by a mob that included fifty (50) women on 13 August 2004 as he had terrorised the people of Kasturba Nagar, a locality in Nagpur for over two decades. His sins included murder and extortion, besides rape. He used rape as a weapon of revenge for being reported by the inhabitants of Kasturba Nagar. Almost every household had a victim raped either by Akku Yadav or his gangsters. The complaints to the police did not yield any results as it (police) was hand-in-glove with Akku Yadav and he would be easily released on bail. When he was finally charged for murder and taken for trial that the frustrated inhabitants of Kasturba Nagar, dragged him out of the Court room,

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<sup>205</sup> M. Singha, *21 years on, Odisha village still weeps for Graham Staines*, THE TIMES OF INDIA (Jan. 23, 2020), <https://timesofindia.indiatimes.com/india/21-years-after-his-killing-odisha-village-says-it-still-weeps-for-staines/articleshow/68666096.cms> (Last visited on Mar. 24, 2021).

butchered and battered him to death.<sup>206</sup> In November 2014, The Fifth District and Sessions Court, Nagpur acquitted all the eighteen accused in the mob lynching of Bharat Kalicharan alias Akku Yadav citing lack of evidence. Ironically, this was the same court where the mob lynching took place.<sup>207</sup>

#### **4.2.3 2009 – Kadwal, Vadodara, Gujarat**

The people of 112 villages of the Pavi Jetpur taluka had formed five-member teams to patrol the villages as there was a rise in number of thefts and looting cases in the taluka.<sup>208</sup> On 23 July 2009, three persons were lynched by people of Kadwal Village, Pavi Jetpur Taluka near Vadodara on suspicion of the victims being thieves. The police reported that the villagers who were manning the outskirts of Kadwal and Jhadi villages saw a quartet, comprising of men moving suspiciously in the early hours of Wednesday, 22 July 2009. The villagers were able to catch three of them. The fourth person had escaped. They tied the three suspects outside the Kadwal Police Outpost and pelted stones on them.<sup>209</sup> The Police turned up three hours after the incident despite making several calls to it. This angered the mob comprising of 500 men. The angry mob refused to hand over the suspected thieves to the police. The police managed to get the custody of the victims by firing in the air and lobbing tear gas shells on the mob. Two of the victims who fell unconscious during the attack by the mob had already succumbed to the injuries and the third one died on the way to the hospital. It was found out later that the victims were labourers from a neighbouring village.

According to one of the members of the village taluka panchayat, the villagers thought that the suspects would be caught and then set free by the police. As in the past too, thieves who were caught were set free by the police. Fearing that the (suspected) thieves would escape punishment, the villagers stopped the police from

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<sup>206</sup> RAY BULL ET AL., *CRIMINAL PSYCHOLOGY*, 136 (1<sup>st</sup> ed. 2010).

<sup>207</sup> V. Ganjapure, *Decade after Akku's courtroom murder, all accused go free*, THE TIMES OF INDIA (November 11, 2014), <http://timesofindia.indiatimes.com/articleshow/45104117.cms> (Last visited on Feb. 16, 2021).

<sup>208</sup> TNN, *Mob had lynched 3 thieves in 2009*, THE TIMES OF INDIA (Feb. 7, 2011), <http://timesofindia.indiatimes.com/articleshow/7447430.cms> (Last visited on Feb. 17, 2021).

<sup>209</sup> Express News Service, *Pavi Jetpur Lynching: Families perform last rites after authorities say trio not thieves*, INDIAN EXPRESS (Jul. 23, 2009), <https://indianexpress.com/article/cities/ahmedabad/pavi-jetpur-lynching-families-perform-last-rites-after-authorities-say-trio-not-thieves> (Last visited on Feb. 17, 2021).

taking their custody. Seven of the eleven accused persons were arrested and the trial of the said case is yet to be concluded.

#### **4.2.4 2015 – Syed Farid Khan, Dimapur**

Thirty-five-year-old, Syed Farid Khan hailed from Assam but was originally an illegal immigrant from Bangladesh. His father had served in the Indian Army and his two older brothers too are soldiers serving in the Assam Regiment. Syed Farid Khan was a car dealer doing business in Dimapur, Nagaland. An accusation of rape was levelled against him by a young woman hailing from Nagaland. On 25 February 2015, he was remanded to judicial custody in Dimapur Central Jail. On 5 March 2015, a mob comprising of thousands of people, broke into the jail, dragged Farid Khan out of the cell, stripped him, beat him up and pelted stones on him. They dragged him to the town centre which was seven kilometres away from the jail, inflicting injuries on him. He died of the injuries on the way to the town centre. The angry mob hanged his body from the clock tower at the town centre for display.<sup>210</sup> The mob cited the inadequacy and inefficiency of the law and law enforcement in protecting women from crimes against them in Dimapur as the reason for taking law into their own hands.<sup>211</sup> The Central Bureau of Investigation has been entrusted with the case for further investigation.

#### **4.2.5 2015 – Mohammad Akhlaq, Dadri, Uttar Pradesh**

Fifty-year-old Mohd Akhlaq and his son were dragged out of their home by 200 villagers and were attacked with bricks and lathis on suspicion of consuming beef in the small village of Bisada, Dadri, Uttar Pradesh on 28 September 2015. Mohd Akhlaq succumbed to the injuries sustained by him even before he could be taken to a hospital. His son was admitted to a hospital in a critical condition. An announcement by the priest of the local temple that the family had consumed beef triggered the lynching. Within minutes of the announcement, the villagers collected outside the house of Mohd Akhlaq and attacked him and his son.<sup>212</sup> The meat that was seized

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<sup>210</sup> IndiaToday.in, *Nagaland mob lynching: Rape victim says accused offered her Rs 5,000 to remain silent*, INDIA TODAY (Mar. 8, 2015), <https://www.indiatoday.in/> (Last visited on Feb. 16, 2021).

<sup>211</sup> D. Kikon, *The City of Sorrow: Revisiting the 2015 Dimapur lynching*, SCROLL.IN (Jun. 24, 2015), <https://scroll.in/article/729595/the-city-of-sorrow-revisiting-the-2015-dimapur-lynching> (Last visited on Feb. 16, 2021).

<sup>212</sup> A. Ojha, *Akhlaq lynching case accused seen sitting in front row, chanting Yogi in BJP's Bisada rally*, INDIA TODAY (March 31, 2019), <https://www.indiatoday.in/india/story/mohammed-akhlaq->

from the refrigerator of the victim was examined by the Government Veterinary Hospital, Dadri which reported that the meat belonged to goat progeny. However, it stated that the sample of the meat should be further examined by a Forensic Lab for confirmation. The Forensic Laboratory in Uttar Pradesh carried out further tests and submitted the report to the Court in 2016. The report stated that the sample of the meat was that of a cow or cow progeny. Fourteen men and three minors had been accused in the case but all of them were let out on bail. The case was remanded to a Fast-Track Court. However, till 2018, 43 hearings were held but charges were yet to be framed against the accused.<sup>213</sup> Six years have transpired after the incident and the family of Mohd Akhlaq is waiting for the trial to begin.

#### **4.2.6 2016 – Flogging of Dalits for skinning a dead cow, Una, Gujarat**

On 11 July 2016, four young men belonging to the Dalit community were stripped and tied to a Sport Utility Vehicle (SUV) and beaten up with iron pipes and sticks in Mota Samadhiyala village near Una town, Gujarat, by members of Shiv Sena on suspicion of cow slaughter. The four Dalit men had brought dead cows for skinning them. They tried to convince their attackers that they were skinning the carcass of the cow and that they had not slaughtered them, but the mob did not believe them. They were savagely beaten by the six members of Shiv Sena.<sup>214</sup> The caste system had enforced the task of disposing of carcasses of dead animals on the dalits. For centuries, members of the Dalit community have been disposing of dead animals.

The Una flogging led to an outrage amongst the members of the community. The Dalits staged a protest and pledged that they would abandon the age-old tradition of disposing of the carcasses of dead animals. More than 300 Dalits including the youth who were flogged embraced Buddhism in April 2018. Since 2016, the victims are awaiting justice. After an application was moved by Vishram Sarvaiya, the brother of one of the victims, the District and Sessions Court of Veraval ordered in July 2019 that the trial should be held on daily basis.<sup>215</sup>

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lynching-dadri-case-accused-bjp-yogi-adityanath-bisada-rally-1490912-2019-03-31 (Last visited on Feb. 16, 2021).

<sup>213</sup> Supra note at 22.

<sup>214</sup> TNN, *4 Dalits stripped, beaten up for skinning dead cow*, THE TIMES OF INDIA (Jul 13, 2016), <http://timesofindia.indiatimes.com/articleshow/53184266.cms> (Last visited on Feb. 17, 2021).

<sup>215</sup> Scroll Staff, *2016 Una flogging case: Gujarat court orders daily hearing from July 29*, SCROLL.IN (Jul. 2, 2019), <https://scroll.in/latest/929207/2016-una-flogging-case-gujarat-court-order-daily-hearing-from-july-29> (Last visited on Feb. 17, 2021).

#### **4.2.7 2016 – Mazloom Ansari & Imtiaz, Latehar, Jharkhand**

On 18 March 2016, thirty-two-year-old Mazloom Ansari, a cattle trader and eleven-year-old Imtiaz Khan, Mazloom's business partner's son were walking their eight oxen to a cattle fair in Chhatra District for selling them, when they were waylaid by Gau Rakshaks. The Gau Rakshaks abducted them and took them to a nearby forest and beat them up mercilessly. The victims, Mazloom and Imtiaz fell unconscious. The Gau Rakshaks hanged both the victims to death while they were unconscious.<sup>216</sup>

Testimony of three eye witnesses led to the conviction of all the eight accused. The Latehar District Court sentenced all the accused persons to life imprisonment on 18 December 2018. A plea filed by one of the convicts for suspension of sentence was dismissed by the Jharkhand High Court in December 2020.<sup>217</sup>

#### **4.2.8 2017 – Pehlu Khan, Alwar, Rajasthan**

Pehlu Khan, a cattle trader and a dairy farmer from Nuh, Haryana, had bought cattle at a fair in Jaipur, Rajasthan. While he was travelling back with his two sons and other cattle traders on 1 April 2017, they were stopped by a mob of Gau Rakshaks on Jaipur-Delhi Highway and were dragged out of their vehicles. In spite of producing papers that showed that Pehlu Khan had purchased the cows at a cattle fair, the mob accused him and other cattle traders of cow smuggling. The mob mercilessly beat them up. Pehlu Khan died in a private hospital after two days while his sons survived. Pehlu Khan had named eight persons who had attacked him in his statement to the police before his death.

On the basis of his statement, the accused were arrested and charged. Of the eight, two were minors who were tried under the Juvenile Justice Act, 2015. The two minors were found guilty by the Juvenile Justice Board of Alwar District and have been remanded to Juvenile Home for three years in March 2020. Due to lack of cogent evidence against the adult accused persons, they were acquitted by the Alwar District

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<sup>216</sup> NH Web Desk, *Latehar lynching: Jharkhand Police lets murderers get away*, NATIONAL HERALD (Apr. 8, 2018), <https://www.nationalheraldindia.com/india/latehar-lynching-jharkhand-police-lets-murderers-get-away> (Last visited on Feb. 17, 2021).

<sup>217</sup> Sabrangindia, *Latehar lynching case: Jharkhand HC dismissed plea for convict's suspension of sentence*, SABRANG (Dec. 18, 2020), <https://sabrangindia.in/article/latehar-lynching-case-jharkhand-hc-dismissed-plea-convicts-suspension-sentence> (Last visited on Feb. 17, 2021).



Court in August 2019. Following the verdict of the trial court, the Rajasthan Government set up a Special Investigation Team to look into the lapses in investigation and hold those liable for the lapses, accountable.<sup>218</sup>

Pehlu Khan's two sons, Arif and Irshad Khan, the owner of the pick-up truck in which the cattle were being transported, Khan Mohammed were charged for illegal transportation of cows for slaughter or temporary migration under the cow protection law of the State of Rajasthan. However, the Rajasthan High Court quashed the charges framed against the above-named persons as evidence showed that the cattle bought at the cattle fair were meant for dairy use and not for slaughter in October 2019.<sup>219</sup>

#### **4.2.9 2017 – Hafiz Junaid, Delhi-Mathura Train, Haryana**

Seventeen-year-old Hafiz Junaid, along with his elder brother Hashim and two friends, Moin and Mohsin left for Delhi from Ballabgarh District of Haryana on 22 June 2017 to buy clothes and gifts for Eid which was due in a few days. On their journey back home, they boarded the Mathura-bound train, when an argument erupted over seat sharing with a fifty-year-old passenger and his companion from Okhla station. The argument took a communal hue when Junaid and his friends were mocked over their religion. Their beards were tugged, and their skull caps were thrown and were addressed as beef-eaters by the fifty-year-old passenger.<sup>220</sup> The argument escalated after three more young men got into the train at the next station as they instigated the mob to attack the boys. The boys boarded off the train at Tughlaqabad Station and entered into another compartment. And while they were boarding off at Ballabgarh, the mob cornered them. Mohsin was able to jump off the train and escape but Junaid, Hashim and Moin were stuck. Sakir, Junaid's brother who was informed about the incident by a phone call when the boys had changed the compartment at Tughlaqabad got into the train at Ballabgarh to rescue them.

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<sup>218</sup> R. Asnani, *Pehlu Khan lynching case: Two minors convicted for three years*, THE NEW INDIAN EXPRESS (Mar. 13, 2020), <https://www.newindianexpress.com/nation/2020/mar/13/pehlu-khan-lynching-case-two-minors-convicted-for-three-years-2116372.html> (Last visited on Feb. 18, 2021).

<sup>219</sup> Scroll Staff, *Pehlu Khan case: Rajasthan HC quashes cow smuggling FIR against dairy farmer's sons*, SCROLL.IN (Oct. 30, 2019), <https://scroll.in/latest/942125/pehlu-khan-case-rajasthan-hc-quashes-cow-smuggling-fir-against-dairy-farmers-sons> (Last visited on Feb. 18, 2021).

<sup>220</sup> S. Lakhani, *A boy called Junaid*, THE INDIAN EXPRESS (Jul. 2, 2017), <https://indianexpress.com/article/india/faridabad-lynching-train-beef-ban-a-boy-called-junaid-4731198/> (Last visited on Feb. 18, 2021).

However, the mob locked the door of the compartment and the train started as a result of which the boys got trapped inside the compartment. Four men from the mob held Junaid while one of them stabbed him multiple times in the chest. When Hashim tried to intervene, three men held him while he was stabbed thrice in his back and shoulders. Thereafter, the perpetrators threw the boys out of the compartment at Asoti Station which falls in Faridabad District.<sup>221,222</sup>

#### **4.2.10 2017 – Alimuddin Ansari, Ramgarh, Jharkhand**

Forty-five-year-old Alimuddin Ansari alias Asghar Ali of Mouna village was carrying 200 kilograms of meat in his van when he was intercepted by a mob at Bazartand in Ramgarh District on June 29, 2017. The mob comprising of 100 men pulled Alimuddin out of the van, set it on fire and beat him with sticks and pieces of meat as they believed that the victim was a beef trader. The police arrived within thirty minutes to the spot and rescued Alimuddin. They took him first to a hospital in Ramgarh itself for treatment. Due to his deteriorating condition, he was transferred to a bigger hospital in Ranchi. However, he could not be saved. Police investigation revealed the hand of Bajrang Dal activists in the lynching and that the act was not spontaneous but a planned one.<sup>223</sup> On 21 March 2018, all the eleven accused persons were found guilty by the Additional Sessions Judge's Court of Ramgarh District. They were sentenced to rigorous imprisonment for life.<sup>224</sup>

#### **4.2.11 2018 – Nilotpall Das and Abhijeet Nath, Karbi Anglong, Assam**

Twenty-nine-year-old Nilotpall Das, a sound engineer from Mumbai and thirty-year-old Abhijeet Nath headed to Kangthilangso in Karbi Anglong to record the sounds of nature on the night of 8 June 2018. On their way, they had sought directions from the

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<sup>221</sup> FP Staff, *Hafiz Junaid lynching: Two Delhi govt staffers among four arrested; main culprit still at large, says police*, FIRSTPOST (Jun. 29, 2017), <https://www.firstpost.com/india/hafiz-junaid-lynching-four-more-including-50-year-old-arrested-main-culprit-still-at-large-says-police-3754815.html> (Last visited on Feb. 18, 2021). ; A. Bhardwaj, *Muslim boy stabbed to death on train after argument turns into religious slurs*, HINDUSTAN TIMES (Jun. 27, 2017), <https://www.hindustantimes.com/india-news/man-stabbed-to-death-2-injured-on-mathura-train-after-fight-with-passengers-for-allegedly-carrying-beef/story-BiJyILYIUoErWASvKQ51M.html> (Last visited on Feb. 18, 2021).

<sup>222</sup> A. Bhardwaj, *Muslim boy stabbed to death on train after argument turns into religious slurs*, HINDUSTAN TIMES (Jun. 27, 2017), <https://www.hindustantimes.com/india-news/man-stabbed-to-death-2-injured-on-mathura-train-after-fight-with-passengers-for-allegedly-carrying-beef/story-BiJyILYIUoErWASvKQ51M.html> (Last visited on Feb. 18, 2021).

<sup>223</sup> D. Grey, *Victim of Gautankwad: Alimuddin Ansari*, CJP (Nov. 6, 2017), <https://cjp.org.in/victims-of-gautankwad-alimuddin-ansari/> (Last visited on Feb. 18, 2021).

<sup>224</sup> A. Dubey, *Judgement Primer: Alimuddin Ansari lynching case*, CJP (Aug. 7, 2018), <https://cjp.org.in/judgment-primer-alimuddin-ansari-lynching-case/> (Last visited on Feb 18, 2021).

villagers. The villagers suspected them to be child lifters and spread rumours that the two of them would kidnap the children of their village. On their way back, they were stopped by a mob comprising of villagers at Panjuri. They pulled both Nilotpal and Abhijeet out of the car and thrashed them. Though both the victims pleaded for their lives and said that they were Assamese, the irate mob continued to beat them. On receiving information, the police reached the spot and rushed them to the hospital. But both the victims died on the way to the hospital. Twenty-five people were arrested for the lynching.<sup>225</sup>

#### **4.2.12 2018 – Lynching of Tribals on suspicion of theft, Chandgaon, Maharashtra**

Eight tribals were heading towards a neighbouring forest to hunt at 06:30 a.m. on 8 June 2018 in Chandgaon village, Aurangabad District of Maharashtra. While they were crossing the Yeola-Manmad railway tracks, a mob descended on them and attacked them. This led to the death of two and left the rest of the tribals injured. According to the Police, there were rumours on social media in rural Aurangabad that robbers were active in the area. Many villagers were keeping a watch during the nights and early mornings. On the fateful day when the villagers saw the tribals cross the tracks, they suspected them to be robbers and attacked them. Eight suspects were arrested and 300 villagers have been charged in the incident.<sup>226</sup>

#### **4.2.13 2018 – Lynching of Beggars on suspicion of Child Lifting, Ahmedabad, Gujarat**

On the evening of 26 June 2018, forty-five-year-old Shantidevi Nath and three other women who had gone for begging as usual to Vadaj area of Ahmedabad were surrounded by a few people while they were about to enter the auto rickshaw. They accused the women of being child lifters and dragged them out of the auto rickshaw.

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<sup>225</sup> Outlook Web Bureau, *Assam Shocker: Two Youth Lynched On Suspicion Of Child Lifting*, OUTLOOK (Jun. 9, 2018), <https://www.outlookindia.com/website/story/assam-shocker-two-youth-lynched-on-suspicion-of-child-lifting/312385> (Last visited on Feb. 19, 2021).; TNN, *Mob lynches two Guwahati youth suspecting them to be child lifters*, THE TIMES OF INDIA (June 10, 2018), <https://timesofindia.indiatimes.com/india/mob-lynches-two-guwahati-youth-suspecting-them-to-be-child-lifters/articleshow/64525529.cms> (Last visited on Feb 19, 2021).

<sup>226</sup> M. Thaver, S. Rao, *Maharashtra mob pattern: Victims strangers, targeted in the dark*, THE INDIAN EXPRESS (Jul. 5, 2018), <https://indianexpress.com/article/india/maharashtra-mob-pattern-victims-strangers-targeted-in-the-dark-dhule-lynching-5246283/> (Last visited Feb. 22, 2021).

Soon 500-700 people gathered at the spot and started pulling their hair, rained blows and punches on them. More people joined the mob with sticks and beat them up. The traffic police rescued the women and took them to a nearby hospital. Shantidevi, who had become unconscious was declared dead by the doctors. However, the other three women who had sustained severe injuries, survived. According to the police, rumours were rife in Vadaj area that the four women were child lifters which led to their lynching.<sup>227</sup>

#### **4.2.14 2018 – Lynching due to suspicion of theft, Dahod, Gujarat**

Twenty-two-year-old Ajmal Vahoniya and his friend Bharu Mathur were beaten up by a mob of twenty-thirty people with sticks on 29 July 2018 on suspicion of committing theft in Kali Mahudi Village in Jhalod Taluka of Dahod District. On receiving information from some villagers, the Limdi Police rushed to the spot. Ajmal Vahoniya had died on the spot and Bharu who had sustained severe injuries was rushed to a government hospital. The police informed that the two victims were history-sheeters and had several cases of robbery and theft filed against them.<sup>228</sup>

#### **4.2.15 2019 – Lynching of Tribals on suspicion of cow slaughter, Gumla, Jharkhand**

On 10 April 2019, a group of people saw some tribals including Prakash Lakra, Belarius Tirkey, Janerius Minj and Peter Kerketta cutting the flesh of a dead bull in Gumla District. Soon, rumour spread that the tribals had killed the bull and a mob of thirty people from Jairagi Village attacked them and beat them up. Some of the tribals were able to escape. However, Prakash, Belarius, Janerius and Peter were dragged around for a kilometre and forced to chant the names of Hindu gods. The villagers took the four victims on a bus and dumped them at Dumri police station around midnight. The police attended to the victims only in the morning and took them to the primary health centre. Prakash Lakra succumbed to the injuries while the three others

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<sup>227</sup> A. Chauhan, *Woman beggar lynched over suspicion of child theft*, THE TIMES OF INDIA (Jun. 27, 2018), <https://timesofindia.indiatimes.com/city/ahmedabad/ahmedabad-woman-beggar-lynched-over-suspicion-of-child-theft/articleshow/64750565.cms> (Last visited on Feb. 22, 2021).

<sup>228</sup> India Today Web Desk, *A 22-year-old tribal man was allegedly lynched to death by a mob in Gujarat's Dahod*, INDIA TODAY (Jul. 29, 2019), <https://www.indiatoday.in/india/story/gujarat-mob-lynching-man-beaten-to-death-by-mob-in-dahod-district-1299553-2018-07-29> (Last visited on Feb. 19, 2021).

sustained serious injuries. Tension prevailed in Jairagi and Jurmu villages following the incident.<sup>229</sup> Seven people from Jairagi village have been arrested while an FIR has been lodged against thirty unknown persons in the incident. Though the owner of the bull confirmed that he had given the carcass to the tribals, a case has been registered against the four victims of lynching for killing the bull.<sup>230</sup>

#### **4.2.16 2019 – Nayeem Ahmad Shah, Bhaderwah, Doda, Jammu and Kashmir**

On 16 May 2019, Nayeem Ahmad Shah and another person, while returning home from Kathua were shot at by Gau Rakshaks on suspicion of cow smuggling. Nayeem died on the spot due to bullet injuries while his companion sustained splinter injuries as a result of which he had escaped. Nayeem traded in horses and sheep and had gone to Kathua the previous day for the same. He was returning home to keep the Ramadan fast. At the time when he was shot at, he was not transporting any animals. According to Nayeem's relatives, he was harassed by Gau Rakshaks on previous occasions while he was transporting horses and mules. Post the murder of Nayeem, violence erupted in Bhaderwah and a curfew was imposed. Eight persons were arrested for the murder of Nayeem.<sup>231</sup>

#### **4.2.17 2019 – Lynching on rumours of Child-lifting, Uttar Pradesh**

Between 26 and 28 August 2019, twenty mob attacks occurred in various districts of Uttar Pradesh over rumours of child lifting. On 26 August, two brothers had taken their nephew to a doctor for treatment when a mob attacked them, dragged them into a field and thrashed them suspecting them to be child lifters. The Police reached the scene of occurrence and rescued the brothers. They took the victims to the hospital for treatment. One of the victims had already succumbed to his injuries. Five alleged perpetrators were arrested by the police for the lynching.

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<sup>229</sup> HT Correspondent, *ST panel sends notice to J'khand DGP in Gumla lynching case*, HINDUSTAN TIMES (May 10, 2019), <https://www.hindustantimes.com/ranchi/st-panel-sends-notice-to-j-khand-dgp-in-gumla-lynching-case/story-JZeJyMTG7GYGRRU7cEG0sK.html> (Last visited on Feb. 22, 2021).

<sup>230</sup> J. Deogharia, *Gumla tribals thrashed by mob booked for carving dead ox*, THE TIMES OF INDIA (Apr. 19, 2019), <https://timesofindia.indiatimes.com/city/ranchi/gumla-tribals-thrashed-by-mob-booked-for-carving-dead-ox/articleshow/68946510.cms> (Last visited on Feb. 22, 2021).

<sup>231</sup> I. Naseem, *Nayeem Ahmad Shah, who was killed by cow vigilantes in Jammu's Bhaderwah, was carrying no animal during the attack, claims relative*, FIRSTPOST (May 16, 2019), <https://www.firstpost.com/india/nayeem-ahmad-shah-who-was-killed-by-cow-vigilantes-in-jammus-bhaderwah-was-carrying-no-animal-during-attack-claims-relative-6646081.html> (Last visited on Feb. 22, 2021).

On 27 August, a man was killed by a mob on suspicion of being a child lifter in Sambhal. Similar incidents were reported from Shamli, Bulandshahr and Hapur.

On 30 August, three plain-clothed police personnel from Haryana had gone to Lakhimpur Kheri to investigate a case. They were immediately surrounded by a mob which suspected the police personnel to be child lifters. The three police personnel had to be rescued by the local police.<sup>232</sup>

#### **4.2.18 2019 – Tabrez Ansari, Jharkhand**

Twenty-four-year-old Tabrez Ansari was caught by a mob and accused of stealing a motorcycle on 17 June 2019 in Saraikela Kharsawan District of Jharkhand. He was tied to an electric pole and beaten mercilessly for hours with rods by the mob. He was also forced to chant the names of Hindu gods. The next day, the victim was handed over to the police after he fell unconscious. Later, when Tabrez Ansari complained of ill-health, he was rushed to a government hospital. He died due to injuries on 22 June 2019 in the hospital. Thirteen people have been arrested and charged with murder. However, Jharkhand High Court has granted bail to six of the thirteen accused as evidence did not show that they had inflicted any blows on the victim.<sup>233</sup>

#### **4.2.19 2020 – Lynching of Sadhus, Palghar, Maharashtra**

On 16 April 2020, two ascetics from a hermitage in Mumbai left for Gujarat to attend the last rites of their spiritual guru by road. They hired a car and a driver for the purpose. They had taken the backroads of Palghar District to enter Gujarat instead of the Highway. The guard of the forest department near Gadchinchle Village stopped them. While the guard was talking to the trio, they were attacked by the tribals with stones, logs and axes. The tribals suspected the ascetics and the driver of being child lifters and organ harvesters. The tribals had formed vigilante groups to keep a watch as rumours were doing rounds that child lifters and organ harvesting gangs were operating in the area at night. Even when the second police contingent managed to rescue the three victims, the mob comprising of 400 tribals attacked the policemen, dragged the victims out and

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<sup>232</sup> N. Bajpai, *UP sees 20 mob attacks in three days after child-lifting rumours go viral*, THE NEW INDIAN EXPRESS (Aug. 27, 2019), <https://www.newindianexpress.com/nation/2019/aug/27/up-sees-20-mob-attacks-in-three-days-after-child-lifting-rumours-go-viral-2025092.html>, (Last visited on Feb. 19, 2021).

<sup>233</sup> S. Kumar, *Jharkhand HC grants bail to 6 accused in Tabrez Ansari Mob lynching*, INDIA TODAY (Dec. 11, 2019), <https://www.indiatoday.in/india/story/tabrez-ansari-mob-lynching-jharkhand-high-court-six-accused-bail-1627205-2019-12-11> (Last visited on Feb. 22, 2021).

lynched them. A total of 126 persons were charge sheeted.<sup>234</sup> The Special Court in Thane trying the case granted bail to eighty-nine of the accused persons as there was no evidence to show that they played a role in the attack.<sup>235</sup>

#### **4.2.20 2020 – Lynching of Child Rapists, Tanda, Punjab**

A half-burnt body of a six-year-old daughter of a migrant labourer was found from the house of Gurpreet Singh and his grandfather Surjit Singh in Tanda in Hoshiarpur District, Punjab. Both of them were arrested on the charges of rape and murder of the child. The crime was committed on 22 October 2020. While they were in the custody of the police, an irate mob barged into the police station and attacked the accused. They demanded the police to handover the accused to them so that they could mete out punishment to the accused and give justice to the victims. The accused sustained injuries. The police took them to the hospital where the mob broke its window panes. However, the police rescued them.<sup>236</sup>

#### **4.2.21 2020 – Lynching of persons caught stealing, Thanjavur, Tamil Nadu**

On 8 November 2020, some residents of Kasangadu were returning home late in the evening when they saw the lights on in the cell phone shop owned by Mr. Vincent and three persons present inside. The three persons realized that they were seen by the locals and tried to escape. Twenty-three-year-old, R. Haja Mohideen who was in an inebriated state was caught by the locals and thrashed brutally while his two accomplices escaped. The locals, later called Mr. Vincent, who rushed to the spot and beat Haja. Later, he was handed over to the police. Haja was taken to a nearby hospital for treatment by the police. Owing to the deteriorating condition, Haja was shifted to a hospital in Thanjavur where he succumbed to his injuries.

The police arrested Mr. Vincent and five others for the murder of Haja.<sup>237</sup>

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<sup>234</sup> Z. Shaikh, *Palghar lynching: A recap of what happened*, THE INDIAN EXPRESS (Apr. 24, 2020), <https://indianexpress.com/article/explained/palghar-mob-lynching-mahant-kalpavruksha-giri-6370528/> (Last visited on Feb. 22, 2021).

<sup>235</sup> Express News Service, *Maharashtra: 89 accused granted bail in Palghar lynching case*, THE INDIAN EXPRESS (Jan 17, 2021), <https://indianexpress.com/article/cities/mumbai/maharashtra-court-grants-bail-to-89-accused-in-palghar-mob-lynching-case-7149127/> (Last visited on Feb. 22, 2021).

<sup>236</sup> IANS, *Mob attacks 6-year-old Hoshiarpur girl's rapist and his grandfather*, THE TRIBUNE (Oct. 23, 2020), <https://www.tribuneindia.com/news/punjab/mob-attacks-6-year-old-hoshiarpur-girls-rapist-and-his-grandfather-159993> (Last visited on Feb 22, 2021).

<sup>237</sup> Mirror Now Digital, *Tamil Nadu: 23-year-old man lynched after being caught stealing cellphones from shop*, TIMES NOW (Nov. 13, 2020), <https://www.timesnownews.com/mirror-now/crime/article/tamil-nadu->

#### **4.2.22 2020 – Mohammad Alamgir, Patna, Bihar**

On 16 December 2020, thirty-two-year-old Mohammad Alamgir, was brutally thrashed by locals in Phulwarisharif area near Patna when he was caught stealing a buffalo. The owner of the cattle shed had seen the victim untying the buffalo and alerted other villagers. They rushed to the spot and caught hold of Mohammad Alamgir. Another person accompanying the victim had managed to escape. The locals beat the victim for hours together. Later, when the police arrived, they found Mohammad Alamgir in an unconscious state. The police took him to a hospital for treatment but he succumbed to his injuries. Six persons who were named as perpetrators have been arrested by the police.<sup>238</sup>

#### **4.2.23 2020 – Jaishankar Singh, Begusarai, Bihar**

Forty-seven-year-old, Jaishankar Singh allegedly shot Nitu Devi dead in her house on 22 December 2020 in Ulaio village of Begusarai District. There was a long-standing dispute over a plot of land between the Jaishankar and Nitu's husband. While, Jaishankar was trying to flee on his motorcycle, a mob caught hold of him and beat him up with iron rods and bamboo sticks. He succumbed to the injuries.<sup>239</sup>

#### **4.2.24 2020 – Prasenjit Saha, Agartala, Tripura**

Twenty-one-year-old Prasenjit Saha left his home on 18 December 2020 and had not returned. This led the father-in-law of Prasenjit to file a missing person's report with the police. Later it came to light that Prasenjit was killed by a mob on suspicion of stealing tin sheets from a house in the neighbourhood on 19 December 2020. Two of the assailants were identified from the CCTV footage of the area and arrested. One of the arrested persons was seen rallying the mob to assault Prasenjit. The rest of the assailants were yet to be identified.<sup>240</sup>

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23-year-old-man-lynched-after-being-caught-stealing-cellphones-from-shop/681421 (Last visited on Feb. 23, 2021).

<sup>238</sup> NH Web Desk, *Bihar: Muslim man lynched to death in Patna's Phulwari Sharif over cattle theft suspicion*, NATIONAL HERALD (Dec. 18, 2020), <https://www.nationalheraldindia.com/india/bihar-muslim-man-lynched-to-death-in-patnas-phulwari-sharif-over-cattle-theft-suspicion> (last visited on Feb. 23, 2021).

<sup>239</sup> R. Kumar, *Begusarai murder: Angry mob lynches man*, THE TIMES OF INDIA (Dec. 23, 2020), <https://timesofindia.indiatimes.com/city/patna/angry-mob-lynches-man/articleshow/79884841.cms>, (Last visited on Feb. 22, 2021).

<sup>240</sup> D. Deb, *Tripura youth dies after mob attack on suspicion of theft*, THE INDIAN EXPRESS (Dec. 22, 2020), <https://indianexpress.com/article/north-east-india/tripura/tripura-youth-dies-after-mob-attack-on-suspicion-of-theft-two-arrested-7115510/> (Last visited on Feb. 23, 2021).



#### **4.2.25 2021 – Sunny Yadav, Mainpuri, Uttar Pradesh**

On 13 January 2021, at 5:00 a.m., twenty-year-old Sunny Yadav, a resident of Kheria village, Firozabad District had wandered into the nearby fields of Mainpuri Village due to heavy fog conditions. The villagers suspecting him to be a cattle lifter, beat him up. Sunny Yadav, managed to escape the villagers and started running. One of the villagers shot at Sunny Yadav. Sunny Yadav received two gunshot injuries to his abdomen which led to his death. Inquiries revealed that Sunny Yadav was mentally challenged and he had come to Mainpuri only two days ago. A murder case has been filed against the villagers by the police.<sup>241</sup>

#### **4.2.26 2021 – Lynching of two teenagers due to suspicion of theft, Gonthupadu, West Godavari District, Andhra Pradesh**

On 18 January 2021, four youths were going on their bikes when they stopped at the main road of Ganapavarigudem. The boys stopped at a shop selling loose petrol and were having a discussion whether to fill fuel in their bike or not. One of the boys took a bottle of petrol when the woman manning the shop raised an alarm and accused them of stealing petrol and hens in their village. A section of the villagers gathered at the shop. All the four were detained and questioned by the villagers. Two of them, namely, Santosh and Venkateshwara Rao were let off after calling their parents. However, Praveen was detained. The next day, when Santosh and Venkateshwara Rao again went to the spot, the villagers said that Praveen had revealed the that they stole hens in the village. The two of them were tied to a tree and beaten by villagers for more than twelve hours. They forced the young boys to confess before the police that they were thieves. Out of fear the two confessed to the police. The victims suffered injuries on their back, legs and shoulders. They were hospitalized and have survived the attack.<sup>242, 243</sup>

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<sup>241</sup> Mirror Now Digital, *UP: Mentally challenged man shot dead by Mainpuri villagers on suspicion of being cattle thief*, TIMES NOW (Jan. 16, 2021), <https://www.timesnownews.com/india/article/up-mentally-challenged-man-shot-dead-by-mainpuri-villagers-on-suspicion-of-being-cattle-thief/707919> (Last visited on Feb. 23, 2021).

<sup>242</sup> Mirror Now Digital, *2 Dalit teenagers tied to tree, brutally thrashed for stealing in Andhra Pradesh*, TIMES NOW (Jan. 21, 2021), <https://www.timesnownews.com/hyderabad/article/2-dalit-teenagers-tied-to-tree-brutally-thrashed-for-stealing-in-andhra-pradesh/710313> (Last visited on Feb. 23, 2021).

#### **4.2.27 2021 – Lokesh Kumar and Ved Prakash, Azadpur Mandi, Delhi**

Lokesh Kumar and Ved Prakash, both aged twenty-four-years were caught by a mob and beaten up on 9 March 2021 on suspicion of theft. After beating the victims brutally, the perpetrators tried to stuff the bodies of the victims into bags when the Police arrived and caught them. The police took the victims to a hospital where they were declared dead on arrival. The police had arrested two of the accused and were questioning others involved in the incident.<sup>244</sup>

#### **4.2.28 2021 – Sachin Kumar Verma, Ranchi, Jharkhand**

On 7 March 2021, twenty-two-year-old Sachin Kumar Verma was beaten to death by forty-four daily wage labourers on suspicion of stealing a mini truck from the neighbourhood. The owner of the truck and labourers beat him up for several hours. According to the statement of the police, the mother of victim informed them of the beating. The police rescued the victim and took him to a hospital. The victim could not be saved and he succumbed to his injuries. However, the mother of the victim claimed that after the police took the victim to the police station, they also thrashed him and the victim died in the police station itself. An FIR has been registered against four named and forty unnamed persons and two of them have been arrested.<sup>245</sup>

#### **4.2.29 2021 – Ankit, Kanpur, Uttar Pradesh**

Ankit, a Class IV employee in a private hospital was thrashed by the family members of a three-year-old girl and the locals for molesting her in Kalyanpur area of Kanpur on 11 March 2021. Not only was he thrashed by the mob but also his head was

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<sup>243</sup> S. Raj, *Two Dalits beaten for 'stealing' cocks in Andhra Pradesh*, THE TIMES OF INDIA (Jan. 21, 2021), <https://timesofindia.indiatimes.com/city/vijayawada/two-dalits-beaten-for-stealing-cocks-in-andhra-pradesh/articleshow/80377203.cms> (Last visited on Feb. 23, 2021).

<sup>244</sup> Express News Service, *Two men lynched over suspicion of theft at Azadpur Mandi*, (March 10, 2021), <https://indianexpress.com/article/cities/delhi/two-men-lynched-over-suspicion-of-theft-at-azadpur-mandi-7221616/> (Last visited on Feb 24, 2021).

<sup>245</sup> M. Ranjan, *22-year-old lynched on suspicion of vehicle theft in Jharkhand*, THE NEW INDIAN EXPRESS (Mar. 8, 2021), <https://www.newindianexpress.com/nation/2021/mar/08/22-year-old-lynched-on-suspicion-of-vehicle-theft-in-jharkhand-2273954.html> (Last visited on Feb. 24, 2021).

tonsured and faced blackened. The police rescued him and took him into their custody.<sup>246</sup>

#### **4.2.30 2021 – Mubarak Khan, Ranchi, Jharkhand**

Mubarak Khan, a twenty-six-year-old youth was tied to a pole and beaten to death by a mob on 14 March 2021. The mob suspected him of having stolen a motorcycle tyre in Maheshpur Village in the Ranchi District of Jharkhand.

Twelve perpetrators who were part of the mob have been arrested in the case.<sup>247</sup>

#### **4.2.31 2021 – Sarfaraz, Delhi**

Twenty-year-old Sarfaraz while out on a walk on the night of 22 May 2021 was nabbed by three men in outer Delhi. They suspected Sarfaraz to be a thief. They took Sarfaraz to a factory and tied him to a machine. Thereafter, they thrashed him with sticks. The next morning, Sarfaraz was found in an unconscious state and was taken to a hospital. The doctors pronounced him dead.<sup>248</sup>

#### **4.2.32 2021 – Ramawtar Dhobi, Thane, Maharashtra**

On 30 May 2021, thirty-two-year-old Ramawtar Dhobi was thrashed by ten persons on the suspicion of being a child lifter. The attack on the victim led to his death. Five of the accused persons were identified and arrested by the police.<sup>249</sup>

#### **4.2.33 2021 – Babu Bheel and Pintu Bheel, Chittorgarh, Rajasthan**

Twenty-five-year-old Babu Bheel and Pintu Bheel hailing from Madhya Pradesh went to Rajasthan to buy bulls for carrying out farming activities. The truck by which they

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<sup>246</sup> Mirror Now Digital, *Mob thrashes man, blackens his face for molesting three-year-old-girl in UP; police takes him into custody*, TIMES NOW (Mar. 13, 2021), <https://www.timesnownews.com/india/article/mob-thrashes-man-blackens-his-face-for-molesting-three-year-old-girl-in-up-police-takes-him-into-custody/732111> (Last visited on Mar. 24, 2021).

<sup>247</sup> A. Angad, *Man tied to pole, beaten to death on suspicion in Jharkhand*, THE INDIAN EXPRESS (Mar. 15, 2021), <https://indianexpress.com/article/india/man-tied-to-pole-beaten-to-death-on-theft-suspicion-in-jharkhand-7228459/> (Last visited on Mar. 24, 2021).

<sup>248</sup> Mirror Now Digital, *Delhi: Out for walk, 20-year-old youth thrashed to death over theft suspicion*, TIMES NOW (May 24, 2021), <https://www.timesnownews.com/delhi/article/delhi-out-for-walk-20-year-old-youth-thrashed-to-death-over-theft-suspicion/760869> (Last visited on May 16, 2022).

<sup>249</sup> PTI, *Maharashtra: Man lynched on suspicion of abducting minor girl; 5 arrested*, TIMES NOW (May 31, 2021), <https://www.timesnownews.com/india/article/maharashtra-man-lynched-on-suspicion-of-abducting-minor-girl-5-arrested/763896> (Last visited on May 16, 2022).

transporting the cattle was stopped by Gau Rakshaks at Chittorgarh, Rajasthan, on 13 June 2021, late in the night. They suspected the victims to be cattle smugglers. The mob then dragged the victims out of the truck and attacked them with sticks and other weapons. They continued the attack on the two victims for an hour till the police arrived. The mob on seeing the police fled from the scene of crime. The police took the victims to a hospital where, Babu Bheel succumbed to his injuries while undergoing a treatment.<sup>250</sup>

#### **4.2.34 2021 – Suresh Chavalagi, Belgavi, Karnataka**

Suresh Chavalagi, a primary school Headmaster in Belgavi, Karnataka was sending obscene messages to a nurse and harassing her. When the local residents learnt of the headmaster's behaviour, they descended on the school premises, thrashed him and locked him in one of the classrooms. The headmaster had sustained injuries in the attack.<sup>251</sup>

#### **4.2.35 2021 – Dipesh, Bapa Nagar, Delhi**

Twenty-five-year-old Dipesh used to work in a factory in Bapa Nagar, Delhi. A four-year-old girl who lived in the neighbourhood used to often play near the factory. Dipesh lured the girl with a chocolate into the factory and raped her. The girl reported the matter to her parents after she returned home. The girl's family and neighbours beat up Dipesh.<sup>252</sup>

#### **4.2.36 2021 – Lynching due to sacrilege at Golden Temple, Amritsar and Gurdwara, Kapurthala, Punjab**

Two incidents of lynching have occurred in Punjab over sacrilege at the Gurdwara. The same have been narrated as under:

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<sup>250</sup> D. Mukherjee, *Cow vigilantes' lynch MP man transporting cattle in Rajasthan*, THE INDIAN EXPRESS (Jul. 15, 2021), <https://indianexpress.com/article/india/cow-vigilantes-lynch-mp-man-transporting-cattle-in-rajasthan-7359292> (Last visited on May 16, 2022).

<sup>251</sup> Mirror Now Digital, *Karnataka: School headmaster assaulted, locked up in classroom for sending obscene messages to nurse*, TIMES NOW (Aug. 6, 2021), <https://www.timesnownews.com/india/article/karnataka-school-headmaster-assaulted-locked-up-in-classroom-for-sending-obscene-messages-to-nurse/795679> (Last visited on May 16, 2022).

<sup>252</sup> T. Haider, *Delhi: Man lures 4-year-old into factory on pretext of offering toffee, rapes her*, INDIA TODAY (Aug. 31, 2021), <https://www.indiatoday.in/cities/delhi/story/delhi-man-minor-rape-factory-toffee-bapa-nagar-1847727-2021-08-31> (Last visited on May 16, 2022).

A youth, between twenty–twenty-five years of age was lynched for making an attempt at sacrilege at the Golden Temple in Amritsar, Punjab on 18 December 2021 by those present in the temple. The identity of the victim is unknown.<sup>253</sup>

On 19 December 2021, an unidentified youth was lynched for a sacrilege attempt in Kapurthala, Punjab. The mob beat the youth mercilessly and locked him up in a room in the Gurdwara. The police reached the spot but was prevented from entering into the room. The police forcibly entered the room and found the mobsters stabbing the youth with a sword which led to his death. The police have so far not found any evidence of sacrilege at the Gurdwara. The post mortem report revealed thirty cuts inflicted by swords on his neck, head and chest.<sup>254</sup>

### **4.3 VIGILANTE GROUPS IN INDIA**

Informal or semi-organized groups formed in the wake of thefts of property and cattle at various points of time have been witnessed in India. Villagers have come together and formed watch-groups to prevent thefts or to protect women and children. Likewise, in cities and towns too, members living in a locality have formed small groups to keep a vigil during the night. Though, these groups are not formal like the watch-groups in Nigeria, they were formed as and when the need arose and disbanded once the threats abated. Apart from these informal watch-groups, there are very few formal or organized vigilante groups in India. Of these, groups like the Gulabi Gang and Bharatiya Gau Raksha Dal have emerged as organized vigilante groups. On the other hand, activities of groups like Bajrang Dal and Sri Rama Sena can be designated as vigilante acts, if the criminological definition of vigilantism by Prof. Les Johnston is applied. Emergence of formal vigilante groups is very recent and therefore, the same is discussed in the present chapter. A brief account of the formal as well as informal groups is discussed as under:

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<sup>253</sup> OpIndia Staff, *Man accused of sacrilege lynched at Golden Temple in Amritsar, video shows people hailing instant mob justice*, OPINDIA (Dec. 18, 2021), <https://www.opindia.com/2021/12/man-accused-of-sacrilege-lynched-at-golden-temple-in-amritsar/> (Last visited May 16, 2022).

<sup>254</sup> Times Now Digital, *Kapurthala lynching: Victim had about 30 sword-inflicted cuts, says autopsy report, cops yet to file murder case*, TIMES NOW (Dec. 23, 2021), <https://www.timesnownews.com/india/article/kapurthala-lynching-victim-had-about-30-sword-inflicted-cuts-says-autopsy-report-cops-yet-to-file-murder-case/843122> (Last visited May 18, 2022).

### **4.3.1 Formal or Organized Vigilante Groups**

The various groups which have characteristics of an organized vigilante group have been discussed as under:

**4.3.1.1 Gulabi Gang** - Gulabi Gang, a group of women led by Sampat Pal Devi in Uttar Pradesh, India, got together to fight against men perpetrating domestic violence against women in 2006. The women members wear pink sarees and wield bamboo sticks. They use the bamboo sticks in face of violence. This organisation comprises of 10,000 members and functions autonomously in various districts of Uttar Pradesh. The sight of women in pink sarees, wielding bamboo sticks struck fear in the hearts of men who perpetrated violence against their wives and it has offered a sense of security to the women in Uttar Pradesh. The organisation has been successful in curbing domestic violence against women and has also engaged itself in fighting for various social causes. Apart from this, the organisation has taken up various activities to bring about women empowerment.<sup>255</sup>

**4.3.1.2 Bhartiya Gau Raksha Dal** - In 2012, Pawan Pandit, a software engineer from Bhiwani, Haryana set up Bhartiya Gau Raksha Dal, a registered company with the object of protecting cows. It is affiliated with Rashtriya Syamsevak Sangh (RSS). The organisation has around 6,000 members, mainly from the upper-caste Brahmins, spread across the States of Haryana, Punjab, Uttar Pradesh, Maharashtra and Gujarat. The main aim of the organisation is to prevent cow slaughter and cow smuggling in India. It uses its social media to source information on cow slaughter or cow smuggling and then spread it to its members. According to Pawan Pandit, the organisation has been successful in saving 11,000 cows. The modus operandi of the organisation has been that, on receipt of information pertaining to cow slaughter or cow smuggling from a Gau Rakshak, Pawan Pandit would call the police and reach the spot to deal with the situation. Sometimes, the police accompanied them and sometimes, the Gau Rakshaks and Pawan Pandit would act solo.

However, rise in incidents of violence perpetrated by the Gau Rakshaks on suspicion of cow slaughter and cow smuggling on Muslims and Dalits brought the organisation under scanner. The Haryana Government mandated Police verification of all Gau

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<sup>255</sup> <https://gulabigang.in/> (Last visited on Feb. 1, 2021).

Rakshaks. Apart from this, the Police issued a directive to the Gau Rakshaks that on receipt of information of cow smuggling from the latter, a check post would be set up by the former to deal with the situation and that Gau Rakshaks were not to take law into their own hands.<sup>256</sup> The Bhartiya Gau Raksha Dal has set up 32 cattle protection groups across the country to give impetus to the cow protection movement in India.

**4.3.1.3 Bajrang Dal** - In the wake of the Rath Yatra that was to be held in Ayodhya in 1984 and on the refusal of the Uttar Pradesh Government to give police protection, ascetics called upon the youth to volunteer during the procession. Many a youth volunteered to accord protection during the Rath Yatra and these youth were organized as a group called, 'Bajrang Dal' by the Vishwa Hindu Parishad on 8 October 1984. Bajrang Dal being the youth wing of Vishwa Hindu Parishad espouses its Hindutva ideology and seeks to fight against all anti-social elements that challenge Hinduism. Likewise, it also shares the object of cow protection. Bajrang Dal has around 2,500 branches across the country.<sup>257</sup>

The activists of Bajrang Dal have orchestrated attacks on suspected cow slaughterers and cow smugglers in the name of cow protection. In most of the incidents pertaining to cow and religion narrated above, the Bajrang Dal activists have been on the forefront. Fearing that the Hindu culture is under a threat from the western culture, they have attacked young couples in public places on Valentine's Day.

### **Illustrations:**

Bajrang Dal Activists, harassed young couples found in parks and zoos on Valentine's Day in Kanpur.<sup>258</sup> Likewise, they chased young couples away in Odisha and Hyderabad on 14 February, 2015 and hurled tomatoes at them in Ahmedabad on 14 February, 2014. They vandalized shops in Telangana on 14 February 2020 which were decorated on account of Valentine's Day.<sup>259</sup>

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<sup>256</sup> A. Masoodi, *Who is a Gau Rakshak*, MINT (Jul. 26, 2016), <https://www.livemint.com/Politics/Mi6HZpayTzwJT7G6zy8dTO/Who-is-a-Gau-Rakshak.html> (Last visited on Feb. 18, 2021).

<sup>257</sup> <https://vhp.org/vhp-at-glance/youth/bajrang-dal/>, (Last visited on Apr. 1, 2021).

<sup>258</sup> THE TIMES OF INDIA, (Feb. 14, 2015), <https://m.timesofindia.com/> (Last visited Feb. 5, 2021).

<sup>259</sup> NEWSMETER NETWORK, (Feb.14, 2020), <https://newsmeter.in/> (Last visited on Feb. 5, 2021).

The above incidents demonstrate vigilantism born out of the fear that societal norms are under seize or threat from another culture. These acts of Bajrang Dal activists are in consonance to that of vigilantes.

**4.3.1.4 Sri Rama Sena or Sri Rama Sene** - Sri Rama Sena was established by Pramod Muthalik, a former RSS and Shiv Sena member, in 2006 in Karnataka. He shares the vision and ideology of Hindutva like that of the RSS and Vishwa Hindu Parishad. Cow protection and protection of Hindu culture from erosion are the prominent objectives of Sri Rama Sena. In the name of cow protection, the members of this organisation have attacked Muslims and forced the victims to chant 'Jai Shri Ram'.<sup>260</sup> Likewise, they had attacked girls in a pub in Mangalore on 24 January 2009 as they felt that the western culture would erode the Hindu culture and values.<sup>261</sup> On 13 February 2021, the organisation announced that various teams across the State would be deployed at public places to ensure that no vulgar acts took place while celebrating Valentine's Day.<sup>262</sup> They also proclaimed that they would counter Valentine's Day by celebrating it as a day to worship parents on 14 February 2021.

The above-mentioned incidents are only a few of them. The organisation has been linked to various such incidents under the banner of Hindutva and protection of Indian culture. Activists of Sri Rama Sena have perpetrated violence fearing that the societal norms and culture of the majoritarian Hindu community is under threat from the other cultures. These acts of Sri Rama Sena activists can be defined as vigilante acts and thus, rendering it a vigilante group.

**4.3.1.5 Other Cow Protection Groups in India** - Apart from the Bhartiya Raksha Dal, Rashtriya Goraksha Sena has a national presence with 2700 members spread across fourteen states. There are numerous cow protection groups in India. The exact number of these groups is not known. The Delhi-NCR region alone has over 200 cow protection groups.<sup>263</sup> In Gujarat, 200 cow protection groups have sprung up. Groups

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<sup>260</sup> India News, *Sri Ram Sena goons brutally thrash youth for possessing beef; arrested*, TIMESNOWNEWS.COM (May 25, 2019), <https://www.timesnownews.com/india/article/sri-ram-sena-goons-brutally-thrash-youth-for-possessing-beef-arrested-watch/424976> (Last visited on Apr. 1, 2021).

<sup>261</sup> TimesofIndia.com, *Mangalore pub attack: 17 held, Ram Sena unapologetic*, THE ECONOMIC TIMES (Jan. 26, 2009), <https://economictimes.indiatimes.com/news/politics-and-nation/mangalore-pub-attack-17-held-ram-sena-unapologetic/articleshow/4033613.cms> (Last visited on Apr. 1, 2021).

<sup>262</sup> PTI, *Shri Ram Sene to counter Valentine's day with 'Mata-Pita' pooja*, THE INDIAN EXPRESS (Feb. 13, 2021), *Shri Ram Sene to counter Valentine's day with 'Mata-Pita' pooja* (Last visited on Apr. 2, 2021).

<sup>263</sup> Supra note 247.



like Cow Rakshak Dal, Gau Raksha Samiti, Gau Raksha Ekta Samiti have been formed at taluka as well as village levels.<sup>264</sup> From the newspaper reports it is known that there are various such groups acting in the States of Haryana, Rajasthan, Punjab, Uttar Pradesh, Bihar, Karnataka and other parts of the country.

**Object** - The object and modus operandi of the cow protection groups is common. The object of all these groups has been cow protection which is considered to be the dharma or sacred duty of the Hindus. The members of these groups perceive that the police have failed in giving effect to the laws prohibiting cow slaughter. Therefore, to prevent cow slaughter and illegal cow smuggling, the members of various groups have taken law into their own hands.

**Modus Operandi** - The pattern of carrying out the activities of the cow protection by the various cow protection groups is similar. The members of these groups prowl in the night in the border areas of their cities or villages to check illegal cow smuggling. On sighting such illegal activity, the members send information to the others members of the group who stop the vehicles. However, in most of these incidents, the members of the cow protection groups have perpetrated violence leading to death or grievous injuries to the suspected cow smugglers. In cases where beef is brought to a market place for sale, a similar modus operandi is used.

**Membership** - The members of these cow protection groups are from various avocations like cobblers, vegetable vendors, rickshaw pullers, lawyers, engineers, businessmen. The membership is voluntary. Some of the groups even have students as their members.<sup>265</sup> These members act as informers in case of suspected cow slaughter, cow smuggling, sale and consumption of beef.

For example, the vegetable vendors or cobblers pass information to other members, if beef has been brought for sale to the market. These members reach the spot and unleash mayhem.

By perpetrating violence in the guise of protecting cows and preventing infractions of the cow protection laws, various cow protection groups have emerged as vigilante groups.

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<sup>264</sup> M. Langa, *Gujarat plagued by vigilantes*, THE HINDU (Jul. 22, 2016), <https://www.thehindu.com/news/national/other-states/Gujarat-plagued-by-vigilantes/article14502962>. ece (Last visited on Apr. 2, 2021).

<sup>265</sup> Supra note 247.

**4.3.2 Informal or semi-organized Vigilante Groups** - There are instances of people mobilizing themselves into small vigil groups in face of thefts and robbery in India. These groups were not known by any particular name or nomenclature nor are they a permanent fixture in maintaining peace and harmony in the society unlike the watch-groups in Nigeria. They were formed out of necessity and were disbanded once the threat or danger abated. Such groups have been formed in villages in the wake of cattle thefts and in face of robberies in towns as well as cities. Such non-state security measures have not been documented. These groups have been classified as informal vigilante groups by the Research Scholar as there is no elaborate organisation or planning involved in their operations. The members of these groups are neither trained in combat or apprehension of offenders. The members are generally equipped with sticks and lathis.

The Research Scholar has come across the existence of such non-state security measures through newspaper reports of the various incidents of mob lynching in India as well as from personal experience. Some of the instances are described below.

**Illustrations:**

The people of 112 villages of the Pavi Jetpur Taluka in Vadodara District, Gujarat, had formed five-member teams to patrol the villages as there was a rise in number of theft and looting cases in 2009.<sup>266</sup>

There were rumours on social media in rural Aurangabad that robbers were operating in the neighbourhood. Many villagers kept a watch during the nights and early mornings. When these villagers saw the tribals cross the railway tracks they attacked them and killed them suspecting them to be thieves.<sup>267</sup>

Similarly, in Palghar Mob Lynching incident, the two sadhus and their driver were lynched by a vigilante group comprising of tribals on 16 April 2020. Rumours were rife in Palghar District that a gang of child lifters and organ harvesters were operating in the area.<sup>268</sup>

In 2002, a spate of thefts had taken place in the Ellora Park area of Vadodara city in Gujarat. The people living in this area formed small groups comprising of men who

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<sup>266</sup> TNN, *Mob had lynched 3 thieves in 2009*, THE TIMES OF INDIA (February 7, 2011), <http://timesofindia.indiatimes.com/articleshow/7447430.cms> (Last visited on February 17, 2021).

<sup>267</sup> Supra note 226.

<sup>268</sup> Supra note 235.

would keep a vigil in the night. This led to abatement of thefts in the area. Once the thefts stopped, the night vigils also stopped. The Research Scholar was residing in this area and has therefore, first-hand knowledge of the incidence.

The existence and formation of informal vigil or watch-groups is not uncommon in India.

#### **4.4 EXTENT OF MOB LYNCHING IN INDIA**

The incidents of mob lynching described above are only some of them which shook the conscience of the society. Though the above narration indicates mob lynching incidents to have occurred in some of the States of India, newspaper reports have revealed that it spans the length and breadth of the country.

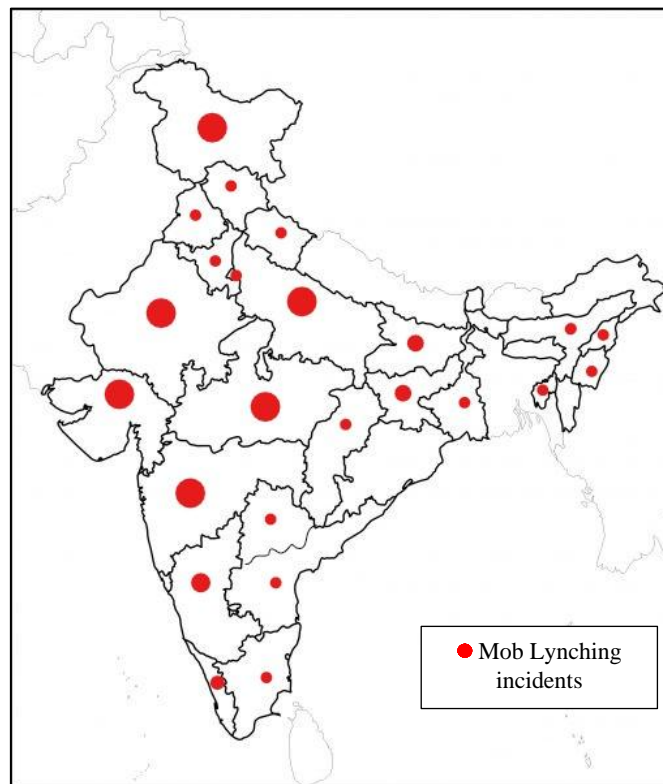


Figure 4.1: Extent of Mob Lynching in India

Twenty-three States and the Union Territories of Delhi, Jammu & Kashmir have witnessed a spate of mob lynching incidents.

The various States where incidents of mob lynching have occurred are as under:

Himachal Pradesh, Uttarakhand, Punjab, Haryana, Uttar Pradesh, Bihar, West Bengal, Assam, Nagaland, Manipur, Tripura, Odisha, Jharkhand, Chhatisgarh, Telangana,

Andhra Pradesh, Tamil Nadu, Kerala, Karnataka, Maharashtra, Gujarat, Rajasthan, Madhya Pradesh. This only reveals that mob lynching has become a national phenomenon and mobocracy has become the new norm.

#### **4.4.1 Mob Lynching Incidents - A Statistical Take**

With the rise in mob lynching incidents in 2015-16, the Ministry of Home Affairs had directed the National Crime Records Bureau (NCRB) to keep a separate record of such incidents. **The NCRB collected and compiled the data under the sub-head of Mob Lynching. However, the same has not been published by the Ministry of Home Affairs.** In its absence, the Research Scholar has relied upon various national and international newspapers, both print and online to compile the statistics. Based on the reports of the Uttar Pradesh Government on Mob Lynching, Times of India, Indian Express, The Hindu, Quint, Newslandry, etc., the data pertaining to mob lynching incidents is presented below.

According to the report of the State Law Commission set up by the Uttar Pradesh Government in 2019, more than 250 incidents of mob lynching have occurred in India.<sup>269</sup> Of these, 38% were related to suspected cow-slaughtering and 50% of the victims were Muslims.

Between 28 September 2015 to 22 September 2019, 266 incidents have been reported to have occurred in India.<sup>270</sup> Of these figures, five cases pertain to witch hunting.

Post 22 September 2019, till 31 December 2021, 87 more incidents have been reported to have occurred by the leading newspapers.<sup>271</sup> The possibility of more incidents having occurred cannot be ruled out as some of the incidents may have been reported in local newspapers of which the Research Scholar has not had access to.

Around 355 incidents of mob lynching have occurred in India between 2015 and 31 December 2021. Prior to 2015, from 2012 to August 2015, seven incidents of mob

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<sup>269</sup> State Law Commission, Seventh Report of VII Law Commission Report of Mob Lynching (Jul. 2019).

<sup>270</sup> The Quint, *Hunted: India's Lynch Files*, THE QUINT (2018), <https://www.thequint.com/quintlab/lynching-in-india/> (Last visited on Mar. 16, 2021).

<sup>271</sup> Compiled by the Research Scholar from The Times of India, The Indian Express, The Hindu, Hindustan Times & DNA.

lynching were reported. Of these seven incidents five were related to cow.<sup>272</sup> A significant rise in mob lynching cases in India is seen from September 2015 and the same is depicted in Table 4.1 given below.

**Table 4.1: Incidents of Mob lynching in India**

<b>Sr. No.</b>	<b>Period</b>	<b>No. of Incidents</b>
1	January 2012 – August 2015	07 <sup>273</sup>
2	28 September 2015 – 22 September 2019	261
3	23 September 2019 – 31 December 2021	87
<b>Total</b>		<b>355</b>

Source: Research Scholar's own compilation from The Quint, Times of India & other newspapers

In Chapter 2 of the present study, entitled, 'Theoretical Exposition of the Concept of Vigilantism', it was argued by the Research Scholar that lynching of the victim due to suspicion of practising witchcraft is also a form of vigilantism. Lynching due to suspicion of practising witchcraft abounds in various parts of India, even in today's times. The NCRB maintains a record of deaths caused due to witch hunting and the same is presented below in the form of Table 4.2.

**Table 4.2: Deaths due to Witch hunting**

<b>Sr. No.</b>	<b>Period</b>	<b>No. of Deaths</b>
1	2001-2014	2290
2	2015	135
3	2016	134
4	2017	73
5	2018	63
6	2019	102
7	2020	88
<b>Total</b>		<b>2885</b>

Source: NCRB Reports

<sup>272</sup> H. Tabassum, *88 Incidents of Cow-Related Violence Since 2012; 86 Of Them During BJP Rule*, NEWS 18 INDIA (Jul. 19, 2018), <https://www.news18.com/news/india/88-incidents-of-cow-related-violence-since-2012-86-of-them-during-bjp-rule-1817051.html> (Last visited on Mar. 16, 2021).

<sup>273</sup> There could have been more incidents of Mob Lynching. However, the available data suggests the above figures.

If the above figures are added to the mob lynching cases, then 3,240 incidents have occurred. Figures for deaths due to witch hunting for the year 2021 is not yet known as the NCRB has not released the annual report. As pointed out by the Research Scholar in Chapter 2 of the present study, eight of thirteen States where witch hunting is prevalent have passed a special legislation to combat witch hunting. The rest of the five States are yet to pass a legislation and are applying the various provisions of the Indian Penal Code, 1860 to curb the practice of witch hunting. Likewise, jurists, academicians and research scholars have highlighted the necessity of a Central Legislation on the subject to bring about uniformity in law as well as to counter those States which have not enacted a special legislation. The problem of witch hunting is persisting since the medieval period in India and it also finds a mention in the Vedas indicating that it was prevalent even in the ancient period. Research on the subject is abundant. Besides, the NCRB is keeping records of deaths caused due to witch hunting under a separate head. On the other hand, mob lynching due to cow slaughter, suspicion of theft, rape, murder, etc. are all recent and research is wanting. Therefore, the Research Scholar has focussed on the recent incidents of mob lynching in India in the present study.

#### **4.4.2 Anatomy of Mob Lynching Cases**

The Research Scholar has studied 235 incidents of the 355 cases of mob lynching between the period 1999 and 31 December 2021. An analysis of these cases gives an insight into the impact of mob lynching on the victims, their religion or caste and the triggers of mob lynching. The same ensues in this segment of the study.

**4.4.2.1 Mob Lynching and its Victims** - Of the 235 mob lynching cases analysed, 39.23% of the victims lost their lives while a staggering 56.73% sustained serious injuries. Only 4.04% of the victims were either rescued or had escaped unhurt. The number of victims involved and the impact of mob lynching is presented in Table 4.3 and Figure 4.2 below.

**Table 4.3: Impact of Mob Lynching on Victims**

Sr. No.	Impact on Victims	Numbers
1	Dead	175
2	Injured	253
3	Rescued or escaped unhurt	18
<b>Total</b>		<b>446</b>

Source: Research Scholar's own compilation from The Quint, Times of India & other newspapers

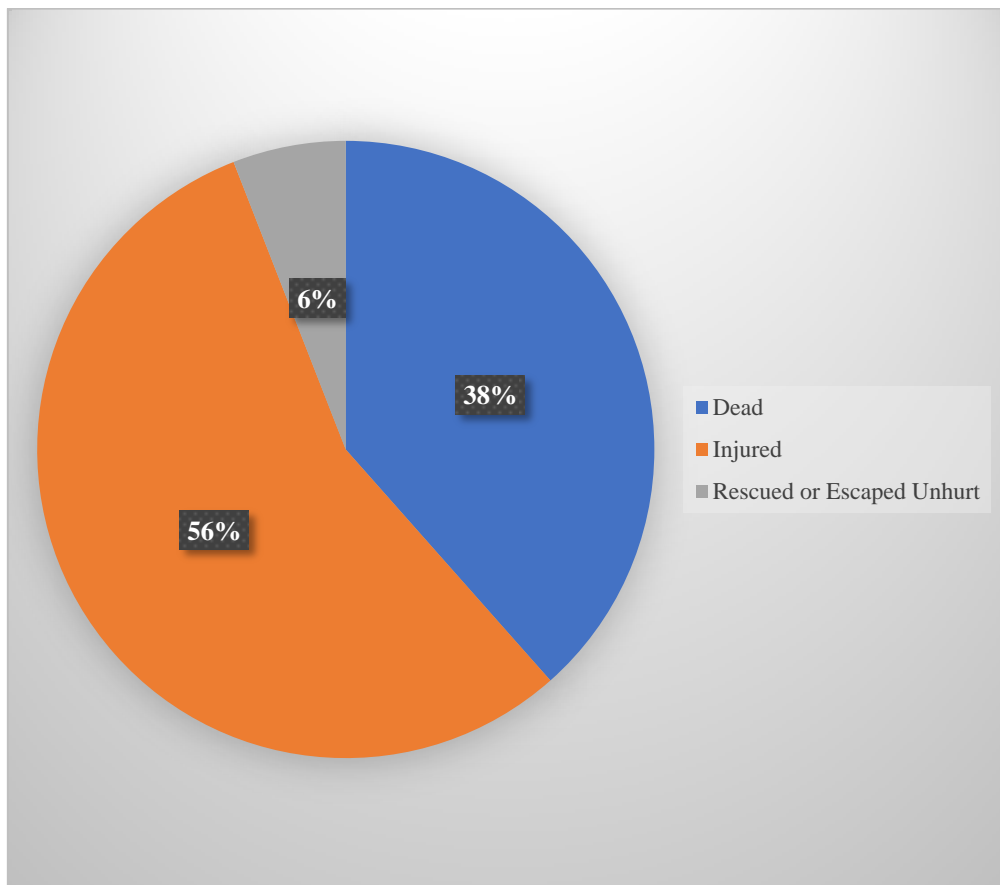


Figure 4.2: Impact of Mob Lynching on the Victims

**4.4.2.2 Religion or Caste of the Victims** - Indian society being a potpourri of different religions, castes, cultures and languages, an analysis was made to discern if these had any linkages to mob lynching incidents. Prima facie, the data reveals that victims from among the Hindus and Muslims constitute almost equal numbers. The cow-related incidents have seen a majority of Muslims and a small number from

amongst the Christians and Dalits being targeted. Whereas, lynching due to theft or suspicion of theft, child lifting, rape, murder has seen more victims from amongst the Hindus. The lynching of the latter kind cannot be said to be religious or caste-centric. However, it is difficult to allude mob lynching cases to a particular religion or caste as the identity of 113 victims is either not known or not revealed. The break-up of the religion or caste of the victims of mob lynching is depicted in Table 4.4 given below.

**Table 4.4: Religion/Caste of Mob Lynching Victims**

<b>Sr. No.</b>	<b>Religion/Caste</b>	<b>Number of victims</b>
1	Muslims	140
2	Hindus	154
3	Dalits (Hindus)	23
4	Christians	16
5	Unknown/Identities not revealed	113
<b>Total</b>		<b>446</b>

Source: Research Scholar's own compilation from The Quint, Times of India & other newspapers

**4.4.2.3 Triggers of Mob Lynching** - The incidents of mob lynching have been triggered due to various factors. The triggering or precipitating events have their undercurrents in religion, social and political conditions, law and order system in India. Suspicion of cow-slaughter, cattle theft or smuggling of cows, suspicion of possession, consumption or sale of beef, suspicion of theft, child-lifting or suspicion of child-lifting, commission of murder or rape, inter-faith or inter-caste relationships and prejudices have been the various triggers of mob lynching in India.

A break-up of the various triggers of 235 incidents of mob lynching that have been studied by the Research Scholar is depicted in the form of Table 4.5 given below.



**Table 4.5: Break-up of Triggers of Mob Lynching Incidents**

<b>Sr. No.</b>	<b>Triggers of Mob Lynching</b>	<b>No. of Incidents</b>
1	Suspicion of Cow Slaughter	12
2	Suspicion of Cow Smuggling/Illegal Transportation/Cattle Theft	46
3	Consumption/Sale/possession of beef or suspicion thereof	15
4	Injury to Cow/Cattle	02
	<b>Total No. of Cow-related Incidents</b>	<b>75</b>
5	<b>Child Lifting/Suspicion of child-lifting/Child Trafficking</b>	<b>38</b>
6	Suspicion of theft	32
7	Caught Stealing	10
	<b>Total No. of Theft-related Incidents</b>	<b>42</b>
8	Lynching of Rapist/Molester	07
9	Lynching for Rape & Murder	02
10	Lynching of Murderers	09
11	Lynching of Extortionists	01
12	Lynching for committing Mischief	02
13	Lynching of Drug Peddlers	07
14	Lynching of convicts out on bail	01
15	Lynching for causing accident leading to death	02
16	For causing Grievous Hurt	03
17	For Cheating	02
18	Public servants lynched by mob while doing their duty	04
19	Lynching due to flashing, ill intention towards women	07
20	Lynching triggered during festivals & bursting crackers	03
21	Lynching due to extra-marital affair (Adultery)	06
	<b>Total No. of incidents related to Commission of other Crimes (other than theft), Law &amp; Order</b>	<b>56</b>
21	Inter-faith/ religion related	18
22	Inter-caste/caste related	06
	<b>Religion &amp; Caste related</b>	<b>24</b>
	<b>Total</b>	<b>235</b>

Source: Research Scholar's own compilation

The three main triggers of mob lynching have been child lifting or suspicion of child lifting, theft-related and cow-related. Apart from these, on commission of crimes like rape, murder, extortion, the mobs have rallied within a few minutes and lynched the perpetrators while they were trying to escape. These incidents have only revealed that people took law into their own hands as they felt that the perpetrators would escape the clutches of law. Apart from inter-caste or inter-religion relationships, not chanting the name of Hindu deity, namely, 'Jai Shri Ram', for wearing a skull cap or scarf have led to incidents of mob lynching. When a member belonging to the lower caste sported a moustache, rode a horse or watched 'Garba', (a dance performed by Hindus during the festival of Navratri, wherein Goddess Durga is worshipped for nine days.) being performed at a temple from a distance, the members belonging to the upper caste lynched them. Though these incidents have roots in caste-based prejudices, the violence perpetrated in the form of lynching is recent. However, these constitute fewer incidents in comparison to the rest of the triggers.

The various triggers of Mob Lynching have been subsumed and shown as under in Figure 4.3.

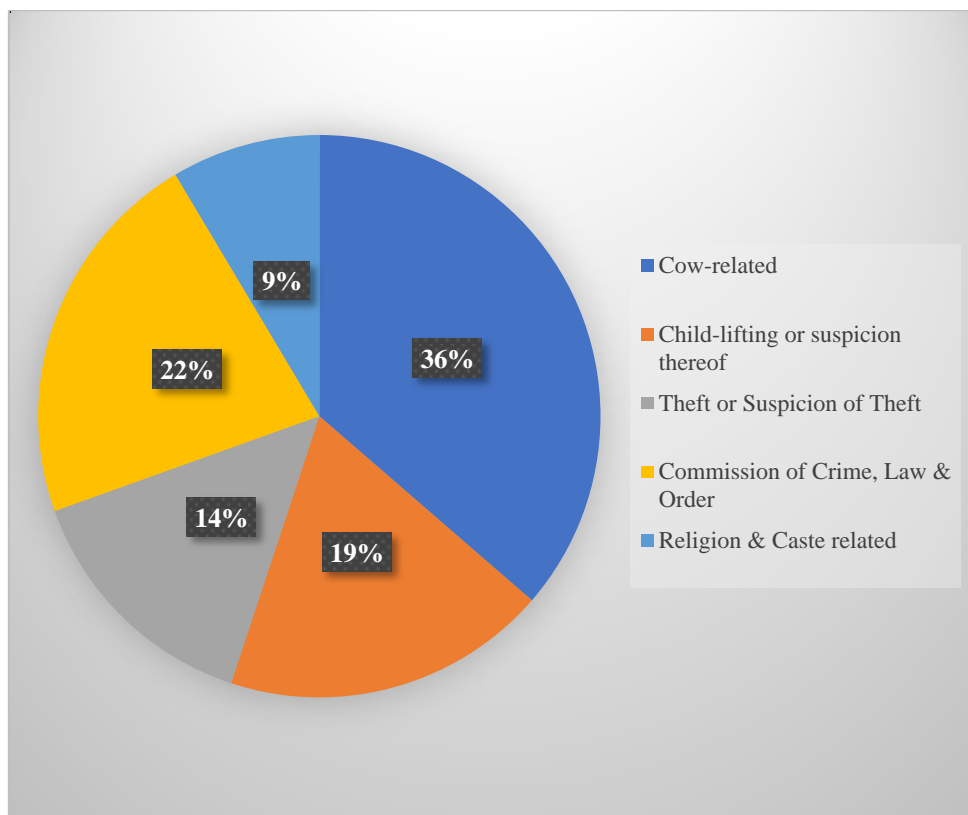


Figure 4.3: Triggers of Mob Lynching Incidents in India

#### 4.4.2.4 Trajectory of Mob Lynching Incidents vis-à-vis Triggers

As pointed out above, the three main triggers of mob lynching incidents have been cow-related, child lifting or suspicion of child lifting and theft-related. The analysis of the 235 incidents reveals an inconsistent pattern of occurrences of the three triggers vis-à-vis the period between September 2015 and 31 December 2021. The analysis of the same is presented hereunder in the form of Table 4.6.

**Table 4.6: Year-wise Mob Lynching Incidents vis-à-vis Triggers**

Period	No. of Cow-related incidents	No. of incidents related to Child lifting	No. of incidents related to Theft
September 2015- December 2015	03	Nil	Nil
2016	12	Nil	Nil
2017	24	02	03
2018	15	21	08
2019	07	10	06
2020	05	02	05
2021	09	03	20
<b>Total</b>	<b>75</b>	<b>38</b>	<b>42</b>

Source: Research Scholar's own compilation

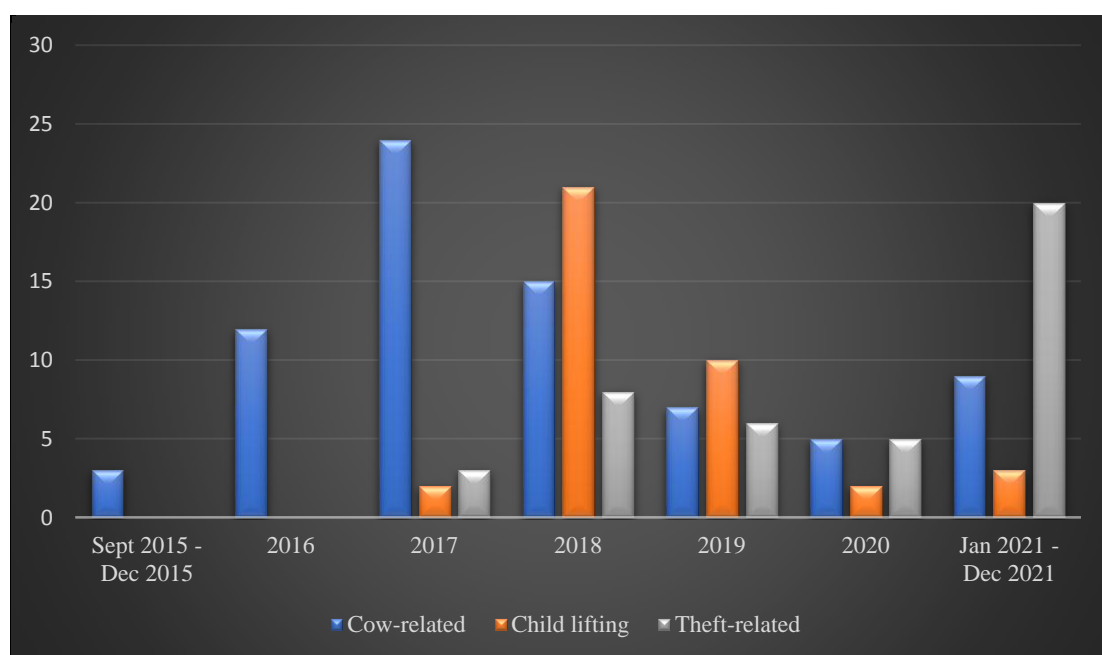


Figure 4.4: Year-wise Mob Lynching Incidents vis-à-vis Triggers

**Table 4.6 and Figure 4.4 reveal the following:**

*(i) Trends pertaining to Cow-related incidents* - Mob lynching incidents related to cow slaughter, cattle smuggling, consumption of beef, etc. were fewer in the year 2015. The numbers increased post Mohd. Akhlaq's lynching in Dadri, Uttar Pradesh in September 2015. Rather, the Dadri lynching triggered a spate of such incidents across the country. The years 2016 - 2018 saw a dramatic rise in such incidents with a peak in 2017 where twenty-four such incidents took place. The year 2018 saw the continuance of the mob lynching incidents. The intervention of the Supreme Court of India and issuance of preventive, punitive and remedial measures to the Central and State Governments led to a decline in the number of cow-related incidents.<sup>274</sup> The years 2019 and 2020 show a steady decline in the mob lynching incidents related to cow. However, in the year 2021, nine cow-related mob lynching incidents were reported. This only reveals that the macabre of mob lynching has once again begun.

*(ii) Trends pertaining to Child Lifting incidents* - The mob lynching narrative pertaining to rumours of child lifting began only in the year 2017 in which two incidents had occurred. Suspicion of child lifting and cases where victims were caught while attempting to kidnap children spiralled in the years 2018 and 2019. Maximum numbers of cases were reported in the year 2018 wherein twenty-one such incidents took place. The year 2019 saw a decline wherein ten such incidents took place. Only two incidents took place in the year 2020 and three incidents were reported in the year 2021.

*(iii) Trends pertaining to Theft-related incidents* - Mob lynching incidents due to suspicion of theft or where the victim was caught stealing became a part of the lynching narrative only in the year 2017. The numbers saw a peak in 2018 wherein eight incidents took place. In the year 2019, the numbers fell to six incidents and five incidents in the year 2020. However, twenty theft-related mob lynching incidents have been reported across the country in the year 2021. The year 2021 has reported the highest number of mob lynching incidents relating to theft when compared to the previous years.

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<sup>274</sup> Supra note 23.

## **4.5 RAISONS D'ÊTRE OF MOB LYNCHING**

India has witnessed collective violence in the form of Riots and Massacres since the medieval period. Manifestation of vigilantism in the form of mob lynching is a new and recent phenomenon in the Indian context. A study into the various incidents of mob lynching, not limited to the above-mentioned 235 incidents, has found its genesis in social and political factors, religion and caste-based prejudices, apart from lack of faith in the administration of criminal justice system. The narrative of collective violence in India has more often been based on religion, caste-based divide and prejudices. Collective violence due to lack of faith in criminal justice system is a new chapter added to its narrative. The various reasons leading to the phenomenon of mob lynching in India are discussed in this part of the study and they are as under:

### **4.5.1 Religion and Religious prejudices**

India is home to diverse religions, cultures, languages and ethnicity. Nine major religions, namely, Hinduism, Islam, Sikhism, Christianity, Jainism, Buddhism, Judaism, Zoroastrianism and the Bahai faith are practised in India.<sup>275</sup> These diverse religions have flourished in India since the medieval period due to the policy of 'live and let live' adopted by the people of India and the encouragement given by the rulers like Akbar, Ashoka and Chandra Gupta. The Constitution of India adopted in 1950 declares the Indian Republic to be a secular State. Though people belonging to different religions have more or less lived harmoniously, intermittent clashes between groups belonging to different religions have been witnessed since the medieval period. Riots between Hindus and Muslims, Hindus and Sikhs have been witnessed in independent India, too. The religious divide and religious prejudices exist even today. It is this bitter reality that the Indian society has to accept. Mob lynching related to cow vigilantism stems from the religious divide and prejudices. Chapter 3 of the present study had at length discussed how cow became the flashpoint of many a riot between the Hindus and Muslims and how the Mughal invaders slaughtered cows to denigrate the Hindus. The followers of Islam consider it holy to sacrifice a cow during their festivals and partake its flesh. On the other hand, cow is considered to be holy by the Hindus. It is considered to be a bounden duty of the Hindu to worship and protect

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<sup>275</sup> Cultural India, *Indian Religions*, CULTURAL INDIA, <https://www.culturalindia.net/indian-religions/> (Last visited Jan. 25, 2021).

cows. This conflicting belief of the two religions and their practices has been one of major reasons of cow vigilantism in India. Thus, cow slaughter, rumours of cow slaughter, consumption of beef or suspicion thereof, cattle smuggling for the purposes of cow slaughter or its suspicions have sparked a frenzy of attacks on the victims. In all these cases of cow vigilantism, the Muslims have emerged as victims while the perpetrators were Hindus. The perpetrators were so much blinded by the religious divide and prejudices that they lynched the victims in many cases on the basis of rumours without even verifying the truth. The innocent victims were lynched by mobs and had to pay with their lives.

The lynching of Muslims for not chanting 'Jai Shri Ram', for wearing a scarf or skull cap, has clear linkages to hatred emanating from religious divide and prejudice. Even Inter-faith relationships have not been spared by the mobs.

Seventy-four years of independence, education, technological and industrial growth, has not helped India shed its medieval era religious prejudices. The divide still persists and sometimes, it is fanned by vested interests to attain political power.

#### **4.5.2 Caste and Caste-based prejudices**

The Hindu society was divided into various castes, based on division of work in Ancient India. These divisions were fluid. However, with the passage of time, caste-fluidity attained rigidity. The members of the upper caste used to perpetrate violence on members of the lower caste to maintain status quo and social dominance. The former feared that if the latter were allowed to change their avocation, they would usurp the power of the upper-caste members. Thus, the members of the lower caste were forced to do menial jobs and were subjected to many atrocities. Caste-based violence in the form of massacres have rocked India. To counter this problem, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was passed. However, the caste-based violence and atrocities still permeate not only in rural India but also in towns and cities. Massacres have now been replaced by mob lynching incidents. Dalit men have been attacked for having relationship with girls belonging to the upper caste. Lynching of Dalits, only illustrates that caste-divide and caste-based prejudices still persist. Dalits have been lynched for suspicion of cow slaughter when they were only skinning the carcass of a dead cow. Twenty-two-year-old Jayesh Solanki, a Dalit, was lynched for watching 'Garba' from a distance which

was being performed in a temple during the Navratri festival in Anand, Gujarat.<sup>276</sup> Piyush Parmar, a Dalit, was lynched for sporting a moustache in Ahmedabad. Pradeep Rathod was beaten to death by upper-caste members for riding a horse in Bhavnagar.<sup>277</sup>

Sporting a Moustache, riding a horse and watching ‘Garba’ are considered to be the entitlements of the upper-caste members alone. The upper-caste members felt threatened by these small harmless acts of Dalits and were lynched to reinforce their (upper-caste members) superiority and ensure that the Dalits remained at the bottom of the social ladder. These incidents only show that caste-based prejudices have contributed to statistics of mob lynching in India.

### **4.5.3 Lack of faith in the Criminal Justice System**

Rule of Law is the hallmark of a civilized society. The acts of the governed and the governing should be guided by this sacrosanct rule. When the organs charged with the responsibility of implementing and administering law, falter or fall short of fulfilling their duties, faith of the masses in them, wanes. When faith of the people wanes in organs of the State, they take law into their own hands, leading to anarchy and vigilantism. The various reasons which have contributed to the loss of faith of the masses in the administration of justice have been analysed in this segment of the study.

**4.5.3.1 Crime and Punishment** - Amongst the various incidents of mob lynching, most of them are related to cases pertaining to commission of theft or suspicion of commission of theft, child lifting or rumours of child lifting, commission of murder, rape, extortion and drug peddling. In most of these incidents, mobs got together and beat up the suspected offender. Instances are not wanting when a Murderer or Rapist was lynched to death by an irate mob. Pappu Kumar, a youth from Punjab was lynched to death for raping a ten-year-old girl.<sup>278</sup> In February 2019, an Assamese youth was tied to a tree and beaten to death in Vellore, Tamil Nadu for suspected

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<sup>276</sup> The Wire Staff, *Dalit Man Lynched in Gujarat for watching Garba Performance*, THE WIRE (Oct. 2, 2017), <https://thewire.in/caste/dalit-gujarat-lynched-garba> (Last visited on Feb. 18, 2021).

<sup>277</sup> D. Dhar, *In Gujarat, Dalits Under Attack for Watching Garba, Sporting Moustache*, THE WIRE (Oct. 4, 2017), <https://thewire.in/caste/gujarat-dalits-attack-watching-garba-sporting-moustache> (Last visited on Feb. 18, 2021).

<sup>278</sup> G. Dheer, *Minor raped in Punjab, accused lynched to death*, DECCAN HERALD (Jun 2, 2019), <https://www.deccanherald.com/national/north-and-central/minor-raped-in-punjab-accused-lynched-to-death-737736.html> (Last visited on Feb. 19, 2021).

theft. On receiving the news, the police rushed to the spot and retrieved the body. The three perpetrators of the crime were arrested. When questioned by the press reporters, the police rationalized the act of the perpetrators as a reaction to the spate of robberies by North Indians in the area.<sup>279</sup> Ariman Yadav was lynched by a mob in Uttar Pradesh for killing a Teacher in September 2020.<sup>280</sup> Gurpreet Singh and his grandfather in Tanda, Punjab were beaten up by a mob when the half-burnt body of a young missing girl was found in their house. The accused admitted to raping and killing the girl. The police rescued both the accused. The mob insisted that the accused be handed over to them so that they could give justice to the young girl and her family.<sup>281</sup> Biswajit Das and Hardhan Das, history-sheeters were released on bail by the government to decongest the prisons due to Covid in April 2020. However, they were lynched to death by villagers. The villagers perceived that the history-sheeters did not deserve to be out on bail and that they would commit crimes again.<sup>282</sup> Akku Yadav<sup>283</sup> and Syed Farid Khan's<sup>284</sup> lynching described in the first segment of the present chapter only reiterate the fact that people have lost faith in the administration of criminal justice system. The fear that the perpetrators of crime would escape punishment and that victims would have to wait for justice interminably has propelled the common people to take law into their own hands.

The efficacy of the administration of criminal justice system is reflected in its ability to curtail the crime rate, increase the conviction rate and reduce the pendency of cases. According to the NCRB Report 2020, the crime rate was 487.8% and the conviction rate was 38.08%. Almost 4.7 crore cases are pending in various courts across all levels of hierarchy in the country.<sup>285</sup> The same has been depicted in the form of Table 4.7 given below.

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<sup>279</sup> DT Next, *Assamese youth caught for theft lynched in Vellore*, DT NEXT (Feb. 6, 2019), <https://www.dtnext.in/News/TamilNadu/2019/02/06044551/1105644/Assamese-youth-caught-for-theft-lynched-in-Vellore.vpfb> (Last visited on Feb. 19, 2021).

<sup>280</sup> P. Chakraborty, *Uttar Pradesh: Man shoots teacher to death in Kushinagar, lynched by mob in presence of police*, THE TIMES OF INDIA (Sep. 7, 2020), <http://timesofindia.indiatimes.com/articleshow/77983069.cms> (Last visited on Feb. 19, 2021).

<sup>281</sup> Supra note 236.

<sup>282</sup> A. Saha, *Assam: Two brothers released as part of prison decongestion killed by mob*, THE INDIAN EXPRESS (Apr 22, 2020), <https://indianexpress.com/article/north-east-india/assam/assam-two-brothers-released-as-part-of-prison-decongestion-killed-by-mob-6373893/> (Last visited on Feb 22, 2021).

<sup>283</sup> Supra note 206.

<sup>284</sup> Supra note 211.

<sup>285</sup> Supra note 199.



**Table 4.7: State of Administration of Justice**

<b>Sr. No.</b>	<b>Subject</b>	<b>Statistics</b>
1	Crime Rate	487.8%
2	Conviction Rate (Average conviction rate of IPC related crimes)	38.08%
3	No. of cases in pending in all courts	4.7 crores

Source: Research Scholar's own compilation based on NCRB Report 2020 & Supreme Court and The Hindu

The above statistics paint a dismal picture of the administration of criminal justice system. These do not instil confidence in law enforcement or justice dispensing system. The lack of faith in the police is evident in most of mob lynching incidents that have taken place. Even in cases where the police reached the spot to rescue the victim, the mobs demanded that the victim be handed over to them and attacked the police, too. In some of the incidents like the Palghar Mob Lynching Case, the police could not prevent the mob from killing the victims.

The audacity shown by the mobs stems from the fact that victims of crime have had to wait for justice for years together while the perpetrators are either out on bail or are acquitted by courts on technical grounds. The feeling that the criminal justice system has failed to punish the guilty has led the people take law into their own hands. This is evident from the fact that out of 235 cases of mob lynching studied by the Research Scholar, 136 cases relate to suspicion of theft, child lifting and commission of crimes like, rape, murder, etc. A cursory look at the break-up is depicted in Table 4.8 given below.

**Table 4.8 Break-up of Mob Lynching Incidents vis-à-vis Crime**

<b>Sr. No.</b>	<b>Triggers of Mob Lynching</b>	<b>No. of Incidents</b>
1	Child Lifting/Suspicion of child-lifting/Child Trafficking	38
2	Theft-related	42
3	Commission of other Crimes, Law & Order related	56
	<b>Total</b>	<b>136</b>

Source: Research Scholar's own compilation from the various incidents studied

The above figures are a testimony to the fact that people have lost faith in the criminal justice system and it has a direct co-relation to state of administration of criminal justice system in India. The police and the judiciary are the most important organs of the administration of criminal justice. If these organs fail, the entire justice system fails. However, these organs are beseeched with various problems leading to the incidents of mob lynching in India. Therefore, it is pertinent to discuss the same at this juncture and the same ensues here under.

**4.5.3.2 Problems of the Indian Police Force** - The Police-to-population ratio in India is 144 policemen per 1,00,000 people while the recommended ratio by the United Nations is 222 policemen per 1,00,000 people. There exists an overall vacancy of 30% in the Indian Police Force.<sup>286</sup> The under-staffed police force finds it difficult to grapple with the ever-increasing crime rate. The executive interference in policing functions, over-burdened and under-staffed police force, out-dated weaponry, lack of adequate training in criminal investigations, etc., plagues the Indian Police Force. These have directly impacted the crime and conviction rates, thus, rendering the criminal justice system handicapped. The figures depicted in Table 4.7 reflect this poor state. Apart from these, corruption, custodial deaths, religious biasness, lack of empathy shown by the police has led to loss of credibility and trust in the eyes of the general public. This has further fomented the people to take law into their own hands.

**4.5.3.3 Problems of the Indian Judiciary** - As pointed out in Table 4.7, there is an overall pendency of 4.7 crore cases in the various courts of the country. The pendency of cases is directly linked to vacancies in judiciary.

**Table 4.9 Judicial Vacancies in various courts in India**

Date	Court(s)	No. of Vacancies
2021	Supreme Court of India	04 <sup>287</sup>
2021	High Courts	419 <sup>288</sup>
2018	District & Subordinate Courts	5133 <sup>289</sup>

Source: Supreme Court Observer and Department of Justice, Government of India.

<sup>286</sup> Supra note 197.

<sup>287</sup> Department of Justice, Vacancy positions, <https://doj.gov.in/appointment-of-judges/vacancy-positions> (Last visited on Mar 23, 2021).

<sup>288</sup> Ibid.

<sup>289</sup> <https://www.scobserver.in/court-case/judicial-vacancies-in-the-lower-courts>, visited on 23/03/21 at 12:54 p.m. Case-Number: Suo Motu WP (C) 2/2018; CA 1867/2006 (Case pending).

In the light of the above, the Indian Judiciary is unable to dispose of the various cases filed before it.

Apart from judicial vacancies, the problem of mandatory transfers of Judges every three years hampers the disposal of the cases. Likewise, non-availability of witnesses and evidence, protracted proceedings, all add to the factors leading to pendency of cases. Corruption in judiciary and delay in justice delivery has led to loss of credence in the judiciary. This has further led the people take law into their own hands when faced with infractions of law.

#### **4.5.4 Legislative overreach of Cow Protection Laws**

Though the various laws relevant to the study would be discussed and analyzed in Chapter 5, entitled, 'The Contours of Law and Vigilantism', it is pertinent to discuss how the cow protection laws enacted by the various States have led to a rise in mob lynching incidents in India at this juncture. These laws have a direct linkage to the mob lynching incidents relating to cow and the same is discussed as under:

**4.5.4.1 Widened ambit of the Cow Protections Laws** - Twenty-two States and seven Union Territories in India have passed cow protection laws. These laws were enacted with the object of preventing illegal slaughter of cows. Some of the States have imposed a partial ban on cow slaughter while others have imposed a total ban. However, most of the States have widened the scope of the law by criminalizing transportation of cows, transportation, sale, or possession of beef apart from criminalizing cow slaughter. Due to the widened ambit of the cow protection laws, more victims and even innocent traders, transporters have fallen prey to mob lynching incidents.<sup>290</sup> Apart from widening the scope of the laws, some States have imposed stringent punishment.

##### **Illustration:**

In Jharkhand, sale or possession of beef attracts a minimum of one-year rigorous imprisonment and a maximum of ten years along with a fine that may extend up to Rs. 10,000/-.<sup>291</sup>

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<sup>290</sup> Supra note 16.

<sup>291</sup> Jharkhand Bovine Animal Prohibition of Slaughter Act, 2005 (Jharkhand Act no. 11 of 2005), s. 12(1).

Also, States like Gujarat, Rajasthan, Uttar Pradesh, Haryana, etc., vide the cow protection laws punish transportation, sale or possession of beef, too.

In States like Haryana, Jharkhand, Uttar Pradesh, Rajasthan and Gujarat, where the punishment under the cow protection laws is stringent, more incidents of mob lynching related to cow have occurred. Contrastingly, in States like Meghalaya, Mizoram, Sikkim and Nagaland where there are no cow protection laws, no incidents of mob lynching related to cow have been reported. Thus, cow protection laws have a direct linkage to the mob lynching incidents emanating from all things related to cow.<sup>292</sup>

**4.5.4.2 The problem of Burden of Proof** - The burden of proof is cast on the accused persons under the cow protection laws passed by most of the States. This implies that the accused has to prove that he is innocent. This is a deviation from the established principles of criminal jurisprudence. Proving the innocence or the negative is always more difficult. This only encourages the cow vigilantes to resort to violence in the name of cow protection.

**4.5.4.3 Gau Rakshaks and Immunity from Prosecution** - The wide protection accorded to the Gau Rakshaks has emboldened them to attack and lynch victims on suspicion of cow slaughter, cow smuggling, consumption, possession or sale of beef. Immunity from prosecution or legal proceeding for acts done in 'good faith' puts the Gau Rakshaks beyond the reach of law.<sup>293</sup> The 'good faith' protection clauses have been incorporated in most of the State enactments. To add salt to injury, the Gau Rakshaks are merely common citizens vested with policing powers and empowered to act to achieve the objects of the cow protection laws. The Gau Rakshaks are neither trained in policing functions nor sensitized to the fundamental and constitutional rights of the people. Vesting of policing powers in untrained civilians has led the Gau Rakshaks to abuse these powers and to the death of many a victim in the mob lynching incidents.

Thus, the legislative overreach of the various cow protection laws has led to the victimisation of innocent persons and emboldened the Gau Rakshaks by according immunity from prosecution. This overreach has made the Gau Rakshaks, vigilantes and contributed to rise of mob lynching incidents in India.

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<sup>292</sup> Supra note 16.

<sup>293</sup> Jharkhand Bovine Animal Prohibition of Slaughter Act, 2005 (Jharkhand Act no. 11 of 2005), s. 18.

#### **4.5.5 Poor conviction rate under Cow Protection Laws**

Cow slaughter has been prohibited in twenty-two States and seven Union Territories of India vide various cow protection laws. Various acts like cattle smuggling, cattle theft, transport, sale, consumption and possession of beef have been made punishable under these laws. Cases of infringement or violations of the provisions of the various cow protection laws have been reported and the violators have been charged. However, the conviction rate under these laws is very poor. As an illustration on the point, in the State of Gujarat, hundreds of cases have been filed since 2011 but only one conviction has been secured in 2016.<sup>294</sup> Likewise, in the State of Haryana, 800 hundred cases have been filed under the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 till 2019 and not a single conviction has been secured.<sup>295</sup> The same situation pervades in the rest of States in the country. The poor conviction rate or lack of conviction has permeated a feeling amongst the Gau Rakshaks that the administration of criminal justice system has failed in curbing the various infractions of cow protection laws. This feeling of inaction or seeming inaction has led the Gau Rakshaks to take law into their own hands. This feeling is similar to the feeling experienced by people who have felt that the perpetrators of crime have either escaped punishment or have been given a lighter punishment in relation to the crime committed. The poor conviction rate under the cow protection laws cannot act as a justification for the Gau Rakshaks to take law into their own hands but it definitely contributes to the reasons of cow vigilantism in India and therefore, it cannot be brushed under the carpet.

#### **4.5.6 Unenlightened Citizenry**

The Indian Constitution protects the fundamental rights of every citizen and in some instances that of non-citizens, too. However, none of the rights are absolute. Article 14 guarantees the right to equality. Article 15 protects citizens from being discriminated against by citizens as well as State on the basis of caste, creed, religion, etc. Article 21 protects life and liberty of citizens as well as non-citizens. Articles 20

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<sup>294</sup> K. Saiyed, S. Jha, *Gujarat cow law: Hundreds of cases, but only one conviction since 2011*, THE INDIAN EXPRESS (April 3, 2017), Gujarat cow law: Hundreds of cases, but only one conviction since 2011 (Last visited May 23, 2022).

<sup>295</sup> S. Sharma, *800 Cases, Zero Conviction: Calling Out The Bluff On Haryana's Tough Anti-Cow Slaughter Act*, SWARAJYA (Nov 19, 2019), <https://swarajyamag.com/politics/800-cases-zero-conviction-calling-out-the-bluff-on-haryanas-tough-anti-cow-slaughter-act> (Last visited May 23 2022).

and 22 confer certain rights on the accused and lay down procedural safeguards in case of arrest of an accused, respectively. The preamble of the Indian Constitution emphasizes equality and fraternity as its cherished values. Protection and respect of these rights and values is not merely the task of the judiciary and the police but is also the duty of every citizen.

However, all these rights and values have merely become ornamental. Every citizen has to imbibe and practice the spirit underlying the values of our constitution. However, citizens have not risen above their vested and selfish interests, regionalism and religious differences. The overall literacy rate in India is 73.2 percent.<sup>296</sup> There are 313 million people who are illiterate.<sup>297</sup>

This poses as a major obstacle in understanding and respecting democratic values. Even where people are educated, the awareness as to the constitutional values is either lacking or they are indifferent to them. This pettiness only makes up for an unenlightened citizenry who can only subvert the constitution. Enlightened citizenry will ensure that people do not perceive caste, cultural and religious differences as a threat to their own caste, culture and religion. Respect for democratic values and fundamental rights of others would be fostered. It is only an enlightened citizenry that can make the Indian democracy truly a unity in diversity.<sup>298</sup> The various incidents of mob lynching have revealed the lack of respect for fundamental, democratic and constitutional values by the perpetrators. It is this disregard and disrespect for the rights of others by the perpetrators that has led to the birth and rise of vigilantism in India.

#### **4.5.7 Political Parties and their Ideologies**

Religion and caste have played a major role in politics and ascendance to power. The various political parties have discerned the formula of winning elections and have used religion and caste as a tool to attain political power. The ideologies of some of the political parties echo the religious sentiments and goals of a particular segment of the population. These are also reflected in the laws enacted by the political parties when they come into power. Primacy is given to the religious and caste-based sentiments over democratic and constitutional goals. The unenlightened citizenry is

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<sup>296</sup> T. Chandra, *Literacy in India: The Gender and Age Dimension*, OBSERVER RESEARCH FOUNDATION (Oct 2019), <https://www.orfonline.org/research/literacy-in-india-the-gender-and-age-dimension-57150/> (Last visited on Mar 23, 2021).

<sup>297</sup> Ibid.

<sup>298</sup> Tarakeshwari D. Bulusu, *A Lynch Mob State: The New Identity of the Indian Democracy?* in LEX ET SOCIETATIS. K. D Gardner ET AL (ed.), Infinity Publishing, India, Pp 542-543 (2019).

swayed by these considerations and votes such political parties to power. It is when such parties attain power, the politics of divide and hate is played out by some of its players. Cow has always been central to the Hindus. Protection of cows and prevention of their slaughter has always been considered to be the bounden duty, dharma of the Hindus. In most of the incidents of mob lynching related to cow, it is the Gau Rakshaks and activists of Bajrang Dal who have waylaid the victims or dragged them out of their homes and lynched them. The nexus of Gau Rakshaks and the fringe political parties affiliated to the ruling party has led to the killing of many a person from the minority community. The perpetrators could have acted within the bounds of cow protection laws in preventing suspected cases of cow slaughter and cattle smuggling. Instead, they resorted to extra-judicial killing in the name of dharma. Further investigations have revealed that the victims of these extra-judicial killings included many innocent persons. The cow politics did not end with the lynching. The cow vigilantes have not only been shielded from law enforcement by the political leaders but have also been encouraged by them.

### **Illustrations:**

Union Minister Jayant Sinha, a member of the Bharatiya Janata Party (BJP), felicitated the eight convicted persons in Alimuddin Ansari Lynching Case by garlanding them after the court granted them bail.<sup>299</sup>

Mr. Gyan Ahuja, a member of the BJP claimed that those arrested in Akbar Khan Lynching Case in July 2018 were innocent and exhorted the police to release them. He also demanded that the associate of Akbar Khan who was able to escape the lynch mob be arrested and charged for cow smuggling.<sup>300</sup>

Brazen support by the some of the leaders belonging to the ruling party has only further emboldened the cow vigilantes.

Likewise, inter-faith relationships have been termed as ‘Love jihad’ by some political leaders and parties, stoking the sentiments of the masses. Attacks by members belonging to the majority community on couples in inter-faith relationships have been fomented due to the politics of divide.

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<sup>299</sup> The Wire Staff, *BJP Minister Jayant Sinha felicitates “Gau Rakshaks” Convicted for Ramgarh Murder*, THE WIRE (Jul. 7, 2018), <https://thewire.in/communalism/bjp-minister-jayant-sinha-gau-rakshaks-convics-ramgarh-lynching> (Last visited on Mar. 23, 2021).

<sup>300</sup> Summary by Human Rights Watch, *Violent Cow Protection in India: Vigilante Groups Attack Minorities*, HUMAN RIGHTS WATCH (Feb. 18, 2019), <https://www.hrw.org/report/2019/02/18/violent-cow-protection-india/vigilante-groups-attack-minorities> (Last visited on Apr. 2, 2021).

Thus, the political ideologies and support of political leaders have played out a macabre role in fomenting incidents of mob lynching.

#### **4.5.8 Technology and Dissemination of Rumours**

In the various incidents of mob lynching, it has been found that dissemination of rumours through WhatsApp and Facebook have enabled the mobs to rally within a span of few minutes and play out the macabre story of lynching. Videos of hate speeches and fake videos of alleged child lifters have been posted and propagated on social media. Rumours of cow slaughter or consumption of beef have been disseminated through WhatsApp and Instagram. Misuse of these social media platforms have played a very important role in the incidents of mob lynching. Unfortunately, these social media platforms are largely unregulated and the Indian Laws are not adequate to tackle the problem. Besides, the social media companies do not take adequate steps to curb misinformation and rumours in the name of freedom of speech and expression of its users. The fear of losing users and business, prevents the social media companies from making stringent policies vis-à-vis dissemination of information through their platforms.<sup>301</sup> Thus, misuse of technology has led to the execution of many a mob lynching incident. The need of the hour is not to abandon technology but to check its misuse. It is the regulation of social media platforms which is necessary to prevent dissemination of misinformation and disinformation.

#### **4.6 IMPACT OF MOB LYNCHING**

Mob Lynching has far-reaching consequences on the victims, State and society. These consequences have been classified and discussed in this segment of the present chapter.

##### **4.6.1 Impact on Victims of Mob Lynching**

Mob lynching incidents have had far reaching impact on the physical and psychological health of the victims and their family members. Likewise, the attacks have led to the violation of the constitutional rights. The same have been discussed as under:

**4.6.1.1 Physical & Psychological Health** - Mob Lynching is nothing but extra-judicial killing of offenders or suspected offenders. It has resulted into loss of life and

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<sup>301</sup> Supra note 6.



caused grievous injuries to many victims. Table 4.3 and Figure 4.2 reveal the same. Apart from physical injuries, the victims have also suffered from psychological problems. The families of the victims too have suffered a psychological blow. Loss of life and psychological health cannot be quantified. The State compensation only acts like a Band-Aid to a cancerous wound.

**4.6.1.2 Violation of Constitutional Rights** - In a civilized society, the State alone has the right to deprive the citizen of his life and liberty, albeit, according to the procedure established by law. The Indian Constitution vide A. 21 guarantees this right to every individual, whether a citizen or a non-citizen. Lynching a person thus, entails violation of this fundamental right guaranteed by the Indian Constitution. Likewise, targeting an individual on the basis of religion and caste violates Aa. 14 and 15 of the Indian Constitution which guarantee right to equality and prohibit discrimination against individuals on the basis of caste, creed, religion, etc., respectively. Extra-judicial killing violates the right of an accused to defend himself and right to fair trial. Thus, mob lynching violates the various constitutional rights of the victim.

#### **4.6.2 Impact on the State**

When citizens disregard the democratic values and take law into their own hands, it leads to subversion of the constitution. It undermines the sacrosanct principle of rule of law and places people above the law. Mob lynching leads to anarchy in any State that tolerates it. It threatens the very tenets of a democracy and the very existence of a State.

#### **4.6.3 Impact on the Society**

Citizens of a State are entitled to live in peace and tranquillity. When unruly mobs attack people and lynch them, there is an atmosphere of fear and uncertainty created. People live in constant fear as the State machinery is not able to control the vigilantes which in turn leads to loss of faith in the various organs of the State. This loss of faith in the State creates discontent amongst the masses and can lead to fall of the government as well as the State. The various incidents of mob lynching have also eroded the confidence of the people in the institution of State. This is a dangerous sign.

## 4.7 CONCLUSION

The Research Scholar in the present chapter analyzed the various incidents of mob lynching and tried to understand the various triggers and causes underlying these incidents. It has been found that cow slaughter or its suspicion, cow smuggling, transportation, sale or possession of beef, were the major triggers of mob lynching incidents between 2015 and 2018. The cause of such incidents lies in religious-beliefs of the Hindus and Muslims and overreach of cow protection laws in the various States. Child lifting and or its rumours dominated the lynching scene in the years 2018 and 2019. Lynching due to commission of theft or suspicion of committing thefts began in the year 2017 and peaked in 2018 and 2019. These continued to be the triggers in 2020 and 2021 while the other triggers pertaining to cow and child lifting had reduced. The other major category has been the lynching of individuals who have committed crimes like rape, murder, extortion and drug peddling. The triggers pertaining to child lifting, theft and the commission of crime have their genesis in loss of faith in administration of criminal justice system. The other causes leading to mob lynching incidents have been found to be Caste-based prejudices, Unenlightened citizenry, ideologies of political parties and their support to vigilantes and misuse of technology in disseminating rumours.

The study of Tables 4.5, 4.6 and Figure 4.4 may indicate that the mob lynching incidents have reduced since 2020. Incidents pertaining to cow vigilantism have reduced considerably since the intervention of the Supreme Court of India in July 2018. The fall in mob lynching incidents in 2020 may be attributed to the ongoing global pandemic and lock downs brought in India. However, in the year 2021, thirty-two incidents of mob lynching have occurred. The statistics only reveal that mob lynching incidents have begun once again. Till the underlying causes are rooted out, the lynching incidents would only continue.

The various incidents of mob lynching have not only led to loss of life of the victims but has also violated the constitutional rights of the victims. The atmosphere of fear perpetuated by the violence has only undermined and eroded the faith of the masses in the various institutions of the State.

**CHAPTER 5**  
**THE CONTOURS OF LAW AND VIGILANTISM**

## CHAPTER 5

### THE CONTOURS OF LAW AND VIGILANTISM

#### 5.1 INTRODUCTION

In Chapter 4, the Research Scholar discussed the extent of vigilantism in India, the various causes and the impact of mob lynching on the victims and their families, society and the State. The present chapter sought to analyze the sufficiency and the efficacy of the existing laws in combating incidents of mob lynching. It is pertinent to point that ‘Mob Lynching’ is not defined as a specific offence in any of the existing laws. Nor has the Parliament passed a special law to combat mob lynching, in spite of the directions given by the Supreme Court of India in July 2018.<sup>302</sup> It is only recently, that the States of Rajasthan, West Bengal and Jharkhand have enacted special legislations to combat incidents of mob lynching. The State of Manipur was first in point of time to pass the ‘Manipur Protection from Mob-Violence Ordinance, 2018’. However, an assent from the President of India is pending in respect of the State legislations of Manipur, West Bengal and Rajasthan as the Governors of the respective States have referred the Bills to the President. The Governor of Jharkhand has returned the anti-mob lynching bill passed by the State assembly with a few questions on it.

Mr. Rajiv Gauba, the then Union Home Secretary was appointed as the head of the committee set up on 22 July 2018 by the Union Government to study the problem of mob lynching. The Committee was to submit the report to the Group of Ministers (GoM). The GoM was to study the report and submit its recommendation to the Prime Minister. The Report was submitted by Rajiv Gauba Committee in August 2018 to GoM but no further action was taken. The GoM was reconstituted in July 2019.<sup>303</sup> However, no steps have been initiated to bring about a special legislation to combat mob lynching so far. To combat mob lynching and punish the perpetrators, the provisions of the Indian Penal Code, 1860 are being applied. Therefore, the relevant provisions of the said code have been analyzed.

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<sup>302</sup> Tehseen S. Poonawalla v. Union of India and Others, (2018) 10 SCC 498 (Supreme Court of India).

<sup>303</sup> G. Korgaonkar, *Three State Anti-Lynching Bills gather dust on President Kovind's table*, SABRANG (Nov. 4, 2019), <https://sabrangindia.in/article/three-state-anti-lynching-bills-gather-dust-president-kovinds-table> (Last visited on May 28, 2021).

Incidents of mob lynching have led to the gross violation of the various fundamental rights of the victims guaranteed by the Indian Constitution. The audacity with which violence was perpetrated has posed a challenge to the rule of law and the various organs of the State. To gauge the extent of this threat, relevant provisions of the Indian Constitution have been analyzed.

The overreach of the cow protection laws that are prevalent in twenty-two States and seven Union Territories of the country have led to many a mob lynching incident. An examination of the various provisions which have legitimized cow vigilantism has been made in the present chapter.

Apart from the above laws, the Research Scholar has presented an analysis of the Protection from Lynching Bill, 2017, a law drafted by an NGO, National Campaign Against Mob Lynching (NACL) and the anti-mob lynching bills passed by the State Legislative Assemblies of Manipur, Rajasthan, West Bengal and Jharkhand.

The relevant provisions of the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 have been analyzed.

## **5.2 THE CONSTITUTION OF INDIA, 1950.**

The various provisions of the Constitution of India, 1950 (Indian Constitution) relevant to the present study are depicted in Table 5.1 and it has been followed by an analysis of the same.

**Table 5.1:** Relevant Articles of the Indian Constitution vis-à-vis Vigilantism

<b>Sr. No.</b>	<b>Articles</b>	<b>Rights/Principles/Duties</b>
1	14	Right to Equality & Rule of Law
2	21	Right to Life and Personal Liberty
3	48	Organisation of agriculture and animal husbandry
4	48A	Protection and improvement of forests and wild life
5	51A(g)	Protection and improvement of the natural environment and compassion for living creatures

Source: Research Scholar's own compilation from the Indian Constitution.

### **5.2.1 Equality before Law and Rule of Law**

The State is bound to treat every person equally before law and it should accord equal protection of law. This sacrosanct right has been enshrined in the form of A. 14<sup>304</sup> of the Indian Constitution. The Article comprises of two limbs, namely, 'equality before law' and 'equal protection of law'. The object of these two limbs is to accord equal status to all persons.

According to Prof. Dicey,

'Equality before law implies absence of any special privilege in favour of individuals and equal subjection of all classes to the ordinary law. Equal protection of law implies equality in treatment in equal circumstances.'<sup>305</sup>  
The first limb of A. 14 embodies the aspect of Rule of Law which implies that no person is above law. Every person, irrespective of his rank or status is subject to the law of the land'.<sup>306</sup>

Both these expressions carry the common idea of equal justice. The right of equality prevents the State from exercising arbitrary power in the application of law and imposing punishment for breach of law. Thus, A. 14 establishes the supremacy of law.

**5.2.1.1 Mob Lynching violates Rule of Law** - The Indian Constitution has underlined the supremacy of law vide A. 14. The power to punish an offender, vests with the organ which the law points to. It is the State alone which has the power to punish an offender for breach of law. Article 14 precludes even the State from acting arbitrarily against individuals. The lynching of persons on suspicion of cow slaughter, cow smuggling, commission of crime by private citizens is a violation of rule of law as they have no authority to punish an offender. Vigilantism has no place in a civilized society and a democracy. Vigilantism, thus, denies the victim the protection or guarantee given by A. 14 and poses a threat to the rule of law, leading to anarchy.

### **5.2.2 Right to Life and Personal Liberty**

Life and liberty of an individual are accorded protection by the Indian Constitution vide A. 21.<sup>307</sup> The Constitution forbids the deprivation of life and personal liberty of an individual. However, the life and liberty of an individual can be curtailed by adhering to a procedure stipulated by law. This right is considered to be so sacrosanct

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<sup>304</sup> See, Article 14, The Constitution of India, 1950 (Appendix 1).

<sup>305</sup> ALBERT V. DICEY, LAW OF CONSTITUTION 49 (10th ed. 1985).

<sup>306</sup> Id. at 202-203.

<sup>307</sup> See, Article 21, The Constitution of India, 1950 (Appendix 1).

that the State cannot curtail it arbitrarily and the procedure of law which curtails the life and liberty of an individual must be just, reasonable and fair.<sup>308</sup> The narrow interpretation of this Article was discarded by the Apex Court in *Maneka Gandhi v. Union of India* to widen its scope and include a myriad of rights. Post *Maneka Gandhi's* case, rights pertaining to environment, individual privacy, education, shelter, etc. were declared to be implicit in A. 21.

**5.2.2.1 Article 21 and Rights of accused persons, detenus and prisoners** - The right bestowed by A. 21 is not limited to the citizens of India. It protects the non-citizens too. This basic fundamental right extends to those accused of committing crimes, detenus and prisoners, too. The Supreme Court of India held that,

‘the right to live is not restricted to mere animal existence. It means something more than physical survival. The right to live includes the “the right to live with human dignity”, and all that goes with it, namely, the bare necessities of life such as adequate nutrition, clothing, shelter’.<sup>309</sup>

The Supreme Court of India has time and again reiterated that prisoners or those accused of crimes cannot be denied their fundamental rights vested in A. 21, in *Sunil Batra v. Delhi Administration*<sup>310</sup>, *Kishore Singh Ravinder Dev v. State of Rajasthan*<sup>311</sup>, *Charles Sobraj v. The Suptd., Central Jail, Tihar, New Delhi*<sup>312</sup> and many other cases. Thus, the protection of A. 21 encompasses ‘every individual’ including an accused, a detenu and a prisoner. Neither the State nor any individual can deprive a person of his life and personal liberty, arbitrarily.

**5.2.2.2 Mob Lynching, an infringement of Article 21** - The incidents of mob lynching that have rocked India from 2015 onwards, whether in the name of protecting the cow or on suspicion of committing crime or punishing an offender are manifest violations of the rights protected u/A. 21 of the Indian Constitution. The Constitution and the Penal Laws of India do not confer rights on private individuals to take law into their own hands, save while exercising the right of private defence. The right to punish offenders is the sole prerogative of the State. The extra-judicial punishment meted out by lynch mobs is transgression of the use of force, a right

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<sup>308</sup> *Maneka Gandhi v. Union of India*, AIR 1978 SC 597 (Supreme Court of India).

<sup>309</sup> *Francis Coralie Mullin v. Union Territory of Delhi*, AIR 1981 SC 746 (Supreme Court of India).

<sup>310</sup> *Sunil Batra v. Delhi Administration*, AIR 1978 SC 1976 (Supreme Court of India).

<sup>311</sup> *Kishore Singh Ravinder Dev v. State of Rajasthan*, AIR 1981 SC 625 (Supreme Court of India).

<sup>312</sup> *Charles Sobraj v. The Suptd., Central Jail, Tihar, New Delhi* AIR 1978 SC 1515 (Supreme Court of India).

singularly, vested in the State and a gross violation of the human rights of a victim protected by A. 21.

### **5.2.3 The Trilogy of Articles 48, 48A and 51A(g) of the Indian Constitution and Cow Vigilantism**

Articles 48 and 48A fall under the Community Welfare Charter of the chapter on Directive Principles of State Policy while A. 51A(g) is one of the Fundamental Duties laid down in A. 51A. It is the trilogy of these three Articles that have formed the genesis of the cow protection laws in India. An analysis of the same is presented below.

When India attained independence from the British, it was predominantly an agricultural country. Industrialisation was in its nascent stage. India was heavily reliant on manual labour and cattle for carrying out the agricultural activities. The Indian economy was heavily dependent on agriculture and other related occupations like dairy farming. It was, therefore, felt necessary by the framers of the Indian Constitution that milch and draught animals like cows, cow progeny, buffaloes and other agricultural cattle should be accorded protection. This responsibility of the State was laid down in A. 48<sup>313</sup> of the Indian Constitution.

Article 48A<sup>314</sup> was inserted in the Indian Constitution by the forty-second Amendment Act, 1976. It requires the State to take necessary steps to protect, conserve and improve the environment and forests. It also mandates the State to protect the wildlife existing in the country. All the three subjects of environment, forests and wildlife have been dealt within the same Article as they are inter-twined. Protection of environment helps in the conservation of the flora and fauna. The flora and fauna, in turn protect and improve the environment.<sup>315</sup>

Clause (g) of A. 51A<sup>316</sup> lays down the fundamental duty of every citizen to safeguard and improve the natural environment, water bodies and animals. It also exhorts the citizens to be kind towards all life forms. The words ‘kindness for all life forms’ embraces all animals including cattle. Thus, A. 51A(g) casts a duty on the citizens to

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<sup>313</sup> See, Article 48, The Constitution of India, 1950 (Appendix I).

<sup>314</sup> Id. at Article 48A.

<sup>315</sup> State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat & Ors., AIR 2006 SC 212 (Supreme Court of India).

<sup>316</sup> See, Article 51A, The Constitution of India, 1950 (Appendix I).



protect the environment and all living creatures. One of the goalposts set by the Parliament has been to honour the spirit of Aa. 48 and 48A as a fundamental duty of every citizen.<sup>317</sup> The Apex Court equated 'State' to 'all the citizens put together' and said that though A. 51A does not specifically entrust any duty to the State, it implicitly refers to the State.<sup>318</sup>

Article 51A(g) gives power to the State to make laws for protection of environment, forests, cows, cow progeny, other agricultural cattle and wildlife as envisaged vide Aa. 48 and 48A.

The trilogy of the Aa. 48, 48A and 51A(g) has led to the enactment of cow protection laws in India. The cow protection laws have made slaughter of cows, cow progeny and other agricultural cattle, transportation of cow, agricultural cattle, sale and possession of beef punishable. These cow protection laws contain provisions which enable the State to authorise private citizens, like Gau Rakshaks to act as informers. Also, the provisions granting immunity from prosecution to persons who act in good faith has led to vesting of policing functions in the private citizens. These provisions have emboldened the private citizens, especially, Gau Rakshaks, to attack persons suspected to have committed cow slaughter, cow smuggling or those suspected to be selling beef or are in possession of beef. Thus, the cow protection laws have given birth to cow vigilantism and have also led to its legitimization.

#### **5.2.4 Summary**

The analysis of the relevant Articles of the Indian Constitution in the light of vigilante acts has only revealed that private citizens in the name of cow protection are violating the fundamental rights of the victims of mob lynching. The Indian Constitution which forbids even the State from acting arbitrarily, does not confer any rights on private citizens to inflict punishment. The rule of law which is the basic structure of Indian Constitution has been threatened by the acts of vigilantes. The cow protection laws enacted by the States, though, fulfil the obligations laid down in Aa. 48, 48A and 51A(g) have unwittingly, legitimized the cow vigilantism.

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<sup>317</sup> Supra note 315.

<sup>318</sup> AIIMS Students' Union v. AIIMS and Ors., (2002) 1 SCC 428 (Supreme Court of India).

### 5.3 THE INDIAN PENAL CODE, 1860.

In most of the incidents of mob lynching analyzed by the Research Scholar, it has been found that the incidents have resulted into the grievous injuries and death of the victims. In some of the incidents, loss to property, in the form of theft or damage to the vehicle of the victim has also occurred. The resultant disturbance to the peace of the society by the mob lynching incidents has seen the invocation of the provisions that punish offences against public tranquillity. Likewise, provisions pertaining to offences against body and offences against property of the Indian Penal Code, 1860 (I.P.C) have been and are being applied. The perpetrators have been and are being charged under the relevant provisions of the three chapters, namely, Offences affecting the human body, Offences against public tranquillity and offences against property.

The various provisions of I.P.C that have been and are being applied **have been culled by the Research Scholar and the same are depicted in Table 5.2 given below.**

**Table 5.2:** Relevant Provisions of the Indian Penal Code, 1860 vis-à-vis Mob Lynching

Sr. No.	Sections	Offence
1	141-145	Unlawful Assembly
2	146-149	Rioting
3	153A	Acts promoting enmity between different groups endangering peace.
4	302	Punishment for Murder
5	304	Punishment for culpable homicide not amounting to murder
6	307	Attempt to Murder
7	308	Attempt to commit culpable homicide
8	323-326	Hurt, grievous hurt and their aggravated forms
9	341-342	Punishment for Wrongful Restraint & Wrongful Confinement
10	435	Mischief by fire or explosive substance
11	447-448	Punishment for Criminal Trespass & House-Trespass
12	34	Common Intention & Joint Liability
13	120B	Punishment for Criminal Conspiracy

Source: Research Scholar's own compilation from the Indian Penal Code, 1860.

The analysis of the above-mentioned provisions of the Indian Penal Code vis-à-vis Mob Lynching is presented as under:

### **5.3.1 Section 141 vis-a-vis Mob Lynching – An Analysis**

An analysis of the incidents of mob lynching that have occurred across the country has revealed the involvement of five or more persons in some cases. The mob lynching incidents have witnessed the participation of thirty-forty people in some cases and hundreds in some. In most of the cases, the numbers have been more than five. Such mobs have been mobilized primarily through instant messaging system like WhatsApp and Face Book. In the lynching of Mohd Aklaq, a loudspeaker was used to instigate the people against the victim. Though mobilization and gathering were instantaneous, they were premeditated. The mobs had gathered with the object of assaulting, causing grievous injuries and death of the victims in the various incidents that have been reported. Such a gathering undoubtedly falls within the scope of s. 141<sup>319</sup> and can be deemed to be an unlawful assembly. In the absence of specific provisions punishing mob lynching, to deter and prevent the mobs from gathering, s. 141 has been applied. This section also makes the preparation stage of lynching punishable.

However, there are certain limitations faced in the application of this section and the same are discussed below:

**5.3.1.1 The definition of unlawful assembly has a limited application to Mob Lynching cases** - Application of s. 141 in cases of mob lynching can be justified only to the extent of the following two clauses of s. 141 of the I.P.C: -

(iii) where the object is to commit mischief of any form or criminal trespass, or other offence; or

(iv) where the object is to take possession of property of an individual forcibly or dispossess any person of his property by use or show of criminal force or deprive any person of the enjoyment of incorporeal and easementary rights.<sup>320</sup>

If the principle of ejusdem generis is applied to the interpretation of clause (iii), then the use of words ‘other offence’ after the words ‘to commit mischief or criminal trespass’ implies

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<sup>319</sup> See, Section 141, The Indian Penal Code, 1860 (Appendix II).

<sup>320</sup> Ibid.

the offences which fall in the category of mischief and criminal trespass. If this natural interpretation is given to the words 'other offence', the application of s. 141 to mob lynching cases will be severely restricted. Most of the mob lynching incidents have occurred with the object of administering justice or inflicting punishment to the transgressors of law or social norms. Such acts are beyond the ambit of s. 141.

**5.3.1.2 Where the mob constitutes less than five members** - Minimum five members are required to constitute an unlawful assembly. Section 141 will be rendered ineffective in case of a lynching incident in which less than five persons (perpetrators) are involved. There have been cases where two or three persons have lynched the victims. Such cases cannot be tried under this section.

**5.3.1.3 Where some of the members of the Unlawful Assembly are acquitted** - Section 141 becomes ineffective if some of the perpetrators constituting an unlawful assembly are acquitted by the court and the number of perpetrators becomes less than five. This can be explained with an illustration given below.

**Illustration:** At the time of framing the charges there were seven persons involved in the lynching. However, during the trial, the court does not find any concrete evidence inculcating three of the members of mob (Unlawful Assembly) and it acquits such members. The remaining four members whose role is proved cannot be charged under s. 141 as they no longer constitute an unlawful assembly. To constitute an unlawful assembly, a minimum of five members are required. The trial of the remaining four members cannot continue under s. 141. To secure their conviction or to try them, new charges will have to be framed.

This limitation causes hardships to the prosecution and precious time is wasted in reframing the charges and conducting the proceedings. Thus, in the absence of a specific definition of mob and mob lynching, s. 141 has limited application.

### **5.3.2 Section 142 vis-a-vis Mob Lynching – Possibility of innocent bystanders being designated as members of unlawful assembly**

As a corollary to the preceding section, this section can be applied to define a member of an unlawful assembly. Thus, membership is defined and identified under s. 142<sup>321</sup>

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<sup>321</sup> See, Section 142, The Indian Penal Code, 1860 (Appendix II).

and it is made punishable under s. 143.<sup>322</sup> However, the application of the definition poses a few problems in mob lynching cases.

In some incidents of mob lynching, presence of bystanders or passerbys who stopped or gathered at the spot of occurrence has been found. Such innocent bystanders were not involved in the act of lynching. Attributing knowledge and intention to such persons based on their mere presence cannot render them members of an unlawful assembly. It has been seen in some of the cases of mob lynching, the prosecution relied upon the Cell Phone Tower Triangulation Records and Call Data Records (CDR) of all the persons found at the scene of occurrence to prove participation in the crime. These techniques can only prove the presence but not the intent or knowledge of a person. Thus, there is a danger of implicating an innocent person.

Also, it is difficult to prove whether the person is merely a bystander or a member of the unlawful assembly, especially, when the latter pleads that he was a bystander.

### **5.3.3 Section 144 and Mob Lynching – Effective to a limited extent**

Section 144<sup>323</sup> is an aggravated form of the offence defined u/s. 143. The risk to the public tranquillity being enhanced by the likely use of the deadly weapons, this section stipulates a more stringent punishment.

Mob lynching incidents emanating from suspicion of cow slaughter, cow smuggling, transportation, possession and consumption of beef have been pre-planned. The cow vigilantes or Gau Rakshaks on receipt of information of a suspected cow smuggling case would way-lay the victim and beat him with sticks, lathis, knives and swords. The injuries so inflicted have led to the death of many victims. Thus, the application of s. 144 is justifiable in case where more than five members have been involved in lynching a victim.

### **5.3.4 Section 145 vis-à-vis Mob Lynching – Justified in cases where there more than five perpetrators**

If an unlawful assembly has been commanded to disperse by the public authorities as per the procedure laid down by law and if any person joins or continues to remain in such an unlawful assembly, then he would be punished u/s. 145.<sup>324</sup>

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<sup>322</sup> See, Section 143, The Indian Penal Code, 1860 (Appendix II).

<sup>323</sup> Id. at s. 144.

<sup>324</sup> See, Section 145, The Indian Penal Code, 1860 (Appendix II).

In many cases, it has been found that on receiving information of an occurrence of mob lynching, the police had reached the spot and had commanded it to disperse. In spite of the orders, the perpetrators did not disperse but attacked the police and prevented the latter from rescuing the victim. And in some instances, like the Palghar Mob Lynching Case and Dimapur Mob Lynching Case, the victims were captured from the custody of the police and beaten to death. The police were outnumbered by the mobs and they merely remained mute spectators. Thus, the application of s. 145 is justified in cases of mob lynching where more than five perpetrators are involved in lynching.

### **5.3.5 Section 146: Rioting and Mob Lynching**

Section 146<sup>325</sup> defines the offence of rioting. Where an unlawful assembly employs violence in pursuit of its common object, each member would be guilty of committing a riot. Applying the principle of joint liability, even in a situation where only one of the members of such an assembly uses force or violence on the victim, each member will be held liable for the commission of a riot.

**5.3.5.1 Conceptual error in equating Mob lynching with Rioting** - The essence of Rioting lies in the employment of violence by an unlawful assembly. A mob gathered with an illegal object of assaulting, causing grievous injuries or death of the victim use force and violence. This has warranted the application of s. 146 and the courts in various cases of mob lynching have invoked the said provision against the perpetrators.

Academically, however, there is a difference between Rioting and Mob Lynching which the Research Scholar has elaborately dealt with in Chapter 2 entitled, 'Theoretical Exposition of the concept of Vigilantism'. For a proper understanding, the difference between Rioting and Mob Lynching is reproduced again.

**(i) Genesis** - Riots, whether, communal, caste-based, personal or agrarian have their genesis in hatred and enmity between two groups, wherein, members of one community or group are targeted by members of another community or group. **Use of force by an unlawful assembly is deemed to be a riot only when it is used for any of five illegal objects laid down under s. 141.** Whereas, in mob lynching, administering justice or inflicting punishment to the one who transgresses law or social norms as the law enforcement is inadequate, forms the genesis.

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<sup>325</sup> Id. at s.146.

Application of s. 146 in case of mob lynching can be justified only to the extent of the following two clauses of s. 141 of the I.P.C: -

(iii) where the object is to commit mischief of any form or criminal trespass, or other offence; or

(iv) where the object is to take possession of property of an individual forcibly or dispossess any person of his property by use or show of criminal force or deprive any person of the enjoyment of incorporeal and easementary rights.

The object of administering justice or inflicting punishment to the transgressors of law or social norm is beyond the ambit of s. 141.

**(ii) Victims** - Violence is perpetrated on all the members of the community or group, irrespective of the innocence or guilt of the victims. Collective punishment is meted out during riots. However, in case of mob lynching, the targets are particular individuals who are declared to have committed a crime or a wrong by the mob.<sup>326</sup>

**(iii) Planning and Preparation** - In case of riots, whether, caste-based, agrarian, personal or communal, planning and preparation is necessary. Mob lynching may occur spontaneously or with planning and organization. Planning and preparation are not mandatory in case of mob lynching while it is a necessary ingredient of rioting.

Due to the conceptual differences between rioting and mob lynching, it is necessary to have a specific definition of mob lynching and to mete out a different treatment in the form of punishment as well as requirements of proof. It will only then be possible to secure a conviction in mob lynching cases.

### **5.3.6 Punishment for Mob Lynching under sections 147, 148 inappropriate**

Section 147<sup>327</sup> lays down punishment for committing a riot while s.148<sup>328</sup> stipulates punishment for employing a deadly weapon or a weapon of offence in the commission of a riot.

However, the application of ss. 147 and 148 is inappropriate due to the conceptual difference between rioting and mob lynching, discussed above.

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<sup>326</sup> Supra note 59.

<sup>327</sup> See, Section 147, The Indian Penal Code, 1860 (Appendix II).

<sup>328</sup> Id. at s. 148.

### **5.3.7 Section 149: Every member of an unlawful assembly guilty of offence committed in prosecution of common object**

The principle of vicarious liability underlies s.149<sup>329</sup>. It stipulates that if an unlawful assembly commits an offence in pursuit of its common object, every member of the assembly would be held liable for the offence so committed. Even where the members of the assembly had knowledge as to the **likelihood of commission of an offence** while pursuing its object, each member would be held guilty of the offence so committed.

Thus, a person charged u/s. 149 cannot put up a defence that he had physically not committed the offence. It would be deemed that every member of the unlawful assembly had the intention of bringing about the resultant consequences that culminated due to various acts of the assembly.<sup>330</sup>

To prove the guilt of a person charged u/s. 149, the prosecution has to prove that the accused persons were members of the unlawful assembly and possessed positive knowledge of its common object.

To the principle of vicarious liability laid down in this section, there are two exceptions and they are as under:

(i) Where members of an unlawful assembly have differing objects which lie beyond the realm of the common object, their knowledge as to what could be the outcome of their concerted acts would also differ. The information possessed by the members and the extent to which they share the object with the assembly would have a bearing on their knowledge. Consequently, the application of s.149 would differ for each of the members of the unlawful assembly.<sup>331</sup>

(ii) An innocent onlooker cannot be designated as a member of an unlawful assembly. To implicate such an onlooker, it has to be proven by the prosecution that he shared the common object of the assembly with the aid of direct or circumstantial evidence.<sup>332</sup>

**5.3.7.1 Section 149 vis-à-vis Mob Lynching – The problem of proving common object** - Prior planning or consensus between the members is not required to carry out the common object u/s. 149. It can be formed on the spot. Discerning or proving that a

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<sup>329</sup> Id. at s. 149.

<sup>330</sup> K. D. GAUR, COMMENTARY ON THE INDIAN PENAL CODE 428-429 (3rd ed. 2019).

<sup>331</sup> Shambhu Nath Singh and Ors. v. State of Bihar, AIR 1960 SC 725 (Supreme Court of India).

<sup>332</sup> Musa Khan v. State of Maharashtra, AIR 1976 SC 2566 (Supreme Court of India).



member of an unlawful assembly shared the common object with other members poses difficulties as there are multiple offenders. Besides, direct evidence is not always available. Generally, in determining common object of the assembly, the acts and language of the members comprising it and the surrounding circumstances are taken into consideration.<sup>333</sup> Likewise, it can be ascertained from the weapons carried by it. To ascertain the role played by the accused persons, proof in the form of direct or circumstantial evidence is required. In most of mob lynching cases the evidence has been available in the form of video recording by bystanders or the accused persons. These recordings were small clips which showed only part of the incident that had occurred. The recordings of the entire incident are seldom available. Therefore, the recordings do not give a true picture, especially, with regard to those whose presence is captured and no specific role can be attributed to them. The recording might have captured the presence of an innocent bystander or a passer-by in the mob. Based on the recording, such a bystander or passer-by cannot be adjudged as a member of the unlawful assembly. Conversely, a perpetrator may claim to be a passer-by or bystander where the video recording does not show any overt act done by him. Even where eye-witnesses have been available, they turned hostile during their examination in the court as a result of which the role played by an alleged perpetrator could not be proved. Thus, the application of s. 149 in mob lynching cases has posed a challenge in proving the guilt of the accused beyond reasonable doubt.

### **5.3.8 Section 152 vis-à-vis Mob Lynching has limited application**

Section 152 punishes any person who assaults or obstructs a public servant so as to deter him from discharging his duty while trying to suppress a riot, an unlawful assembly or an affray.<sup>334</sup> In most of the mob lynching cases where the police reached the spot of occurrence and tried to disperse the mob or stop the lynching, they were prevented from discharging their duties. The perpetrators have not only resisted the rescue of the victim of mob lynching but also have attacked the police. Since mob lynching cases are treated as riots, those obstructing the police in suppressing a mob lynching incident are being charged u/s. 152. However, the application of this section would be appropriate only in a situation where the perpetrators of mob lynching are five or more. The application of s. 152 would be inappropriate in case of rioting due to conceptual differences between rioting and mob lynching.

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<sup>333</sup> Bhupendra Singh v. State of Uttar Pradesh, AIR 2009 SC 3265 (Supreme Court of India).

<sup>334</sup> See, Section 152, The Indian Penal Code, (Appendix II).

### **5.3.9 Section 153A aids in preventing Mob Lynching Incidents to a limited extent**

Post the lynching of Mohd. Akhlaq in Dadri in 2015, India saw a rise in the mob lynching incidents related to cow slaughter, cow smuggling and beef consumption, spanning its length and breadth. Most of the incidents were triggered by rumours spread through social media like WhatsApp, Facebook, etc., by posting messages or videos. These messages galvanized mobs against the suspected cow slaughterer or cow smuggler within a few minutes to lynch him to death. These messages and videos spread rumours about members belonging to the Muslim and Dalit community. To curb these divisive acts perpetrated through social media, the Supreme Court of India directed the police to register a F.I.R u/s. 153A<sup>335</sup> and other provisions of the I.P.C against those persons who disseminate explosive messages and videos having the potential of stirring up mob savagery.<sup>336</sup> Since s. 153A seeks to punish acts which create a rift between different groups on basis of religion, race, place of birth, residence, language., etc., and those acts which prejudice the peace in the country, the application of s. 153A to mob lynching cases helps in preventing future such incidents. However, it cannot be applied in cases where the rumours or messages are disseminated about commission of a crime. In this context, s. 153A has a limited application.

### **5.3.10 No infirmity in the application of sections 302, 304, 307 and 308 to Mob Lynching Cases**

Section 302 prescribes punishment in a case where an accused is convicted for murder.<sup>337</sup> Where death of the victim in mob lynching incident occurs, the perpetrators are charged with Murder and are punished under the present section.

Punishment for culpable homicide not amounting to murder is laid down in s. 304.<sup>338</sup>

There lies no infirmity in punishing a perpetrator of lynching u/ss. 302 and 304 in the absence of a specific definition of ‘lynching’.

Section 307 prescribes punishment for making an attempt to commit murder.<sup>339</sup> It incorporates the principle, ‘the will of a person is to be taken for the deed’.

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<sup>335</sup> See, Section 153A, The Indian Penal Code, 1860 (Appendix II).

<sup>336</sup> Tehseen Poonawalla v. Union of India and Others, (2018) 10 SCC 498 (Supreme Court of India).

<sup>337</sup> See, Section 302, The Indian Penal Code, 1860 (Appendix II).

<sup>338</sup> See, Section 304, The Indian Penal Code, 1860 (Appendix II).

If the injuries inflicted on the victim do not result into the death of the latter, the perpetrators or offenders are charged and punished under this section. In most of the cases of mob lynching, the victims have died. However, in some of the cases, like the Hafiz Junaid lynching and Pehlu Khan lynching, those accompanying the deceased victims have survived. In these cases, the perpetrators were also charged under section 307 of I.P.C.

Punishment for making an attempt to commit culpable homicide not amounting to murder is defined in s. 308.<sup>340</sup> In the absence of specific definition of the offence of 'lynching' or 'attempting to lynch', there lies no infirmity in the application of ss. 307 and 308 of I.P.C.

### **5.3.11 Sections 323 and 325 aid the court in punishing the offenders of Mob Lynching**

Section 323 is a general section which prescribes punishment for voluntarily causing simple hurt.<sup>341</sup>

Section 323 is invoked where simple hurt is caused to the victims. To determine whether all the members constituting the mob shared the common object, the role played by each of the perpetrators in the commission of crime is ascertained. After drawing such distinctions, if it is found that some members carried out the attack on the victim with the intention of inflicting simple injuries and have caused simple hurt, then such members would be punished under this section.

In the absence of a specific law on mob lynching and specific punishment for various acts, the application of s. 323 aids the court in punishing the perpetrators of mob lynching.

Section 325 punishes a person who intentionally causes injuries designated as grievous under s. 320 of I.P.C.<sup>342</sup>

In many cases pertaining to mob lynching, death of the victims was not instantaneous. They had sustained grievous injuries and were admitted to the hospital for treatment.

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<sup>339</sup> Id. at s. 307.

<sup>340</sup> See, Section 308, The Indian Penal Code, 1860 (Appendix II).

<sup>341</sup> Id. at s. 323.

<sup>342</sup> See, Section 325, The Indian Penal Code, 1860 (Appendix II).

In such cases, the perpetrators were charged u/s. 325 by the police. However, when the victims succumbed to their injuries after a few days, the perpetrators were charged with murder.

Thus, in the absence of a specific law on mob lynching and specific punishment for various acts, the application of s. 325 enables the court to punish the perpetrators of mob lynching.

### **5.3.12 Sections 326, 341 and 342 aid in the punishment of perpetrators of Mob Lynching incidents**

Section 326 applies to a case where a person causes grievous hurt with the aid of dangerous weapons and means.<sup>343</sup>

Use of lathis, sticks and sharp-edged weapons like knives, swords and fire have been used to attack the victims of mob lynching resulting into grievous injuries, warranting the application of this section. The killing of Graham Staines and his two children is an illustration on the point wherein the van in which the three victims were sleeping was set on fire leading to their death.

In absence of a specific law on mob lynching and specific punishment for various acts, the application of s. 326 ensures that the perpetrators do not escape punishment.

Section 341<sup>344</sup> has seen the application in cases where the victims, especially, those suspected to be smuggling cows or transporting beef have been waylaid and stopped by the cow vigilantes. This has been witnessed in the lynching of Pehlu Khan, Alimuddin, Majlum Ansari and some of the other cases where the cow vigilantes wrongfully restrained the victims and then attacked them. The application of s. 341 does not cause any infirmity.

Wrongful confinement is an aggravated form of offence against the personal liberty of an individual and s. 342<sup>345</sup> lays down the punishment for the same.

There have been instances where the victim was wrongfully confined by the mob before or after inflicting injuries on him. This section has seen the application in the lynching of Dr. Debendra Dutta, where the Tea Plantation workers confined him in his office at the hospital and beat him up. Likewise, in the killing of Graham Staines

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<sup>343</sup> Id. at s. 326.

<sup>344</sup> Id. at s. 341.

<sup>345</sup> See, Section 342, The Indian Penal Code, 1860 (Appendix II).

and his two children, the van in which the three victims were sleeping was set on fire and when they tried to come out of the van, they were prevented by the mob. All the three victims died due to burns. Thus, s. 342 helps in punishing the perpetrator of mob lynching in the absence of a specific legislation on mob lynching.

### **5.3.13 Section 435 aids the cause of justice in Mob Lynching Cases**

Section 435 punishes mischief by fire or any explosive substance.<sup>346</sup>

Damage to the vehicles or property of victims of mob lynching has been evinced in some cases. In Pehlu Khan's case, his vehicle was stopped, toppled and set on fire by the cow vigilantes. In Alimuddin Ansari's case, his vehicle was stopped, he was dragged out, beaten up and his vehicle was set on fire. Therefore, application of section 435 to such cases of mob lynching does not lead to any infirmity. It aids the cause of justice in absence of a specific law on mob lynching.

### **5.3.14 Sections 447 and 448 help in curbing the excesses of perpetrators**

Section 447<sup>347</sup> punishes the offence of criminal trespass. The cow vigilantes in various cases pertaining to suspicion of cow slaughter and possession of beef have entered onto the property or premises of the victim to search and seize the incriminating material. In the process, the cow vigilantes also attacked the victims. This forceful entry into the premises has attracted the application of s. 447 and has been found to be justifiable in the absence of a specific legislation on mob lynching.

Section 448<sup>348</sup> is an aggravated form of criminal trespass. It punishes any person who commits house-trespass. As discussed in s. 447, the cow vigilantes have entered into the premises as well as raided the houses of the victims on suspicion of cow slaughter, possession or consumption of beef.

#### **Illustrations:**

(i) The cow vigilantes and the villagers barged into the house of Mohd Akhlaq on suspicion of cow slaughter and consumption of beef, in Dadri, in September 2015,

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<sup>346</sup> Id. at 435.

<sup>347</sup> Id. at s. 447.

<sup>348</sup> See, Section 448, The Indian Penal Code, 1860 (Appendix II).

opened the refrigerator and when they found some meat, they dragged Akhlaq and his son outside and beat them mercilessly.

(ii) Likewise, in *Mubbi alias Mubin v. State of Haryana* (30-04-2021, Punjab & Haryana High Court), the cow vigilantes entered into the house of the petitioner and seized the cows and sharp-edged instruments.

The Punjab and Haryana High Court questioned the authority of the cow vigilantes to raid the homes of private citizens. The excesses of the perpetrators of mob lynching can be curbed with the aid of s. 448.

The search and seizure effected by the cow vigilantes by forcibly entering the homes of victims justifies the application of s. 448.

### **5.3.15 Section 120B aids in stemming and punishing conspiracies to lynch**

Section 120B lays down punishment for entering into a conspiracy to commit a crime.<sup>349</sup>

The identification of the victim, way-laying of the victim, assembling of a mob at a moment's notice and attacking the victim by cow vigilantes have been pre-planned and orchestrated acts. The evidence has pointed towards the existence of a criminal conspiracy in the lynching of Pehlu Khan, Alimuddin Ansari and Majlum Ansari. To prevent such conspiracies to lynch persons, application of section 120B can be made. This section being both preventive as well as punitive will help in aborting crimes and criminal conspiracies.

### **5.3.16 Section 34 vis-à-vis Mob Lynching creates a problem of proof**

Section 34 enunciates the principle of joint liability and does not create any specific offence. It states that when two or more persons commit an offence pursuant to the common intention of all involved, each such person would be held responsible for it.<sup>350</sup> It would be deemed that the act was carried out by him alone. **This section can be explained with the following illustration:**

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<sup>349</sup> Id. at 120B.

<sup>350</sup> See, Section 34, The Indian Penal Code, 1860 (Appendix II).

A, B and C plan to kill E by stabbing him. A, B and C go the house of E. They drag him out. A pins E to the floor, B holds his hands and C stabs him multiple times and as result of which E dies. By virtue of s. 34, all three accused persons, namely, A, B and C will be charged for the murder of E. A and B cannot contend that they did not inflict the fatal blow which killed E and that they merely held E down. Since all the three accused persons after sharing the common intention of killing E, carried out the murder, each of them will be liable as if he alone has committed the crime.

It is the confederate's presence that emboldens and incites the actual perpetrator in the commission of crime. Where several persons are involved in carrying out a crime, the courts find it difficult to determine the role of each and every person. It is also unable to distinguish between co-conspirators and the participants in the crime. The principle of joint liability laid down in the I.P.C acts as a rule of evidence. Section 34 seeks to act as a deterrent on one hand and on the other hand, enables the court to mete out equal punishment to all persons involved in carrying out a crime in furtherance of common intention.

For the application of s 34 to the mob lynching cases, the prosecution has to prove the following:

- (i) There was a common intention shared between those involved in carrying out the crime in the form of a plan. It should be shown that there was prior meeting of minds.
- (ii) The person against whom a prosecution has been initiated had participated in some manner in the act constituting the offence.<sup>351</sup>

With regard to mob lynching cases, where the number of perpetrators is very large, it is difficult to prove that they shared the common intention to lynch a person. For example, in Dimapur Mob Lynching Case, there were a thousand people in the mob which broke open the cell, dragged the victim, Syed Farid Khan out of the Central Jail, beat him up and hung him to a clock tower in the town centre. Thus, proving that all those present in the mob shared the common intention of lynching a person would be arduous.

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<sup>351</sup> Supra note 330 at 50.

While discussing the application of s. 149 of I.P.C, it was pointed out by the Research Scholar that most of mob lynching cases hinge on video recording. Unless there is an overt act, the mere presence of a person in the mob spotted in the video recording will not help in determining whether he shared the common intention with the other perpetrators. There is a possibility of an innocent onlooker being convicted. Conversely, a perpetrator may be well aware of the end to be sought, but taking advantage of the available video evidence may claim that he was an innocent bystander or passer-by. Application of this rule of evidence cannot be given an omnibus character in cases of mob lynching and it thus, poses a challenge during the trial.

#### **5.4 COW PROTECTION LAWS IN INDIA**

India has been predominantly an agricultural country in pre-independence era and continues to remain so. Considering the dependence on agriculture and allied activities and its contribution to the Indian economy, it was felt necessary to protect cow and cow progeny. To carry out various agricultural operations, the Indian farmers were and are still dependent on cows, cow progeny and buffaloes. Also, the constitutional mandates in the form of Aa. 48, 48A and 51A(g) cast a duty on the State to protect and conserve milch and draught animals. To give effect to these constitutional mandates the legislature felt the necessity of bringing in laws to protect cows, cow progeny and buffaloes by prohibiting their slaughter and preserving them.

Though, the migration of people from rural to urban areas has been on the rise, 65.53% of the population of India lives in rural areas and is dependent on agriculture, according to the World Bank Report in 2019.<sup>352</sup> Agriculture and allied sector has contributed 19.9% of the Gross Development Produce to the Indian economy in the year 2020-21.<sup>353</sup> Therefore, the cow protection laws enacted by the various States continue to be relevant. Some of the provisions of the State Legislations have led to the rise of cow-related mob lynching incidents. It, therefore, becomes incumbent to analyze the various State enactments protecting the cows.

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<sup>352</sup> World Bank Collection of Development Indicators, India – Rural Population, TRADING ECONOMIES, (May 2021), <https://tradingeconomics.com/india/rural-population-percent-of-total-population-wb-data.html>.(Last visited on May 21, 2021).

<sup>353</sup> K. Shagun, *Agri share in GDP hit 20% after 17 years: Economic Survey*, DOWNTOEARTH (Jan 29, 2021), <https://www.downtoearth.org.in/news/agriculture/agri-share-in-gdp-hit-20-after-17-years-economic-survey-75271> (Last Visited on May 21, 2021).



This segment of the present chapter will analyze the relevant provisions of the various cow protection laws that are in force in India.

#### **5.4.1 Prevention of Cruelty to Animals Act, 1960.**

The above-titled Act is a central legislation for preventing cruelty against animals and it does not deal specifically with cows and other agricultural cattle. Therefore, only the substantial and relevant provisions will be discussed by the Research Scholar.

**5.4.1.1 Preamble** - The object of the Parliament in enacting this central legislation was to prohibit acts leading to cruelty against animals.<sup>354</sup>

**5.4.1.2 Definition of Animal** - The Act aims to prevent cruelty against all animals in general. The term 'animal' implies any living creature other than a human being.<sup>355</sup> It is a wide definition and includes all animals. Thus, Cows, Bulls, Bullocks and other agricultural cattle are also included in the term 'Animal'.

**5.4.1.3 Duties of persons having charge of animals** - The persons having care and charge of animals are required to take reasonable measures to ensure its well-being and prevent infliction of pain or suffering on the animals.<sup>356</sup>

**5.4.1.4 Punishment for treating animals with cruelty** - Various acts like kicking, overloading, engaging an unfit animal for work, transporting it in such conditions as to restrict its movements, tethering it to heavy chains, wilfully administering injurious drugs, killing or maiming it, etc., have all been made punishable under the Act. The punishment on first conviction shall attract a minimum fine of ten rupees and a maximum of fifty rupees. On second and subsequent conviction an enhanced fine and prison sentence would be imposed.<sup>357</sup>

**5.4.1.5 Punishment for practising phooka or doom dev** - If any person uses any process by which air or any substance is introduced into a cow or any other milch animal with the intent of improving lactation and thereby, causes suffering or pain to it, then he shall be punished u/s.12 with fine or prison sentence. Apart from this, the animal in question would be forfeited to the government.<sup>358</sup>

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<sup>354</sup> See, Preamble, Prevention of Cruelty to Animals Act, 1960 (Act 59 of 1960) (Appendix XII).

<sup>355</sup> Id. at s. 2(a).

<sup>356</sup> Id. at s. 3.

<sup>357</sup> See, Section 11, Prevention of Cruelty to Animals Act, 1960 (Act 59 of 1960) (Appendix XII).

<sup>358</sup> Id. at s. 12.

**5.4.1.6 Killing of suffering animals** - If it is found that an animal is suffering from pain or illness and keeping it alive would entail cruelty, then the Court may order such an animal to be killed in a painless manner. The Court shall assign this task to a person suitable or competent to carry out the act of killing. To enable the Court to pass orders, the consent of the owner has to be obtained and, in its absence, evidence from a veterinary officer in charge of the area certifying the need to end the suffering of the animal shall be required. The expenses of killing shall be borne by the owner of the animal.<sup>359</sup>

**5.4.1.7 Experimentation on Animals** - The Act permits experimentation on animals for the purposes of advancement of scientific and medical knowledge which would increase the longevity of life or alleviate the suffering or help in curing any disease of human beings, animals or plants.<sup>360</sup> The permission for experimentation has to be obtained as per the procedure laid down in Chapter 4 of the Act.

**5.4.1.8 Summary** - The Prevention of Cruelty to Animals Act, 1960 is a general law encompassing all animals including cows and other agricultural cattle. The punishment provided for killing animals is very meagre so as to have a deterrent effect on offenders. The only provision which has a direct reference to a cow or milch animal is found in s. 12 of the Act for practising phooka or doom dev and the punishment too, is not stringent. To fulfil the objectives of Aa. 48, 48A and 51A(g) of the Indian Constitution and considering the importance of cows and cow progeny to the Indian economy, the need for a special legislation was felt. Consequently, various States enacted the Cow Protection Laws.

## **5.4.2 Analysis of the relevant provisions of the State Legislations pertaining to Cow Protection**

Twenty-two States and seven Union Territories have enacted cow protection laws in India. Of these States, a proclamation issued under the Darbar Resolution 1939 in the State of Manipur makes cow slaughter punishable. No specific law has been enacted by the State of Manipur.

Likewise, in the Union Territory of Jammu and Kashmir, specific provisions of a general law, entitled, Ranbir Penal Code were applicable to prevent cow slaughter.

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<sup>359</sup> Id. at s. 13.

<sup>360</sup> Id. at s. 14.

With the abrogation of Aa. 370 and 35A of the Constitution of India in 2019, the provisions of I.P.C are applicable. Tripura, Nagaland, Arunachal Pradesh, Mizoram, Kerala, Meghalaya and Lakshadweep have no specific legislations prohibiting cow slaughter.

An overview of the States and Union Territories that have enacted cow protection laws in India is depicted in Figure 5.1 given below.



**Figure 5.1: Extent of Cow Protection Laws**

#### **5.4.2.1 Critical Analysis of the Cow Protection Laws**

The Research Scholar has studied the cow protection laws enacted by the twenty-two State and seven Union Territories and has culled the features that are common in them. The same are discussed hereunder:

**5.4.2.1.1 Object of the Legislations** - To give effect to Aa. 48 and 48A of the Indian Constitution, various States have enacted the cow protection laws. The primary object of these legislations has been to protect cows and cow progeny by preventing their slaughter as they constitute the backbone of the agricultural sector in India. Apart from the above, the State of Haryana has also sought to achieve, preservation and conservation of indigenous breeds of cow. The State of Madhya Pradesh seeks to prohibit slaughter of cow progeny and maintain communal harmony and peace in the

State vide the enactment of the Madhya Pradesh Govansh Vadh Pratishedh Adhiniyam, 2004.

**5.4.2.1.2 Extent of ban on slaughter of cows and other agricultural cattle** - The analysis of the various legislations pertaining to cow protection reveals that the nature and extent of ban on slaughter of cow and other agricultural cattle, though seemingly similar, varies. The same is presented in the form of Table 5.2 depicted below.

**Table 5.3:** Extent of ban on slaughter of cows and other agricultural cattle in India

<b>State/Union Territory</b>	<b>Animals whose slaughter is banned/restricted</b>	<b>Exceptions/Exemptions</b>
Andaman & Nicobar Islands	Cow, Bull, Bullock	Bull and Bullock can be slaughtered with a certificate issued by the competent authority, if: (i) A bull is no longer fit for breeding. (ii) A bullock is no longer fit for carrying out farming activities. (iii) where a bull or bullock is above fifteen years of age. A cow, bull and bullock can be slaughtered if they are infected with contagious disease. <sup>361</sup>
Chandigarh	Cows, Bulls, Bullocks, Ox, Heifers or Calves	(i) Killing of a cow by way of accident or while exercising self-defence. (ii) To relieve the animal of its suffering due to disease or injury. (iii) The animal is infected with contagious disease. (iv) The animal is used for experimentation in the interest of medical and public health. <sup>362</sup>
Dadra & Nagar Haveli	Cows including Heifers & Calves	(i) The animal has contracted a highly transmissible disease. (ii) The animal can be experimented upon for

<sup>361</sup> Andaman & Nicobar Islands Prohibition of Cow Slaughter Regulation, 1967 (No.1 of 1967), s. 2.

<sup>362</sup> The Punjab Prohibition of Cow Slaughter Act, 1955 (Punjab Act No.15 of 1955), ss. 3, 4.

Daman & Diu		advancements in medical science and in matters of public health. <sup>363</sup>
Delhi	Cows and their Calves (of all ages), Bulls and Bullocks	There is complete prohibition on butchering. No exceptions have been provided for. <sup>364</sup>
Puducherry	Cows, Bulls, Bullocks, Heifers and Calves	(i) The animal is suffering from a transmissible disease. (ii) The animal is used for carrying out research for medical advancement or in the interest of public health. <sup>365</sup>
Andhra Pradesh	Cow, Calf of a She-buffalo	Bull, Bullock, Male & Female Buffaloes can be slaughtered with a certificate from the concerned authority. <b>Exceptions:</b> The animals specified above can be slaughtered under following circumstances: (i) For experimentation or research conducted by a recognised institute. (ii) Cow and other animals specified above can be slaughtered: (a) in the interest of public health. (b) If they are suffering from a contagious disease. <sup>366</sup>
Assam	Bulls, Bullocks, Cows, Calves, Male & Female Buffaloes and their calves.	(i) Cattle is over the age of fourteen years. (ii) The cattle that have been rendered unfit for carrying out farming activities or procreation due to an incurable illness, handicap or trauma. <sup>367</sup>

<sup>363</sup> Goa, Daman and Diu Prevention of Cow Slaughter Act, 1978 (Act No. 13 of 1978), s. 13.

<sup>364</sup> The Delhi Agricultural Cattle Preservation Act, 1994 (Delhi Act No. 7 of 1994), s. 4

<sup>365</sup> The Pondicherry Prevention of Cow Slaughter Act, 1968 (Act No. 6 of 1968), s. 4.

<sup>366</sup> The Andhra Pradesh Prohibition of Cow Slaughter and Animal Preservation Act, 1977 (Act No. 11 of 1977), s. 15.

<sup>367</sup> The Assam Cattle Preservation Act, 1950 (Assam Act XIII of 1951), s. 5.

Bihar	Cows, Calves, Bulls, Bullocks and She-buffaloes.	(i) A Bull or Bullock which is above the age of twenty-five years or which has been perpetually rendered infertile or for carrying out farm activities. (ii) With regard to a She-buffalo, slaughter is permitted if, (a) it is above the age of twenty-five, or (b) has ceased to yield milk or has become infertile perpetually. The perpetual debility should not have been caused intentionally. <sup>368</sup>
Chhattisgarh	Cows of any age, Calves of cows and She-buffaloes, Bulls, Bullocks, Buffaloes (Male & Female)	Total ban on slaughter. No exceptions have been provided for. <sup>369</sup>
Goa	Cows, Bulls, Bullocks, Male Calves, Male & Female Buffaloes, Castrated Buffaloes, Buffalo Calves.	The following exemptions will be applicable to all the animals stated in the left column excepting a Cow: (i) Animal is infected with contagious disease. (ii) Experimentation in the interest of medical reasons or public health. <sup>370</sup>
Gujarat	Bulls, Bullocks, Cows, Calves, Buffaloes (Male & Female) and their Calves.	No permission will be granted, if the animal: (i) is useful or likely to become useful for agricultural operations or for draught purposes. (ii) If male, can be useful for procreation. (iii) If female, is fertile and can yield milk. If any animal is above fifteen years of age, it can be slaughtered for bonafide religious

<sup>368</sup> The Bihar Preservation and Improvement of Animals Act, 1955 (Bihar Act II of 1956), s. 3.

<sup>369</sup> Chhattisgarh Agricultural Cattle Preservation Act, 2004 (Act No. 28 of 2006), s. 4.

<sup>370</sup> Supra note 363 at s. 13.

		<p>purposes.</p> <p>The following exemptions will be applicable to all the animals stated in the left column:</p> <p>(i) when an animal has contracted a transmissible disease.</p> <p>(ii) for the purposes of medical research or in the interest of public health.<sup>371</sup></p>
Haryana	Bulls, Bullocks, Cows, (economic or uneconomic) Ox, Heifers or Calves whether Disabled, Diseased or Barren.	<p>(i) Killing of a Cow by way of accident or while exercising self-defence.</p> <p>(ii) To relieve the animal of its suffering due to disease or injury.</p> <p>(iii) When the animal has contracted a transmissible disease.</p> <p>(iv) For the purpose of research in medical science and public health.<sup>372</sup></p>
Himachal Pradesh	Cow including Bull, Bullock, Ox, Heifer or Calf.	<p>(i) Killing of a Cow by way accident or while exercising self-defence.</p> <p>(ii) To relieve the animal of its suffering due to disease or injury.</p> <p>(iii) Animal is infected with contagious disease.</p> <p>(iv) Experimentation in the interest of medical reasons or public health.<sup>373</sup></p>
Jharkhand	Cow, Calves, Heifers, Bulls and Bullocks	For medicinal or research purposes slaughter permitted with a certificate from the competent authority. <sup>374</sup>
Karnataka	Cows, Calves, Bulls, Bullocks of all ages, He & She-buffalo below thirteen years of	<p>Can be slaughtered, if:</p> <p>(i) A He or She-buffalo is above thirteen years of age.</p> <p>(ii) Cows, Bulls, Bullocks of all ages, He &amp; She-buffalo below thirteen years of age are</p>

<sup>371</sup> Gujarat Animal Preservation Act, 1954 (Act No. 72 of 1954), s. 13.

<sup>372</sup> The Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (Haryana Act No. 20 of 2015), s. 3.

<sup>373</sup> The Himachal Pradesh Prohibition of Cow Slaughter Act, 1979 (Act No. 11 of 1979), ss. 3, 4.

<sup>374</sup> Jharkhand Bovine Animal Prohibition of Slaughter Act, 2005 (Jharkhand Act No. 11 of 2005), s. 19.

	age.	infected with contagious disease which poses a risk to other cattle. (iii) To relieve the above-mentioned animals from their suffering, if they are in pain due to any terminal illness. (iv) In the interest of public health. <sup>375</sup>
Madhya Pradesh	Cow Progeny means cows, bulls, bullocks and calves of cows.	Total ban on slaughter. No exceptions have been provided for. <sup>376</sup>
Maharashtra	Cows (includes Heifer, Male or Female calf of a cow), Bulls, Bullocks, Female buffaloes and Buffalo Calves.	Cows, Bulls and bullocks cannot be slaughtered. Female buffaloes and Buffalo Calves can be slaughtered with certificate from a competent authority, if: (i) a male, it is not useful for the purposes of procreation or draught or for carrying out farming activities; (ii) a female, it is not able to yield milk or has become barren or in not able to carry out farming activities. <sup>377</sup>
Odisha	Cow (including Heifers or Calves), Bull, Bullock	<b>Bull or Bullock can be slaughtered with a certificate from the competent authority:</b> (i) If it is above fourteen years of age, or (ii) If a bull, it is no longer useful for the purposes of procreation. (iii) If a bullock, it is no longer useful as a draught animal or is unable to perform farming activities. <sup>378</sup> <b>A Cow, Bull or Bullock can be slaughtered,</b>

<sup>375</sup> The Karnataka Prevention of Slaughter and Preservation of Cattle Act, 2020 (Karnataka Act No. 1 of 2020), s. 18

<sup>376</sup> The Madhya Pradesh Govansh Vadh Pratishedh Adhiniyam, 2004 (Act No. 6 of 2004), s. 4.

<sup>377</sup> The Maharashtra Animal Preservation Act, 1976 (Maharashtra Act No. IX of 1977), s. 14.; Maharashtra Animal Preservation (Amendment) Act, 1995 (Maharashtra Act No. V of 2015), s. 12.

<sup>378</sup> The Orissa Prevention of Cow Slaughter Act, 1960 (Orissa Act No. 5 of 1961), s. 3(3).



		<p><b>if:</b></p> <p>(i) The animal is infected with contagious disease.</p> <p>(ii) The animal is used for experimentation in the interest of medical and public health.<sup>379</sup></p>
Punjab	Cow, Bull, Bullock, Ox, Heifer or Calf.	<p>(i) Killing of a Cow by way of accident or while exercising self-defence.</p> <p>(ii) To relieve the animal of its suffering due to disease or injury.</p> <p>(iii) The animal is infected with contagious disease.</p> <p>(iv) The animal is used for experimentation in the interest of medical and public health.<sup>380</sup></p>
Rajasthan	Cows, Bulls, Bullocks, Heifers, Calves.	Total ban on slaughter. No exceptions have been provided for. <sup>381</sup>
Sikkim	Cow (including milking cow, Dry Cow, Heifer, Calf)	A Cow can be slaughtered if: It has contracted a transmissible disease of which a notification has been issued by the government. <sup>382</sup>
Tamil Nadu	Cow and its calf, Bull, Bullock, Buffalo (Male & Female) and its Calf.	<p>Slaughter permitted with certificate, if:</p> <p>(i) The animal is above ten years of age.</p> <p>(ii) It is no longer useful for farming activities and for procreation, or</p> <p>(ii) Due to affliction of a terminal illness or physical abnormality or trauma, the animal has been rendered incapable of procreation or carrying out farming activities.</p> <p>Apart from the above, any animal stated in the left column can be slaughtered:</p>

<sup>379</sup> Id. at s.4(1).

<sup>380</sup> The Punjab Prohibition of Cow Slaughter Act, 1955 (Punjab Act No.15 of 1955), ss. 3, 4.

<sup>381</sup> The Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995 (Act No. 23 of 1995), s. 3.

<sup>382</sup> Sikkim Prevention of Cow Slaughter Act, 2017 (Act No. 17 of 2017), s. 5.

		(i) for religious compliances, (ii) for advancement in the field of medicine and academics, (iii) to alleviate its agony caused due to illness or trauma. <sup>383</sup>
Telangana	Cow and its calf, Heifer, Bull, Bullock, Buffalo and its calf.	A Cow and its calf, calf of Buffalo cannot be slaughtered. Bull, Bullock, Male or Female Buffalo can be slaughtered if: (i) It (a male buffalo) is no longer useful for procreation, or (ii) It cannot be used as a draught animal, or (iii) It is unable to carry out farming operations, or (iv) It (a female buffalo) is no longer able to yield milk or beget. <sup>384</sup> The above-mentioned animals can also be slaughtered: (v) if they are afflicted with a transmissible disease which could jeopardise the health of the general masses. (vi) For carrying out scientific and medical trials. <sup>385</sup>
Uttarakhand	Cow Progeny means cow, bull, bullock, heifer or calf.	Slaughter of cow progeny permitted: (i) If it suffers from intolerable pain due to incurable disease. (ii) If it is infected with contagious disease which poses a danger to livestock and human beings. <sup>386</sup>
Uttar Pradesh	Cows, Calves, Heifers, Bulls and	Cow cannot be slaughtered. <b>Exemptions:</b>

<sup>383</sup> The Tamil Nadu Animal Preservation Act, 1958 (Act No. 10 of 1958), ss. 3, 12.

<sup>384</sup> The Telangana Prohibition of Cow Slaughter and Animal Preservation Act, 1977 (Act No. 11 of 1977), s. 6.

<sup>385</sup> Id. at s. 15.

<sup>386</sup> Uttarakhand Protection of Cow Progeny Act, 2007 (Uttaranchal Act No. 6 of 2007), s. 3.

	Bullocks.	<p>(i) If the bull or bullock is over fifteen years of age or</p> <p>(ii) If a bull, it has been rendered infirm and is no longer able to procreate.</p> <p>(iii) If a bullock has become indisposed for the rest of its life and as a consequence, it can neither be used as a draught animal and nor can it perform various farming activities.</p> <p>(iv) Where a cow, bull, bullock is suffering from an infectious and contagious disease.</p> <p>(v) Where a cow, bull or bullock are experimented upon for advancements in medical science and for the well-being of masses.<sup>387</sup></p>
West Bengal	Cow and its calves, Bulls, Bullocks, Buffalo and its calf, Neutered buffaloes.	<p>The animals stated in the left column can be slaughtered with certificate from the concerned authority, if:</p> <p>(i) They are over fourteen years of age.</p> <p>(ii) And have been rendered infirm to carry out various farm activities or have become infertile, or</p> <p>(ii) They have become indisposed for the rest of their lives due to trauma, disability, old age or terminal illness. Consequently, they can neither be used for farm activities and nor for procreation.<sup>388</sup></p>

Source: Research Scholar's own compilation from the various legislations of the States and Union Territories

**From Table 5.3, the following inferences can be drawn:**

*(i) States/Union Territories imposing total ban on slaughter of cows* - Delhi, Chhattisgarh, Madhya Pradesh, Maharashtra and Rajasthan have imposed a total ban on slaughter of cows and other agricultural cattle.

<sup>387</sup> The Uttar Pradesh Prevention of Cow Slaughter (Amendment) Ordinance, 2020 (U.P Ordinance No. 11 of 2020), ss. 3, 4.

<sup>388</sup> The West Bengal Animal Slaughter Control Act, 1950 (West Bengal Act No. XIX of 1950), s. 4.

***(ii) States where there is no legislation prohibiting slaughter of cow and other agricultural cattle*** - Kerala, Tripura, Meghalaya, Arunachal Pradesh, Nagaland, Mizoram, and Lakshadweep have no specific legislations prohibiting cow slaughter and therefore, it is legal to slaughter cows in these States.

In the then State of Jammu and Kashmir, Bulls, Cows, Calves, He-buffalo and She-buffalo, Oxen could not be slaughtered under the Ranbir Penal Code. However, with the revocation of the special status enjoyed by Jammu & Kashmir vide Articles 370 and 35A on 31 October 2019, the Ranbir Penal Code has been replaced with the Indian Penal Code, 1860. Presently, there are no specific provisions governing cow slaughter in the Union Territories of Jammu & Kashmir.

The Administrator of Lakshadweep Islands, Mr. Praful Patel had sought to introduce a Lakshadweep Animal Preservation Regulation, 2021 which prohibits slaughter of cows, calves of cows, bulls and bullocks.<sup>389</sup> However, the proposal to introduce the regulation met with large scale protests from the inhabitants of Lakshadweep and activists. The draft regulation has been sent to Home Ministry for scrutiny.

***(iii) States where slaughter of cow and other agricultural cattle can be slaughtered with permit*** - Those States that do not fall in (i) & (ii) belong to the category where slaughter of cow and other agricultural cattle is permitted under certain conditions. A permit or certificate to slaughter has to be obtained from the authorities specified in the cow protection legislations. The conditions for slaughter which run common can be summarized as under:

- (a) Where the animal is no longer useful for the purposes of breeding, carrying out agricultural operations, bearing an offspring or is unable to produce milk.
- (b) Where the animal has been infected with a contagious disease which would endanger the life of livestock as well as human beings.
- (c) To relieve the animal from intolerable pain due to incurable disease.
- (d) For experimentation in the interest of medical and public health.

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<sup>389</sup> S. Yamunan, *In Idyllic Lakshadweep, Centre's controversial administrator is sparking tumult*, SCROLL.IN (May 25, 2021), <https://scroll.in/article/995667/in-idyllic-lakshadweep-controversial-measures-by-centres-administrator-leads-to-uproar> (Last visited on May 28, 2021).

***Punishment for slaughter*** - The punishment for slaughter of cows and other agricultural cattle awarded by the various States, ranges from six months imprisonment to Life imprisonment. Life imprisonment is awarded as punishment by the State of Gujarat. The States of Haryana, Jharkhand, Rajasthan, Uttarakhand and Uttar Pradesh have imposed a maximum prison term of ten years. In the State of Karnataka, a repeat offence of slaughter can attract a prison term extending to seven years. Along with imprisonment, a fine of minimum of one lakh rupees and maximum of ten lakh rupees can be imposed.

***Criticism: Stringent punishment for slaughter not a sound Penological Principle***

Ironically, the States that have imposed stringent punishment, have witnessed more incidents of mob lynching than the rest of the States. Laying down stringent punishment for crimes which are not heinous magnifies their culpability in the eyes of the public. The public perceives it to be their righteous indignation to punish the suspected transgressor. And thus, this righteous indignation takes form of lynch mobs and establishes its tentacles in the society. And when perpetrators of lynching escape punishment, it only further legitimizes their actions. The need is to find alternative means to prevent the slaughter by engaging with the various sections of the society.

**5.4.2.1.3 Prohibition of sale or purchase of cows and other agricultural cattle -**

Apart from banning slaughter of cows and other agricultural cattle, some of the States have also banned their sale or purchase or offer for sale or purchase. The acts of sale and purchase have also been made punishable. The details of the same are depicted as in the form of Table 5.4 given below.

**Table 5.4:** Extent of Prohibition on Sale or Purchase of Cows and Punishment thereof

<b>State/Union Territory</b>	<b>Animals whose Sale or Purchase has been prohibited</b>	<b>Punishment</b>
Delhi	Cow and its calf (of any age), Bull and Bullock	<b>Imprisonment:</b> Minimum – six months Maximum – up to five years <b>And with</b> <b>Fine:</b> Minimum – Rs. 1000/-

		Maximum – Rs. 10,000/- <sup>390</sup>
Jharkhand	Cow, Calf, Heifer, Bull and Bullock	<b>Imprisonment:</b> Minimum – One year Maximum – Ten years <b>And with</b> <b>Fine:</b> Maximum – Rs. 10,000/- <sup>391</sup>
Karnataka	Cows, Calves, Bulls, Bullocks of all ages, He & She-buffalo below thirteen years of age.	<b>Imprisonment:</b> Minimum – Three years Maximum – Five years <b>Or</b> <b>Fine:</b> Maximum – Rs. 1000/- <b>Or</b> Imprisonment & Fine. <sup>392</sup>
Maharashtra	Cow, Bull, Bullock	<b>Imprisonment:</b> Maximum – Five years <b>Or</b> <b>Fine:</b> Maximum – Rs. 10,000/- <b>Or</b> Imprisonment & Fine. <sup>393</sup>

Source: Research Scholar's own compilation from the various legislations of the States and Union Territories

#### 5.4.2.1.4 Restrictions on transport or export of cows and cow progeny

Various States have imposed restrictions on transport or export of cows and cow progeny for the purposes of slaughter. The object is to prevent their transportation to those States where cow slaughter is legal. Export implies transporting or conveying bovine animals beyond the boundaries of the State. The various restrictions on

<sup>390</sup> Supra note 364 at s. 12; Memorandum Regarding Review of the Delhi Agricultural Cattle Preservation Act, 1994 (Delhi Act No. 7 of 1994 (Jan. 7, 2016), <https://pu.dr.org/memorandum-regarding-review-delhi-agricultural-cattle-preservation-act-1994-delhi-act-no-7-1994> (Last visited on May 28, 2021).

<sup>391</sup> Supra note 374 at s.12.

<sup>392</sup> Supra note 375 at s. 12(2).

<sup>393</sup> Supra note 377 at s.9.

transport and/or export of cows and cow progeny and the conditions under which they can be transported can be studied as under:

*(i) Total Restrictions on transport or export* - The States of Bihar and Maharashtra have imposed a total restriction on transport or export of cows and cow progeny.

*(ii) Partial restrictions on transportation or export* - This segment enumerates the various States that have imposed partial restrictions on transport of cows and cow progeny. Apart from this, the conditions under which permission for their transport is granted are also discussed.

The extent of the restrictions on transport or export are permitted is presented in the form of Table 5.5 given below.

**Table 5.5:** Extent of Partial Restrictions on Transport or Export of Bovine Animals

State/Union Territory	Restriction on Transport/Export (For Slaughter)	Conditions under which permit for transportation is issued
Chandigarh	✓	(i) Special permit would be issued where it is in the interest of public. (ii) No permit is issued where the export of the cow is to a State where cow slaughter is legal. <sup>394</sup>
Delhi	✓	(i) Where a declaration is made by the applicant that export of the cows is not for the purposes of slaughter and permit is issued by the concerned Veterinary Officer under the Act. (ii) No permit is issued where the export of the cow is to a State where cow slaughter is legal. <sup>395</sup>
Gujarat	✓ Transportation	(i) For bonafide agricultural purposes or for animal husbandry, etc. within the State. <sup>396</sup>

<sup>394</sup> Supra note 362 at ss. 4B, 4C.

<sup>395</sup> Supra note 364 at s. 5.

<sup>396</sup> Gujarat Animal Preservation (Amendment) Act, 2011 (Act No. 28 of 2011), s. 6A (1).

	even within the State is banned.	(ii) A Calf can be transported between 7:00 a.m. and 5:00 p.m. <sup>397</sup>
Haryana	✓	(i) Special permit would be issued where it is in the interest of public. (ii) No permit is issued where the export of the cow is to a State where cow slaughter is legal. <sup>398</sup>
Jharkhand	✓	(i) Special permit would be issued where it is in the interest of public. <sup>399</sup> (ii) Transit permit is required when the bovine animals are transported to one State from another via Jharkhand. <sup>400</sup>
Karnataka	✓ Transportation even within the State is banned.	The cattle can be transported within or outside the State with permit, if it is for bonafide agricultural or animal husbandry purposes. <sup>401</sup>
Madhya Pradesh	✓	(i) For agricultural or dairy farming purposes or for participating in a cattle fair. (ii) A Transit permit is required when the cow progeny is transported to one State from another via Madhya Pradesh. <sup>402</sup>
Punjab	✓	(i) Special permit would be issued where it is in the interest of public. (ii) No permit issued where the export of the cow is to a State where cow slaughter is legal. <sup>403</sup>
Rajasthan	✓	(i) Transport of bovine animals permitted in face of famine to other States for the purpose of grazing for a specific period. <sup>404</sup>

<sup>397</sup> Gujarat Animal Preservation (Amendment) Rules, 2017 (Act No. 28 of 2011), r. 4.

<sup>398</sup> Supra note 372 at ss. 5, 7.

<sup>399</sup> Supra note 374 at s. 4C.

<sup>400</sup> Id. at s. 4D.

<sup>401</sup> Supra note 375 at ss. 5, 6.

<sup>402</sup> Supra note 376 at ss. 6A, 6B.

<sup>403</sup> Supra note 362 at s. 4B.



		(ii) For agricultural or dairy farming purposes or for participating in a cattle fair. <sup>405</sup>
Uttarakhand	✓	(i) For the purposes of rearing, protection and promotion of cow progeny. The District Magistrate to ensure that there is no threat of slaughter or smuggling of cow progeny after transportation. <sup>406</sup> (ii) No permission for transport shall be granted to a person who himself or his relatives have been accused or have been charged as an accomplice under any of the cow protection laws. <sup>407</sup>
Uttar Pradesh	✓	(i) For participation in cattle fairs, exhibitions and markets. <sup>408</sup> (ii) If Cows, Bulls and Bullocks are required by the recognised institutions of other States, permit for transportation is granted. <sup>409</sup>

Source: Research Scholar's own compilation from the various legislations of the States and Union Territories

***Criticism: Punishment for transport or export of Cows and Cow Progeny for the purposes of slaughter leads to victimisation of innocent transporters*** - The punishment for violating provisions pertaining to transport or export attracts an imprisonment ranging between six months and ten years. The State of Rajasthan has laid down a prison sentence which may extend to ten years, while the States of Gujarat, Chhattisgarh, Haryana and Madhya Pradesh have stipulated a maximum prison term of seven years. The prison sentence is also accompanied with fine which ranges between a minimum of one thousand rupees and a maximum of five lakh rupees.

Provisions making transportation of cows and cow progeny for slaughter, an offence under the various cow protection laws, also provide for raising the presumption of

<sup>404</sup> Supra note 381 at s. 5(2).

<sup>405</sup> Id. at s. 5(7).

<sup>406</sup> Supra note 386 at s. 6(3).

<sup>407</sup> Uttarakhand State Protection of Cow Progeny Rules, 2011, r. 10.

<sup>408</sup> The U.P. Govadh Nivaran Niyamavali, 1964, r. 16(6).

<sup>409</sup> Id. at r. 16(7).

guilt. This presumption is however, rebuttable. It is only at the trial stage that a rebuttal can be made. Prima facie, if a transporter is found in possession of the aforementioned animals, it is presumed that they are being conveyed for the purposes of slaughter. The stringent punishment only increases the culpability of the offence. This has emboldened the Gau Rakshaks to plan and launch attacks on mere suspicion. The Gau Rakshaks have way laid and lynched many an innocent transporter.

*(iii) No restrictions on Transport of cows and cow progeny* - Restrictions with regard to transportation or export have not been imposed in the States of Tamil Nadu, Andhra Pradesh, Assam, Goa, Himachal Pradesh, Odisha, Sikkim, Telangana and West Bengal as no provisions in this regard have been specified in the laws. Likewise, in Puducherry, Daman & Diu, Jammu & Kashmir, Dadra & Nagar Haveli and Andaman & Nicobar no restrictions on transport or export of cows and cow progeny have been imposed.

#### **5.4.2.1.5 Prohibition of transport, sale or possession of beef and/or beef products-**

Apart from prohibiting slaughter, transportation and export of cattle, twelve States and six Union Territories have legislated provisions which impose a ban on transport, sale, possession of beef and/or beef products. The extent and form of ban imposed by these States and Union Territories is presented in the Table 5.6 given below.

**Table 5.6:** Extent and Nature of Ban on Beef or Beef Products

State/Union Territory	Nature of Ban on Beef or Beef Products			
	Transport	Sale/Offer for Sale	Possession	Permissible
Chandigarh		✓		For medicinal purposes
Chhattisgarh			✓	
Dadra & Nagar Haveli		✓		
Daman & Diu		✓		
Delhi			✓	
Goa		✓		(i) For medicinal purposes. (ii) Cannot sell imported beef unless registered with the prescribed authority.
Gujarat	✓	✓	✓	

			Storage also Prohibited	
Haryana	✓	✓	✓ Storage also Prohibited	
Himachal Pradesh		✓		For medicinal purposes
Jammu & Kashmir			✓	
Jharkhand		✓	✓	
Madhya Pradesh			✓	
Maharashtra			✓	
Puducherry		✓		
Punjab		✓		For medicinal purposes
Rajasthan	✓	✓	✓	
Uttarakhand	✓	✓	✓	
Uttar Pradesh	✓	✓		(i) For medicinal purposes. (ii) For partake of a legit commuter travelling by air or train.

Source: Research Scholar's own compilation from the various legislations of the States and Union Territories

In Chandigarh, Goa, Himachal Pradesh and Punjab, sale of beef or beef products is permitted if it is meant to be used for medicinal purposes. Additionally, in the State of Goa, beef imported from neighbouring States can be sold, only if the seller is registered with the prescribed authority as laid down in the Goa Animal Preservation Act, 1995. The State of Uttar Pradesh permits sale of beef or beef products for medicinal purposes and where it is meant for partake of legitimate commuter travelling by air or train.

***Punishment for transport, sale or possession of beef and/or beef products without permit***

Punishment for violating the provisions pertaining to ban on beef or beef products ranges from six months prison sentence to ten years. The fine that can be imposed varies from a minimum of five hundred rupees to a maximum of five lakh rupees. The

most stringent punishment is laid down by the State of Gujarat, wherein the minimum period of imprisonment is seven years and the maximum term is ten years.

***Criticism: Punishing transport, sale or possession of beef or beef products widens the ambit of criminal justice system***

By making transportation, sale, possession of beef or beef products punishable, the ambit of the cow protection laws have been widened. As a result of this, more and more persons are drawn into the dragnet of criminal justice system. These provisions have been misused to attack innocent transporters. Even those who transport with a valid permit have been attacked by Gau Rakshaks. In Delhi, Gujarat, Haryana, Jharkhand, Odisha, Rajasthan and Uttarakhand, possession of beef itself is a crime. A person is arrested and prosecuted for possession of beef, irrespective of the quantity possessed by him and without ascertaining whether he intended to sell it or not.<sup>410</sup> These provisions have had the tendency of expanding the scope of vigilantism and have given the vigilantes a legal framework to carry out the acts of lynching with impunity. The legislative overreach has exposed transporters, hoteliers, consumers and workers in leather industry to double jeopardy in the form of legal prosecution on one hand and attacks by Gau Rakshaks on the other hand.<sup>411</sup>

**5.4.2.1.6 Powers of entry and inspection**

The State Cow Protection Laws also empower authorised persons and public servants to enter and inspect any premises, stop, search and seize vehicles, in order to achieve the objects of the said laws.

***Criticism: Powers of entry and inspection vests policing powers in private citizens -*** Prima-facie, there does not seem to be any infirmity with the search and seizure provision. There is no infirmity so long as these powers are exercised by the public servants. The mischief lies in appointing Gau Rakshaks under the nomenclature of authorised persons. The Department of Animal Husbandry of the State of Maharashtra made a call for volunteers from the civilians in May 2016 to monitor the beef ban imposed in the State. The volunteers so appointed were to be issued identity cards which would empower them to stop and search vehicles. A surge of applications was received by the department. Most of these applications were from those who were

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<sup>410</sup> Supra note 16.

<sup>411</sup> Supra note 16.

affiliated to various Gau Raksha outfits.<sup>412</sup> The vesting of policing powers in civilians has only led to use of excess force and power by them on those suspected to be cow smugglers, sellers, transporters of beef, etc. It is the vesting of these policing powers in the Gau Rakshaks, who are mere civilians, that has led to many mob lynching incidents across India. The Supreme Court of India in *Nandini Sundar and Ors. v. State of Chhattisgarh*<sup>413</sup> had ruled that the appointment of Koya Commandos as Special Police Officers by the State of Chhattisgarh Government was unconstitutional and warned that civilians should not be vested with policing functions as it led to abuse of power by the latter. If one draws analogy of the *Nandini Sundar* case with the appointment of Gau Rakshaks as volunteers under the cow protection laws, then their appointment would also be unconstitutional. In case of the appointment of Special Police Officers in Chhattisgarh, they were given a training in use of weapons and various laws. However, the duration of which was very short. By appointing Gau Rakshaks or other civilians as volunteers without any training in policing functions would further exacerbate the situation. When the appointment of Special Police Officers with a short duration of training was held to be unconstitutional then the appointment of Gau Rakshaks or other civilians is also unconstitutional. The Gau Rakshaks who were earlier acting extra-judicially, now lynch with the sanction and backing of the State.

Thus, the power of entry, search and seizure should be exercised by the Police alone.

#### **5.4.2.1.7 Immunity from prosecution for acts done in good faith**

The cow protection legislations of sixteen States and the Union Territories of Chandigarh and Delhi, contain provisions which give immunity from prosecution or other legal proceedings to any servant of the government or 'any person' for acts done in good faith. The protection granted for acts done in carrying out the objects of the State legislations covers not only public authorities but also private citizens, though not explicitly but impliedly. Thus, any person who is purportedly carrying out the objects of the cow protection law can take refuge of the 'good faith' clause even when he uses force or violence against the alleged transgressor.

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<sup>412</sup> S. Nair, Refrain in sangh turf: Cards will give us power, *THE INDIAN EXPRESS*, (Jan. 27, 2017), <https://indianexpress.com/article/india/india-news-india/maharashtra-government-beef-ban-gau-rakshak-id-cards-animal-husbandry-modi-sangh-turf-2991489/> (Last visited on May 23, 2021).

<sup>413</sup> *Supra* note 18.

***Criticism: Immunity from prosecution for acts done in good faith leads to cloaking the vigilante*** - This protection from prosecution or legal proceedings given to private citizens has emboldened them to attack and lynch those suspected of cow slaughter, cow smuggling, transporting, selling or possessing beef. The States having the 'good faith' clause have witnessed more mob lynching cases than those States that have not incorporated it.

#### **5.4.2.1.8 Burden of Proof on accused**

Chandigarh, Delhi, Dadra & Nagar Haveli, Puducherry, Daman & Diu, Haryana, Maharashtra, Himachal Pradesh, Chhattisgarh, Punjab, Madhya Pradesh and Uttar Pradesh and Rajasthan, have incorporated a provision which casts the burden of proof on the accused in their cow protection legislations. This implies that where the accused has been charged to have committed an offence under the cow protection law, the burden of proving the innocence in the court of law would lie on him.

***Criticism: Burden of Proof on accused amounts to unjustified deviation from criminal jurisprudence*** - Presumption of innocence is a sacrosanct principle of criminal jurisprudence. This principle requires the prosecution (State) to discharge the burden of proof. Thus, proving the guilt is the responsibility of the State. The rationale underlying this principle is to enable an accused to avail the right to fair trial as envisaged u/A. 21 of the Indian Constitution. Casting the burden of proof on the accused implies that he has to prove that he has not contravened the provisions of the cow protection law. It is against the rule of proving a negative fact. Proving the negative leads to hardship and oppression of the accused.

Burden of proof has been cast on the accused by a statute in case of heinous crimes like terrorism, drug trafficking, possession of arms, dowry death, rape, etc. Offences defined under the cow protection laws cannot be equated with the heinous crimes described above. Therefore, there is no requirement for the State legislature to deviate from the criminal jurisprudence and shift the onus on the accused. The High Court of Bombay in *Shaikh Zahid Mukhtar v. State of Maharashtra*<sup>414</sup> held that casting of burden of proof on the accused is against the rule of proving a negative fact. It further

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<sup>414</sup> *Shaikh Zahid Mukhtar v. State of Maharashtra and Ors.*, AIR 2017 (NOC 518) 169 (High Court of Bombay).

held that s. 9B of the Maharashtra Animal Preservation Act, 1976, which cast the burden of proof on the accused sets out to do what is prohibited by law and the provision cannot be said to be fair, just and reasonable as required by A. 21. The High Court of Bombay declared s. 9B to be unconstitutional.

Since violation of the provisions of the cow protection laws cannot be equated with heinous crimes like terrorism, drug trafficking, etc., the deviation from the criminal jurisprudence is not warranted. Therefore, the burden of proof should not be cast on the accused.

#### **5.4.2.1.9: Nature of the offence under the Cow Protection Laws**

In thirteen States and five Union Territories, the offences under the cow protection laws have been made cognizable and non-bailable. Not only the offence of slaughter has been made cognizable and non-bailable but also the various other incidental acts like transport of cattle for slaughter, transport, sale or possession of beef.

For example, in the State of Gujarat, Haryana and Himachal Pradesh, illegal transport and slaughter of cattle, sale, transport and possession of beef have all been designated as cognizable and non-bailable.

However, in the States of Bihar, Odisha, Telangana and West Bengal, the offences though cognizable, are bailable.

*Criticism: Non-bailable nature of the offences under the Cow Protection Laws leads to unnecessary amplification of gravity of incidental offences* - Equating substantive offences with incidental offences and meting out an equal treatment does not bode well from criminological and penological perspective. Putting substantive offences and incidental offences which generally comprise of various stages of crime on the same pedestal is warranted in case of heinous offences like terrorism, drug trafficking, etc. The offences sought to be punished under the cow protection laws, for example, possession and sale of beef cannot be categorised as heinous. Every crime should be defined and punished according to the gravity of the offence. The labelling of various incidental offences of the cow protection laws as cognizable and non-bailable only amplifies the gravity of the offence and metes out a treatment which is

not in consonance to sound penological and criminological principles. Research has shown that prisons have a deleterious effect on offenders. When modern Penological philosophy encourages law makers to adopt decriminalization and diversion so that fewer people fall into the dragnet of criminal justice system, criminalising and amplifying the gravity of incidental offences achieves the contrary. By designating the incidental offences, cognizable and non-bailable, a perception is created in the minds of the people that such crimes being grave and heinous, the violators should not be allowed to escape. This further foments vigilante acts.

## **5.5 LAWS PROHIBITING MOB LYNCHING**

The Supreme Court of India<sup>415</sup> had recommended to the Central Government to enact a special legislation to prevent mob lynching incidents in India. As it has been pointed out in the beginning of the present chapter that the GoM are yet to make a recommendation to the Prime Minister as to the necessity of enacting a special legislation on the subject.<sup>416</sup> While a Central Legislation is awaited, the State Legislative Assemblies of Jharkhand, Rajasthan, West Bengal and Manipur have passed the anti-mob lynching bills. The Governors of the States of Manipur, Rajasthan and West Bengal have referred the bills to the President of India for his assent. The Governor of Jharkhand has returned the Bill with objections. Pending the assent, these bills are yet to be enforced in the States of Manipur, Rajasthan, West Bengal and Jharkhand.

These bills have been modelled on the draft bill, entitled, ‘The Protection from Lynching Act, (PLA) 2017’, drawn by a Non-Governmental Organisation (N.G.O), National Campaign against Mob Lynching. It is also referred to as MASUKA which stands for Manav Suraksha Kanoon. This draft bill was unveiled on 7 July 2017 at the Constitution Club of India in New Delhi.<sup>417</sup> Since the four State Bills are modelled on MASUKA, the Research Scholar has analyzed and compared the former with the latter. The PLA and the four bills passed by the States of Manipur, Rajasthan West Bengal and Jharkhand shall here-in-after be collectively referred to as the Anti-Mob

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<sup>415</sup> Supra note 23.

<sup>416</sup> Supra note 303.

<sup>417</sup> The Quint, *MASUKA Unveiled: What Does The Anti-Lynching Draft Bill Say?* THE QUINT (Jul. 7, 2017), <https://www.thequint.com/news/masuka-unveiled-anti-lynching> (Last visited on May 29, 2021).



Lynching Bills. The Manipur Protection from Mob Violence Ordinance, 2018 shall here-in-after be referred to as The Manipur Bill, The Rajasthan Protection from Lynching Bill, 2019 shall be referred to as The Rajasthan Bill, The West Bengal (Prevention of Lynching) Bill, 2019 shall be referred to as The West Bengal Bill. The Jharkhand Prevention of Mob Violence and Mob Lynching Bill, 2021 shall be referred to as The Jharkhand Bill. The Manipur, Rajasthan, West Bengal and Jharkhand Bills shall here-in-after be collectively referred to as the State Bills.

### **5.5.1 Analysis and Comparison of the State Bills of Manipur, Rajasthan, West Bengal and Jharkhand with PLA**

The Anti-Mob Lynching Bills contain various salutary provisions like conferring rights on the victims, providing protection to witnesses, punishment for dereliction of duty by police officers, appointing Nodal Officers, apart from defining the term, ‘mob’ and the various offences of lynching. The analysis of the Anti-Mob Lynching Bills ensues as under:

#### **5.5.1.1 Preamble of the Anti-Mob Lynching Bills**

After analyzing the Anti-Mob Lynching Bills, the purport of the Preamble stated in the said Bills is described as under in Table 5.7.

**Table 5.7:** Preamble of the Anti-Mob Lynching Bills

<b>Bills</b>	<b>Preamble</b>
PLA	It seeks to: (i) make provisions for protecting the constitutional rights of vulnerable persons. (ii) punish the acts of lynching. (iii) provide for constitution of Special Courts for speedy trial. (iv) rehabilitate victims of lynching and their families.

The Manipur Bill	It seeks to: (i) create a distinct offence of lynching. (ii) stipulate punishment for mob violence. (iii) create a deterrence in the minds of people involving in mob violence. (iv) lay down means for rehabilitating victims of lynching as well their families.
The West Bengal Bill	It seeks to: (i) bring about effective protection of constitutional rights of vulnerable persons. (ii) prevent and punish acts of lynching.
The Rajasthan Bill	It seeks to: (i) protect the constitutional rights of vulnerable persons. (ii) punish the acts of lynching. (iii) constitute designated courts for speedy trial. (iv) rehabilitate victims of mob lynching and their families.
The Jharkhand Bill	It seeks to: (i) protect the constitutional rights of vulnerable persons. (ii) prevent mob violence. (iii) provide for a law to punish ancillary or incidental acts to mob violence and mob lynching.

Source: Research Scholar's own compilation from the PLA and the State Bills on Mob Lynching

**5.5.1.1.1 Criticisms** – The various criticisms are discussed as under:

**(i) No provision for setting up of Special Courts and providing rehabilitation to the victims in the West Bengal Bill** - The Preamble and the object of the above four State Bills are similar to that of the PLA. The West Bengal, the Manipur and Jharkhand Bills differ in respect of not specifying the setting up of special courts in the Preamble. The West Bengal Bill has also not included for providing rehabilitation of victims and their families in the Preamble.

**(ii) Use and Application of the words 'protection of constitutional rights of vulnerable persons' narrows the scope of the Bills** - The use of the words 'protection of constitutional rights of vulnerable persons' in the preamble of PLA, the West Bengal Bill, Rajasthan Bill and Jharkhand Bills seemingly refers to persons belonging

to a particular caste, religion, region, race, etc. The mob lynching incidents have not only emanated from caste and religion-based considerations but also on suspicion of commission of crime and/or actual commission of crime. Therefore, use of the words ‘vulnerable persons’ narrows the ambit and application of these laws. If the words, ‘protection of constitutional rights’ are to be used then the preamble can be reframed as ‘protection of constitutional rights of the citizens’. However, the Anti-Mob Lynching Bills will fall short if protection is not accorded to non-citizens or stateless persons. Therefore, to protect all individuals, whether, citizens, non-citizens or stateless persons from lynching, it is expedient that, it should be reframed as ‘protection of human rights of persons’.

### **5.5.1.2 Definition of Lynching**

The Anti-Mob Lynching Bills have defined the various terms like lynching, mob, offensive material, witness, etc. The State Bills apart from the above terms, have also defined the term ‘hostile environment’ which was not defined in the PLA. The definition of hostile environment has been borrowed from Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011. The definition of the term ‘Lynching’ needs to be analyzed and the same is presented as under:

#### **5.5.1.2.1 PLA**

‘Lynching shall mean any act or series of acts of violence, whether spontaneous or planned, committed to inflict extra judicial punishment, or as an act of protest and caused by the desire of a mob to enforce upon a person or group of persons any perceived legal, societal & cultural norms or prejudices’.<sup>418</sup>

#### **5.5.1.2.2 The Manipur Bill**

‘Lynching means any act or series of acts of violence or aiding, abetting such act/acts thereof, whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity or any other related grounds or on mere suspicion of commission of a cognizable crime amounting to a heinous one’.<sup>419</sup>

#### **5.5.1.2.3 The West Bengal Bill**

‘Lynching means any act or series of acts of violence or aiding, abetting or attempting an act of violence, whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary

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<sup>418</sup> Protection from Lynching Act, 2017, s. 2(a).

<sup>419</sup> The Manipur Protection from Mob Violence Ordinance, 2018, s. 2(d).

practices, sexual orientation, political affiliation, ethnicity or any other ground'.<sup>420</sup>

#### **5.5.1.2.4 The Rajasthan Bill**

'Lynching means any act or series of acts of violence or aiding, abetting or attempting an act of violence, whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity'.<sup>421</sup>

#### **5.5.1.2.5 The Jharkhand Bill**

'Lynching means any act or series of acts of violence or causing death or aiding, abetting or attempting an act of violence or causing death, whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation or any other ground'.<sup>422</sup>

#### **5.5.1.2.6 The features that are common to the definition of the term 'Lynching' in the four State Bills are -**

(i) '*Lynching means any act or series of acts of violence*'.

However, the Jharkhand Bill has apart from the acts of violence, included 'causing death' in the definition of lynching.

(ii) '*Aiding, abetting such act/acts of violence*'.

The Rajasthan Bill, The West Bengal Bill and The Jharkhand Bill have added 'attempting' to aiding and abetting.

(iii) '*Such acts of violence may be spontaneous or planned*'.

All the State Bills have incorporated the above-quoted words.

(iv) '*These acts are carried out by a mob*'.

These words run common in all the State Bills.

(v) The violence is perpetrated by the '*mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity or any other related grounds*'.

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<sup>420</sup> The West Bengal (Prevention of Lynching) Bill, 2019, s. 2(d).

<sup>421</sup> The Rajasthan Protection from Lynching Bill, 2019, s. 2(d).

<sup>422</sup> The Jharkhand (Prevention of Mob Violence and Mob Lynching) Bill, 2021, s. 2(1)(v).

As to this feature, the Manipur Bill has added '*on mere suspicion of commission of a cognizable crime amounting to a heinous one*' as an additional ground for lynching.

**5.5.1.2.7 Criticism** - Mob lynching incidents have not only occurred on the grounds of caste, religion, dietary practices, etc. but also on suspicion of commission of crime or actual commission of crime. Lynching on suspicion of child lifting or theft have been reported across the country. Likewise, Akku Yadav,<sup>423</sup> Gurpreet Singh and Surjit Singh are instances where irate mobs lynched them for committing crimes.<sup>424</sup> Therefore, it is necessary to include 'suspicion of commission of crime or commission of crime' amongst the various grounds.

The definition of 'lynching' in the PLA describes lynching as an extrajudicial punishment inflicted by a mob on person(s) for enforcing perceived legal, social and cultural norms. Violation or infractions of the norms is a pre-requisite to enforcement of norms. The attack by Bajrang Dal activists on young couples celebrating Valentine's Day in various parts of India, and the Mangalore Pub Case illustrate the vigilante acts for perceived infractions of societal and cultural norms. The perception that the Indian social and cultural norms are being violated by the youth or it is facing a threat from the western culture led to attacks on them. These attacks were triggered with the intent of enforcing the social and cultural norms of the Indian society. Thus, this definition in comparison to the definitions given in the State Bills is in consonance with the definition of vigilantism given by Les Johnston and William E. Burrows. Vigilantism stems from a need for social control and/or crime control. The extrajudicial punishment meted out by a mob for infractions of 'perceived legal, social and cultural norms/prejudices' encompasses both the aspects of social control and crime control. However, attacks perpetrated due to perception of violation of religious norms is not taken into account.

### **5.5.1.3 Definition of Mob**

The definition of the term 'Mob' as defined by the Anti-Mob Lynching Bills needs to be studied and analyzed and the same is depicted in the form of Table 5.8 given below.

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<sup>423</sup> Supra note 207.

<sup>424</sup> IANS, *Mob attacks 6-year-old Hoshiarpur girl's rapist and his grandfather*, THE TRIBUNE (Oct. 23, 2020), <https://www.tribuneindia.com/news/punjab/mob-attacks-6-year-old-hoshiarpur-girls-rapist-and-his-grandfather-159993> (Last visited on Feb. 22, 2021).

**Table 5.8:** Definition of the term ‘Mob’ in the State Bills

<b>Bill</b>	<b>Definition of Mob</b>
PLA	<i>‘Mob shall mean a group of two or more individuals, assembled with an intention of lynching’.</i> <sup>425</sup>
The Manipur Bill	<i>‘Mob means a group of two or more individuals, assembled with a common intention of lynching’.</i> <sup>426</sup>
The West Bengal Bill	<i>‘Mob means a group of two or more individuals’.</i> <sup>427</sup>
The Rajasthan Bill	<i>‘Mob means a group of two or more individuals’.</i> <sup>428</sup>
The Jharkhand Bill	<i>‘Mob means a group of two or more individuals’.</i> <sup>429</sup>

Source: Research Scholar’s own compilation from the PLA and the State Bills on Mob Lynching

**5.5.1.3.1 Criticism** - The West Bengal Bill, The Rajasthan Bill and The Jharkhand Bill merely define a mob as ‘*a group of two or more individuals*’. It is simply used as a synonym for crowd. A Mob, according to these bills can also mean ‘crowd’. But a ‘crowd’ differs from a ‘mob’. A Mob is a large, angry crowd, especially one that could become violent.<sup>430</sup> A crowd is a large group of people who have come together.<sup>431</sup> A group of two or more individuals cannot be designated as a mob. It is necessary to define or qualify this group. The definition of Mob in the Manipur Bill further qualifies the group of two or more individuals as persons sharing the common intention to lynch. In the PLA, mob has been defined as ‘*an assembly of two or more individuals “with the intention of lynching”*’. The words ‘common intention’ has not been used. In offences involving multiple offenders, proof of shared common intention often becomes difficult. Proof of common intention leads to acquittal of

<sup>425</sup> Supra note 418 at s. 2(b).

<sup>426</sup> Supra note at 419 at s. 2(e).

<sup>427</sup> Supra note at 420 at s. 2(e).

<sup>428</sup> Supra note at 421 at s. 2(e).

<sup>429</sup> Supra note 422 at s. 2(1) (vi).

<sup>430</sup> Supra note 52.

<sup>431</sup> CAMBRIDGE UNIVERSITY, *crowd*, May 31, 2021, <https://dictionary.cambridge.org/dictionary/english/crowd>.

perpetrators on technical grounds. For the purpose of proper understanding and application of the term, the definition given in the PLA should be adopted.

#### 5.5.1.4 Punishment for Lynching

Punishment for lynching has been laid down in a graded manner based on the nature of injury suffered by the victim. A comparative analysis of the Anti-Mob Lynching Bills is depicted as under in Table 5.9.

**Table 5.9:** Punishment for Lynching in the Anti-Mob Lynching Bills

<b>Bills</b>	<b>Punishment for Causing Hurt</b>	<b>Punishment for Causing Grievous Hurt</b>	<b>Punishment for Causing Death</b>
PLA	<b>Imprisonment:</b> Max.- Seven years <b>And</b> <b>Fine:</b> Max.- Rs. 1,00,000/- <sup>432</sup>	<b>Imprisonment:</b> Max.- Ten years <b>And</b> <b>Fine:</b> Max.- Rs. 3,00,000/- <sup>433</sup>	<b>Imprisonment:</b> Rigorous in nature for life. <b>And</b> <b>Fine:</b> Max.- Rs. 5,00,000/- <sup>434</sup>
The Manipur Bill	<b>Imprisonment:</b> Max.- Seven years <b>And</b> <b>Fine:</b> Max.- Rs. 1,00,000/- <sup>435</sup>	<b>Imprisonment:</b> Maximum - Ten years <b>And</b> <b>Fine:</b> Max.- Rs. 3,00,000/- <sup>436</sup>	<b>Imprisonment:</b> Rigorous in nature for life <b>And</b> a fine which may extend to Rs. 5,00,000/- <sup>437</sup>
The West Bengal Bill	<b>Imprisonment:</b> Max.-Three years. <b>And</b> <b>Fine:</b>	<b>Imprisonment:</b> Min.- Ten years Max.- Life Imprisonment	Death Penalty or Rigorous Imprisonment for life

<sup>432</sup> Supra note 418 at s. 7(a).

<sup>433</sup> Id. at s. 7(b).

<sup>434</sup> Id. at s. 7(c).

<sup>435</sup> Supra note 419 at s. 8(a).

<sup>436</sup> Id. at s. 8(b).

<sup>437</sup> Id. at s. 8(c).

	Max.- Rs. 1,00,000/- <sup>438</sup>	<b>And</b> <b>Fine:</b> Min. - Rs. 25,000/- Max: Rs. 3,00,000/- <sup>439</sup>	<b>And</b> <b>Fine:</b> Min.- Rs. 1,00,000/- Max.- Rs. 5,00,000/- <sup>440</sup>
The Rajasthan Bill	<b>Imprisonment:</b> Max.- Seven years <b>And</b> <b>Fine:</b> Max.- Rs. 1,00,000/- <sup>441</sup>	<b>Imprisonment:</b> Min. -Ten years Max.- Life Imprisonment <b>And</b> <b>Fine:</b> Min. - Rs. 25,000/- Max: Rs. 3,00,000/- <sup>442</sup>	<b>Imprisonment:</b> Rigorous in nature for life. <b>And</b> <b>Fine:</b> Min.- Rs. 1,00,000/- Max.- Rs. 5,00,000/- <sup>443</sup>
The Jharkhand Bill	<b>Imprisonment:</b> Max.- Three years. <b>And</b> <b>Fine:</b> Min.- Rs. 1,00,000/- Max.- Rs. 3,00,000/- <sup>444</sup>	<b>Imprisonment:</b> Min.-Ten years Max.- Life Imprisonment <b>And</b> <b>Fine:</b> Min.- Rs. 3,00,000/- Max.- Rs. 5,00,000/- <sup>445</sup>	<b>Imprisonment:</b> Rigorous in nature for life. <b>And</b> <b>Fine:</b> Min.- Rs. 5,00,000/- Max.- Rs. 25,00,000/- <sup>446</sup>

Source: Research Scholar's own compilation from the PLA and the State Bills on Mob Lynching

<sup>438</sup> Supra note 420 at s. 7(a).

<sup>439</sup> Id. at s. 7(b).

<sup>440</sup> Id. at s. 7(c).

<sup>441</sup> Supra note 421 at s. 10(a).

<sup>442</sup> Id. at s. 10(b).

<sup>443</sup> Id. at s. 10(c).

<sup>444</sup> Supra note 422 at s.8(a).

<sup>445</sup> Id. at s.8(b).

<sup>446</sup> Id. at s.8(c).



From the above, it can be discerned that the West Bengal Bill has laid down stringent punishment for causing death due to lynching in the form of death penalty or rigorous imprisonment for life. While the punishment for causing hurt and grievous hurt is similar in all the State Bills, the Manipur Bill has laid down the same punishment as that of the PLA for causing hurt, grievous hurt and death.

Apart from the above, conspiracy to lynch, abetting, aiding and attempting the act of lynching have been placed on an equal footing with the commission of the acts of lynching and have been made punishable to the same extent in all the Anti-Mob Lynching Bills.

#### **5.5.1.5 Appointment of Nodal Officers**

The State Bills have provided for appointing a Nodal Officer in each district in order to secure information of persons likely to indulge in lynching with the aid of subordinate police officers. They have further provided for setting up of special task force for the said purpose. Likewise, the Nodal Officer is charged with the duty to hold regular meetings, atleast once in a month for identifying the patterns and propensities leading to mob lynching. A duty to prevent propagation of inciteful content on social media, is also cast upon the Nodal Officer. The Nodal Officer so appointed should be a senior police officer, like, the Superintendent of Police under the Manipur Bill,<sup>447</sup> Inspector General of Police under the West Bengal Bill<sup>448</sup>, the Rajasthan Bill<sup>449</sup> and the Jharkhand Bill<sup>450</sup>. However, the PLA does not provide for appointment of a Nodal Officer. The duties charted out for the Nodal Officer have been cast on the Police Officers.<sup>451</sup>

The object of appointing the Nodal Officers is to have centralised command and identify patterns of mob violence and take pre-emptive steps.

#### **5.5.1.6 Dereliction of duties by Police Officers and punishment for dereliction of duties**

The Anti-Mob Lynching Bills have spelt out as to what amounts to dereliction of duties by the police officers. Defining the same makes the police officers accountable. The various acts of dereliction have been summarized as under:

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<sup>447</sup> Supra note 419 at s. 3(1).

<sup>448</sup> Supra note 420 at s. 3(1).

<sup>449</sup> Supra note 421 at s. 3(1).

<sup>450</sup> Supra note 422 at s.3(1).

<sup>451</sup> Supra note 418 at s. 3.

- (i) Not according protection to a victim of lynching.
- (ii) Not acting upon in face of an apprehension of lynching.
- (ii) Not filing an F.I. R u/s. 154(1) of the Code of Criminal Procedure, 1973 (here-in-after referred to as the Code).
- (iii) Not making efforts in identifying instances of dissemination of offensive material that have a tendency to incite lynching.
- (iv) Not acting promptly and in a fair and impartial manner in discharging his duties specified under the four State Bills.
- (iv) Not endeavouring to prevent the creation of a hostile environment against an individual or a section of the society.

The dereliction of the afore-mentioned duties has been made punishable under the PLA and the Manipur Bill. The PLA mandates the punishing of a derelict officer according to the State Police Acts. It further stipulates that in the absence of the State Police Act laying down any punishment, the erring police officer should be punished with a prison sentence extending to six months along with a fine extending to fifty thousand rupees.<sup>452</sup>

The Manipur Bill lays down a minimum prison sentence of one year and maximum of three years. Apart from a prison term a fine shall be imposed which may extend to fifty thousand rupees.<sup>453</sup> However, the Rajasthan and West Bengal Bills do not make dereliction of duty by a Police Officer punishable.

Making dereliction of duty punishable is indeed a salutary provision as it will not only hold the police officer accountable but also help in restoring the faith of the people in the administration of justice.

#### **5.5.1.7 Provides for protection of victims and witnesses**

The Anti-Mob Lynching Bills have cast a duty on the concerned governments to devise plans to protect witnesses and victims from coercive acts of the accused persons or their agents. The details of the arrangement made for their protection is to

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<sup>452</sup> Supra note 419 at s. 12.

<sup>453</sup> Id. at s. 16.

be furnished to the Trial Court and the same has to be reviewed by the said court periodically.

Similarly, a police officer, on receipt of a complaint from the victim, witness or informant that he/she has been coerced or threatened is required to record it and send the same to the Trial Court within twenty-four hours.<sup>454</sup>

The incorporation of these provisions will not only protect the victims and witnesses but will also ensure a truthful testimony in the court of law. The chances of witnesses turning hostile can be effectively tackled and help in securing a conviction.

#### **5.5.1.8 Procedure for Investigation, Prosecution and Trial of Mob Lynching Cases**

Elaborate procedure for investigation, prosecution and trial have been laid down in all the Anti-Mob Lynching Bills. The important provisions have been summarized as under:<sup>455</sup>

- (i) The provisions of the Code would be applicable in investigation, prosecution and trial of offenders, except to the extent saved and amended by the Anti-Mob Lynching Bills.
- (ii) All the offences would be cognizable, non-bailable and non-compoundable.
- (iii) An officer not below the rank of Inspector of Police is to investigate the offences specified in the State Bills.
- (iv) Sanction to investigate and prosecute police officers is not required. The Court can take cognizance of an offence, if it is satisfied that there has been dereliction of duty by the concerned police officer.
- (v) Mob lynching cases are to be tried by Designated Judges. The State Government in consultation with the Chief Justice of the High Court is to appoint a Designated

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<sup>454</sup> Protection from Lynching Act, 2017, s. 21(4), (5), (6); The Manipur Protection from Mob Violence Ordinance, 2018, s.25(8), (9), (10); The Rajasthan Protection from Lynching Bill, 2019, s. 19(8), (9), (10); The West Bengal (Prevention of Lynching) Bill, 2019, s.15(6), (7), (8); The Jharkhand (Prevention of Mob Violence and Mob Lynching) Bill, 2021, s.16(8).

<sup>455</sup> Protection from Lynching Act, 2017, ss. 14, 15, 16, 17, 18, 19, 20; The Manipur Protection from Mob Violence Ordinance, 2018, ss. 18, 19, 20, 21, 22, 23, 24; The Rajasthan Protection from Lynching Bill, 2019, ss.13, 14, 15, 16, 17, 18; The Jharkhand (Prevention of Mob Violence and Mob Lynching) Bill, 2021, s.13.

Judge. A Sessions Judge or a Retired Sessions Judge is qualified to be appointed as a Designated Judge under the Anti-Mob Lynching Bills.

(vi) The procedure for trial of warrant cases as laid down in the Code is to be followed by the Designated Judge in trying persons charged under the Anti-Mob Lynching Bills.

(vii) The Court of the Designated Judge is deemed to be a Court of Session.

(viii) Trial to be conducted on day-to-day basis. If the trial is not held on day-to-day basis, the Designated Judge should record reasons for the same.

(ix) The statements of victims and witnesses are to be recorded within 180 days from the date of framing of charges.

The West Bengal Bill has made provisions with regard to only clauses (i), (ii) & (iii).<sup>456</sup> The Jharkhand Bill has made provisions with regard to clause (i) only. It has not spelt out the appointment and trial of mob lynching cases by Designated Judges.

#### **5.5.1.9 Free legal aid to the victim or victim's family and other rights**

To enable a victim of mob lynching or his family to avail the right to remedy, the Anti-Mob Lynching Bills provide for free legal aid. If the victim desires to retain a lawyer empanelled with the legal aid cell under the Legal Services Authorities Act, 1987, the State Legal Services Authority shall have to bear the retainership. Even in a situation where a lawyer is engaged by the victim or his family members, the costs emanating from the retainership are to be undertaken by the State.

Apart from the above, a victim or his family would be entitled to:

(i) receive timely notices of the court proceeding. The victim shall be afforded an opportunity of hearing in matters pertaining to the discharge, release, conviction, sentence, bail or parole of the accused person.

(ii) receive a written information from Superintendent of Police or an officer designated by him with regard to the developments made in the investigation of the offence, arrest, charge-sheet, grant of bail, conviction or sentence of the accused.

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<sup>456</sup> Supra note 420 at ss. 12, 13, 14.

(iii) receive a copy of statements made by witnesses and recorded during investigation or inquiry.<sup>457</sup>

#### **5.5.1.10 Compensation, Relief and Rehabilitation**

Provision for compensation has been made in all the State Bills. Elaborate guidelines as to grant of compensation have been laid down in the PLA and The Manipur Bill. The same are summarized as under:

(i) A compensation is to be paid by the State Government to the victims of mob lynching

within thirty days of the incident.

(ii) Compensation is to be paid to the next of kin where death of the victim of lynching has occurred.

(iii) Various factors like injuries sustained by the victim (physical, psychological or material), loss of remuneration, medical and legal costs, lost opportunities of employment and education have to be factored in while determining the compensation.<sup>458</sup>

The PLA states that a minimum of twenty-five lakh rupees should be awarded as compensation to the next of kin where death of a victim has occurred due to lynching.<sup>459</sup>

The West Bengal Bill and the Jharkhand Bill in addition to awarding compensation to the victim or his family, directs the State-run hospitals to provide free medical treatment to the victim.<sup>460</sup> The Manipur Bill and the Rajasthan Bill have laid down elaborate guidelines to set up relief camps for victims and their family members where the lynching has resulted into their displacement.<sup>461</sup>

#### **5.5.1.11 Provision for Appeal**

The right of appeal is articulated in the PLA and all the four State Bills which stipulate that:

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<sup>457</sup> Supra note 418 at s. 21; Supra note 419 at s. 25; Supra note 420 at s. 15.

<sup>458</sup> Supra note 418 at ss. 21, 23; Supra note 419 at s. 27.

<sup>459</sup> Supra note 418 at s. 23.

<sup>460</sup> Supra note 420 at ss. 16, 17; Supra note 422 at s. 17.

<sup>461</sup> Supra note 419 at ss.22, 23; Supra note 421 at ss. 28, 29.

(i) Any person aggrieved by the judgement, sentence or order of a Designated Judge in mob lynching case has a right to file an appeal in the High Court within sixty days from the date of such judgement, sentence or order. The right of appeal is not extended to a case where an interlocutory order has been passed.

(ii) A delay in filing an appeal may be condoned by the High Court if it finds the reasons adduced by the appellant to be satisfactory.<sup>462</sup>

#### **5.5.1.12 Other Offences and Punishment thereof**

**(i) Punishment for propagation of inciteful content** - Dissemination of offensive material to incite people to lynch another has been made punishable by the Anti-Mob Lynching Bills. The period of imprisonment for it ranges from one year to three years in the PLA and the Manipur and Rajasthan Bills.<sup>463</sup> Under the West Bengal and Jharkhand Bills, a convicted person can be sentenced up to one year prison term.<sup>464</sup> A minimum fine of Rs. 50,000 and a maximum of Rs. 1.00 lakh can be imposed under the Jharkhand Bill. The PLA, the Manipur Bill, the West Bengal Bill and the Rajasthan Bill have provided for the imposition of Rs. 50,000 as fine.

**(ii) Punishment for enforcing a hostile environment** - The punishment for creating a hostile environment, ranges from six months to five years prison sentence in the four State Bills. The offence is also punishable under the Rajasthan and West Bengal Bills with a fine which may extend to one lakh rupees.<sup>465</sup> The Jharkhand Bill has also provided for an imposition of fine ranging between Rs. 50,000 and Rs. 3.00 lakhs.<sup>466</sup> The PLA neither defines the act of enforcing a hostile environment nor does it lay down the punishment for it.

**(iii) Punishment for obstructing legal process** - The offence of Obstructing legal process as envisaged under the PLA and the four State Bills punishes the following two acts:

(a) Knowingly assisting an offender under the Mob Lynching Bills with the intent of preventing or interfering with his arrest, trial or punishment.

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<sup>462</sup> Supra note 418 at s. 24; Supra note 419 at s. 30; Supra note 420 at s. 18; Supra note 421 at s. 24; Supra note 422 at s.19.

<sup>463</sup> Supra note 418 at s.10; Supra note 419 at s. 11; Supra note 421 at s.11.

<sup>464</sup> Supra note 420 at s. 10; Supra note 422 at s.11.

<sup>465</sup> Supra note 421 at s.12; Supra note 420 at s. 11.

<sup>466</sup> Supra note 422 at s.12.

(b) Threatening a witness of causing harm to him or any person in whom he is interested with the intent of refraining him from deposing in the court of law. A threat to harm the property of the witness or the property of a person in whom he is interested also falls within the ambit of obstructing legal process.

The punishment for the above two acts is depicted in Table 5.10 given below.

**Table 5.10:** Punishment for Assisting an Offender and Threatening a Witness vis-à-vis the Anti-Mob Lynching Bills

Bills	Punishment for assisting an offender		Punishment for threatening a witness	
	Imprisonment	Fine	Imprisonment	Fine
PLA <sup>467</sup>	May extend to five years.	No specific amount has been laid down.	May extend to five years.	No specific amount has been laid down.
The Manipur Bill <sup>468</sup>	May extend to five years.	No specific amount has been laid down.	May extend to five years.	No specific amount has been laid down.
The Rajasthan Bill <sup>469</sup>	May extend to five years.	May extend to Rs. 1,00,000.	May extend to five years.	May extend to Rs. 1,00,000.
The West Bengal Bill <sup>470</sup>	May extend to three years.	May extend to Rs. 1,00,000.	May extend to five years.	May extend to Rs. 2,00,000.
The Jharkhand Bill <sup>471</sup>	May extend to three years	Min: Rs. 1,00,000 Max: Rs. 3,00,000	May extend to five years.	Min: Rs. 2,00,000 Max: Rs. 5,00,000

Source: Research Scholar's own compilation from the PLA and the State Bills on Mob Lynching

<sup>467</sup> Supra note 418 at s.9.

<sup>468</sup> Supra note 419 at s. 10.

<sup>469</sup> Supra note 421 at s.10.

<sup>470</sup> Supra note 420 at s. 9.

<sup>471</sup> Supra note 422 at s.10.

**(iv) Punishment for dereliction of duty by District Magistrate** - The Rajasthan and West Bengal Bills have specified the duties of a District Magistrate vis-à-vis prevention of mob lynching incidents. Also, the District Magistrate is required to take necessary action to prevent the creation of a hostile environment against the victims of mob lynching and their families.<sup>472</sup> The PLA has made dereliction of duty by a District Magistrate in failing to prevent any act of lynching, a punishable offence. Such an erring District Magistrate would be punished with imprisonment and/or fine.<sup>473</sup>

Barring Manipur and Jharkhand Bills, the rest of the Mob Lynching Bills have laid down provisions which hold the District Magistrate accountable.

**(v) Punishment for causing damage to movable or immovable property** - The Manipur Bill has stipulated a punishment for causing damage to any movable or immovable property while committing the offence of lynching. The offender shall be punished with a prison term along with fine. The quantum of fine is to be determined by the Court.<sup>474</sup>

**(vi) Imposition of Collective Fine** - The Manipur Bill has included yet another salutary provision of imposing a collective fine on the households of a particular area where its inhabitants have abetted the commission of any offence under the Bill or harboured offenders or resisted the apprehension of offenders or have suppressed material evidence. It empowers the State Government to impose an equal amount of fine on each household in the area where the mob lynching incident has occurred.<sup>475</sup> The imposition of collective penalty would help in deterring people from harbouring of offenders and thus, prevent interference in the administration of justice.

#### **5.5.1.13 Constitution of Review Committee**

The PLA and the Manipur Bill provide for constitution of a Review Committee by the State Government which is to be headed by an Inspector General of Police in following situations:

(i) Where a charge-sheet is not filed by the investigating officer within three months of registering the F.I.R, the Review Committee may issue orders for a fresh

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<sup>472</sup> Supra note 421 at s.5; Supra note 420 at s. 5.

<sup>473</sup> Supra note 418 at s.13.

<sup>474</sup> Supra note 419 at s. 12.

<sup>475</sup> Id. at s. 13.



investigation. Such orders are to be issued by an officer of the rank of Deputy Superintendent of Police and above.

(ii) Where the trial of mob lynching case ends in acquittals. The Review Committee may issue orders for filing an appeal.<sup>476</sup>

A report comprising the findings and steps taken by the Review Committee has to be submitted to the Director General of Police.

The Review Committee acts as a check in face of lapses in investigation or trial in the first instance. This also enables the State to take corrective action in case of lapses and ensure the cause of justice.

## **5.6 THE CODE OF CRIMINAL PROCEDURE, 1973.**

In the absence of a specific law on mob lynching, various provisions of the Indian Penal Code, 1860 have been applied. The procedure for investigation, inquiry and trial as laid in the Code is being followed. The Research Scholar has found that infirmities arising due to proper implementation of the various provisions of the Code outweigh the infirmities in the provisions per se. Some of the provisions of the Code which lead to infirmities in trial are discussed as under:

### **5.6.1 Powers of superior police officers and lack of effective supervision**

The police officers of superior rank like District Superintendent of Police, Deputy Superintendent of Police, Circle Inspectors, etc. are also vested with the supervisory powers. They also have the power to monitor and guide the officer-in-charge of a police station in investigation of cases.<sup>477</sup> Lack of investigative skills of the subordinate police officers often leads to presenting evidence which does not stand the scrutiny of the court. Such weak evidence becomes inadmissible and often leads to acquittal of accused persons. The superior police officers do not discharge their duty of supervising and guiding the subordinates which in turn leads to poor conviction rate.

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<sup>476</sup> Supra note 418 at s. 22; Supra note 419 at s. 26.

<sup>477</sup> Code of Criminal Procedure, 1973 (Act No. 2 of 1974). s. 36.

### **5.6.2 Non requirement of signature of the maker on the statements made to Police and their inadmissibility as evidence**

The Code has empowered the police officers to orally examine witnesses who are acquainted with the facts and circumstances of a case under investigation. The statements so made may be reduced into writing by the concerned police officer and he is bound to maintain a distinct and accurate record of the same.<sup>478</sup>

However, these statements made by the witnesses and accused persons to the police officers and reduced into writing are not (required) to be signed by maker of the statements. Further, the Code lays down that such statements cannot be used as evidence during inquiry or trial. They can at the most be made use of to contradict the statements of the maker by the defence counsel.<sup>479</sup>

The veracity of the statements of witnesses are to be determined by their examination and cross examination in the court of law. The police being an interested party in prosecuting the case, it was felt expedient to preclude it from taking the signature of the makers of the statements u/s. 161. This rule has been laid down so as to ensure fair and impartial investigation. However, at the heart of this rule lies the fear and distrust for the police. Though the probative value of these statements recorded in the initial stages of investigations is higher, they are inadmissible in the court of law. This provision acts as an obstacle as it has often been found that witnesses renege from the statements previously made by them to the police officers during the trial which leads to the acquittal of the accused or granting of bail to the accused. This has been witnessed in Pehlu Khan's Case, the Mangaluru Pub Case and Alimuddin Ansari's Case. The fear that police would use third degree methods to extract these statements from the witnesses and accused persons has been the reason for not making the statements recorded u/s. 161 admissible. However, this lack of trust in the police has made justice a casualty. There is a need to amend this section so as to enable the police officer record the statement of the maker in a narrative or question-answer form in writing. The statement should then be read over to the maker. If the statement recorded is found to be correct, it should be mandatorily signed by the maker. This will to a large extent mitigate the problem of witnesses retracting from their statements during the trial.

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<sup>478</sup> Id. at s. 161.

<sup>479</sup> Code of Criminal Procedure, 1973 (Act No. 2 of 1974), s. 162.

### **5.6.3 Abuse of procedure when investigation cannot be completed within the timelines stipulated in ss. 57 and 167 and grant of bail**

Section 57 of the Code mandates that a person arrested without warrant cannot be detained by a police officer for more than twenty-four hours in his custody, save except with a special order from a Magistrate u/s. 167 of the Code.

Once an accused person is produced before the Magistrate, he has to determine the necessity of detaining the arrested person for the purposes of investigation and can order the detention for a period not more than fifteen days in police custody.<sup>480</sup>

Proviso to s.167 authorises a Magistrate to send an arrested person to a judicial custody for a duration of more than fifteen days, if he is of the opinion that the reasons warranting such an extension are adequate.

However, the maximum period of judicial custody during the investigation period is specified as under:

(i) Where the investigation relates to an offence which attracts death sentence or life imprisonment or a prison sentence of ten years, the period of detention cannot exceed ninety days.

(ii) Where the investigation relates to any other offence, the period of detention cannot exceed sixty days.<sup>481</sup>

If the investigation is not completed by the police and a charge sheet is not filed within the above stated time limits, the arrested person is bound to be released on bail, if he furnishes a bail.

The object of ss. 57 and 167 was to prevent the police from using third degree methods against the arrested person and to ensure an expeditious investigation of crimes. However, this provision sometimes proves to be a boon for the accused persons where the investigation has not been completed within the stipulated time frames as they would be entitled to bail. And once they are out on bail, they suborn or threaten witnesses and interfere with the investigation. Delay in the investigation and filing a charge sheet has resulted into granting of bail to all the accused persons in

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<sup>480</sup> Code of Criminal Procedure, 1973 (Act No. 2 of 1974), at s. 167.

<sup>481</sup> Id. at s. 167(2).

Mohammad Akhlaq's case. Sometimes, delay in investigation is made so as to facilitate the accused persons due to political interference.

#### **5.6.4 Lack of proper implementation of the Code**

As pointed out earlier, it is the lack of proper implementation of the existing provisions that outweigh the infirmities in the Code itself. The impediments in the implementation are discussed hereunder:

**5.6.4.1 Problems of the Police Officers** - The Malimath Committee Report has pointed out various problems that are faced by police officers in securing a speedy and fair investigation and some of the major problems are discussed as under:

- (i) Overburdened, under-staffed with long working hours and absence of shift system.
- (ii) Lack of co-operation from the general public.
- (iii) Lack of adequate technical and forensic support in investigating cases.
- (iv) Lack of modern training facilities in investigation and in service training.
- (v) Misuse of provisions of bail and anticipatory bail.
- (vi) Lack of trust by the courts.
- (vii) Deployed to carry out tasks which are not part of the policing functions.
- (viii) Political and executive interference in investigation.
- (ix) Investigative work is interrupted, often by withdrawing the police for law-and-order duties.
- (x) Ineffective preventive laws to curb recidivism and hardened criminals from committing crime.<sup>482</sup>

All these affect the investigation carried out by the Police and the evidence collected by it. Such evidence does not stand the scrutiny of the court and is often rendered inadmissible. Thus, leading to acquittal of the accused and contributing to the poor conviction rate.

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<sup>482</sup> Government of India, Report of the Committee on Reforms of Criminal Justice System (Ministry of Home Affairs, 2003), [https://www.mha.gov.in/sites/default/files/criminal\\_justice\\_system.pdf](https://www.mha.gov.in/sites/default/files/criminal_justice_system.pdf) (Last visited on Apr. 3, 2021).

**5.6.4.2 Lack of specific definition for mob Lynching and the problems of overlap in application** - Certain offences like mob lynching are not defined. This problem is further accentuated when the offence can be tried under various provisions and there is an overlap. The problem of application emerges.

For example, mob lynching emanating out of cow vigilantism is being tried under ss. 146, 147 and 153A of the I.P.C. Section 153A punishes acts which create a rift between various sections of the society on religious grounds, racial grounds and other such grounds and for endangering the peace in the country. Section 146 defines the offence of rioting and s. 147 lays down the punishment for causing a riot. However, conceptually, there is a difference between rioting and mob lynching which has been pointed out by the Research Scholar earlier. Therefore, the application of ss. 146 and 147 is erroneous. Likewise, some of the mob lynching incidents have their genesis in caste-based discrimination and prejudices. Such cases can also be tried u/s. 153A of the I.P.C as well as under the special enactment of the Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989. This again leads to confusion as to what provisions are to be applied. Mob lynching incidents occurring due to commission of crime or suspicion of crime are dealt as crime committed by an unlawful assembly. The limitations of trying the cases under the head of ‘unlawful assembly’ has already been pointed out in the segment dealing with the application of the provisions of the I.P.C. These problems of application and implementation emphasize the need for a proper definition of the offence of mob lynching.

**5.6.4.3 Lack of witness protection laws** - Witnesses turning hostile during the trial is a common problem faced by the criminal justice system. To counter this problem there is a necessity to have a specific law which affords protection to the witnesses from being threatened and suborned by the opponent party. On the recommendations made by the various Law Commissions and the Supreme Court of India in various cases, the Central Government in consultation with the National Legal Services Authority came up with the Witness Protection Scheme, 2018. However, the protection accorded to the witness cannot exceed a period of three months.<sup>483</sup> The threat to a witness can be beyond the period of three months. The Scheme ensures protection for a limited period only. Therefore, it may serve a limited purpose. The

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<sup>483</sup> Witness Protection Scheme, 2018, Clause 7.

Scheme itself is not sufficient, a specific law is required to be enacted by the Parliament.

Apart from the above, the study of the Code highlights the need for bringing in provisions to set up a separate investigative wing, to bring about co-ordination of the Investigative Team, Forensic Team and the Prosecution, to create separate wing of Investigative Magistrates and Trying Magistrates, etc. These would be dealt by the Research Scholar in detail in the final chapter of the present study, entitled 'Conclusions and Suggestions'.

## **5.7 THE INDIAN EVIDENCE ACT, 1872.**

The Indian Evidence Act, 1872 governs the admissibility of evidence in the court of law and majorly, comprises the principles of evidence. These principles have stood the test of time and there have been very few amendments made to the Act. With sociological changes and technical advancements and the widened spectrum of human rights jurisprudence, a need for amendment to the Act has been assessed from time to time by the various Law Commissions of India. The 69<sup>th</sup>, 88<sup>th</sup> and 185<sup>th</sup> Law Commissions of India have recommended quite a few changes to the Indian Evidence Act, 1872 (here-in-after referred to as the Act). However, it is the provisions relating to confession between ss. 24 and 30 that have a direct bearing on the present study and more particularly, ss. 25 and 26. An analysis of these provisions is presented here under:

### **5.7.1 Confession to a police officer and confession made in police custody, inadmissible**

The Act makes confession to a police officer inadmissible. It states that a confession made to police officer is not to be proved in the court of law.<sup>484</sup> The scope of this section is so wide that a confession, even when made voluntarily by the accused to a police officer, is not admissible. Also, when it is made voluntarily to a police officer in his private capacity, it is excluded from the realm of admissibility. The object of this section is to protect the accused persons and take away any temptation the police officers would have in using coercive methods to extract a confession. The accused

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<sup>484</sup> The Indian Evidence Act (Act No. 1 of 1872), s. 25.

persons being in a vulnerable position while in the custody of police, are susceptible to third degree methods employed by the latter.

The Act further lays down that a confession made to a third person while in the custody of a police officer is also inadmissible. However, if the confession is made before a Magistrate, it can be proved against the accused.<sup>485</sup>

There are cases where a confession has been voluntarily made by the accused persons caught red-handed but due to the bar of s. 25, it is not made admissible. This, many a times poses an obstacle in securing a conviction as the accused is able to escape punishment on technical grounds. Thus, a need for amending this section was made in 69<sup>th</sup> and 88<sup>th</sup> Law Commission Reports. It was recommended that s. 26A should be inserted after s. 25 by virtue of which a confession to a superior police officer in all kinds of offences would be made admissible. However, the 185<sup>th</sup> Law Commission opined that no amendment to ss. 25 and 26 should be made as it would be against the fundamental principles of criminal jurisprudence vested in Aa. 14, 20(3) and 21 of the Indian Constitution. Likewise, it pointed out that the exception carved out as to the admissibility of confessions made to senior police officers in cases of terrorism or organized crimes cannot be made a general rule, applicable to all kinds of offences.

Also, the Law Commission pointed out that the conditions in India vis-à-vis the police are not conducive to bring about an amendment to the impugned provisions.

In mob lynching cases too, confessions made by the accused persons who were caught red-handed committing the crime to the police could not be made admissible due to the bar of s. 25. This has led to the acquittal of the accused persons, thus emboldening them to carry out more attacks.

The Research Scholar agrees with the recommendation made by the Malimath Committee that the confession made to a senior police officer of the rank of superintendent of police or above should be made admissible in all cases. Such a confession should be video-recorded.<sup>486</sup>

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<sup>485</sup> Id. at s. 26.

<sup>486</sup> Supra note 482.

## 5.8 CONCLUSION

The discourse on the various provisions of the Constitution of India, 1950 gave insights into relationship between DPSP and fundamental duties which form the genesis of cow protection laws. While the necessity to protect milch and draught animals was highlighted on one hand, the protection of various fundamental rights guaranteed by the Indian Constitution to persons was emphasized on the other hand. In the same vein it can be inferred that the constitutional rights of offenders or suspects cannot be violated on the pretext of protecting the society by resorting to mob lynching. The discourse makes out a case for balancing both the interests and exhorts the citizens to not take law into their own hands and undermine the rule of law.

The analysis of the provisions of I.P.C only highlights the limitations of their use in mob lynching cases. The conceptual differences drawn by the Research Scholar between ‘Rioting’ and ‘Mob Lynching’ points out the fallacy of labelling a mob lynching incident as riot. Also, the pitfalls of charging perpetrators of mob lynching as an unlawful assembly have been identified. Thus, the study spells out a need for a specific definition of the offence of ‘Mob Lynching’.

The study of the special legislations on cow protection in twenty-two States and seven Union Territories has enabled the identification of provisions that have led to a legislative overreach. It is expedient to amend the provisions that have created a legal framework for cow vigilantes to lynch in order to protect the majesty of law.

The Anti-Mob Lynching Bills passed by the States of Manipur, Rajasthan, West Bengal and Jharkhand when compared with the Bill drawn by the NGO, NCAL, points a need for a central legislation. The differences in definitions of the terms ‘Lynching’ and ‘Mob’, the differing punishments need to be rationalized. Law has to be uniform and certain. Differing laws on the same subject do not instil confidence in the people. Considering the fact that the incidents of mob lynching span the length and breadth of India and in order to maintain uniformity of law, it is expedient to bring about a central legislation on the subject.

An examination of the relevant provisions of the procedural laws, namely, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 reveals a need for



amending the same. The amendment is not only sought to remove the impediments in trying the mob lynching cases in particular but also criminal cases in general. It is perhaps the amendment in the procedural laws that shall to a large extent mitigate the incidents of mob lynching as the genesis of vigilantism is failure of the criminal justice system.

Considering the audacity with which the mob lynching incidents are being carried out and considering the gravity of the act, mob lynching can be designated as a heinous crime like that of terrorism. So as to combat this new challenge to the rule of law, a deviation from the accepted principles of criminal jurisprudence can be made and a specific legislation, altogether can be enacted.

**CHAPTER 6**  
**ANALYSIS OF JUDICIAL ATTITUDE VIS-A-VIS**  
**VIGILANTISM**

# **CHAPTER 6**

## **ANALYSIS OF JUDICIAL ATTITUDE VIS-A-VIS VIGILANTISM**

### **6.1 INTRODUCTION**

The present chapter sought to discuss and analyze the judicial pronouncements made by the various courts on vigilantism. As it has been hypothesized in the study that cow protection laws have led to the birth and rise of vigilantes and vigilantism, it is imperative to study their constitutional validity. To understand this juxtaposition of cow protection laws and the Indian Constitution, an analysis of the landmark judgements pronounced by the Supreme Court of India and the various High Courts has been made by the Research Scholar. The chapter set out to analyze not only the cases pertaining to mob lynching in particular but also vigilantism, in general.

It is pertinent to mention that mob lynching incidents being recent, not many cases have been decided by the Trial Courts. Most of the cases pertaining to mob lynching are pending in the lower courts and are at various stages of trial. In some of the incidents, charge-sheets are yet to be framed.

Likewise, an attempt has been made by the Research Scholar to cull cases pertaining to various forms of vigilantism.

The object of studying the various judgements on the present topic of research was to discern the attitude of the judiciary towards vigilantes and vigilantism.

The present chapter has been divided into two parts and the same has been dealt as under:

6.2 Cases pertaining to constitutional validity of cow protection laws (1958 – 2017).

6.3 Cases pertaining to vigilantism (2011 – 2021).

The cases have been discussed in the ascending order (Oldest to the latest) based on the year in which they were decided.

## **6.2 CASES PERTAINING TO CONSTITUTIONAL VALIDITY OF COW PROTECTION LAWS**

## 6.2.1 MOHD. HANIF QUARESHI & OTHERS

### V.

#### STATE OF BIHAR<sup>487</sup>

**Facts:** The present petition had emanated as a result of the passage of Animal Protection and Cow Protection Laws brought in by the States of Bihar, Uttar Pradesh and Madhya Pradesh (here-in-after referred to as the Impugned Acts) to give effect to the object stated in A. 48<sup>488</sup> of the Indian Constitution. The Bihar Preservation and Improvement of Animals Act, 1955 had imposed a total ban on slaughter of all species of bovine cattle. The Uttar Pradesh Prevention of Cow Slaughter Act, 1955 imposed a complete ban on slaughter of cow and her progeny, which included bulls, bullocks, heifers and calves. The Central Provinces and Berar Animal Preservation Act, 1949 enacted by the State of Madhya Pradesh imposed a ban on slaughter of cows, calves (male or female), bulls, bullocks and heifers. However, slaughter of buffaloes (male or females, adults or calves) was permitted after procuring a certificate from the concerned authorities under the said Act.

**Contentions of the Petitioners:** The petitioners made the following contentions:

(i) The Impugned Acts differentiated between Butchers who slaughtered cattle and Butchers who slaughtered sheep or goats and were therefore, discriminatory in nature and violative of A. 14<sup>489</sup> of the Indian Constitution.

(ii) The petitioners who were engaged in Butchers' trade and its allied activities would be directly affected if the Impugned Acts were implemented. It would lead to closure of their businesses and would interfere with their freedom to practice trade or occupation as guaranteed under A. 19(1)(g)<sup>490</sup> of the Indian Constitution. They also argued that though the State had the right to make laws restricting the fundamental freedoms under Clause (6) of A. 19<sup>491</sup>, it could only lay down reasonable restrictions

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<sup>487</sup> Mohd. Hanif Quareshi & Others v. State of Bihar, 1958 AIR 731 (Supreme Court of India).

<sup>488</sup> See, Art. 48, The Constitution of India, 1950. (Appendix I).

<sup>489</sup> Id. at Art. 14.

<sup>490</sup> Id. at Art. 19.

<sup>491</sup> Ibid.

in public interest. By implementing the Impugned Acts, the State brought about total prohibition of slaughter on all species of bovine cattle. It was further contended that the State could regulate but not destroy the trade or occupation of a citizen who had a right to carry on. Thus, the petitioners also claimed that the restrictions were unreasonable and they do not stand the test of reasonableness.

(iii) None of the Impugned Acts permitted cow slaughter for bonafide religious purposes in the form of an exception. The petitioners alleged that the Impugned Acts prohibited cow slaughter on Bakr Id, which was a customary practice amongst the followers of Islam. Therefore, the Impugned Acts were violative of A. 25<sup>492</sup> of the Indian Constitution.

**Contentions of the Respondents:** The Respondents made the following contentions:

(i) The Impugned Acts were constitutionally valid as they were in consonance to A. 48 of Directive Principles of State Policy (DPSP) of the Indian Constitution.

(ii) DPSP was superior to fundamental rights and the said Acts do not violate Aa. 14, 19 (1)(g) and 25 of the Indian Constitution.

**Questions of Law:** The Supreme Court of India framed the following questions of Law?

(i) Do the Impugned Acts infringe the rights of the Petitioners guaranteed under Aa. 14, 19(1)(g) and 25 of the Indian Constitution?

(ii) Were the Impugned Acts constitutionally invalid?

**Decision of the Court:** The Supreme Court of India held that:

(i) the total ban on slaughter of cows of all ages, calves of cows and she-buffaloes, male or female, was valid and reasonable;

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<sup>492</sup> See, Art. 25, The Constitution of India, 1950 (Appendix I).

(ii) the total ban on slaughter of she-buffaloes, breeding bulls or working bullocks (cattle as well as buffaloes) was valid and reasonable so long as they were capable of being used as milch or draught cattle;

(iii) a total ban on slaughter of she-buffaloes, bulls and bullocks (cattle and buffaloes) after they ceased to yield milk, breed or work as draught animals was invalid as it was not in the interest of the general public;

(iv) different categories of animals can be classified into distinct groups based on their usefulness to the society. Likewise, the Butchers who slaughter animals belonging to a distinct group can also be classified based on the consequences they bring about in the society by pursuing their trade or avocation. The classification of the Butchers was based on intelligent differentia and therefore, it puts the petitioners in a distinct group. It thus, differentiates the petitioners from those who slaughter sheep or goats. This intelligent differentia has a direct relationship to the object that is sought to be achieved by the Impugned Acts. The object being to preserve, protect and improve the livestock as envisaged under A. 48 of the Indian Constitution. Therefore, the Impugned Acts which directly affected the butchers who slaughtered cattle were not violative of A. 14 of the Indian Constitution;

(v) as far as the reasonableness of restrictions vis-à-vis the Impugned Acts on the freedom of pursuing the occupation or trade of the petitioners were concerned, the Supreme Court said public interest has to be given primacy over the interest of a section of the population. It pointed out that the country was facing a shortage of cattle that yielded milk and bulls and bullocks that could be used for the purposes of breeding. Imposition of total ban on the killing of the said species would serve the interests of the general public as the supply of milk, their use in agricultural activities and the manure were essential to the national economy. On the other hand, the Supreme Court held that ban on slaughter of cattle which were no longer useful for the economic and agricultural activities was not justifiable in the interest of the public as they would drain cattle-feed which was short in supply. The Supreme Court upheld the validity of the Impugned Acts vis-à-vis A. 19(1)(g). The Supreme Court applied the test of reasonableness laid down in *State of Madras v. I. G. Row* and held that the restrictions that the Impugned Acts would place on the rights of the petitioners to

practice their trade or occupation were reasonable. It thus, held that the said restrictions would aid the welfare of the society.

(vi) The petitioners' contention that the Impugned Acts, were violative of A. 25 of Indian Constitution, as they prevented the followers of Islam from slaughtering a cow on the religious occasion of Bakr Id was refuted by the Supreme Court. It said that none of references to the verses from the Holy Koran put forward by the petitioners proved that cow slaughter was an essential religious practice in Islam. The Supreme Court referred to Hamilton's translation of the Hedaya Book XLIII and quoted a passage from page no. 592 which laid down the sacrificial rules for the followers of Islam on the occasion of Bakr Id. The sacrificial rules stipulated that one goat could be sacrificed by one person or seven persons together could sacrifice a cow or a camel. Sacrifice of the cow was not mandatory but was optional. The Supreme Court observed that slaughtering of a cow on Bakr Id was due to economical compulsion as the cost of sacrificing seven goats for seven members of family would be more than sacrificing one cow for seven members. Thus, sacrificing a cow was not a religious compulsion. Therefore, it ruled that the Impugned Acts did not infringe A. 25 of the Indian Constitution;

(vii) the Bihar, Uttar Pradesh, Central Provinces and Berar (Madhya Pradesh) Acts were constitutionally valid to the extent they banned the slaughter of cows, their calves and buffaloes (male or female). However, it said without prescribing an age limit or test as to the utility of she-buffaloes and bulls which were used for breeding purposes and bullocks used for farming activities, imposing a blanket ban on their slaughter directly violated the guarantees given under A. 19(1)(g). The Supreme Court declared the Impugned Acts to be void to that extent;

(viii) the Central Provinces and Berar (Madhya Pradesh) Act was constitutionally valid with respect to the slaughter of other animals when permitted by issuance of a certificate to the effect by the office bearers specified under it.

(ix) as regards the status of DPSP vis-a-vis Fundamental Rights, the Supreme Court said that former was of utmost importance in governing the country. It also said that the State should not lose sight of the DPSP and that it was the duty of the State to give effect to them. However, it pointed out that the State while giving effect to the DPSP should not abridge the Fundamental Rights of the citizens.



**Research Scholar's Analysis:** The Supreme Court of India in the above case tried to strike a balance between individual interests, i.e., the interests of the Butchers' Association and societal interests which set the tone for the cases to follow for five decades. The judgement in *Mohd. Hanif Quareshi and Others v. State of Bihar*, decided in 1958 was reiterated in subsequent cases by various Constitution Benches in:

- (i) *Abdul Hakim v. State of Bihar*<sup>493</sup>
- (ii) *Mohd. Faruk v. State of M.P and Ors.*<sup>494</sup>
- (iii) *Haji Usmanbhai Hasanbhai Qureshi v. State of Gujarat*<sup>495</sup>
- (iv) *Hashmattullah v. State of M.P. & Ors.*<sup>496</sup>

Considering the fact that India was an agricultural economy and it heavily depended on cattle, the Supreme Court of India upheld the total ban on slaughter of cows of all ages, calves of cows and she-buffaloes, male or female. It also said that the ban on slaughter of she-buffaloes, bulls which could be used for breeding or bullocks which could be used for carrying out farming activities was valid and reasonable in so far as they were capable of yielding milk or were useful for transportation purposes. However, it declared that total ban on slaughter of she-buffaloes, bulls and bullocks which included cattle and buffaloes after they ceased to yield milk, breed or work as draught animals was invalid as there was shortage of cattle feed and banning their slaughter would drain the cattle feed. Thus, even when the court declared the ban as unconstitutional it considered the larger interest of the society.

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<sup>493</sup> *Abdul Hakim v. State of Bihar*, AIR 1961 SC 448 (Supreme Court of India).

<sup>494</sup> *Mohd. Faruk v. State of M.P & Ors.*, 1970 AIR 93 (Supreme Court of India).

<sup>495</sup> *Haji Usmanbhai Hasanbhai Qureshi v. State of Gujarat*, 1986 AIR 1213 (Supreme Court of India).

<sup>496</sup> *Hashmattullah v. State of M.P. & Ors.*, AIR 1996 SC 2076 (Supreme Court of India).

## 6.2.2 STATE OF GUJARAT

### V.

#### **MIRZAPUR MOTI KURESHI KASSAB JAMAT & ORS.**<sup>497</sup>

**Facts:** A writ petition challenging the constitutional validity of the Bombay Animal Preservation (Gujarat Amendment) Act, 1994 was filed in the High Court of Gujarat by the respondents to the present petition. Prior to the amendment, no cow of any age and its calf could be slaughtered. Likewise, a male calf irrespective of its castration could not be slaughtered. Sacrifice of a cow even for bonafide religious purpose was also not permitted. However, slaughter of bulls and bullocks which were over the age of sixteen years was permitted. Likewise, any other animal (goat, sheep) above fifteen years of age, and a bull or bullock above fifteen years of age could be sacrificed for religious purposes.

However, to give effect to the objectives laid down in Aa. 47<sup>498</sup> and 48<sup>499</sup> of the Indian Constitution, the Gujarat Government made an amendment to the Bombay Animal Preservation Act, 1954. The amendment provided for a total ban on slaughter of bulls and bullocks. Implying thereby, that even if the bulls or bullocks were older than sixteen years and well past their usefulness they could not be slaughtered. The respondents to the present petition who were Butchers by profession contended that the amendment would directly affect their trade and occupation and it infringed their right guaranteed under A. 19(1)(g)<sup>500</sup> of the Indian Constitution. The respondents to the present petition filed a writ petition u/ A. 226 in the High Court of Gujarat challenging the Amendment Act, 1994. The High Court of Gujarat, after analyzing the various aspects of the matter, held that the Amendment Act, 1994 (here-in-after would be referred to as the Impugned Act) was ultra vires the Indian Constitution. The High Court of Gujarat declared that the Impugned Act levied unreasonable restrictions on the rights of the petitioners to practice their trade and occupation.

Subsequently, the State of Gujarat preferred an appeal to the Supreme Court of India. Apart from the State of Gujarat, two other organisations, namely, Shree Ahmisa Army

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<sup>497</sup> State Of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat & Ors., AIR 2006 SC 212 (Supreme Court of India).

<sup>498</sup> See, Art. 47, The Constitution of India, 1950 (Appendix I).

<sup>499</sup> Supra note 488.

<sup>500</sup> Supra note 490.

Manav Kalyan Jeev Daya Charitable Trust and Akhil Bharat Krishi Goseva Sangh had challenged the judgement of the High Court of Gujarat. All the three appeals were referred to a bench comprising of three Judges of the Supreme Court. However, the Supreme Court referred the matter to a constitution bench. Considering the fact that there were constitutional bench judgements already existing on the present issue, the matter was referred to a seven-judge constitution bench.

**Contentions of the Petitioners:** The petitioners contended that the declaration of total ban of cow slaughter under laws promulgated by the three State Legislations as ultra vires the Indian Constitution in Mohd. Hanif Quareshi & Ors. v. State of Bihar (here-in-after referred to as Quareshi-I) in 1958 by the five-judge constitution bench did not lay down good law due to the following reasons:

(i) Quareshi-I held that the DPSP being subservient to the Fundamental Rights, namely, A. 19(1)(g), A. 48 is unenforceable. Therefore, it refused to recognise that DPSP, (A. 48) can be a reasonable restriction as envisaged in A. 19(6)<sup>501</sup> of the Indian Constitution. The view that DPSP can also act as reasonable restrictions to the Fundamental Rights has been upheld by the various decisions of the Supreme Court post Quareshi-I. Also, the view that DPSP are subservient to Fundamental Rights have been discarded by the Supreme Court post Quareshi-I judgement.

(ii) In Quareshi-I, the Supreme Court could place reliance on A. 48 alone. Aa. 48A<sup>502</sup> and 51A(g)<sup>503</sup> were inserted by way of the Forty-second Amendment to the Indian Constitution in 1977. Therefore, the full import of the obligation placed by the said Articles in protecting cattle and environment could not be appreciated in Quareshi-I.

(iii) The meaning assigned to ‘other milch and draught cattle’ being incorrect, was not in consonance with the spirit of A. 48.

(iv) Due weightage was not given to the import and contents of the Preamble and the Statement of Objects of the three State Legislations in Quareshi-I.

(v) Post Quareshi-I, it has been held in a series of judgements given by the Supreme Court that the words ‘Restriction’ or ‘Regulation’ includes ‘Total Prohibition’ within

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<sup>501</sup> Supra note 491.

<sup>502</sup> See, Art. 48A, The Constitution of India, 1950. (Appendix I).

<sup>503</sup> Id. at Art. 51A(g).

the ambit of Aa.19(5) and 19(6)<sup>504</sup> of the Indian Constitution. Therefore, the view taken by Supreme Court in Quareshi-I is incorrect.

(vi) The Supreme Court in Quareshi-I declared the three State Legislations as unconstitutional primarily on the ground that bulls and bullocks ceased to be useful as milch or draught animals beyond the age of sixteen years and the fodder needed to feed them was in shortage. The fodder would not be available to the cows, bulls and bullocks which are below sixteen years of age and preservation of bulls and bullocks which have ceased to be useful by the Gosadan (shelter homes for cows), was impractical.

The petitioners to the present petition contended that in view of the development in science and technology, the longevity and usefulness of the cattle had increased. The excreta of bulls and bullocks which had ceased to be useful as milch and draught animals, was used to make manure and produce bio-gas. These cattle were useful to the agricultural sector and also contributed to the economy of the country. Therefore, imposing a blanket ban on slaughter of cows, bulls and buffaloes was not an unreasonable restriction on the trade and occupation of the respondents.

**Contentions of the Respondents:** The respondents contended that the judgement given by the five-judge constitution bench in Quareshi I has been applied and reiterated in five decisions by the Supreme Court of India on the same subject at various points of time. In view of the Doctrine of Stare Decisis, the present seven-judge constitution bench should not disturb the judgement of Quareshi I.

**Questions of Law:** The following questions of law were framed by the Supreme Court:

- (i) Whether DPSP are subservient to Fundamental Rights guaranteed under the Indian Constitution?
- (ii) What is the full import of Aa. 48, 48A and 51A(g) *inter alia* Fundamental rights guaranteed under the Indian Constitution?
- (iii) What meaning should be given to the expression 'milch and draught cattle' found in A. 48 of the Indian Constitution?

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<sup>504</sup> Supra note 491.

(iv) Whether reference to the Preamble and Statement of Object of a Statute in determining the constitutional validity of a case, is permissible? What is the significance of such a reference?

(v) Whether the terms, 'Restriction' and 'Regulation' as envisaged in Aa. 19(5) and 19(6) include 'Total Prohibition'?

(vi) Whether ban on slaughter of cow progeny was in 'Public Interest' and hence reasonable?

**Decision of the Court:** The Supreme Court of India, after analysing a catena of decisions on the relationship of DPSP and Fundamental Rights and Aa. 19, 48, 48A, 51A(g), held that:

(i) while reading the juxtaposition of rights and restrictions, Fundamental Rights and DPSP should be read together. The restrictions imposed on the rights guaranteed in A. 19(1)<sup>505</sup> are not merely subject to A. 19(2) to 19(6). The DPSP can be relied upon to judge the reasonability of restrictions placed on the Fundamental Rights;

(ii) full consideration should be given to DPSP contained in Part-IV and Fundamental Duties laid down in A. 51A(g) of the Indian Constitution when assessing the reasonableness of a restriction placed by law on any Fundamental Right.

The Supreme Court further held that, the five-judge bench in Quareshi-I had not assigned the full and correct import and due weightage to A. 48. Since, Aa. 48A and 51A(g) were not part of the Indian Constitution when Quareshi-I was decided, the Supreme Court had struck down the total ban on slaughter of bulls and bullocks as unconstitutional.

(iii) that the expression 'milch or draught cattle' found in A. 48 of the Indian Constitution, describes the class of cattle that yield milk and that can be used for the purposes of carrying out agricultural activities. It said that the expression enables to draw a distinction between the cattle that yield milk and are useful for agricultural purposes and the cattle that neither yield milk, nor are useful for carrying out agricultural activities. Milch and draught cattle which are no longer useful due to old age and disability are not included in the above expression;

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<sup>505</sup> Supra note 490.

Applying the principle of *ejusdem generis*, the Supreme Court in the present case said that the expression includes a class of cattle which yielded milk or was useful for carrying out the various agricultural activities for a number of years during its life time. Such cattle when it ceased to yield milk or perform agricultural activities cannot be removed from the category of 'other milch and draught cattle'. Thus, the Supreme Court held that the interpretation of the expression made in *Quareshi-I* was improper.

(iv) the Preamble and Statement of Object should be given utmost importance while determining the constitutional validity of any law as they give insights into the prevailing circumstances of the society and the evil which it seeks to curb. It also pointed out that the court should always begin with a presumption of reasonability of a law as the legislators would be well acquainted with the needs of the society. It however, pointed out that Justice C. R. Das, in *Quareshi-I* did rely on the Statement of Object for the introduction of three State Legislations and that he lamented upon the fact that it (Statement of Object) was not placed before the High Court as evidence by the Respondents of *Quareshi-I* case;

(v) the words 'Restriction' and 'Regulation' included the words 'Total prohibition' if it served the interests of the public. The total ban on slaughter of cows and her progeny did not infringe upon the rights of the respondents to practice their trade or avocation. The Respondents were free to slaughter animals other than cows and her progeny. Restriction on carrying out one particular activity of a trade or occupation cannot be termed as prohibition. The respondents were only prevented from slaughtering cows and cow progeny and not, other animals. With regard to those who were trading in the hides, skins of the cow and cow progeny and other allied activities they could continue to procure the same from other animals. Likewise, it is not necessary for them to slaughter the cows and cow progeny to procure their hide, skin, etc., as such animals would die a natural death which would help them (respondents) to continue with their trade or occupation. Thus, the Supreme Court of India held that a total ban on slaughter of cows and cow progeny was not violative of A. 19(1)(g) of the Indian Constitution;

(vi) a complete prohibition of slaughter of cow and cow progeny was in 'public interest' and hence reasonable. The Supreme Court reasoned that India being

essentially an agricultural country, cow and cow progeny are the backbone of the agricultural system. The cows, bulls and bullocks are used for various agricultural activities either as milch animals or draught animals or both. Besides, their excreta can be used to produce manure and bio-gas which add value to the Indian economy. Even when the cows, bulls and bullocks are no longer useful as milch or draught animals, their urine and excreta are used for medicinal purposes as well as for making the agricultural soil more fertile. Besides, with the advancement in science and technology, the life span of cows and cow progeny has increased and there is also no shortage of fodder. Thus, the role played by milch and draught animals is central to the agricultural country like India;

(vii) with regard to the plea of the respondents to the present petition that the Doctrine of Stare Decisis being the rule, the judgement given in Quareshi-I should not be disturbed, the Supreme Court held that the courts must consider the needs of a society which are dynamic and should ensure that their decisions are in consonance to the needs of the society, state policy and the judicial conscience. The state policy too changes with the changing times and reflects the needs of the society. The judicial conscience too echoes the present needs of the society balancing varied interests. However, in balancing the conflict between varied interests, primacy should be given to public interest. Thus, the Supreme Court declared that the judiciary cannot remain blind to the pressing needs and interests of the society and hide behind the Doctrine of Stare Decisis. It held that the circumstances operating in the society and its felt needs justified an alteration or deflection from the judicial opinion laid down in Quareshi-I and thus, overruled it.

**Analysis by the Research Scholar:** The seven-judge Constitution Bench in the present case overruled the five-judge Constitution Bench judgement in Quareshi-I which was considered to be the golden scale for cases pertaining to ban on cow slaughter.

The Supreme Court in the present case upheld the constitutional validity of the Bombay Animal Preservation (Gujarat Amendment) Act, 1994 and said that a total ban on cow and its progeny, bulls and bullocks was in the interest of the public as

well as the economy of the country. The judgement of the present case has thus, overruled the judicial opinion held by the Supreme Court for almost five decades.

**The aftermath:** It is the present judgement that has probably given teeth to various cow protection laws in India. In the wake of this judgement many States which had not passed specific legislations on cow protection, enacted laws to make not only cow slaughter punishable but also acts like transportation, sale and consumption of beef, punishable. Apart from this, civilians have been vested with policing powers under most of the State legislations. By virtue of these State legislations, vigilante acts by Gau Rakshaks have led to the lynching of persons suspected of cow smuggling, transporting, selling or consuming beef and undermining the rule of law. Thus, posing a new challenge to the criminal justice system.



### 6.2.3 SHAIKH ZAHID MUKHTAR

V.

#### STATE OF MAHARASHTRA AND ORS.<sup>506</sup>

**Facts:** Apart from the above Petitioner, twenty-two petitions were filed by various NGOs, and Associations of Butchers, etc. challenging the amendments made to the Maharashtra Animal Preservation Act, 1976 (here-in-after referred to as the Animal Preservation Act) by Maharashtra Animal Preservation (Amendment) Act, 1995 (here-in-after referred to as the Amendment Act). The Government of Maharashtra had made amendments to ss. 5<sup>507</sup> and 9<sup>508</sup> of the Animal Preservation Act so as to protect the cattle which were useful for agricultural purposes as the State was predominantly an agricultural economy. Prior to the amendment, a blanket ban on slaughter of cows was existing in the State of Maharashtra vide s. 5 of the Animal Preservation Act. Section 6 allowed the slaughter of bulls, bullocks, female buffaloes and calves of buffaloes with the permission of the competent authority named in the Act, provided they were fit for slaughter. By amending s. 5, the ban on slaughter was extended to bulls and bullocks. This implied that there was a blanket ban on slaughter of bulls, bullocks and cows in the State of Maharashtra. Apart from this, s. 9B<sup>509</sup> was inserted which cast the burden of proof on the accused in a trial for offences punishable under ss. 9 or 9A<sup>510</sup>. Aggrieved by the amendment, the petitioner, a Senior Advocate, filed a Writ Petition vide A. 226 challenging the constitutional validity of ss. 5D<sup>511</sup> and 9A in the High Court of Bombay.

**Contentions of the Petitioner:** The Petitioner contended that:

(i) right to life also included right to privacy within the ambit of A. 21<sup>512</sup> of the Indian Constitution. The right to choose what a citizen could eat was well within the scope of Right to privacy. Section 5D prohibited the citizen from possessing the flesh of a cow, bull or bullock which was slaughtered outside the State of Maharashtra. The prohibition was imposed even where the flesh was obtained from a State where

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<sup>506</sup> Shaikh Zahid Mukhtar v. State of Maharashtra and Ors., AIR 2017 (NOC 518) 169 (High Court of Bombay).

<sup>507</sup> See, Section 5, The Maharashtra Animal Preservation (Amendment) Act, 1995 (Appendix III).

<sup>508</sup> Id. at s. 9.

<sup>509</sup> Id. at s. 9B.

<sup>510</sup> Id. at s. 9A.

<sup>511</sup> Id. at s. 5D.

<sup>512</sup> See, Art. 21, The Constitution of India, 1950 (Appendix I).

slaughter was not illegal. Cumulative effect being, that any person in Maharashtra found in possession of flesh of cow or cow progeny would be punished by virtue of the Amendment Act even when such flesh was obtained from a State where slaughter was legal. Thus, s. 5D prevented the citizens from exercising the right to eat food of their choice and infringed A. 21 of the Indian Constitution;

(ii) s. 5D was arbitrary and it did not have any nexus to the object of the Animal Preservation Act and was therefore unconstitutional;

(iii) article 301<sup>513</sup> of the Indian Constitution was violated by s. 5D as it imposed a restriction on trade and commerce between States;

(iv) s. 9B, by placing the burden of proof on the accused faced with a trial for committing offences under the Amendment Act, violated the fundamental principle of criminal jurisprudence, namely, 'Presumption of Innocence' and hence it infringed A. 21 of the Indian Constitution;

(v) the Amendment Act infringed the right of the Butcher community and those engaged in allied activities to practice their occupation as guaranteed by A. 19(1)(g) of the Indian Constitution;

(vi) by taking away the right to slaughter bulls and bullocks for bonafide religious purposes, the right of the followers of Islam to practice their religion and culture was violated. Thus, the Amendment Act was violative of Aa. 25<sup>514</sup> and 29<sup>515</sup> of the Indian Constitution;

(vii) ss. 5 and 9B should be declared as ultra vires the Indian Constitution and should be struck down.

**Contentions of the Respondent:** The Respondents contended that:

(i) the Amendment Act was brought in to give effect to the objectives laid down under Aa. 48 and 51A(g) of the Indian Constitution and by virtue of it, no part of the amendment was ultra vires the Aa. 14<sup>516</sup> and 19<sup>517</sup>;

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<sup>513</sup> See, Art. 301, The Constitution of India, 1950 (Appendix I).

<sup>514</sup> Supra note 492.

<sup>515</sup> See, Art. 29, The Constitution of India, 1950 (Appendix I).

<sup>516</sup> Supra note 489.

<sup>517</sup> Supra note 490.

(ii) India being predominantly, an agricultural country, bulls and bullocks formed the backbone of the agricultural structure in the country. Bulls and bullocks were not only used as milch or draught animals but their waste material also contributed in making manure and bio-gas. Even after the cattle seized to be draught or milch animals, their excreta and urine were useful not only for agricultural purposes but also for medicinal purposes and generating fuel. Therefore, preservation of bulls and bullocks was in the interest of the country;

(iii) 'Presumption of innocence' was not a fundamental right guaranteed by the Indian Constitution and therefore, s. 9B of the Amendment Act was not ultra vires the Indian Constitution.

**Questions of Law:** The High Court of Bombay drew the following questions of law:

(i) Whether s. 5 of the Amendment Act was violative of Aa. 14, 19(1)(g), 25 and 29 of the Indian Constitution?

(iii) Whether s. 9B of the Amendment Act was violative A. 21 of the Indian Constitution?

(vi) Whether s. 5D infringed the right of the Petitioners to eat food of their choice and thereby, violated A. 21 of the Indian Constitution?

**Decision of the Court:** The High Court of Bombay relied largely on the verdict given by the Supreme court of India in *State of Gujarat v. Mirzapur Moti Kureshi Kassab Jamat*<sup>518</sup> in determining the questions of constitutional validity of the Amendment Act and held that:

(i) the Government of Maharashtra was giving effect to the objectives Aa. 48<sup>519</sup> and 48A<sup>520</sup> of the DPSP and A. 51A(g)<sup>521</sup> to preserve and protect milch animals, draught animals, lakes, forests, environment and wild animals by imposing a blanket ban on slaughter of bulls and bullocks. The Court held that India was predominantly an agricultural country and the State of Maharashtra too, was predominantly agricultural. The bulls and bullocks were useful for carrying out various agricultural activities like drawing the carts, water, sowing, grinding, ploughing the field, etc. The land holding of the farmers being small, employing mechanical means to till the land increased the

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<sup>518</sup> Supra note 497.

<sup>519</sup> Supra note 488.

<sup>520</sup> Supra note 502.

<sup>521</sup> Supra note 503.

cost of the agricultural operations. To reduce the costs, use of bulls and bullocks was made by the farmers. Even after the bulls and bullocks ceased to be milch and draught animals, they continued to contribute to the agricultural sector as well as the Indian economy. Their urine and manure were useful to provide manure and produce bio-gas which was cheaper than chemical fertilizers. Thus, they formed the backbone of the Indian agricultural sector. The Court further held that slaughter of bulls and bullocks had led to a decline in the male population which were indispensable to the agricultural sector in India. It was in the interest of the public to preserve and protect cows, bulls and bullocks and therefore, prohibition of their slaughter vide s. 5 was not ultra vires the Indian Constitution;

(ii) the blanket ban imposed on slaughter of bulls and bullocks vide the Amendment Act was not a total prohibition on the trade or occupation of Butchers and those engaged in allied activities but was only a restriction. Besides, the Butchers were free to slaughter other animals whose slaughter has not been prohibited. Therefore, s. 5 of the Amendment Act was not violative of A. 19(1)(g) of the Indian Constitution;

(iii) the restrictions laid down by s. 5 of the Amendment Act served the larger interests of the society. The object sought to be achieved, namely, preservation and protection of cows, bulls and bullock by the impugned provision had a direct nexus to the aim and purpose of the Animal Preservation Act and therefore, the blanket ban on slaughter was neither unreasonable nor arbitrary. Therefore, the impugned section did not infringe A. 14 of the Indian Constitution;

(iv) to seek protection of A. 25<sup>522</sup>, it has to be shown by the aggrieved that religious practices which are mandatory and essential have been restricted by the State action. Relying on the decision of the Supreme Court in *Quareshi-I*<sup>523</sup> and *Ashustosh Lahiri*,<sup>524</sup> the High Court of Bombay reiterated that sacrifice of cow was not an integral element of the religious practices laid down in Islam. Therefore, the High Court of Bombay reiterated that the prohibition of slaughter of cow and its calf was not violative of A. 25(1) of the Indian Constitution;

(v) the Indian Constitution confers the right on minorities to conserve their language, script or culture vide A. 29. The Petitioners had contended that by enforcing a complete ban on slaughter of cow and its calf, the right to conserve their culture guaranteed under A. 29 had been violated. The High Court of Bombay held that a

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<sup>522</sup> Supra note 492.

<sup>523</sup> Supra note 487.

<sup>524</sup> *State of West Bengal & Others v. Ashutosh Lahiri* (1995) 1 SCC 189 (Supreme Court of India).

culture could not assert an interminable and rigid existence beyond the very nature of the civilization that gave birth to it. It stated that A. 29 afforded protection to essential culture and not peripheral customs that had no relation to existing culture. It further observed that the petitioners had failed to establish that sacrifice of cow and its calf was an essential aspect of the culture of any religion or community. Also, a cultural right and a religious right could not be put on the same pedestal. The High Court of Bombay, further pointed out that the practice of Sati and Untouchability which were part of the Hindu culture, were abolished by law as they were obnoxious and not in the interest of the society. Thus, their abolition could not be deemed to have violated the cultural rights of the Hindus. In the same vein, the Court said, ban on slaughter of cow and its calf could not be said to be violative of the cultural rights of a segment of a society.<sup>525</sup> Thus, the High Court of Bombay declared that s. 5 was not violative of A. 29 of the Indian Constitution;

(vi) ss. 5A<sup>526</sup>, 5B<sup>527</sup>, and 5C<sup>528</sup> prohibited the transport and export of bulls and bullocks, their sale or offer for sale, etc., from Maharashtra to any State outside it, if such a transport, etc., was with the object of slaughtering them. The High Court of Bombay held that the afore-mentioned sections did not suffer from any constitutional infirmity as these provisions were necessary to implement the objects of the Animal Preservation Act. Since the objectives of the Animal Preservation Act were constitutional, its implementation through ss. 5A (1), (2) and 5C was not unconstitutional;

(vii) After analyzing a catena of judgements given by the Supreme Court of India on ‘Right to Privacy *qua* Right to life and Personal liberty’, it held that right to privacy was an inseparable aspect of right to personal liberty. Right to privacy includes right to be let alone. The citizens should be let alone in deciding the choice of food they wish to eat when it is not injurious to their health. The High Court of Bombay also pointed out that the Supreme Court of India had held that,

‘what one eats is one’s personal affair and it is a part of his right to privacy which is included in A. 21 of the Constitution of India’.<sup>529</sup>

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<sup>525</sup> Supra note 506 at p.143, para 135. (High Court of Bombay).

<sup>526</sup> See, Section 5A, Maharashtra Animal Preservation (Amendment) Act, 1995 (Appendix III).

<sup>527</sup> Id. at s. 5B.

<sup>528</sup> Id. at s. 5C.

<sup>529</sup> *Hinsa Virodhak Sangh v. Mirzapur Moti Kuresh Jamat and Ors*, AIR 2008 SC 1892, para 26. (Supreme Court of India).

The High Court of Bombay observed that s. 5D prevented the possession and consumption of meat of a cow, bull or bullocks that were butchered in States outside Maharashtra where their slaughter was legal. This, according to the Court, infringed the right of privacy of the citizens as it interfered with their right to eat food of their choice. Therefore, the High Court of Bombay declared s. 5D as violative of A. 21 of the Indian Constitution. The object of prohibiting slaughter of cow and its calf was to protect and preserve the cattle in the State of Maharashtra and not to prevent the citizens from eating flesh of cow and its calf. The Respondent State Government failed to explain as to how prohibition of possession and consumption of flesh of cow and its calf from a place outside (where the slaughter is legal) the State could protect and preserve the cattle in Maharashtra. The High Court of Bombay finding no live link between s. 5D and the aim of the Amendment Act as well as the Animal Preservation Act, declared it to be ultra vires of A. 21 of the Indian Constitution.

(viii) the burden of proof was placed on an accused faced with a trial for committing an offence under the Amendment Act vide s. 9B. Thus, the accused person had to prove that the slaughter, transportation, export, sale, purchase of cows, bulls, bullocks and possession of their flesh was not in violation of the provisions of the Amendment Act.

The High Court of Bombay reiterated that presumption of innocence has been the sacrosanct principle of criminal jurisprudence which casts a burden on the State (Prosecution). The Prosecution has to prove the guilt of the accused beyond reasonable doubt. The said principle underlies the right to fair trial which is implicit in A. 21. Article 21 also stipulates that the procedure established by law must be fair, reasonable and just. Casting the burden of proof on the accused violates the mandates of A. 21.

It held that a statute can cast the burden of proof on the accused in circumstances where the interests of the State to secure a conviction have to be balanced in face of commission of heinous crimes with that of the rights of the citizens against whom injustice can be done by the law enforcement agencies. This exception can be made in respect of heinous crimes like drug trafficking, terrorism and possession of arms and ammunition.

The High Court of Bombay opined that possession of flesh of a cow, bull or bullock could not be termed as a heinous crime and be equated with crimes of terrorism, drug trafficking, etc. Section 9B placed on the accused, the burden of proving a negative fact. Irrespective of the fact, whether the flesh was from the cattle slaughtered in Maharashtra or outside Maharashtra, the accused is presumed to be guilty. Proving the negative, that the flesh is from Maharashtra or outside Maharashtra would be a difficult proposition for the accused. Such casting of burden of proof on the accused was against the rule of proving a negative fact. The law expressly prohibits casting the burden on the accused to prove a negative fact as it would entail great hardships and oppression on him. Section 9B sets out to do what was prohibited by law and the provision could not be said to be fair, just and reasonable as required by A. 21. The High of Bombay declared s. 9B violative of A. 21 of the Indian Constitution.

Thus, the High Court of Bombay declared ss. 5D and 9B of the Amendment Act to be unconstitutional. It held that the State did not have the right to interfere with the food choices of its citizens. Likewise, casting the burden of proving the innocence on the accused *inter alia* offences under s 5 was not justifiable and was against the principles of criminal jurisprudence.

## 6.2.4 S. SELVAGOMATHY

### V.

#### UNION OF INDIA<sup>530</sup>

**Facts:** The Ministry of Environment, Forests and Climate Change had made an amendment to Rule 22(b)(iii) and Rule 22(e) (here-in-after referred to as Impugned Rules) of Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017. The amendment was notified on 23 May 2017 by the Government of India.

Rule 22(b)(iii) mandated:

- (i) that a declaration in writing from the owner or his authorised agent was to be given by any individual who brought the cattle to the animal market, and
- (ii) the said writing should declare that the cattle so brought to the market was not meant to be sold for the purposes of slaughter.

Rule 22(e) required a declaration from the owner of the animal or authorised agent that:

- (i) the animal was not meant to be sold for purposes of slaughter;
- (iii) the animal would not be sacrificed for religious purposes.

The Petitioners approached the Madras High Court vide a writ petition under A. 226 of the Indian Constitution so as to declare the Impugned Rules as violative of Prevention of Cruelty to Animals Act, 1960 (here-in-after referred to as the Parent Act) and Aa. 14<sup>531</sup>, 19<sup>532</sup>, 21<sup>533</sup>, 25<sup>534</sup> and 29<sup>535</sup> of the Indian Constitution.

**Contentions of the Petitioners:** The following contentions were raised by the petitioners:

- (i) Preventing a buyer of cattle from sacrificing for the religious purposes vide Rule 22(e)(iii) was against the object of the Parent Act. Therefore, it was violative of Aa. 14 and 25 of the Indian Constitution.

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<sup>530</sup> S. Selvagamathy v. The Union of India, May 30, 2017, Madras High Court (Madurai Bench), V. Muralidaran, C. V. Karthikeyan, JJ.

<sup>531</sup> Supra note 489.

<sup>532</sup> Supra note 490.

<sup>533</sup> Supra note 512.

<sup>534</sup> Supra note 492.

<sup>535</sup> Supra note 515.



(ii) The choice of food varied from person to person and it could not be curtailed by enacting a law and hence violative of A. 21 of the Indian Constitution.

(iii) The introduction of the Impugned Rules by Union of India interfered not only with the domain of the State Enactments and existing laws on slaughter of animals but also with the food habits of the Indian citizens which they have had since time immemorial. Therefore, the Impugned Rules are violative of A. 29 of the Indian Constitution.

(iv) By bringing about the amendment, the Union of India had usurped the powers of the State Legislature which is ultra vires the India Constitution.

(v) Since 'Law' as a subject was placed on Concurrent List, the Union of India should have consulted the State Legislatures before bringing about an amendment. Failure of the Union of India in not seeking opinion of the State Legislatures only showed that the Union of India was using its upper hand in a subject where the latter too have a say.

The petitioners sought a stay on the operation of the Impugned Rules as interim relief.

**Contentions of the Respondents:** The respondents contented that:

(i) though the amendment to the Impugned Rules was brought in by the Ministry of Environment, Forests and Climate Change, it is to be deemed to be the act of Parliament and such a presumption was in the favour of the Central Government;

(ii) the amendment was necessary to not only prevent cruelty to animals but also the interests of the agricultural sector in the country;

(iii) a human being is not entitled to subject cattle to cruelty by slaughtering them and it is a primary act of the Central Government to protect cattle;

(iv) The amendment was necessary to protect the cattle for the welfare of the future generations.

The respondents opposed the grant of interim relief to the petitioners and also sought four weeks' time to file a response to the present petition.

**Questions of Law:** The Madras High Court (Madurai Bench) framed the following issues:

- (i) Whether the Government of India is empowered to decide the choice of food of its citizens?
- (ii) Whether the Indian Constitution has empowered the Government of India to make an amendment to any Act which would go against the food habits of a larger community that has been followed since time immemorial?
- (iii) Whether the impugned amendment would curtail various State Enactments in respect of their dealing with slaughter of animals?
- (iv) Whether the impugned amendment is against the constitutional rights of the citizens of India in respect of right to life including food?
- (v) Whether the Union of India is interfering with the domain of State Enactments and existing laws relating to slaughter of animals?

**Decision of the Court:** The Madras High Court (Madurai Bench) based on the arguments of the respective counsel found that a strong prima facie case existed in favour of the petitioners for granting interim relief to them. As for the contention of the respondents with regard to amendment brought in to the Principal Act by the Ministry of Environment, Forests and Climate Change that a presumption should be made in their favour, the High Court refused to do so. It held that a presumption could not be made as the amendment was brought in by the Executive and not the Parliament. It also pointed out that though the Parent Act was on the Concurrent List, slaughtering of animals was in the exclusive domain of State Legislature. However, it did not decide upon the constitutional validity of the Impugned Rules. Pending determination of the various questions raised on the constitutionality of the Impugned Rules, the Madras High Court (Madurai Bench) granted a stay on their implementation as interim relief to the petitioners.

**Aftermath:** A Writ Petition was filed in the Supreme Court which challenged the constitutionality of the Impugned Rules vis-à-vis the Indian Constitution vide W.P (C) No. 000422 of 2017. The Supreme Court clarified that the stay granted by the Madras High Court (Madurai Bench) was applicable to the entire country on 17 May 2017. The Supreme Court pointed out that in the light of petitions filed in various courts across the country, the Government of India was ready to give a fresh consideration to the matter. Along with Ministry of Environment, Forests and Climate Change, it would ascertain whether any modification was required to the Impugned Rules and if so, would re-notify the amended Rules.

### **6.3: CASES PERTAINING TO VIGILANTISM**

### 6.3.1 RABINDRA KUMAR PAL @ DARA SINGH

#### V.

#### REPUBLIC OF INDIA<sup>536</sup>

**Facts:** Graham Staines, an Australian missionary was working in Manoharpur, Khendujhar District, Odisha since 1965 for the welfare of tribals and lepers. On 22 January, 1999, a mob of sixty-seventy people torched the van in which Graham Staines was sleeping with his two minor sons. They prevented the victims from getting out of the burning vehicle. As a result of which all the three were burnt alive. The mob believed that Graham Staines was converting the locals to Christianity under the garb of promoting education and providing healthcare to them. They perceived this propagation of Christianity as a threat to the Hindu religion. As the local police were not able to conduct the investigation satisfactorily, the case was handed over to the State Crime Branch on 23 April 1999. The State Crime Branch too failed to conduct the investigation. Consequently, the case was transferred to the Central Bureau of Investigation (C.B.I) on 3 May 1999. The C.B.I filed a charge-sheet against fourteen accused persons on 22 June 1999. Apart from the fourteen accused, the C.B.I also named a minor to have played an active role in the triple murders of the Staines. Based on the charge-sheet of the C.B.I, a trial was initiated in the Sessions Court, Khurda, while the minor was tried by the Juvenile Court.

**Decision of the Sessions Court:** The Sessions Court found all the accused persons guilty and vide order dated 22 September 2003 awarded death sentence to Dara Singh, and life imprisonment to the rest of the accused persons.

Against the order of the Sessions Judge, an appeal was filed in the High Court of Orissa by all the defendants.

**Decision of the High Court of Orissa:** The High Court disposed of the appeal along with the Death Reference on 19 May 2005. Citing lack of credibility of the confessional statements and trustworthiness of the witnesses, the High Court modified the death sentence of Dara Singh to that of life imprisonment and confirmed the life sentence awarded to Mahendra Hembrum, a co-accused and acquitted the rest of the accused persons.

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<sup>536</sup> Rabindra Kumar Pal @ Dara Singh v. Republic of India, (2011) 2 SCC 490.

Dara Singh and Mahendra Hembrum challenged their convictions and filed an appeal in the Supreme Court in 2005 and 2007, respectively. Likewise, the C.B.I filed an appeal against the acquittal of the rest of the accused persons in the Supreme Court. The Supreme Court clubbed all the three appeals and heard the matter.

**Decision of the Supreme Court of India:** On 20 January 2011, the Supreme Court upheld the punishment awarded to Dara Singh and Mahendra Hembrum by the High Court of Orissa. With regard to Dara Singh, the court said that death sentence should be awarded in rarest of rare cases and that the present case did not qualify as such. Applying the cardinal principle of criminal jurisprudence, namely, presumption of innocence, the Supreme Court took a view favourable towards the rest of accused persons. The court, thus, upheld the acquittal of the rest of the accused persons as the Sessions Court and the High Court had come to differing conclusions.

**Research Scholar's Analysis:** The acts of the accused persons in the above case demonstrate vigilante behaviour borne out of desire for social control. The accused persons belonged to the Hindu community, a majoritarian segment of the Indian society. They feared that the victim, a Christian missionary would convert the local Hindus to Christianity under the guise of promoting healthcare and education in rural Orissa. They feared that the social structure was at a threat due to the propagation of Christianity as there were instances where Hindus had converted to Christianity. Once the vehicle with the victims in it was set on fire, the mob shouted slogans of 'Jai Bajrang Bali'. This only reveals the underlying motive. It is this fear and the subsequent acts of the accused persons that classifies the case as vigilantism, a case of mob lynching.

The contradictory statements made by some of the witnesses on material points did not inspire confidence. Though the mob comprised of sixty-seventy people, only fourteen of them could be identified. Likewise, clear cut role of the members of the mob could not be proved. The High Court of Orissa and the Supreme Court of India relied upon the evidence presented before it and applied the principles of substantive and procedural laws to come to the above finding. This case again highlights the problem of identification and proving the role of each and every accused person when a crime is committed by large number of persons. In such cases, the prosecution is rendered helpless and the accused escape conviction, while the victim is denied justice. This denial of justice and loss of life of the victim at the hands of lynch mobs infringes the fundamental right of the former guaranteed under A. 21 of the Indian Constitution.

### 6.3.2 NANDINI SUNDAR AND ORS.

#### V.

#### STATE OF CHHATTISGARH<sup>537</sup>

**Facts:** The petitioners, Dr. Nandini Sundar, Dr. Ramachandra Guha and Mr. E.A.S. Sarma filed a writ petition under A. 32 of the Indian Constitution in the Supreme Court of India alluding that the Maoist insurgency and counter-insurgency operations initiated by the Chhattisgarh Government had led to a large-scale violation of human rights of the inhabitants of Dantewada District and the surrounding area. It was further contended by the petitioners that the Chhattisgarh Government was supporting a group called ‘Salwa Judum’, an armed civil vigilante group against the Maoists. This open support had only further aggravated the volatile situation and had led to widespread violation of human rights. It was also contended that the appointment of young tribals (Koya Commandos) as Special Police Officers (SPOs) u/s. 9 of the Chhattisgarh Police Act, 2007<sup>538</sup> in the counter insurgency operation against the Maoists was violative of their fundamental rights guaranteed by Aa. 14<sup>539</sup> and 21<sup>540</sup> of the Indian Constitution.

**Decision of the Supreme Court of India:** (i) The appointment of tribals as SPOs who were barely literate by the State of Chhattisgarh to counter the Maoist insurgency was held to be an infringement of A. 14 of the Indian Constitution as the young tribals could not be subjected to the same dangers as that of the regular police force.

(ii) The appointment of the young tribals was also held to be an infringement of A. 21 of the Indian Constitution as their low educational qualifications would not help them gauge the dangers that they would have to face and that they would not be well equipped to make decisions in discharging their duties in the counter-insurgency operations launched by the Chhattisgarh Government. The Supreme Court also pointed out that alleged volition of the tribals to be a part of the operations could not be said to be voluntary considering their youth and low educational qualifications.

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<sup>537</sup> Nandini Sundar and Ors. v. State of Chhattisgarh, (2011) 7 SCC 547.

<sup>538</sup> See, Section 9, Chhattisgarh Police Act, 2007 (Appendix IV).

<sup>539</sup> Supra note 489.

<sup>540</sup> Supra note 512.

The risk to their lives would lead to a violation of their right to life protected by A. 21 of the Indian Constitution.

(iii) The Supreme Court directed the Chhattisgarh Government to immediately cease and desist from using SPOs in counter-insurgency operations against Maoists.

(iv) It further directed that the firearms and all accessories issued to the SPOs should be recalled forthwith.

(v) The Supreme Court directed the State to take appropriate measures so as to provide security to the SPOs and protect them from the attacks of the Maoists.

(vi) It issued directives to Chhattisgarh Government requiring it to take suitable steps to prevent any group, including Salwa Judum from taking law into private hands. The Chhattisgarh Government was also asked to investigate all instances of alleged criminal activities of Salwa Judum, file FIRs and initiate prosecution.

**Research Scholar's Analysis:** The above case is an illustration of organized vigilantism with the support of the State, wherein the State of Chhattisgarh had marshalled a group (Salwa Judum) of tribals comprising of illiterate and barely literate youth to launch counter-insurgency offensives against the Maoists. The provisions of the Indian Police Act, 1861 and the Chhattisgarh Police Act, 2007 allowed for the appointment of civilians, in this case young tribals as SPOs to combat the Maoists in the region. They were appointed to act as guides, spotters, translators and provide intelligence to the regular police forces. They were also provided with arms and given some basic training in its use. The engagement of civilians in the counter-insurgency operations made them vulnerable to the retaliatory attacks by the Maoists and led to death of many. Likewise, the SPOs abused the powers given to them in the form of misuse of fire arms, extortion and rape leading to violation of human rights of other civilians. The Supreme Court of India held that the employment of civilians was wholly undemocratic and unconstitutional as it was tantamount to legitimising use of force by civilians. It ordered the immediate disbanding of 'Salwa Judum' for the reasons which are cited above.

This case has parallels to the cow-related attacks perpetrated on suspicion of cow-smuggling, cow-slaughter, transportation, sale or consumption of beef by the Gau Rakshaks. The cow protection laws prevalent in the twenty-two States and seven

Union Territories include provisions which give immunity from prosecution to those who act in 'good faith' in carrying out the objectives of such laws. The Gau Rakshaks, even in cases where they have attacked or killed the alleged or supposed cow slaughterer or cow smuggler, by virtue of the cow protection laws were said to be acting in 'good faith'. Thus, the Gau Rakshaks are placed beyond the reach of law. This immunity has emboldened the Gau Rakshaks, who are mere civilians, to conspire, trap and lynch the alleged cow slaughterer or cow smuggler. These acts of the Gau Rakshaks amount to violation of human rights and fundamental rights guaranteed by the Indian Constitution.

Thus, both Salwa Judum and Gau Rakshaks comprise of civilians who have been given powers under the State Laws to give effect to the objectives of the Chhattisgarh Police Act, 2007 and the cow protection laws, respectively. While Salwa Judum was formed to combat the Maoists in Chhattisgarh, Gau Rakshaks have been empowered to prevent cow slaughter, cow smuggling, transportation, sale and consumption of beef in their States.

The members of Salwa Judum abused the powers given to them leading to violation of human rights in Chhattisgarh. Likewise, the Gau Rakshaks, under the veneer of 'good faith' clause not only violated the human rights of the victims but also the fundamental rights guaranteed by the Indian Constitution, across the country.

Salwa Judum which was also a civil vigilante group was disbanded by the Supreme Court, even when its members were given training in use of weapons and in human rights. The Gau Rakshaks are not even trained in human rights or use of weapons but still have been given immunity from prosecution. If Salwa Judum has been disbanded, then in the same vein, the Gau Rakshaks or civilians should not be given power to act under the cow protection laws.

Thus, this case has important lessons for the State. Firstly, it should not vest policing powers in the civilians, viz, Gau Rakshaks and secondly, the State should amend the 'good faith' clause in the cow protection laws to restrict it only to the public servants. Lest, the blood and gore in the name of cow protection would only lead to anarchy and violation of fundamental rights of citizens in the country.



### 6.3.3 THE STATE OF MAHARASHTRA THROUGH P.S.O. SADAR, NAGPUR

V.

#### EKNATH DURYODHAN CHAUHAN AND ORS.<sup>541</sup>

**Facts:** Akku Yadav had terrorised the people of Kasturba Nagar, a locality in Nagpur for over two decades. His sins included murder, attempt to murder, criminal intimidation, robbery, extortion and rape. He used rape as a weapon of revenge for being reported by the inhabitants of Kasturba Nagar. Almost every household had a victim raped either by Akku Yadav or his gangsters. The complaints to the police did not yield any results as it (police) was hand-in-glove with Akku Yadav and he would be easily released on bail. On 13 August 2004, when he was brought from the police lock up to be produced before the Judicial Magistrate First Class for committing murder, the frustrated inhabitants (a mob of 30-40 men and women) of Kasturba Nagar, dragged him, butchered and battered him to death in the court premises in broad daylight. Eknath Duryodhan Chauhan and twenty others were charged u/ss. 147<sup>542</sup>, 148<sup>543</sup>, 353<sup>544</sup> and 302<sup>545</sup> r/w section 149<sup>546</sup> of the I.P.C.

**Decision:** All twenty-one accused were acquitted of the charges levelled against them as the prosecution failed to produce cogent, convincing and reliable evidence implicating them. Though some of the accused were present at the spot when the incident took place, the prosecution could not attribute any overt role to them.

**Observations of the Court:** Additional Sessions Judge, V. T. Suryawanshi admitted that the deceased Akku Yadav was a notorious criminal in the Kasturba Nagar locality, Nagpur. He along with his gang members had terrorized the people living in Kasturba Nagar by extorting money, raping women and murdering those who complained to the police against him. The police were hand-in-glove with the deceased as a result of which the former did not take any action against the latter. Inaction on part of the police compelled the public to take law into their hands.

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<sup>541</sup> The State of Maharashtra through P.S.O Sadar, Nagpur, 10 November 2014, In the Court of Additional Sessions Judge, Nagpur.

<sup>542</sup> See, Section 147, The Indian Penal Code, 1860 (Appendix II).

<sup>543</sup> Id. at s. 148.

<sup>544</sup> Id. at s. 353.

<sup>545</sup> Id. at s. 302.

<sup>546</sup> Id. at s. 149.

**Analysis of the Research Scholar:** The above case is a classic instance of a semi-organized vigilante act. This case was the first of its kind where the lynching occurred in the broad daylight in the District Court of Nagpur. Akku Yadav and his gang terrorized the people of Kasturba Nagar, Nagpur. The constant harassment at his hands and the failure of the police in acting against him only frustrated the inhabitants. The fact that the police was hands-in-glove with Akku Yadav, further exacerbated their helplessness and anger against the criminal and the criminal justice system. When he was being taken to the court, the inhabitants fearing that he would again escape the clutches of law, got together and lynched him. The mob comprising of men and women of Kasturba Nagar threw chilli powder into his eyes, pelted stones on him, chopped off his private parts and inflicted multiple stab wounds on him. The brutal manner in which the injuries were inflicted only reveals the rage the people had for Akku Yadav and distrust for the criminal justice system.

Judge, Shri V. T. Suryawanshi, too lamented that it was the failure of law and order that compelled the people to take law into their own hands. However, he further observed that no individual had a right to usurp the functions of law and kill a person even if he was a notorious criminal. He said that murder of the deceased in the court could not be justified though it was committed out of public outcry and hatred against the deceased.

The killing of Akku Yadav seemed to be ‘just desserts’ and the acquittal of all the accused in the case due to lack of cogent evidence appeared to be just. However, it underlines the point that failure of criminal justice system would compel people to take law into their own hands. This has been evident from the various incidents of mob lynching that have occurred in the recent past in India. As pointed out by the Research Scholar in Chapter 4 that out 235 incidents of mob lynching analysed, 136 incidents occurred due to thefts or suspicions of theft, child lifting or suspicions of child lifting, rape and murder. In most of these incidents, the police stated on record that the people (involved in the mob) feared that the offenders would escape punishment and would return to the society to commit crimes as the reason for mob justice.

### 6.3.4 TEHSEEN S. POONAWALLA

#### V.

### UNION OF INDIA AND OTHERS<sup>547</sup>

**Facts:** There were a surge of cow-related mob lynching incidents since 2015 across the country. The police and the State administration was unable to curb this new problem faced by the country. The petitioner, a social activist filed a writ petition under A. 32 of the Indian Constitution seeking the intervention of the Supreme Court to combat the mob lynching incidents. Thus, the present petition was filed in the wake of cow vigilantism, mob lynching incidents and targeted violence perpetrated by self-appointed protectors of law.

The petitioner contended that:

(i) directions should be issued to the Respondent-States, Rajasthan, Uttar Pradesh, Gujarat, Maharashtra, Jharkhand and Karnataka to initiate action against the cow protection groups unleashing violence on urgent basis;

(ii) a direction should be issued for removal of violent videos uploaded on social media by the cow protection groups;

(iii) s. 12 of the Gujarat Animal Preservation Act, 1954<sup>548</sup>, s. 13 of the Maharashtra Animal Preservation Act, 1976<sup>549</sup> and s. 15 of the Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964<sup>550</sup> should be declared as ultra vires the Indian Constitution. The said provisions gave immunity from prosecution to individuals (private citizens) who acted in ‘good faith’ to achieve the objectives of the cow protection laws. Thus, the impugned provisions gave protection to private citizens, especially the cow vigilantes, even when they assaulted and attacked the suspected cow smugglers or those who were suspected to have consumed, possessed or transported beef. The petitioners pointed out that the impugned provisions on one hand vested policing powers in the private citizens and on the other hand gave immunity from legal actions in face of violence perpetrated by them in the name of cow protection.

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<sup>547</sup> Tehseen S. Poonawalla v. Union of India and Others, (2018) 10 SCC 498 (Supreme Court of India).

<sup>548</sup> See, Section 12, Gujarat Animal Preservation Act, 1954 (Appendix V).

<sup>549</sup> See, Section 13, Maharashtra Animal Preservation Act, 1976 (Appendix VI).

<sup>550</sup> See, Section 15, Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964 (Appendix VII).

**Directives of the Supreme Court of India:** The Supreme Court of India did not consider the question of constitution validity of the Animal and Cow Protection Laws of the States of Gujarat, Maharashtra and Karnataka. However, it issued elaborate and detailed directions to the States to curb mob lynching cases. The Supreme Court held that the administration of law could be enforced by the law enforcement agencies alone and no private citizens had the right to take law into his own hands. It said that investigation, trial and punishment cannot take place on the streets at the hands of cow vigilantes. It further said that presumption of innocence underlies criminal jurisprudence and it is implicit in the fundamental rights of an accused person. Cow vigilantism violates the accused person's (victims of cow vigilantism) constitutional right to a fair trial. The Supreme Court lamented that mob justice subverted not only the rule of law but also the sacrosanct principles of the Indian Constitution.

**The Supreme Court issued various preventive, punitive and remedial directions to combat mob lynching and the same are discussed as under:**

**Part A: Preventive Measures:** The various preventive measures issued by Supreme Court of India are summarized as under:

**(i) Appointment of Nodal officers and constitution of Special Task Forces**

A direction for appointing a Nodal Officer in each district to take preventive measures was issued. The Nodal Officer so appointed should be of the rank of a Superintendent of Police (SP) and above. Likewise, it was directed that a Special Task Force should be set up to collect information about persons or groups who are likely to involve themselves in mob lynching acts.

**(ii) Identification of places where mob lynching has occurred**

The State Governments should immediately identify the places where mob lynching incidents had occurred in the last five years.

**(iii) Issuance of directive by Secretary, Home Department of the State to the Nodal Officers**

The Nodal Officers should ensure that caution is exercised by the Officer in Charge of the Police Stations of the sensitive areas in case a mob lynching incident occurs in their jurisdiction. A direction should be issued by the Secretary, Home Department of the State to the Nodal Officers.

**(iv) Convening of meetings at regular intervals by Nodal Officers with Local Intelligence Units and Station House Officers**

Such meetings were necessary to recognize and pinpoint the presence of elements that could lead to mob violence in the district. Also, measures should be initiated to prevent propagation of provocative content through social media which have a tendency of inciting mob violence.

**(v) Director General of Police (DGP), Secretary, Home Department to hold review meetings with Nodal Officers and State Police Intelligence Heads**

The object of such meetings was to not only review the situation but also to remedy any inter-state co-ordination issues in devising strategies to combat mob violence at the State level.

**(vi) Duty of the Police Officer to disperse a mob**

Every police officer would be duty bound to disband a mob which, according to him has a potential to incite violence under the guise of vigilante justice or any other form.

**(vii) Sensitization of Law Enforcement Agencies and involvement of stakeholders**

The Union Home Ministry should co-ordinate with the State Governments to sensitize the police. It should also involve all the stakeholders to devise measures in preventing mob violence and lynching of members of a particular caste or community so as to achieve social justice and rule of law.

**(viii) Issuance of circular by DGP to the SPs vis-à-vis Policing**

Circulars should be issued from time to time so as to improve and increase police patrolling in sensitive areas and instil fear in the minds of anti-social elements.

**(ix) Duty to broadcast that mob lynching would attract punishment**

Audio as well as audio-video broadcasts should be made employing various media to disseminate to the general public that mob lynching would attract stringent punishment. Apart from the above, the governments at the State and Central level should also issue similar warning on their official websites.

**(x) Duty to prevent dissemination of explosive messages**

The Central as well as the State Governments should prevent circulation of provocative and offensive content on various social media platforms.

**(xi) Registration of First Information Report**

The Police should register a F.I.R under s. 153A<sup>551</sup> of I.P.C and other pertinent statutory provisions against individuals who propagate explosive content which have a tendency of fuelling mob violence.

**(xii) Issuance of directions to the State Governments**

The Central Government should give directives and guidelines to the State Governments so as to evaluate the gravity of the situation and take effective measures to combat the same.

**Part B: Remedial Measures: The following remedial measures were issued by the Supreme Court of India:**

**(i)** Police to lodge F.I.R immediately without undue delay under the relevant provisions of law in the event of a mob lynching incident occurring in their jurisdiction.

**(ii)** The Station House Officer should immediately inform the Nodal Officer of the district of the occurrence of a mob lynching incident. Nodal Officer should ensure that the family members of the victims are not subjected to any further hardship.

**(iii)** The Nodal Officer should monitor the investigation. He should ensure that once a F.I.R is registered or the accused person is arrested, a charge-sheet is filed within the prescribed period laid down in the statute.

**(iv)** A victim compensation scheme should be set-up within one month of date of the present judgement by the State Governments. The Supreme Court also laid down the factors that should be considered in determining the amount of compensation. It further directed the State Government to provide for making payment to the victim or

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<sup>551</sup> See, Section 153A, The Indian Penal Code, 1860 (Appendix II).

the relative of the deceased victim as temporary relief, within thirty days of the occurrence of the mob lynching incident.

(v) Designated Courts or Fast Track Courts should be set up in each district for the trial of mob lynching cases. The Courts should strive to conclude the trial in six months.

(vi) The Trial Courts, as a principle should award maximum sentence to those found guilty in mob lynching cases so that it would act as a deterrent.

(vii) Protection to witnesses of mob lynching cases should be accorded.

(viii) Timely notice of court proceedings should be given to the victim or his relatives and also an opportunity of hearing should be accorded to him/them where the accused has made an application for bail, discharge, release and parole.

(ix) If the victim or his relatives choose an advocate empanelled with the legal aid body constituted under the Legal Services Authorities Act, 1987, he should be provided with free legal aid.

**Part C: Punitive Measures:** The Supreme Court of India laid down the following punitive measures:

(i) Failure in fulfilling one's duty as a police officer or as an officer of the district administration would be deemed to be a deliberate act of negligence and such an officer should be punished. A departmental as well as legal action should be initiated against such an erring officer. The departmental action should be completed within six months of initiation of the action.

(ii) Disciplinary action should be initiated by the State against those officials, who in spite of having prior knowledge of the occurrence of mob lynching failed to prevent it. Likewise, disciplinary action should also be initiated against those officials who failed to arrest the perpetrators promptly and delayed the institution of criminal proceedings against them after the occurrence of the incident

Apart from the above, the Supreme Court also asked the Parliament to consider enacting a specific legislation on mob lynching so as to instil a fear of law in the minds of the people who involved in mob violence.

**Aftermath:** The mob lynching incidents related to cow decreased considerably after the State machinery swung into action and implemented the directions given by the Supreme Court of India in the present case. In 2018, fifteen cow-related mob lynching incidents occurred and post this judgement there has been a steady decline. However, in 2021, thirty-two incidents of mob lynching have occurred which include nine cow-related incidents indicating that the incidents have begun once again. While the Parliament is yet to enact a special legislation to combat mob lynching incidents, the States of Manipur, West Bengal, Rajasthan and Jharkhand have passed the anti-lynching laws. However, the assent of the President and the Governors is still pending.

Though incidents of cow vigilantism have decreased, incidents stemming from commission of crimes like theft, child lifting, murder and rape have been on the rise. Of the 235 incidents tracked and studied by the Research Scholar, 136 of them relate to commission or suspicion of commission of crime. This trend indicates that citizens have no fear of law and law enforcement agencies. There is a need to enact a central legislation to prevent mob lynching incidents and instil respect for rule of law amongst the citizens.



## 6.3.5 STATE THROUGH MARIYAM KHATOON

W/O LATE MD. ALIMUDDIN

V.

**DEEPAK MISHRA AND OTHERS<sup>552</sup>**

**Facts:** On 29 June 2017, Md. Alimuddin, a resident of Hazaribagh District, left his house in his van for Ramgarh, Jharkhand at 6:00 a.m. Between 10:00 a.m. and 11:00 a.m., Mariyam Khatoon, wife of Md. Alimuddin received a call from Md. Aslam Ansari that her husband was being assaulted at Bazartand Market in Ramgarh by a mob. Md. Aslam Ansari also informed her that he knew the assaulters as he had seen the occurrence. According to him ten to fifteen persons had stopped the victim's vehicle, pulled him out, assaulted him with lathis and set his vehicle on fire. The mob suspected that the victim was transporting beef which was illegal in Jharkhand. The mob comprised of Bajrang Dal Gau Raksha Samiti activists. At the time when Police Inspector, Kamlesh Paswan reached the spot of the incident along with two other police personnel and armed police force, he saw the victim being beaten with lathis by Bajrang Dal Gau Raksha Samiti activists. Pieces of beef were strewn on the road and the victim was lying seriously injured. Also, the victim's vehicle was burning. The police took him to a hospital for treatment where he succumbed to his injuries. Kamlesh Paswan and the other police personnel being witnesses to the incident had identified the accused persons. On the basis of the eye witnesses account and video taken of the incident which had become viral, the attackers (accused persons in the case) were identified. The confessional statements made by Chhotu Verma, Deepak Mishra, Chhotu Rana and Santosh Singh, the accused persons, clothes worn by them on the day of the incident and the lathi used to attack the victim were recovered. All eleven accused were charged under ss. 147<sup>553</sup>, 148<sup>554</sup>, 149<sup>555</sup>, 427<sup>556</sup>, 435<sup>557</sup>, 302<sup>558</sup> and 120B<sup>559</sup> of I.P.C. The twelfth accused being a juvenile was sent to be tried by the Juvenile Justice Board.

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<sup>552</sup> State through Mariyam Khatoon w/o Late Md. Alimuddin 16 March 2018, Additional Sessions Judge-II-cum-Fast Track Court, Ramgarh.

<sup>553</sup> See, Section 147, The Indian Penal Code, 1860 (Appendix II).

<sup>554</sup> Id. at s. 148.

<sup>555</sup> Id. at s. 149.

<sup>556</sup> See, Section 427, The Indian Penal Code, 1860 (Appendix II).

<sup>557</sup> Id. at s. 435.

<sup>558</sup> Supra note 545.

<sup>559</sup> See, Section 120B, The Indian Penal Code, 1860 (Appendix II).

The post mortem report revealed that the death of the victim occurred due to shock caused by multiple injuries sustained by him during the assault. The defence, however, alleged that the police, after rescuing the victim had taken him to the police station and assaulted him and that the assault by the police had led to the victim's death. The court rejected the contention of the defence counsel.

The authenticity of the compact disk, photographs of the accused persons made from the video recording of the incident and videos were established by the Central Law Science Laboratory, Chandigarh. The call data records, consumer application forms of the accused persons, location of their mobiles conclusively showed not only their presence but also that they had conspired to attack the victim. The testimony of the eye witnesses being consistent from the beginning and having stood the test of examination-in-chief as well as cross-examination was made admissible by the court.

**Decision of the Court:** The Court found all the eleven accused, guilty and sentenced them to life imprisonment along with a fine of Rs. 1,000/-. Deepak Mishra and two other accused persons were sentenced to life imprisonment along with a fine of Rs. 2,000/- for concealing the design to commit the offence under section 120B of I.P.C.

**Aftermath:** The Division Bench of the High Court of Jharkhand, on an appeal preferred by the accused, suspended the sentence of eight of the accused persons and granted them bail on 29 June 2018. Citing lack of substantial evidence of the role played by them, the court granted bail to eight of the accused persons. However, the bail applications of Deepak Mishra and Chhotu Verma were rejected by the Court.<sup>560</sup>

**Research Scholar's Analysis:** This is the first case pertaining to mob lynching where the accused were found guilty and were convicted by the Sessions Court. The prompt and speedy conviction of the accused persons (Gau Rakshaks) was welcomed by the media and public. The victim Alimuddin was carrying beef and there was a case pending in the court against him for cow theft. The accused persons who were

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<sup>560</sup> Express News Service, *Jharkhand High Court grants bail to 8 lynching convicts*, THE NEW INDIAN EXPRESS (Jun 30, 2018), <https://www.newindianexpress.com/nation/2018/jun/30/jharkhand-high-court-grants-bail-to-8-lynching-convicts-1835794.html> (Last visited on Apr 28, 2021).

activists of Bajrang Dal Gau Raksha Samiti were on a vigil and were on a look out for persons smuggling cows or transporting beef. They had received the information that Alimuddin was carrying beef. They waylaid him, stopped him, beat him up, threw the bag suspected to be containing beef onto the street and set his vehicle on fire. In Jharkhand, sale or possession of beef attracts a minimum of one-year rigorous imprisonment and a maximum of ten years. Apart from a prison term, a maximum fine of Rs. 10,000/- could be imposed.<sup>561</sup> Thus, possession, sale and transportation of beef was illegal in Jharkhand. Alimuddin had indeed violated the law. But the power to punish an offender, rests with the State. It is the function of the administration of criminal justice system and not civilians. In the present case, the accused persons had usurped the function of the police and court and attacked the victim which eventually led to his death. Had the victim been simply caught and handed over to the police by the accused persons, a legal proceeding would have been initiated against him. The victim had a right to fair trial and right to defend himself. These rights guaranteed by the Indian Constitution were denied to him. He was adjudged guilty by the mob and punished by it. The mob also snuffed the life out of him and violated his fundamental right to life and liberty bestowed on all persons under A. 21 of the Indian Constitution. The right to curtail any person's life and liberty vests with the State by following a procedure laid down by the law and the said procedure should be fair, just and reasonable. The accused persons acted as the police, prosecutor and judge and denied the victim his constitutional and fundamental rights. Failure to protect the rights of the citizens is the failure of the State. This observation finds resonance in the words of Hon'ble Additional Sessions Court Judge, Om Prakash who remarked,

‘While as per Article 21 of the Constitution of India no person can be deprived of his life and personal liberty except according to procedure established by law and state is duty bound to protect the life and liberty of every human being, but the state has completely failed to perform its constitutional as well as statutory obligations’.

However, the grant of bail to the eight convicts and suspension of their sentence in the case by the High Court of Jharkhand in June 2018 has come as a setback. This will only further frustrate the victims as well as the criminal justice system in their tryst to punish the guilty.

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<sup>561</sup> Jharkhand Bovine Animal Prohibition of Slaughter Act, 2005 (Jharkhand Act no. 11 of 2005), s. 12(1).

### 6.3.6 STATE OF KARNATAKA

#### V.

#### SUBHASH PADIL AND OTHERS <sup>562</sup>

**Facts:** On 24 January 2009, around 4:00 p.m., twenty-five accused persons (in all thirty persons have been accused) barged into the Amnesia Bar and Restaurant, Mangaluru city, wrongfully restrained and confined some of the victims in the restaurant, physically assaulted women customers present there and used abusive language against them. They also threatened the victims with dire consequences. The accused persons were members of Shri Rama Sene (a Hindu organisation aimed to protect cows and Hindu culture from erosion) who believed that the Pub culture followed by women only led to the degeneration of the cultural and moral values of the Indian society. Wearing western clothes, consuming alcohol and socialising with boys by the girls was perceived as a threat to the Indian culture by the attackers. In order to teach the young men and women, a lesson, the accused persons attacked and threatened them. The said accused persons were charged u/ss. 143<sup>563</sup>, 147<sup>564</sup>, 448<sup>565</sup>, 341<sup>566</sup>, 342<sup>567</sup>, 323<sup>568</sup>, 504<sup>569</sup>, 505(2)<sup>570</sup>, 506<sup>571</sup>, 120B<sup>572</sup> r/w section 149<sup>573</sup> of I.P.C. Prasad Attavara, Pramod Muthalik, Dinakara Shetty and Preetham Bangera being the leaders of Shri Rama Sene and parties to the afore-mentioned offences were charged for Criminal Conspiracy to commit various offences under I.P.C, mentioned above. Likewise, these leaders had issued statements to the television channels with the intent to cause fear and alarm in the society and foment enmity between various classes in the society.

Out of the twenty-four witnesses, the prosecution examined twelve witnesses and produced nine documents in evidence to prove the guilt of the accused persons.

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<sup>562</sup> State of Karnataka v. Subhash Padil and Others, 12 March 2018, II Judicial Magistrate First Class, Shri R. Manjunatha, Mangaluru.

<sup>563</sup> See, Section 143, The Indian Penal Code, 1860 (Appendix II).

<sup>564</sup> Supra note 553.

<sup>565</sup> See, Section 448, The Indian Penal Code, 1860 (Appendix II).

<sup>566</sup> Id. at s. 341.

<sup>567</sup> Id. at s. 342.

<sup>568</sup> Id. at s. 323.

<sup>569</sup> Id. at s. 504.

<sup>570</sup> Id. at s. 505(2).

<sup>571</sup> Id. at s. 506.

<sup>572</sup> Supra note 559.

<sup>573</sup> Supra note 546.

**Decision of the Court:** The Second Judicial Magistrate First Class acquitted twenty-six of the thirty accused persons due to lack of substantial evidence implicating them. It was held that the prosecution against three accused persons would continue as they were declared to be absconding and proceedings against one of the accused were abated due to his death.

The acquittal of the accused persons was made on the following grounds:

- (i) Out of the twelve witnesses examined by the prosecution, eight witnesses turned hostile.
- (ii) The presence of women victims in the attack was not secured as witnesses. The injured victims would have been best witnesses but the prosecution failed to produce them as witnesses. This proved fatal to the prosecution case.
- (iii) Police persons who visited the spot of occurrence on the day when the attack took place were not examined as witnesses.
- (iv) Oral evidence was not corroborated with documentary evidence.
- (v) No consistent, corroborative and reliable documentary evidence was placed before the court.
- (vi) Sixteen hours delay in dispatching the F.I.R to the court was not explained by the prosecution.
- (vii) Prosecution did not produce the videos and photographs of the incident captured by the media outside the Pub on the day of the occurrence.

Thus, the materials placed before the court fell short of legal evidence and led to the acquittal of the accused persons.

**Research Scholar's Analysis:** The present case also referred to as the Mangaluru Pub Case is a classic illustration of vigilantism for social control purposes. Shri Rama Sene, is an organisation formed primarily with the object to protect cows and the Hindu culture from erosion. The members of Shri Rama Sene felt that the Pub culture amongst the youth, especially, that of girls frequenting such pubs, consuming alcohol, intermingling with boys, dancing to music in the pubs and wearing western clothes was a threat to the Hindu culture. They perceived the behaviour of the boys

and girls as a threat to the social norms of the Indian society and that it would have a bad influence on the younger generation. The members of Shri Rama Sene felt the need to stem the deviance from social norms and barged into the Pub, threatened, hurled accusations against the girls present there and also assaulted them. Conceptual analysis points out that Shri Rama Sene and its objectives, render it an organized vigilante group.

The acquittal of the accused persons was an outcome of procedural lapses made by the police and failure of the prosecution in proving the documentary evidence, corroborating the statements of the witnesses, not examining material witnesses to the case and not producing electronic evidence before the court. These lapses by the police and the prosecution rendered the case weak. Adding to the woes of the prosecution, eight of the twelve witnesses examined, turned hostile.

This case stresses the need for proper training to the police as well as the prosecutors in procedural aspects vis-à-vis documentation and in securing the presence of witnesses and electronic evidence.

The police and prosecution should work towards collating and presenting a fool proof case before the court so that the guilty do not go unpunished.

The problem of Hostile witnesses can to a great extent be resolved with the aid of Witness Protection Programs.

The acquittal of the accused persons whose acts of vandalism and assault were captured by the media only further foments the distrust in the institutions of the State, especially the administration of criminal justice system. The victims of crime and common citizens lose faith in the administration of criminal justice system and take law into their hands. This is proved from the fact that in most of the mob lynching cases that have occurred due to commission of crime or suspicion of commission of crime, the perpetrators have expressly made statements to the police that they attacked the suspect (victim) because they feared that he would escape punishment, if handed over to the police.

The criminals, emboldened by their acquittals due to the inherent weaknesses of the criminal justice system would further transgress law with impunity.

These dangerous consequences of failure of the criminal justice system not only threaten the rule of law but also the very existence of a democratic State.

### 6.3.7 THE STATE

(THROUGH MD. NIJAMUDDIN – INFORMANT)

V.

ARUN SAO AND ORS.<sup>574</sup>

**Facts:** The informant of the case, Md. Nijamuddin, Majlum Ansari and Azad Khan, father of twelve-year-old Imtiyaz Khan were partners engaged in cattle trading business for twelve years. On 18 March 2018, Majlum Ansari and Imtiyaz Khan had started for Tutilawa Mela with eight oxen which they bought at a cattle fair on foot and were followed by Md. Nijamuddin on a motorcycle between 2:00 a.m. and 2:30 a.m. Around 5:30 a.m., when the informant reached Jhabar village, he found the cattle but could not find Majlum Ansari and Imtiyaz Khan. He stopped his motorcycle, when he heard Arun Sao, the accused asking the other accused persons to catch him as he (Nijamuddin) traded in Oxen. Fearing for his life, Nijamuddin fled on his motorcycle and only stopped near Balumath and called Majlum on his mobile. Not getting any response, he called Munawar, Majlum's brother and informed him about the incident. He asked Munawar to meet him near Jhabar village where Imtiyaz and Majlum were attacked by the accused persons. Half an hour later, both Nijamuddin and Munawar reached the spot and found the animals and the victims missing. An old man pointed out that the animals were taken towards the forest. When they rushed towards the forest, about fifty meters away, they saw the accused beat up and hang Majlum and Imtiyaz from a tree. On seeing the dead bodies, they fled from the scene of occurrence. Nijamuddin had lost consciousness having witnessed the occurrence. Nijamuddin identified five of the accused persons and Munawar had identified six of the accused persons. Investigations by the police led to the arrest of Mithilesh Kumar Sahu alias Banti Sao, Manoj kumar Sahu s/o Munshi Sahu, Awadhesh Sao, Pramod Sahu and Manoj Sao s/o Narsing Sao for their complicity in the crime. All the five accused persons confessed to their crime. Their confessional statements led to the arrest of Arun Sao, Sahdeo Soni and Vishal Tiwary who also confessed to the commission of the crime. Also, the fact that a few days prior to the commission of crime, two of the accused persons, Arun Sao and Banti Sao had gone to Majlum's house and threatened him to leave the cattle trading business was proved in the court.

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<sup>574</sup> The State (through Md. Nijamuddin – Informant) v. Arun Sao and Ors., 19 December 2018, In the Court of the District and Additional Sessions Judge – I, Latehar.

**Decision of the Court:** The call data records, the eye-witnesses' account, the post mortem report and the confessional statements led to the only hypothesis of the guilt of all the eight accused persons. The Additional Sessions Judge found all the eight accused, namely, Mithilesh Kumar Sahu alias Banti Sao, Manoj kumar Sahu s/o Munshi Sahu, Awadhesh Sao, Pramod Sahu, Manoj Sao s/o Narsing Sao, Arun Sao, Sahdeo Soni and Vishal Tiwary guilty u/s. 302<sup>575</sup> r/w s. 34<sup>576</sup> of I.P.C and sentenced them to rigorous imprisonment for life. A fine of Rs. 25,000/- was also imposed.

**Research Scholar's Analysis:** The above case is an instance of lynching by cow vigilantes. The initial threat issued by the accused to Majlum Ansari to stop trading in cows and the subsequent lynching of two innocent persons, one, a child, only demonstrates the fanaticism of all the accused involved. The self-appointed cow vigilantes felt it their bounden duty to protect the cows and in the guise of doing so did not hesitate to beat up the victims and then hang them from a tree which led to their death. The accused persons did not even spare the twelve-year-old Imtiyaz Khan.

However, in this sordid tale, the only silver lining is the quick and efficient disposal of the case by the District and Sessions Court and sentencing of all the accused persons to rigorous imprisonment for life along with fine. The speedy trial and justice would definitely act as a deterrent in mob lynching cases.

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<sup>575</sup> Supra note 545.

<sup>576</sup> See, Section 34, The Indian Penal Code, 1860 (Appendix II).



### 6.3.8 STATE OF RAJASTHAN

#### V.

#### VIPIN YADAV AND OTHERS<sup>577</sup>

**Facts:** On 1 April 2017, Pehlu Khan and his two sons, Arif and Irshad after having bought two cows in Hatwada, Jaipur were travelling in their pick-up truck back to their home in Nuh, Haryana. Around 7:00 p.m. they crossed Bahrod Pulia, Alwar, when their vehicle was stopped by a mob of 200 people who started abusing them. The mob suspecting them to be cattle smugglers, dragged Pehlu Khan and his sons out of their vehicle and beat them up with sticks and lathis. The mob tore their clothes, looted their money and caused damage to their vehicle. While they were being beaten up, another pick-up truck belonging to Azmat and Rafiq containing three cows arrived on the spot. They too suffered the same consequences. Pehlu Khan suffered serious injuries to the chest and abdomen. The police arrived on the spot and arranged for an ambulance to take all the injured to a hospital. Pehlu Khan had mentioned to the police that people in the mob had taken names of Om Yadav, Hukumchand Yadav, Navin Sharma, Rahul Saini and Jagmal (perpetrators). The mobsters had also identified themselves as activists of Vishwa Hindu Parishad and Bajrang Dal. Pehlu Khan had also stated that the mobsters had identified themselves and had issued a warning that anyone who crossed Bahrod would be beaten up by them. Pehlu Khan died on 3 April 2017 due to the grievous injuries suffered by him on chest, abdomen and spleen. Two video recordings of the incident and further investigations by the police led to the identification of thirteen accused persons.

All the thirteen were charged u/ss. 147<sup>578</sup>, 323<sup>579</sup>, 341<sup>580</sup>, 427<sup>581</sup>, 308<sup>582</sup>, 302<sup>583</sup> and 379<sup>584</sup> of I.P.C.

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<sup>577</sup> State of Rajasthan v. Vipin Yadav and Others, 14 August 2019, Additional Sessions Judge, Alwar, Rajasthan.

<sup>578</sup> Supra note 553.

<sup>579</sup> See, Section 323, The Indian Penal Code, 1860 (Appendix II).

<sup>580</sup> Id at 341.

<sup>581</sup> Supra note 556.

<sup>582</sup> See, Section 308, The Indian Penal Code, 1860 (Appendix II).

<sup>583</sup> Supra note 545.

<sup>584</sup> See, Section 308, The Indian Penal Code, 1860 (Appendix II).

Apart from the above, the two juveniles involved in the lynching were also charged under the above-mentioned sections but were ordered to be tried under the Juvenile Justice Act.

**Decision of the Court:** The Additional Sessions Judge, Dr. Sarita Swami, acquitted six of the seven accused as there were patent procedural lapses in the investigation. However, accused no. 7 was not acquitted as he was absconding. The various lapses pointed out by the Judge are as under:

1. The deceased Pehlu Khan and the other victims, Arif, Irshad, Azmat and Rafiq had not named the accused who were charged by the police.
2. The ownership of the mobile and sim card by which the video recording of the incident was made and which formed the basis of charging the present accused was not established and proved.
3. The date on which the video was procured, which electronic media was used to transmit it, the name of the photographer who developed the photographs from the video were not mentioned by the Investigating Officer.
4. The mobile phone used in recording the incident and the memory card which were seized were not sent to Forensic Science Laboratory for testing the veracity of the recording.
5. Three prime prosecution witnesses turned hostile. Ravindra, who had video recorded the incident denied giving any proof of ownership of the said mobile phone and the sim card. Niraj Kumar, the independent witness in whose presence the mobile was alleged to have been seized denied knowing Ravindra or about the said seizure. He stated that the police made him sign on a blank paper. Naval Kishore, the photographer denied having memory of developing the photographs or making the compact disk for the police.
6. The second video and the photographs made from it by the Investigating Officer were not brought on record of the court.

7. The prosecution had failed to prove the genuineness of the electronic evidence as per s. 65B<sup>585</sup> of the Indian Evidence Act, 1872.

**The Aftermath:** Following the acquittal of the accused by the Trial Court, the Rajasthan Government has set up a Special Investigation Team to look into the lapses in investigation and hold those liable for the lapses.<sup>586</sup> Pehlu Khan's sons, Arif and Irshad Khan, the owner of the pick-up truck in which the cattle was being transported, Khan Mohammed were charged u/ss. 5<sup>587</sup>, 8<sup>588</sup> and 9<sup>589</sup> of the Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995. However, the Rajasthan High Court quashed the charges framed against the above-named persons as evidence showed that the cattle being transported were meant for dairy use and not for slaughter in October 2019.<sup>590</sup>

The two juveniles were found guilty by Principal Magistrate of the Juvenile Justice Board, Sarita Dhakad on 12 March 2020 and were sentenced for three years.<sup>591</sup>

The guilty verdict of the Juvenile Justice Board would help the prosecution in their review petition to the High Court of Rajasthan against the six accused who were acquitted by the Additional Sessions Judge, Alwar, Rajasthan.

**Research Scholar's Analysis:** Serious procedural lapses by the police and the prosecution could not secure justice to Pehlu Khan and the rest of the victims. Basic procedures at the time of search and seizure like labelling, putting the date and sealing were not adhered to by the police. Electronic evidence, the video recording of the incident, which was the basis of charging the accused was not sent to the Forensic Science Laboratory for establishing its genuineness. The persons named by the deceased and the other victims were not charge-sheeted. Adding to the woes of the

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<sup>585</sup> Supra note 484 at s. 65B.

<sup>586</sup> R. Asnani, *Pehlu Khan lynching case: Two minors convicted for three years*, THE NEW INDIAN EXPRESS (Mar. 13, 2020), <https://www.newindianexpress.com/nation/2020/mar/13/pehlu-khan-lynching-case-two-minors-convicted-for-three-years-2116372.html> (Last visited on Feb. 18, 2021).

<sup>587</sup> See, Section 5, Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995 (Appendix 9).

<sup>588</sup> Id. at s.8.

<sup>589</sup> Id. at s. 9.

<sup>590</sup> Scroll Staff, *Pehlu Khan case: Rajasthan HC quashes cow smuggling FIR against dairy farmer's sons*, SCROLL.IN (Oct. 30, 2019), <https://scroll.in/latest/942125/pehlu-khan-case-rajasthan-hc-quashes-cow-smuggling-fir-against-dairy-farmers-sons> (Last visited on Feb. 18, 2021).

<sup>591</sup> Rajesh Asnani, *Pehlu Khan lynching case: Two minors convicted for three years*, THE NEW INDIAN EXPRESS (Mar. 13, 2020), <https://www.newindianexpress.com/nation/2020/mar/13/pehlu-khan-lynching-case-two-minors-convicted-for-three-years-2116372.html> (Last visited on Apr. 27, 2021).

prosecution case, the three prime witnesses turned hostile. Lack of proper training of the police in procedural and investigative techniques has been plaguing the criminal justice system in India. This has more than often led to the acquittal of the perpetrators. When the perpetrators escape punishment, it only erodes the faith of the masses in the criminal justice system. The loss of faith leads the people to take law into their own hands. To build confidence in the criminal justice system, apart from adequate training to the police, the prosecution should advise the police on procedural aspects so that the evidence, whether documentary or electronic stands the scrutiny of the court. Also, witness protection programs must be devised to prevent witnesses from turning hostile.

### 6.3.9 STATE OF ASSAM

#### V.

#### SANJAY RAJOWAR AND OTHERS<sup>592</sup>

**Facts:** Seventy-three-year-old Dr. Deben Dutta, a retired medical professional, rendered voluntary services at Teok Tea Estate Hospital at Jorhat. On 31 August, 2019, plantation workers had brought thirty-three-year-old plantation worker, Somra Majhi to the hospital in a critical condition at 3:00 p.m. When the worker was brought, Dr. Deben Dutta was not at the hospital and had gone home for lunch break. After receiving a call from the In-charge Nurse about the patient, he immediately left for the hospital. Dr. Deben Dutta arrived at the hospital within ten to fifteen minutes but Somra Majhi had already died by then. The angry plantation workers alleged negligence on part of Dr. Deben Dutta, beat him up and locked him in the room. They had used glass shards to inflict injuries on him. The unruly mob of plantation workers attacked him in the presence of armed security forces. Dr. Deben Dutta laid injured and was bleeding profusely till 5:30 p.m. Finally, when he was rescued by the paramilitary forces and was being taken to a nearby hospital for treatment, the mob also tried to stall the ambulance. He was taken to Jorhat Medical College for treatment but he had already succumbed to his injuries.<sup>593</sup>

Thirty-two plantation workers were charged u/ss. 302<sup>594</sup>, 342<sup>595</sup>, 353<sup>596</sup>, 148<sup>597</sup> and 149<sup>598</sup> of I.P.C.

Apart from the above charges, twelve of the accused persons were charged under s. 4 of the Assam Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act, 2011<sup>599</sup>.

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<sup>592</sup> State of Assam v. Sanjay Rajowar and Others, 12 October 2020, District & Sessions Court, Jorhat, Judge Robin Phukan.

<sup>593</sup> M. Ojha, *Doctor's Family Seeks Justice from Modi*, THE TELEGRAPH ONLINE (Sep. 7, 2019), <https://www.telegraphindia.com/north-east/doctors-family-seeks-justice-from-narendra-modi/cid/1703305> (Last visited on Apr. 28, 2021).

<sup>594</sup> Supra note 545.

<sup>595</sup> See, Section 342, The Indian Penal Code, 1860 (Appendix II).

<sup>596</sup> Id. at s. 353.

<sup>597</sup> Supra note 543.

<sup>598</sup> Supra note 546.

<sup>599</sup> See, Section 4, Assam Medicare Service Persons and Medicare Service Institutions (Prevention of violence and Damage to Property) Act, 2011 (Appendix X).

**The Aftermath:** The lynching of Dr. Deben Dutta caused an outrage amongst the medical fraternity. The Indian Medical Association (IMA) condemned the attack and sent a team to Assam. The IMA urged the State to try the matter in a Fast Track Court and demanded that the safety of doctors and their property should be ensured.

**Decision of the Court:** On 12 October 2019, Hon'ble District and Sessions Judge, Robin Phukan found twenty-five of the thirty-two accused guilty. Twenty-five-year-old Rajowar was awarded death penalty and rest of the twenty-four accused were punished with life imprisonment. The Court also imposed a fine of Rs.1000/- on each of the accused. One of the accused persons had died and six of them were held innocent. Twelve of the twenty-five convicts were also found guilty u/s. 4 the Assam Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage to Property) Act, 2011.

**Research Scholar's Analysis:** The present case does not emanate from lynching due to cow vigilantism or suspicion of theft or child lifting but out of perception of negligence on part of the victim. Nevertheless, it is a case of mob lynching. The victim was a doctor who was lynched by a mob comprising of plantation workers, who felt that the death of their ill colleague was due to negligence of the victim. The doctor had reached the hospital within ten to fifteen minutes of receiving the news of the ill plantation worker but by then the worker had already died. There was no evidence of negligence on part of the doctor. The case highlights the fact that a mob felt wronged and they took the law into their own hands and inflicted injuries on the doctor leading to his death. If the mob believed there was any negligence, it could have taken recourse to the law. But it did not do so. It attacked him savagely and even prevented the ambulance from taking the injured doctor to another hospital for treatment. The intent of the mob was clear. It wanted the doctor to suffer the same consequences that their ill colleague suffered. Considering the factual matrix and the evidence placed, the District and Sessions Court secured not only a speedy trial but also justice for the victim.

The conviction of the accused persons sends a stern message and warning to the society that rule of law is to be upheld by the citizens. The citizens are not vested with the right to don the mantle of police, prosecutor and judge and lynch fellow citizens. The task of apprehending and punishing the wrong-doers is vested with administration of justice and not with the citizens.

### 6.3.10 MUBBI ALIAS MUBIN

V.

#### STATE OF HARYANA<sup>600</sup>

**Facts:** A local Gau Raksha Dal led by the District President raided the house of the petitioner, Mubin and found a bull, a cow and a calf tethered therein. The petitioner fled from his house, fearing for his life. The members of the Gau Raksha Dal could not apprehend him. They then returned to the petitioner's house when they found instruments used for slaughter. These members then informed the police and a F.I.R was registered against the petitioner on 11 March 2021 at Bichhor Police Station, Nuh, Haryana under sections 3<sup>601</sup> and 8<sup>602</sup> of the Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (HGSAGA) and section 511<sup>603</sup> of I.P.C. The petitioner preferred a Bail Application to the High Court of Punjab and Haryana against the F.I.R filed against him.

**Contentions of the Petitioner:** The Counsel on behalf of the petitioner contended that:

(i) s. 3 of the HGSAGA prohibited slaughter of cow in the State of Haryana and in the present case neither cow slaughter had taken place nor was it revealed that a cow slaughter was to be caused by the petitioner. Therefore, s. 3 was not attracted;

(ii) since no slaughter had taken place in the present case, the question of sale, possession, storage, etc. of beef did not arise. Therefore, s. 8 was not attracted in this case;

(iii) the members of the Gau Raksha Dal and its President did not have any authority to raid the house of the petitioner and by virtue of which had committed the offence of Trespass.

**Decision of the Court:** The petitioner was granted bail as interim relief. Besides, granting interim relief to the petitioner, Hon'ble Mr. Justice Sudhir Mittal questioned the power and authority of the Gau Rakshaks to raid the houses of citizens. It directed the Haryana Government to file a reply before it with regard to the afore-mentioned question.

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<sup>600</sup> Mubbi Alias Mubin v. State of Haryana, Order dated 5 May 2021, High Court of Punjab & Haryana, Justice Sudhir Mittal.

<sup>601</sup> See, Section 3, Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015 (Appendix XI).

<sup>602</sup> Id. at s. 8.

<sup>603</sup> See, Section 511, The Indian Penal Code, 1860 (Appendix II).

Hon'ble Mr. Justice Sudhir Mittal said that,

‘such actions (actions of Gau Rakshaks) are prima facie illegal and amount to taking law into own hands by private individuals. This is contrary to the rule of law’.<sup>604</sup> (emphasis supplied)

**Research Scholar's Analysis:** This is the first case pertaining to cow vigilantism where a court has called into question the power of Gau Rakshaks to search and seize the property of the citizens and apprehend them on suspicion of cow slaughter, sale, possession, transportation of beef. The Punjab and Haryana High Court directed the Government of Haryana to brief as to how the powers of police and public authorities were vested in Gau Rakshaks who are no more than ordinary citizens of the country. The High Court further questioned the authority of the ordinary citizens (Gau Rakshaks) to raid the houses of other ordinary citizens. Hon'ble Mr. Justice Sudhir Mittal termed the acts as illegal and contrary to the principle of rule of law embedded in the Indian Constitution. The question raised by the High Court of Punjab and Haryana is a very significant development as in most of the mob lynching cases which were cow-related, the attacks were orchestrated and perpetrated by cow vigilantes. The immunity from prosecution granted to the cow vigilantes under the cloak of ‘good faith’ in most of the State Legislations has been used as a weapon to lynch persons on mere suspicion of cow slaughter, sale, transportation, possession of beef, etc. Even where there is clinching evidence to show that a person has committed a crime under the cow protection laws, the cow vigilantes (ordinary citizens) cannot act as a prosecutor and executor to kill the transgressor. Vesting ordinary citizens like Gau Rakshaks with policing powers by a law is akin to state-backed vigilantism. It only destroys the monopoly of State to use force and leads to anarchy.

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<sup>604</sup> Supra note 600 at para 5, p. 2.



## 6.4 CONCLUSION

The chapter began with the analysis of the landmark judgements by the Supreme Court of India and the High Court of Bombay on the constitutional validity of the various State Legislations prohibiting cow slaughter. The rise of cow vigilantism in India can be understood in the light of the cow protection laws enacted by the various States and how they impact the fundamental rights of those whose livelihood and food habits depend on cows and cow progeny. The Judiciary, in balancing the interests of the society and fundamental rights of individuals has given primacy to the former. The five-judge Constitution Bench of Supreme Court of India, in *Quareshi-I*, held that a complete prohibition of slaughter of cow and cow progeny even when they were no longer useful as milch and draught animals was unconstitutional. However, it upheld the ban on slaughter of cow and cow progeny that were below sixteen years of age and said that it did not violate the freedom of the Butchers from following their trade or occupation vide A. 19(1)(g) of the Indian Constitution. It said that the Butchers and those in allied industries could obtain flesh from other animals like sheep and goats. Likewise, it held that the State Legislations did not violate the various rights guaranteed u/Aa.14 and 25 of the Indian Constitution. The Judgement delivered in *Quareshi-I* stood ground for almost five decades. This was partly overruled by the seven-judge Constitution Bench in *State of Gujarat v. Mirza Moti Kureshi Kassab Jamat and Ors.*, wherein the Supreme Court of India upheld the total ban on slaughter of cow and cow progeny, irrespective of their age. To arrive at the decision, the Court gave primacy to the public interest over fundamental rights of a segment of the society in the light of the scientific and technological advances made by the country. The cow and cow progeny were useful even after they ceased to be milch or draught animals as their excreta could be used in making manure and bio-gas. Accepting the fact that India being predominantly an agricultural country and that cow and cow progeny were integral to the agricultural sector, the Supreme Court of India upheld the constitutional validity of the *Bombay Animal Preservation (Gujarat Amendment) Act, 1994*. It declared that the *Gujarat Amendment Act* was not violative of Aa. 14, 19(1)(g), 25 and 29 of the Indian Constitution. However, in *Shaikh Zahid Mukhtar v. State of Maharashtra and Ors.*, to prevent the legislative overreach of the *Maharashtra Animal Preservation (Amendment) Act, 1995*, the High Court of Bombay, declared s. 5D which prohibited the possession of flesh of cow and cow progeny that was

slaughtered in a State outside Maharashtra even where their slaughter was legal, to be unconstitutional. The Court said that it interfered with the right of citizens to eat the food of their choice, thus, infringing A. 21 of the Indian Constitution. Also, the High Court of Bombay, struck down s. 9B of the Impugned Act which cast the burden of proof on the accused in prosecution of any of the offences laid down in the Act as unconstitutional. It held that s. 9B was against the accepted principle of criminal jurisprudence, namely, 'presumption of innocence' and would interfere with the right of the accused to a fair trial. Viewing from the prism of constitutional mandates, the Judiciary has walked the tightrope adeptly by balancing the public interests on one hand and individual freedoms on the other.

In the various cases pertaining to vigilantism, discussed in the present chapter, the judiciary has observed that failure of law and order had prompted the perpetrator(s) to punish the victim by causing grievous injuries in some cases and death in most of the cases. While making this observation, the courts, however, felt that the perpetrators were not justified in taking law into their own hands. Albeit, the judiciary considered the frustration of the perpetrators as a mitigating factor and reduced the punishment. Due to lack of cogent and convincing evidence, the perpetrators were given the benefit of doubt and acquitted. This has been found to be the case in *State of Maharashtra through P.S.O, Sadar, Nagpur v. Eknath Duryodhan Chauhan*, *State of Karnataka v. Subhash Padil and Ors.*, *State of Rajasthan v. Vipin Yadav, Ravindra Kumar & Ors.* This has only emboldened the vigilante groups, especially, cow vigilantes and mobs in taking law into their own hands and thus, led to a rise in incidents of mob lynching in India.

On the other hand, the swift and speedy disposal resulting into the conviction of the accused in *The State (through Md. Nizamuddin – Informant) v. Arun Sao, Mithilesh Kumar Sahu & Ors.*, *State of Assam v. Sanjay Rajowar & Ors.* only shows the intent of the Judiciary to set deterrents and issue a warning to the perpetrators that enforcement of law is the function of the State and not that of private citizens.

The declaration of Salwa Judum, a State-backed civil vigilante group formed to combat insurgency of the Naxalites in Chhattisgarh as unconstitutional in *Nandini Sundar and Ors. v. State of Chhattisgarh* in 2011 by the Supreme Court, only demonstrates how it has stood as the sentinel of the constitutional rights of citizens

and the Indian Constitution. The judgement of the Supreme Court of India serves as a warning to the States to not vest policing functions in private citizens as it leads to the abuse of power by the latter. The 'good faith' clause giving immunity from prosecution to cow vigilantes in the cow protection laws enacted by the States has led to many a mob lynching incident. The Punjab and Haryana High Court in *Mubbi alias Mubin v. State of Haryana* vide order dated 30 April 2021 questioned the State Government as to the authority of cow vigilantes to conduct search and seizure of the property of the victim.

The rise in cow vigilantism led the Supreme Court of India to intervene vide *Tehseen Poonawalla v. Union of India* and issue a slew of directions to the State to prevent mob lynching incidents in 2018. The Supreme Court very clearly spelt out that mobocracy was a threat to rule of law and said that investigation, trial and punishment cannot take place on the streets at the hands of cow vigilantes. The timely intervention of the Supreme Court, in absence of specific law, led to a decrease in mob lynching cases related to cow.

Thus, the Indian Judiciary has time and again reiterated in its decisions that vigilantism is a threat to the rule of law and an interference in the administration of justice. It has reiterated that mobocracy is a violation of the fundamental rights of the victims enshrined in the Indian Constitution vide Aa. 14 and 21. To set deterrence, in cases where conviction was secured, stringent punishment has been awarded to the accused. The Judiciary has indeed poured life into the dry bones of law to protect and balance the interests of the society, victims and accused persons.

**CHAPTER 7**  
**ANALYSIS AND INTERPRETATION OF DATA OF THE**  
**EMPIRICAL STUDY ON MOB LYNCHING**

## **CHAPTER 7**

### **ANALYSIS AND INTERPRETATION OF DATA OF THE EMPIRICAL STUDY ON MOB LYNCHING**

#### **7.1 INTRODUCTION**

This chapter deals with the analysis and interpretation of data of the empirical research carried out by the Research Scholar on the present study. The empirical study was carried out to determine the causes of mob lynching and gauge the sufficiency and efficacy of the existing laws in combating mob lynching. And also, to determine the need for enacting a specific legislation to curb and punish the acts of mob lynching. The details of the methodology adopted, the universe of the study, sampling technique and sample size are charted out below.

##### **7.1.1 Purpose of the Empirical Study**

An empirical method was adopted to achieve Objective nos. (2), (3) and (5) of the present study.

##### **7.1.2 Universe of the study**

Since the study pertains to vigilantism vis-à-vis examination of criminal justice system, various stakeholders of the criminal justice system, namely, Police Officers, Lawyers, Judges and Academicians in the field of law formed the universe of the present study. As the Research Scholar resides in Gujarat and due to the challenges posed in the form of the three waves of the pandemic, the respondents from the State of Gujarat were selected for the empirical research.

##### **7.1.3 Sampling Technique**

The Research Scholar had adopted the Non-Probability Sampling Technique. Considering that the study pertains to the criminal justice system, the respondents having experience and expertise in the field of criminal law were selected. Thus, a Purposive Sampling Method has been employed.

### 7.1.4 Sample Size

The Pilot Study was conducted by using almost 10% of the one hundred respondent Police Officers, Judges, Lawyers and Academicians in the field of law. However, in the actual study, the sample size was increased by 20%, i.e., to one hundred and twenty (120) respondents so as to reduce the chance of error.

To have a uniform representation from all categories of respondents, an equal number was drawn from each category and the same is depicted in the form of Table 7.1.

**Table 7.1:** Sample Size vis-à-vis Respondents

<b>Sr. No.</b>	<b>Respondents</b>	<b>Size</b>
1	Police	30
2	Lawyers	30
3	Judges	30
4	Academicians	30
<b>Total</b>		<b>120</b>

### 7.1.6 Tools of data collection

A Questionnaire was developed by the Research Scholar based on the objectives of the present study and responses were collected for the same. The questionnaire so developed was used as a tool for data collection.

Considering the objectives to be achieved, a single questionnaire was developed to collect responses from the respondent Police Officers, Judges, Lawyers and Academicians.

Considering the challenges posed by the three waves of the pandemic in the form of COVID19 and difficulty in approaching the respondents, the questionnaire was made in the form of an Online Google Form and was circulated through social media and email. This was further substantiated with interviews, telephonic as well as face-to-face interviews, wherever it was felt necessary. Open-ended as well as close-ended questions were incorporated in the Questionnaire.

The questionnaire has been appended to the study in the form of **Annexure 13**.

### **7.1.7 Analysis of Data**

Percentage method was employed to analyze the data collected through the empirical study. The data has been analyzed and depicted in the form of Clustered Column Charts, Pie Charts and Cross-Tables.

### **7.1.8 Ethical Considerations**

The respondents were made aware of the context of the study and the use their responses would be put to through a declaration made by the Research Scholar in the preliminary part of the questionnaire. It was also declared that the confidentiality as to the identity of the respondents would be maintained. The above ethical considerations were made in the form of the following declaration in the preliminary part of the questionnaire:

*'I, Tarakeshwari Bulusu, am an Assistant Professor at the Faculty of Law, The Maharaja Sayajirao University of Baroda, am pursuing my Doctoral Studies from Galgotias University, Uttar Pradesh, India on the topic entitled "A Critical Study on Vigilantism and Criminal Justice System in India". This is a questionnaire to collect data for the purposes of my Doctoral Studies on the above-mentioned topic. I sincerely request your valuable insights on the subject by responding to this questionnaire. Any data or information furnished by you would be kept confidential and would be used for academic purposes only'.*

## 7.2 DATA ANALYSIS

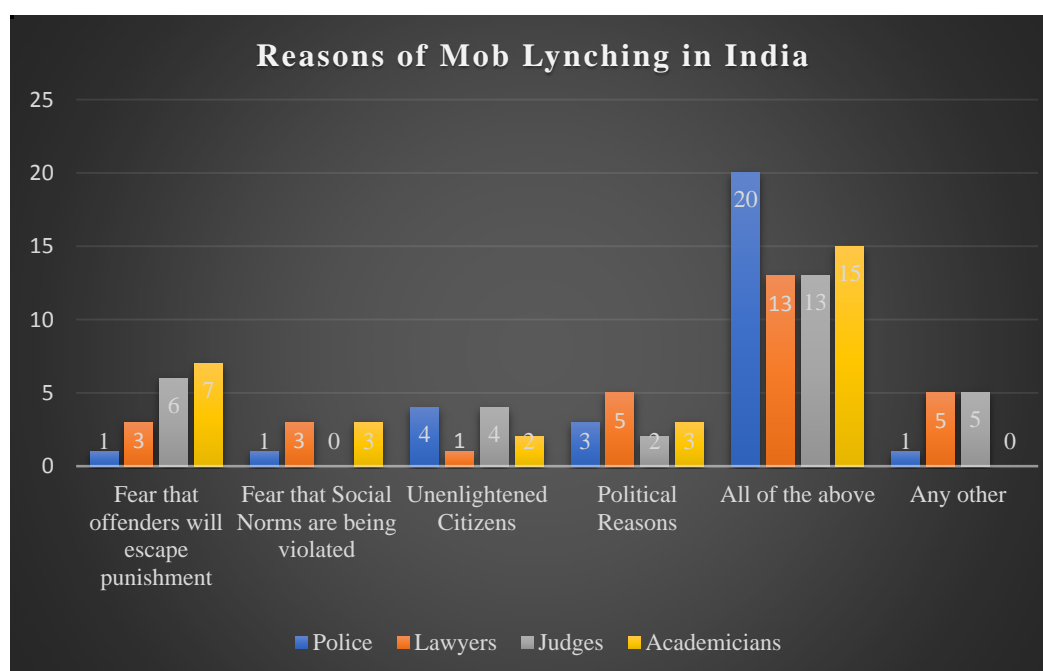
The various questions posed to the respondents and the analysis of their responses is discussed in this segment of the present chapter.

### Q. No. 1. What, according to you are the reasons for Mob Lynching in India?

The analysis of the responses is depicted in Table 7.2 and Figure 7.1 given hereunder.

**Table 7.2:** Reasons for Mob Lynching in India

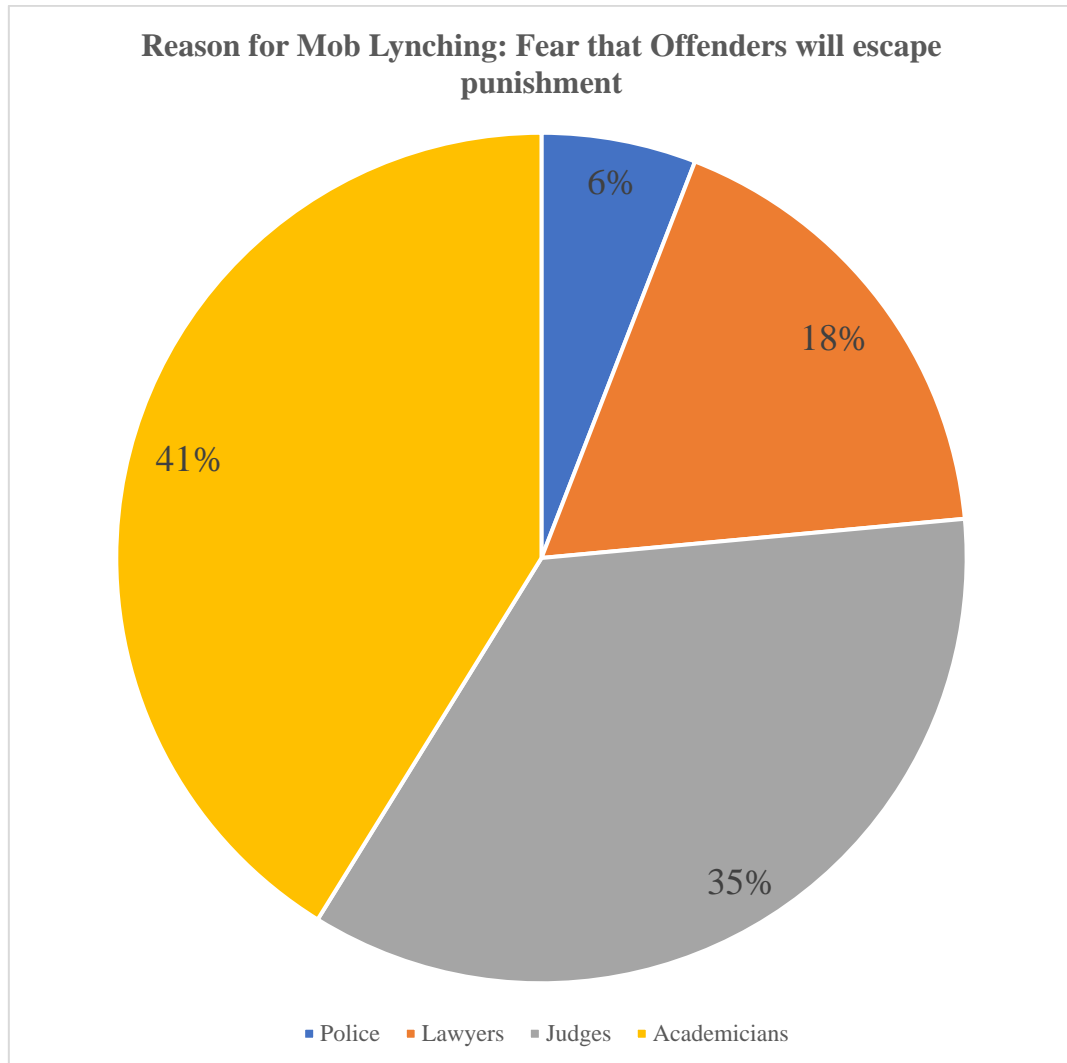
Sr. No.	Reasons	Responses					Percentage
		Police	Lawyers	Judges	Academicians	Total	
1	Fear that Offenders will escape punishment	1	3	6	7	17	14.17
2	Fear that social norms are being violated	1	3	0	3	7	5.83
3	Unenlightened Citizens	4	1	4	2	11	9.17
4	Political reasons	3	5	2	3	13	10.83
5	All of the above	20	13	13	15	61	50.83
6	Any other	1	5	5	0	11	9.17
	<b>Total</b>					120	100



**Figure 7.1:** Respondent-wise break-up of various reasons for Mob Lynching in India.

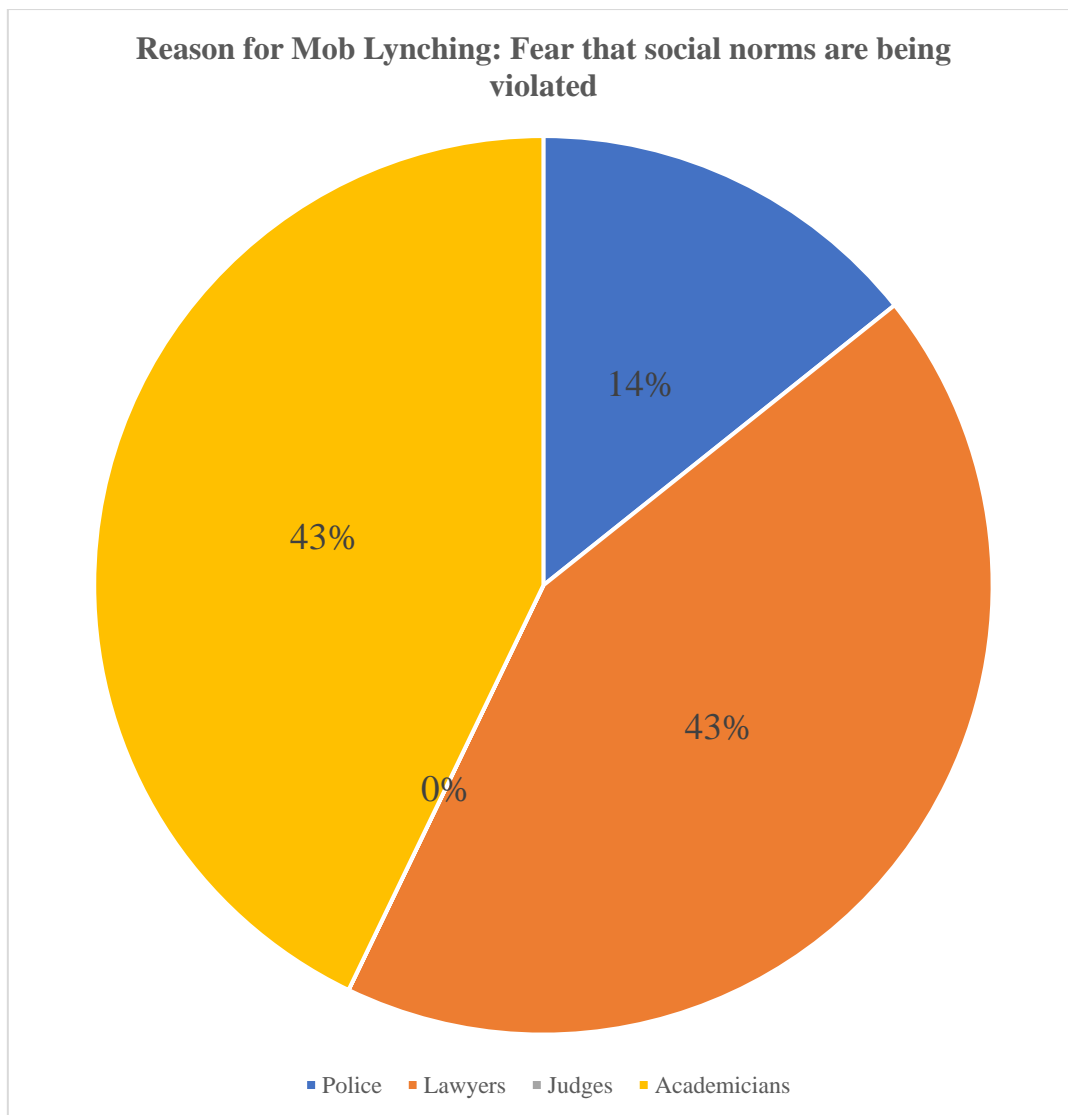


A detailed analysis of each of the reasons vis-a-vis respondent-wise is presented in the form of Figures 7.2, 7.3, 7.4, 7.5, 7.6, 7.7 and 7.8 depicted below.



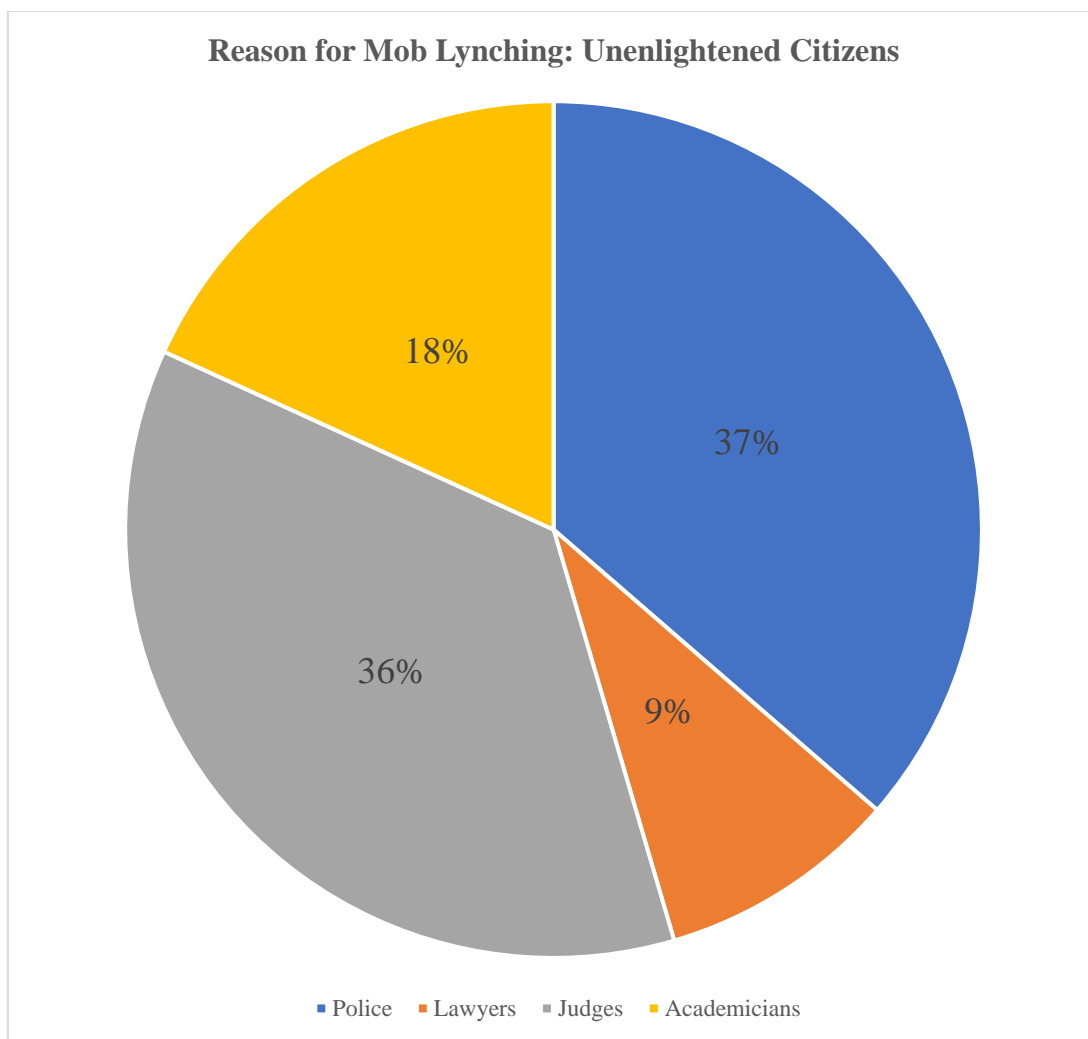
**Figure 7.2:** Respondent-wise analysis of the Reason for Mob Lynching: Fear that offenders will escape punishment

**Inference:** Fear that offenders will escape punishment has been cited as the reason for mob lynching incidents in India by 6% of the respondent Police Officers, 18% of the respondent Lawyers, 35% of the respondent Judges and 41% of the respondent Academicians. The above respondent-wise percentages have been arrived at by calculating from the total number of respondents who have attributed 'fear that offenders will escape punishment' as the reason for mob lynching.



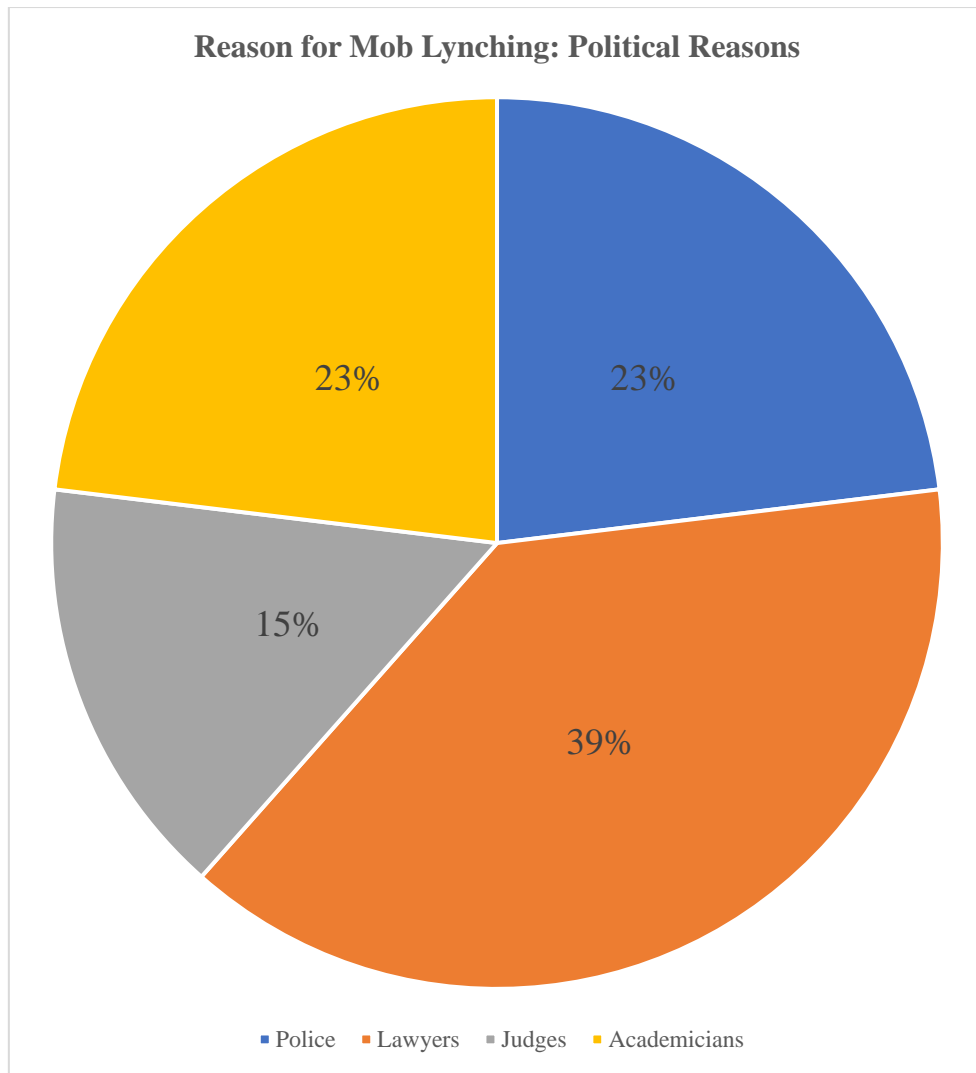
**Figure 7.3:** Respondent-wise analysis of the Reason for Mob Lynching: Fear that social norms are being violated

**Inference:** Fear that social norms are being violated has been cited as the reason for mob lynching incidents in India by 14% of the respondent Police Officers, 43% of the respondent Lawyers and 43% of the respondent Academicians. None of the respondent Judges have indicated fear of violation of the social norms as the reason for mob lynching in India. The above respondent-wise percentages have been arrived at by calculating from the total number of respondents who have attributed ‘fear that social norms are being violated’ as the reason for mob lynching.



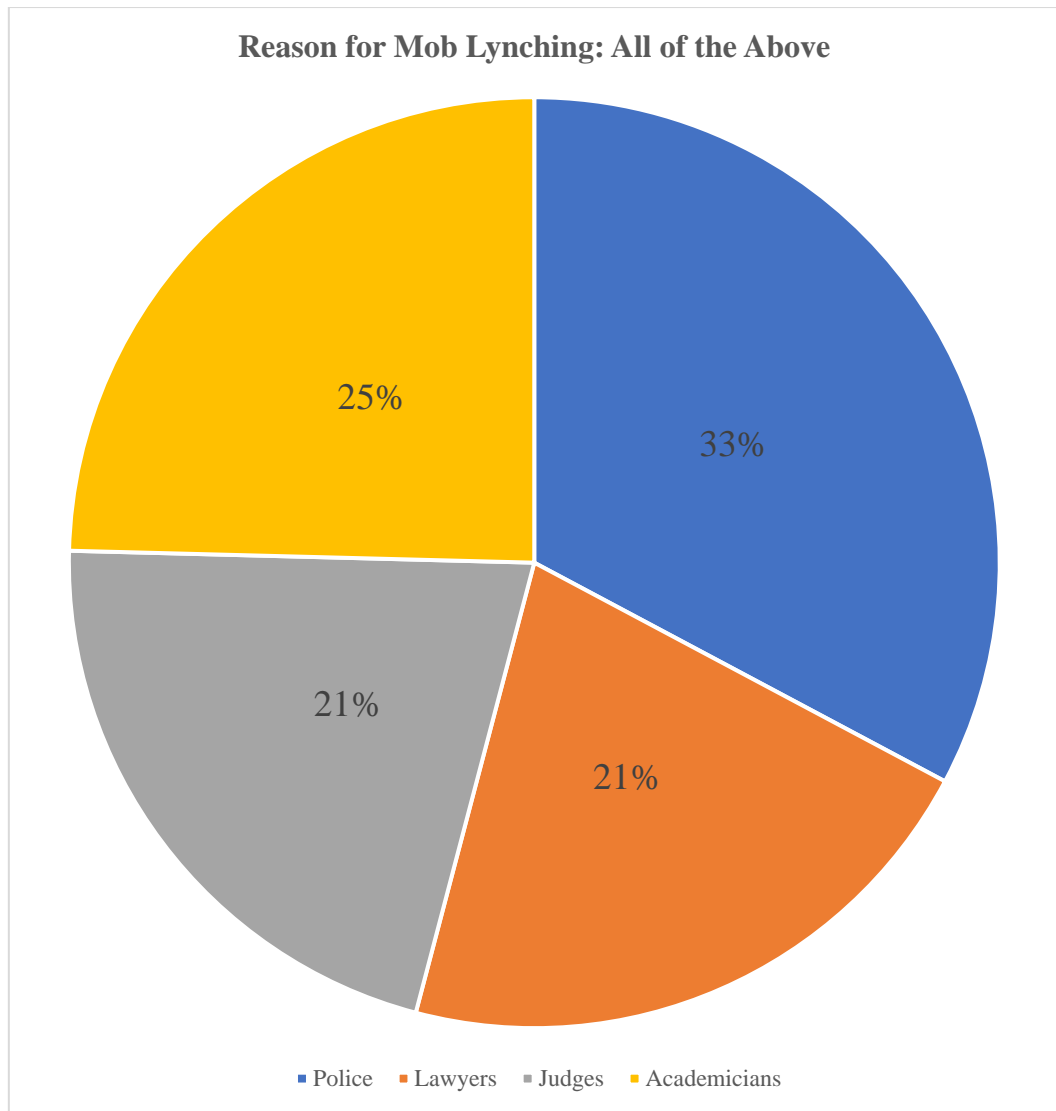
**Figure 7.4:** Respondent-wise analysis of the Reason for Mob Lynching: Unenlightened citizens

**Inference:** A 37% of the respondent Police Officers, 9% of the respondent Lawyers, 36% of the respondent Judges and 18% of the respondent Academicians have opined that unenlightened citizens are the reason for the occurrence of mob lynching incidents in India. The above respondent-wise percentages have been arrived at by calculating from the total number of respondents who have attributed ‘unenlightened citizens’ as the reason for mob lynching.



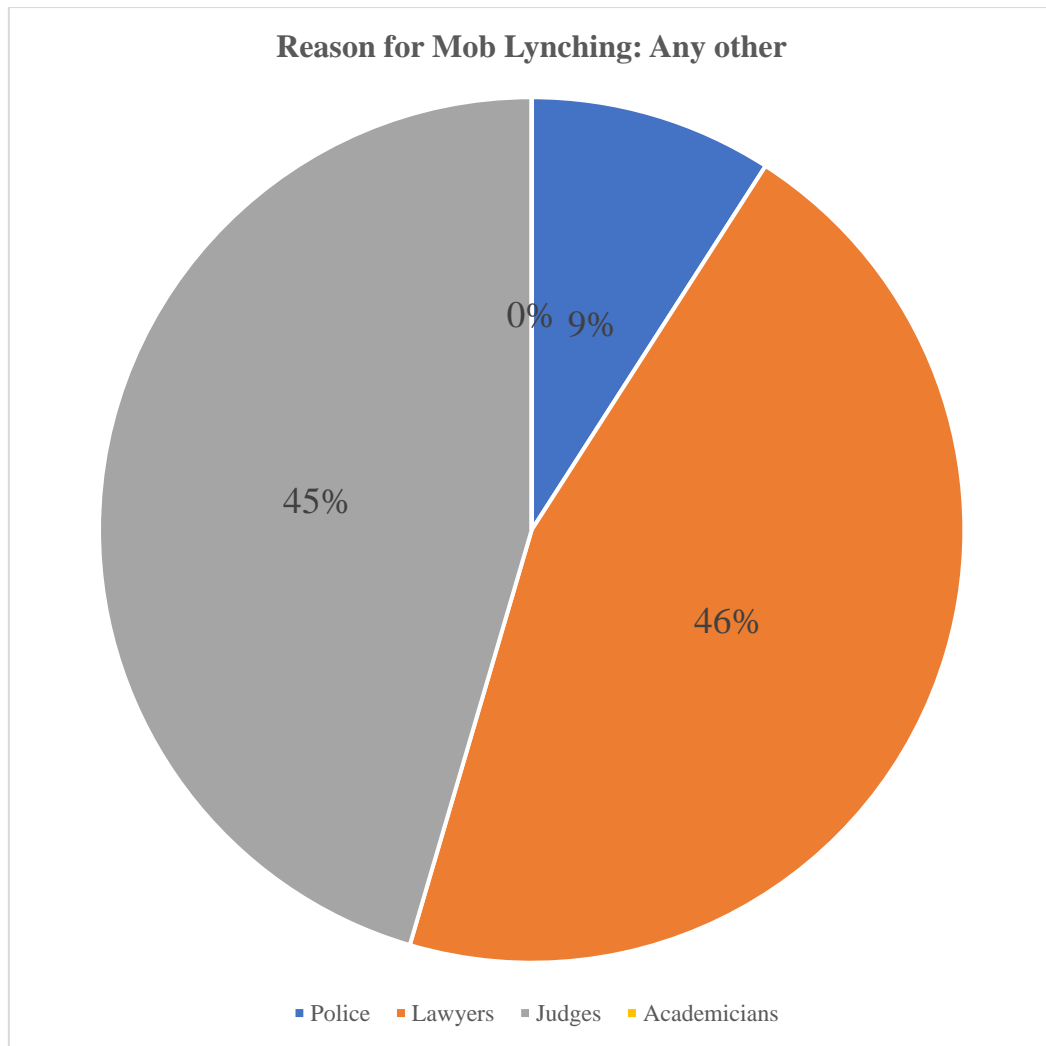
**Figure 7.5:** Respondent-wise analysis of the Reason for Mob Lynching: Political Reasons

**Inference:** A 23% of the respondent Police Officers, 39% of the respondent Lawyers, 15% of the respondent Judges and 23% of the respondent Academicians have cited political reasons for the occurrence of mob lynching incidents in India. The above respondent-wise percentages have been arrived at by calculating from the total number of respondents who have attributed ‘political reasons’ as the cause for mob lynching.



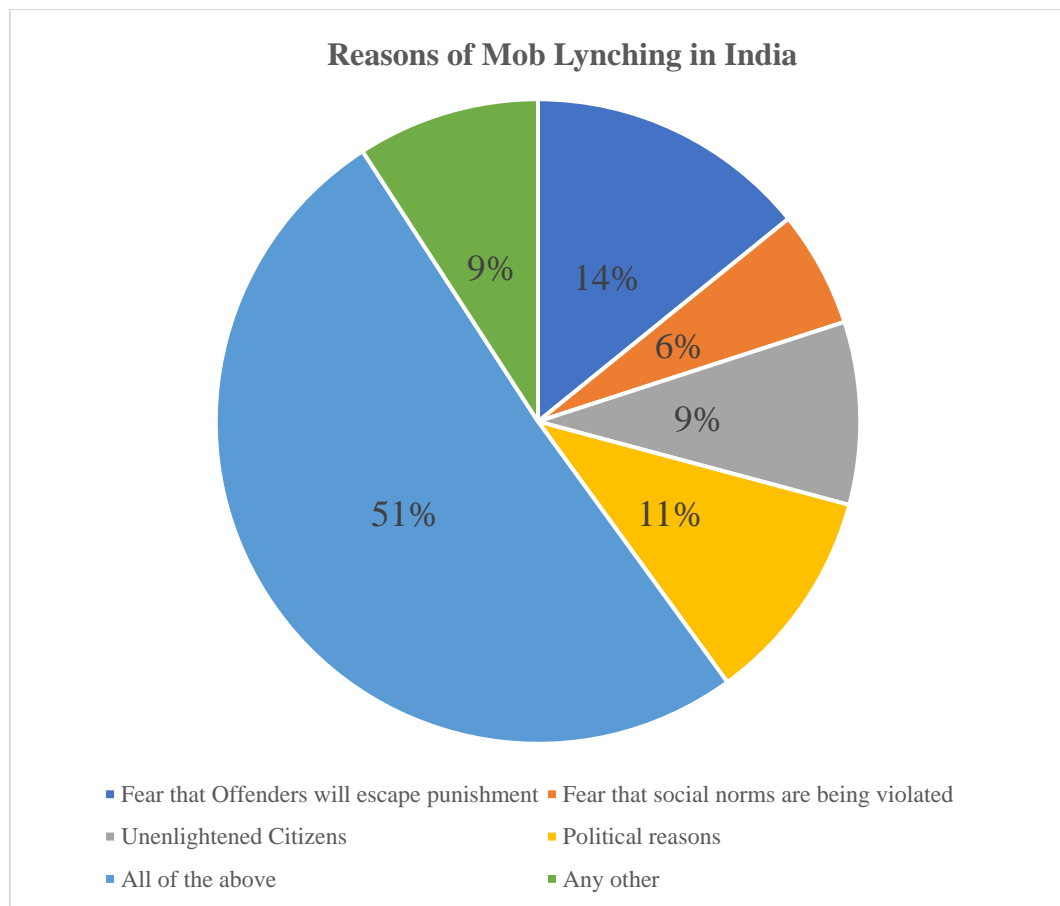
**Figure 7.6:** Respondent-wise analysis of the Reason for Mob Lynching: All of the above

**Inference:** A 33% of the respondent Police Officers, 21% of the respondent Lawyers, 21% of the respondent Judges and 25% of the respondent Academicians have indicated that all the reasons cited above, namely, fear that the offenders will escape punishment, fear that social norms are being violated, unenlightened citizens, political reasons contribute to the occurrence of mob lynching incidents in India. The above respondent-wise percentages have been arrived at by calculating from the total number of respondents who have attributed ‘all of the above’ as the cause for mob lynching.



**Figure 7.7:** Respondent-wise analysis of the Reason for Mob Lynching: Any other

**Inference:** A 9% of the respondent Police Officers, 46% of the respondent Lawyers, 45% of the respondent Judges have indicated ‘other reasons’ for the occurrence of mob lynching incidents in India. The various reasons cited by them were lack of effective implementation of laws, misuse of social media platforms in spreading rumours, lack of effective provisions which punish spread of false information on social media and failure of criminal justice system. The above respondent-wise percentages have been arrived at by calculating from the total number of respondents who have cited reasons other than those indicated in the questionnaire for mob lynching.



**Figure 7.8:** Percentage-wise break-up of all the reasons for Mob Lynching in India

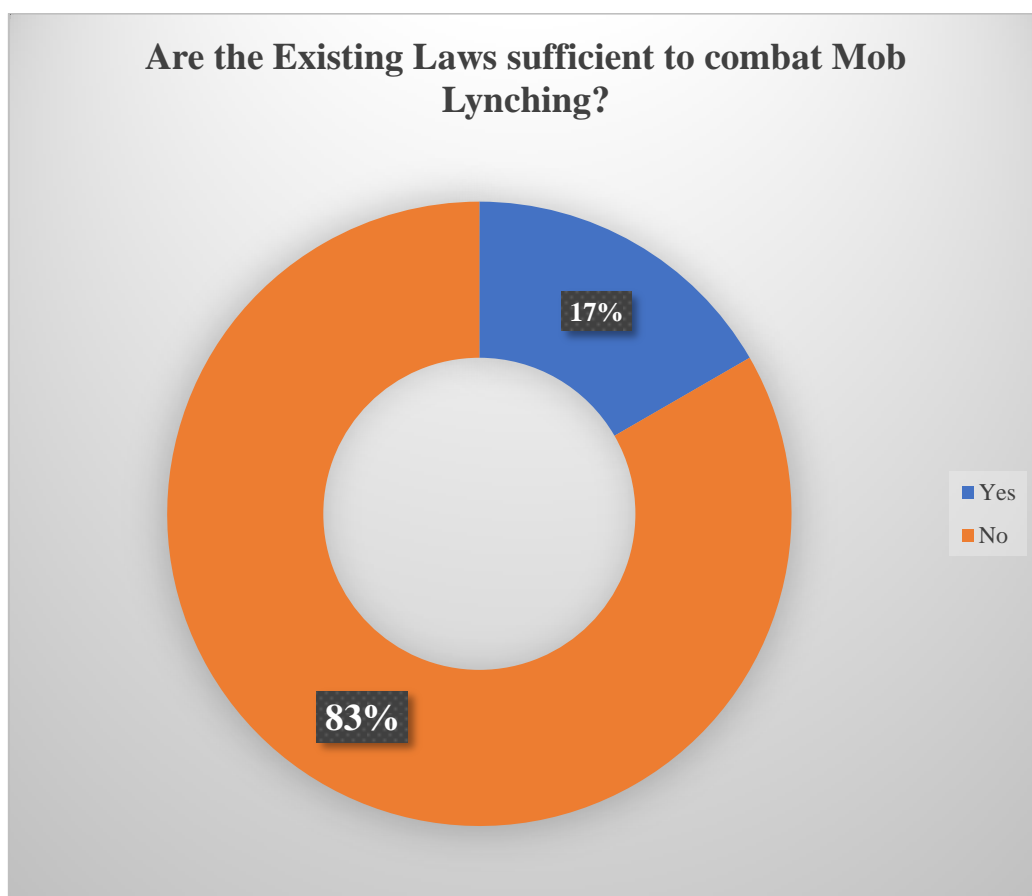
**Inference:** The above Pie-Chart (Figure 7.8) gives a percentage-wise break-up of the various reasons for mob lynching in India vis-a-vis all the respondents considered together. A 14% of the respondents have opined that ‘fear that offenders will escape punishment’ as the reason for mob lynching, while 6% have said that it is ‘fear of social norms being violated’ that has led to such incidents. A 9% of the respondents attributed the reason to ‘unenlightened citizens’ and 11% attributed it to ‘political reasons’. An overwhelming 51% of the respondents expressed that ‘all the reasons cited above’, namely, fear that the offenders will escape punishment, fear that social norms are being violated, unenlightened citizens, political reasons contribute to the occurrence of mob lynching incidents in India. However, 9% of the respondents have cited ‘other reasons’ like lack of effective implementation of laws, misuse of social media platforms in spreading rumours, lack of effective provisions which punish spread of false information on social media and failure of criminal justice system as the causes of mob lynching incidents in India.

**Q. No. 2. Are the existing laws sufficient to combat Mob Lynching in India?**

The analysis of the responses is depicted in Table 7.3 and Figures 7.9, 7.10 and 7.11 given below.

**Table 7.3:** Respondent-wise break-up of responses to Q. No. 2

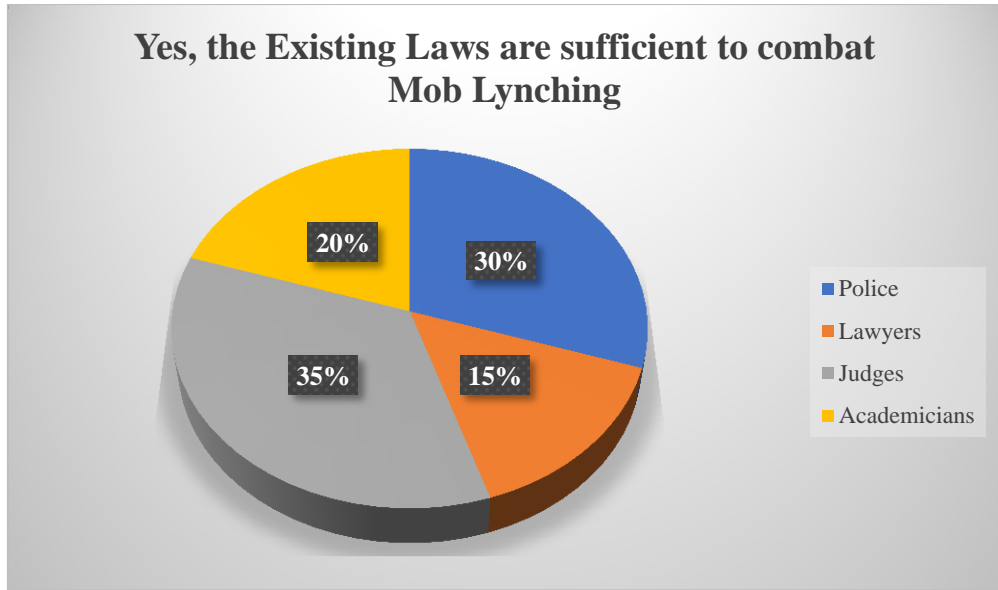
Sr. No.	Options	Responses					Percentage
		Police	Lawyers	Judges	Academicians	Total	
1	Yes	6	3	7	4	20	17 (16.67)
2	No	24	27	23	26	100	83 (83.33)
	<b>Total</b>					120	100



**Figure 7.9:** Break-up of responses to Q. No. 2

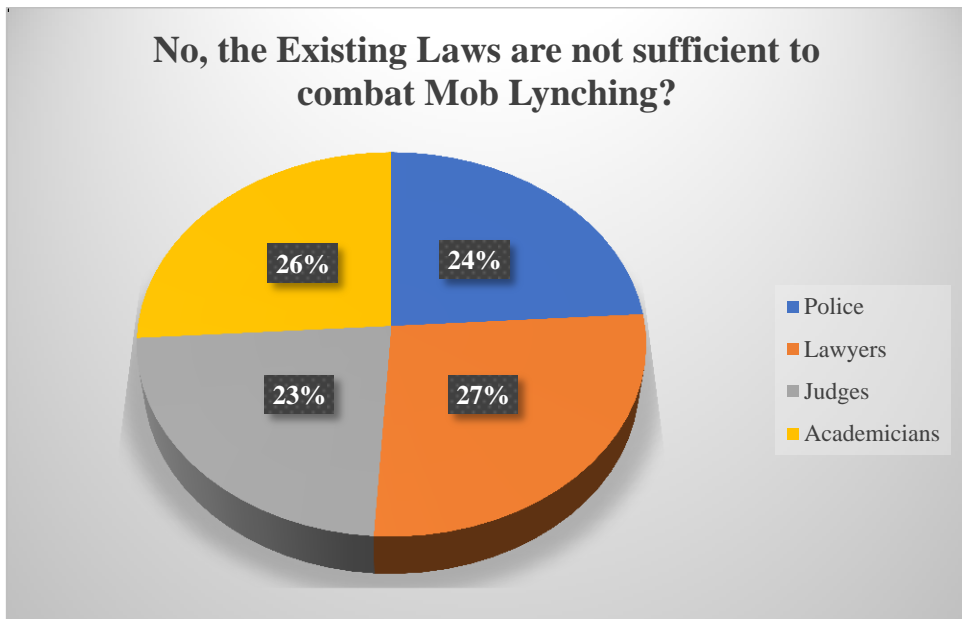
**Inference:** A 17% (16.67%) of the respondents have opined that the existing laws are sufficient to combat mob lynching whereas 83% (83.33%) of the respondents feel that the existing laws are not sufficient to combat mob lynching in India.





**Figure 7.10:** Respondent-wise break-up of those who answered in the affirmative to Q. No. 2

**Inference:** A 20% of the respondent Police Officers, 15% of the respondent Lawyers, 35% of the respondent Judges and 20% of the respondent Academicians have opined that the existing laws are sufficient to tackle mob lynching incidents in India.



**Figure 7.11:** Respondent-wise break-up of those who answered in the negative to Q. No. 2

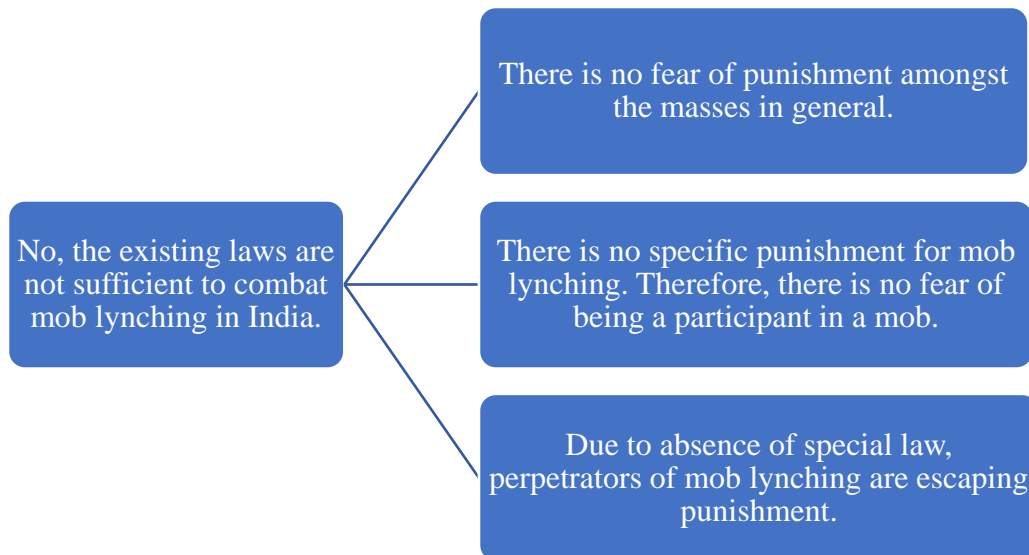
**Inference:** A 24% of the respondent Police Officers, 27% of the respondent Lawyers, 23% of the respondent Judges and 26% of the respondent Academicians have opined that the existing laws are insufficient to combat mob lynching in India.

**Q. No. 3. Please specify the reasons for your answer to the above question.**

Question no. 3 was an open-ended question which sought to find from the respondents the reasons as to why they felt that the existing laws were sufficient or insufficient to combat mob lynching incidents in India. The responses of the various respondents have been discussed below.

**(A) Responses of the Police**

The responses of those Police Officers who felt that the existing laws are insufficient to combat mob lynching in India have been summarized and depicted below in the form of Figure 7.12.

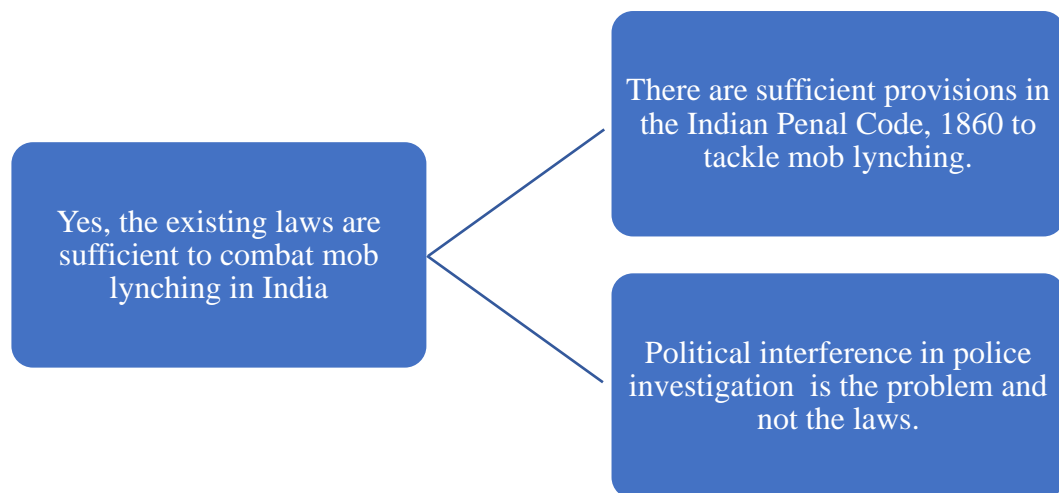


**Figure 7.12:** Reasons of the respondent Police Officers as to why the existing laws are not sufficient to combat Mob Lynching in India

**Inference:** From the reasons accorded by respondent Police Officers as to why the existing laws are insufficient to combat mob lynching in India, it can be inferred that there is general lack of fear of punishment amongst the masses. They have further stated that it is the absence of specific punishment for mob lynching that has emboldened the people in participating in mob violence. Twenty-four (24) respondent Police Officers of the thirty (30) (refer Table No. 7.3) agreed that the existing laws are not sufficient to combat mob lynching. This leads to an inference that either the

Indian Penal Code should be amended or a Special Law should be enacted to combat mob lynching.

The responses of those Police Officers who had opined that the existing laws are sufficient to combat mob lynching in India have been summarized and depicted as in the form of Figure 7.13 given below.

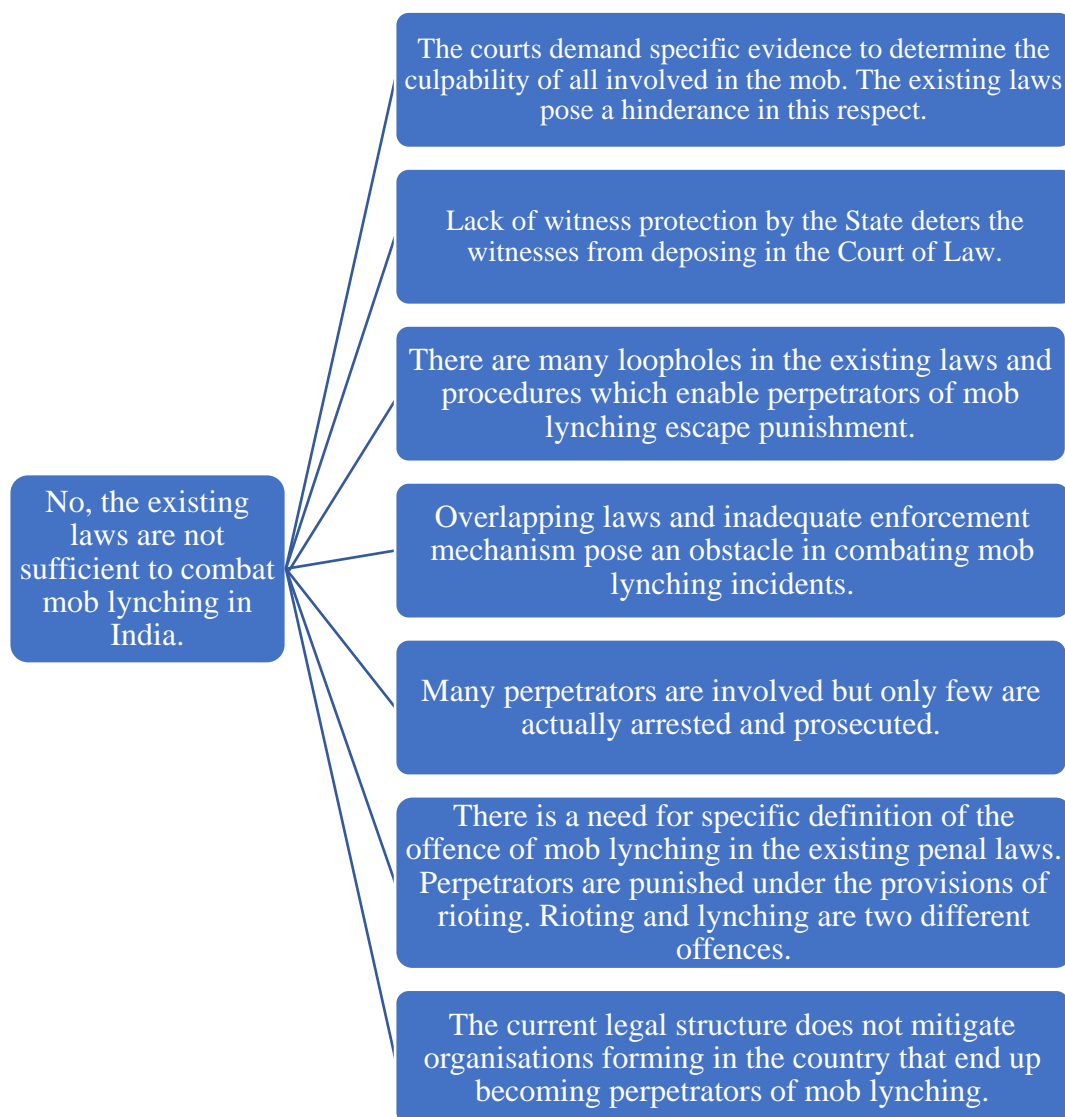


**Figure 7.13:** Reasons of the respondent Police Officers as to why the existing laws are sufficient to combat Mob Lynching in India

**Inference:** It can be inferred from the reasons accorded by the respondent Police Officers that the existing framework of Indian Penal Code is sufficient to tackle mob lynching cases and it is only the political interference in the police investigation which acts as an obstacle in punishing the perpetrators of mob lynching in India. However, it is only six (6) of the total thirty (30) respondent Police Officers (refer Table No. 7.3) who have opined that the existing laws are sufficient to combat mob lynching in India.

## (B) Responses of the Lawyers

The responses of the Lawyers who felt that the existing laws are insufficient to combat mob lynching in India have been summarized and presented in the form of Figure 7.14.

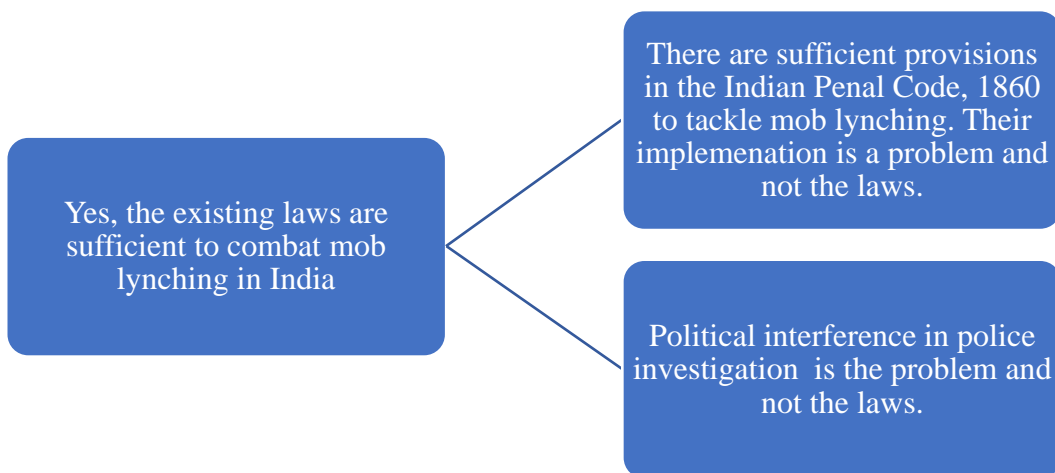


**Figure 7.14:** Reasons of the respondent Lawyers as to why the existing laws are insufficient to combat Mob Lynching in India

**Inference:** It can be inferred from the reasons accorded by the respondent Lawyers that it is the deficient enforcement mechanism, lacunae in the existing procedural laws, conceptual error in trying mob lynching cases under the head of ‘Rioting’, lack

of specific definition and lack of protection to witnesses that has resulted into perpetrators of mob lynching escaping punishment. These reasons only lead to an inference that the existing laws are not sufficient to combat mob lynching which has been reiterated by twenty-seven (27) of the thirty (30) respondent Lawyers (refer Table No. 7.3).

The responses of the respondent Lawyers who had opined that the existing laws are sufficient to combat mob lynching in India have been summarized and depicted in the form of Figure 7.15.

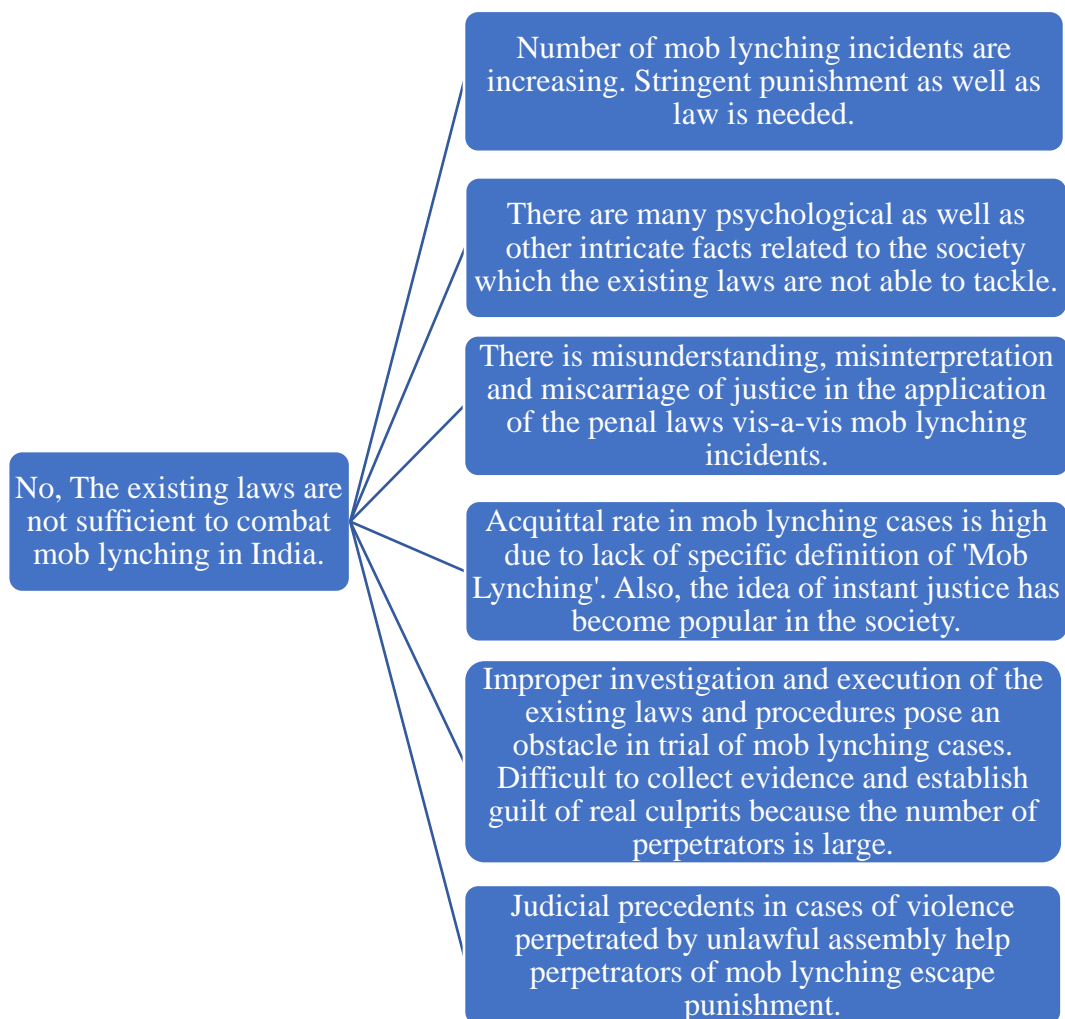


**Figure 7.15:** Reasons of the respondent Lawyers as to why the existing laws are sufficient to combat Mob Lynching in India

**Inference:** Three (3) of the thirty (30) respondent Lawyers (refer Table No. 7.3) have opined that it is the improper implementation of existing laws and political interference in police investigation that are causes of mob lynching rather than insufficiency of the existing laws. The respondent Lawyers have spelt a need for proper implementation of law and independence of the police from political interference.

### (C) Responses of the Judges

The responses of those Judges who felt that the existing laws are insufficient to combat mob lynching in India have been summarized and presented in the form of Figure 7.16 give below.

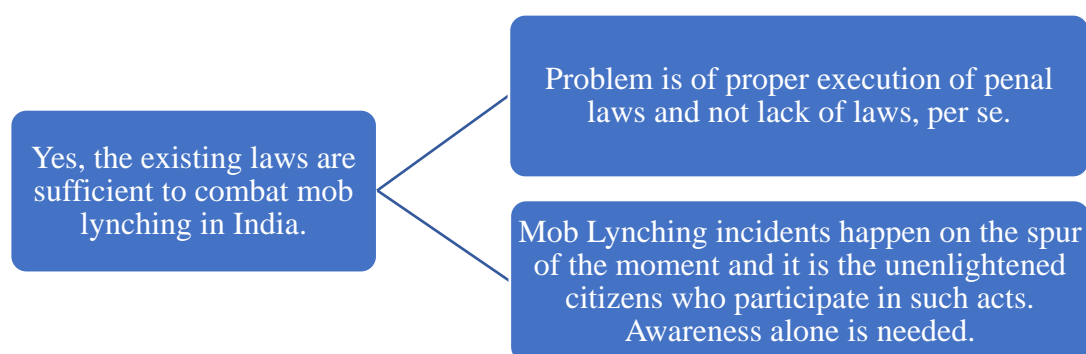


**Figure 7.16:** Reasons of the respondent Judges as to why the existing laws are insufficient to combat Mob Lynching in India

**Inference:** From the reasons cited above by twenty-three (23) of the thirty (30) respondent Judges (refer Table No. 7.3), it can be inferred that in the light of increasing incidents of mob lynching and high acquittal rate, the existing laws are not sufficient to combat mob lynching. The inherent flaws in investigation and execution of laws only highlights the inadequacy of the law in curbing mob lynching incidents

and warrants a need for either a specific legislation or amendment in the existing laws.

The responses of those Judges who had opined that the existing laws are sufficient to combat mob lynching in India have been summarized and depicted as in the form of Figure 7.17.

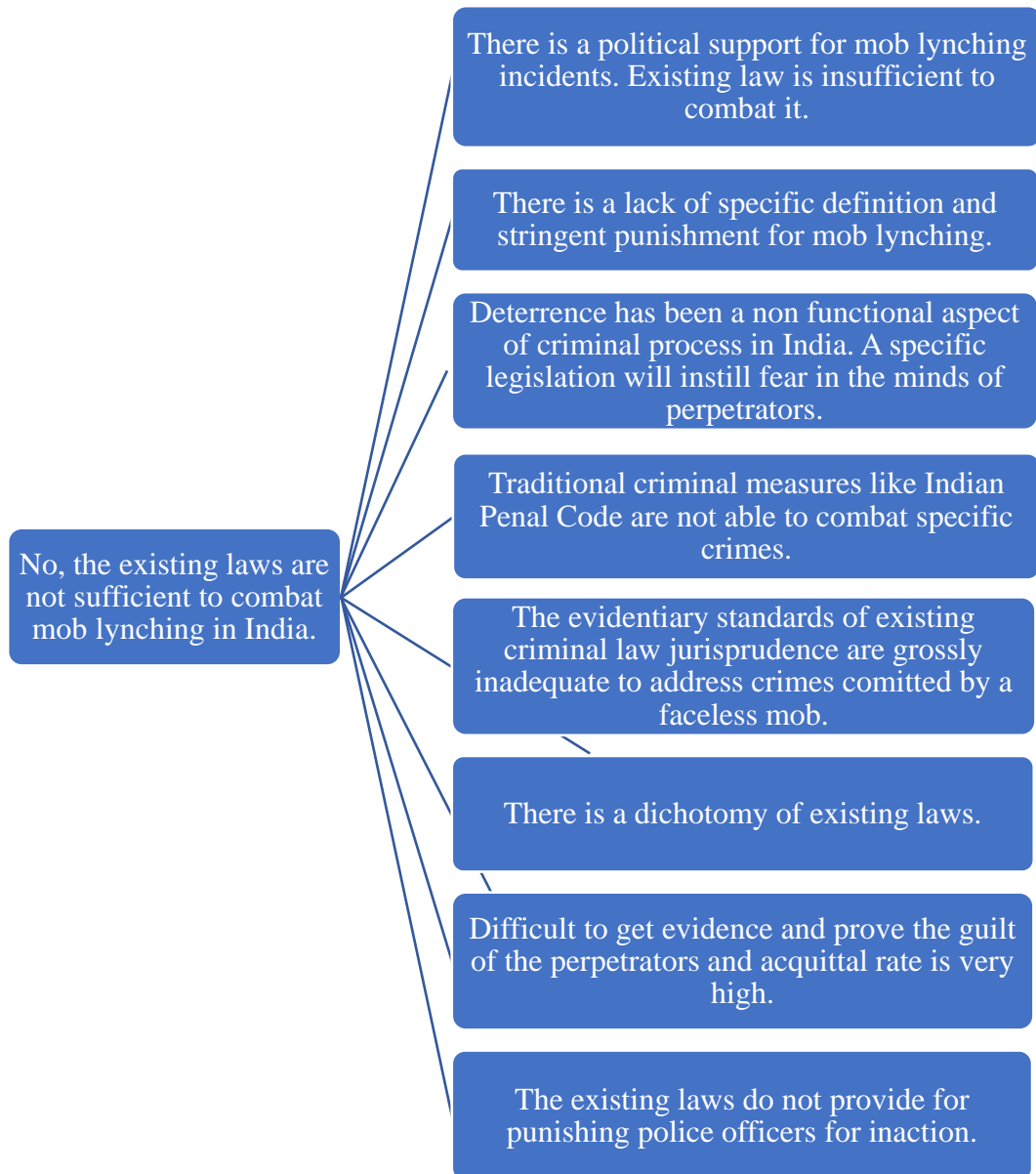


**Figure 7.17:** Reasons of the respondent Judges as to why the existing laws are sufficient to combat Mob Lynching in India

**Inference:** The reasons cited by the seven (7) of the thirty (30) respondent Judges (refer Table No. 7.3) lead to an inference that the problems in combating mob lynching lie in the factors outside the realm of law and its provisions and not the absence of adequate laws to tackle the same. The reasons spelt out include improper execution of the existing laws and the blind participation of unenlightened citizens in mob lynching incidents.

#### (D) Responses of Academicians

The responses of the Academicians who felt that the existing laws are insufficient to combat mob lynching in India have been summarized and presented in the form of Figure 7.18.



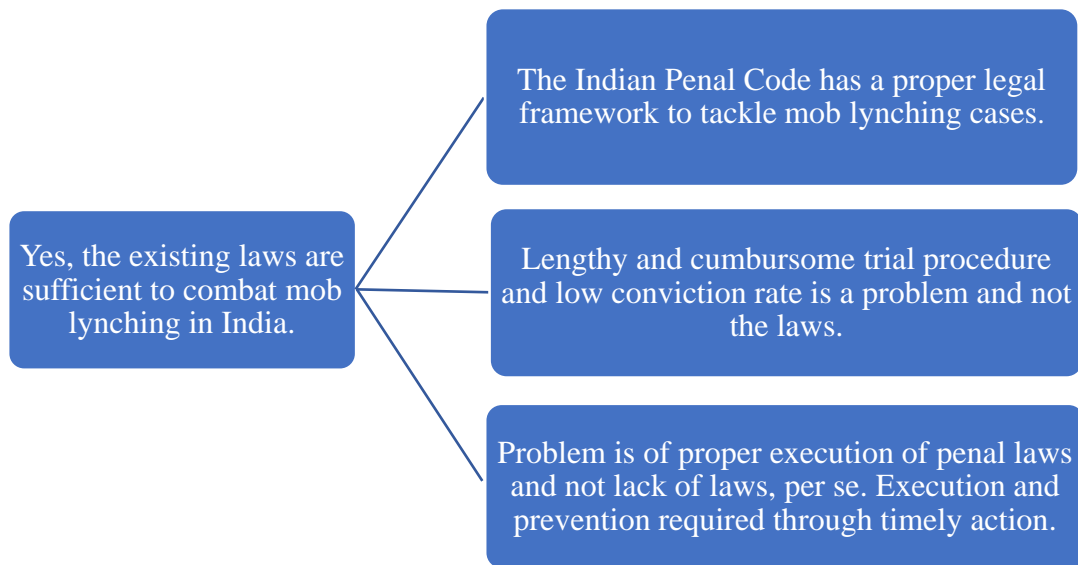
**Figure 7.18:** Reasons of the respondent Academicians as to why the existing laws are insufficient to combat Mob Lynching in India

**Inference:** Twenty-six (26) of the thirty (30) respondent Academicians (refer Table No. 7.3) who had opined that the existing laws are insufficient to curb mob lynching



incidents have attributed the absence of specific definition of the offence of mob lynching, lack of fear of punishment amongst the people, lack of provisions punishing police inaction and political interference and the rigid principles of law of evidence and criminal jurisprudence as the reasons for their inadequacy.

The responses of the Academicians who felt that the existing laws are sufficient to combat mob lynching in India have been summarized and depicted in the Figure 7.19.



**Figure 7.19:** Reasons of the respondent Academicians as to why the existing laws are sufficient to combat Mob Lynching in India

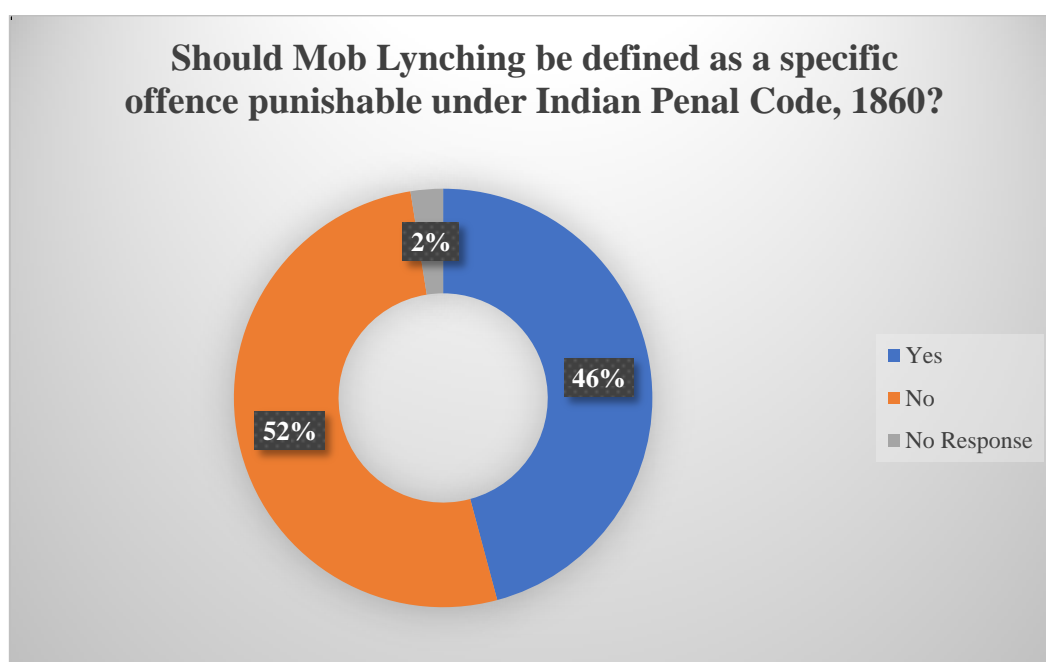
**Inference:** Four (4) of the thirty (30) respondent Academicians (refer Table No. 7.3) who opined that the existing laws are sufficient to curb mob lynching incidents have expressed that the problem lies in improper execution and the lengthy trial procedure, rather than the laws or their provisions.

**Q. No. 4. If the answer to question no. 2 is ‘no’, should the Indian Penal Code, 1860 be amended to define ‘Mob Lynching’ as a specific offence punishable under it?**

The analysis of the responses is depicted in Table 7.4 and Figures 7.20, 7.21 and 7.22 given below.

**Table 7.4:** Respondent-wise break-up of responses to Q. No. 4

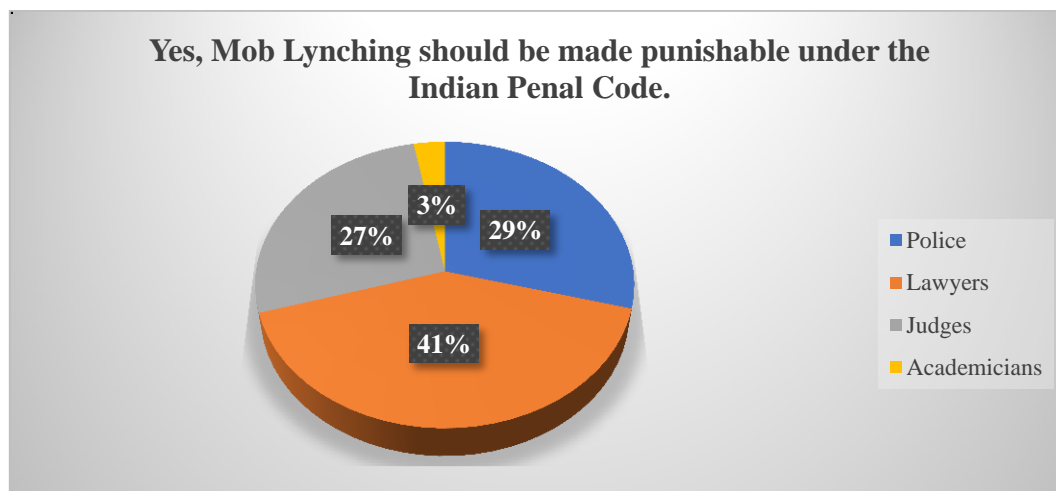
Sr. No.	Options	Responses					Percentage	
		Police	Lawyers	Judges	Academicians	Total		
1	Yes	12	17	11	15	55	46 (45.83)	
2	No	18	13	19	12	62	52 (51.67)	
3	No Response	0	0	0	3	3	2 (2.5)	
	<b>Total</b>						120	100



**Figure 7.20:** Percentage-wise break-up of responses to Q. No. 4

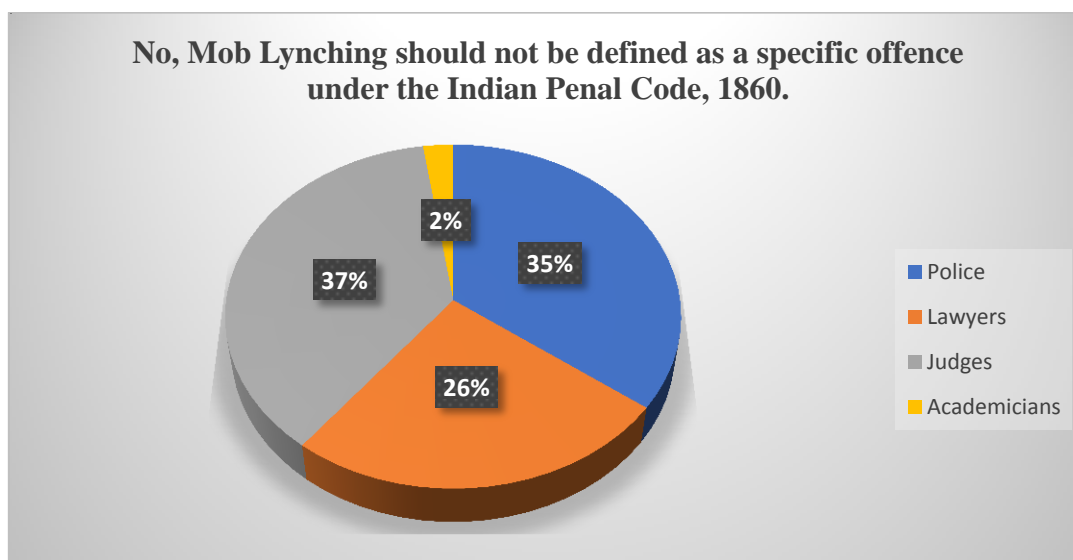
**Inference:** A 46% (45.83%) of the respondents have opined that mob lynching should be defined as a specific offence punishable under the Indian Penal Code, 1860 whereas 52% (51.67%) of the respondents feel that mob lynching should not be made

punishable under the Indian Penal Code. A 2% of the respondents did not respond to question no. 4.



**Figure 7.21:** Respondent-wise break-up of those who answered in the affirmative to Q. No. 4

**Inference:** The above pie-chart (Figure 7.21) indicates that 29% of the respondent Police Officers, 41% of the respondent Lawyers, 27% of the respondent Judges and 3% of the respondent Academicians were of the opinion that mob lynching should be made punishable under the Indian Penal Code, 1860.



**Figure 7.22:** Respondent-wise break-up of those who answered in the negative to Q. No. 4

**Inference:** The above pie-chart (Figure 7.22) indicates that 35% of the respondent Police Officers, 26% of the respondent Lawyers, 37% of the respondent Judges and 2% of the respondent Academicians were of the opinion that mob lynching should not be defined as a specific offence under the Indian Penal Code, 1860.

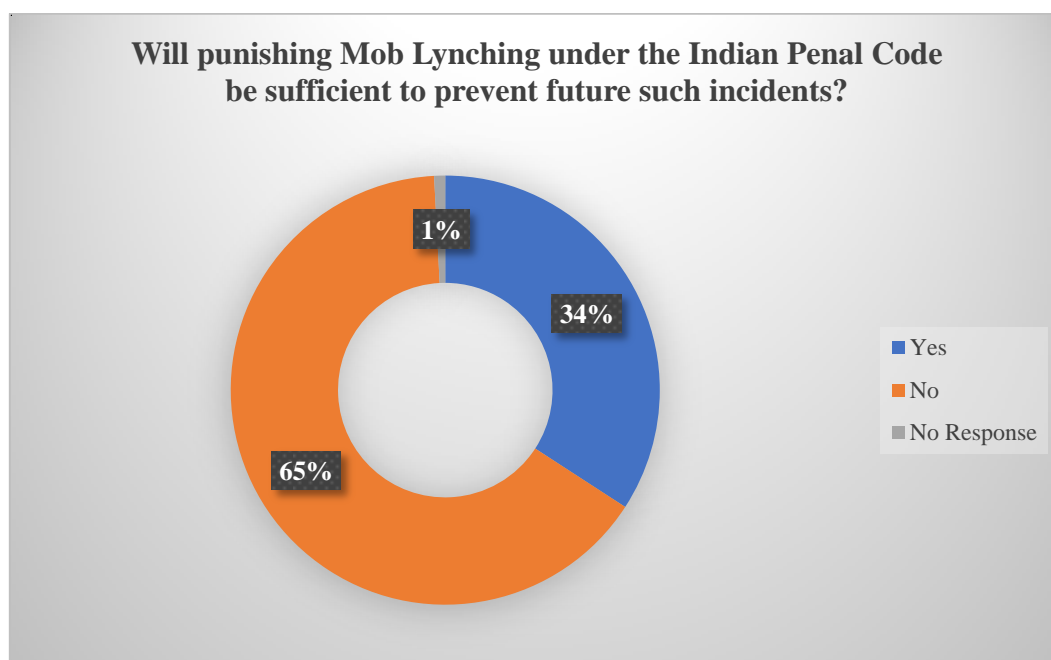
2% of the respondent Academicians were of the opinion that mob lynching should not be made punishable under the Indian Penal Code, 1860.

**Q. No. 5. Will the making of ‘Mob Lynching’ punishable under the Indian Penal Code, 1860 be sufficient to prevent future such incidents?**

The analysis of the responses is depicted in Table 7.5 and Figures 7.23, 7.24 and 7.25 given below.

**Table 7.5:** Respondent-wise break-up of responses to Q. No. 5

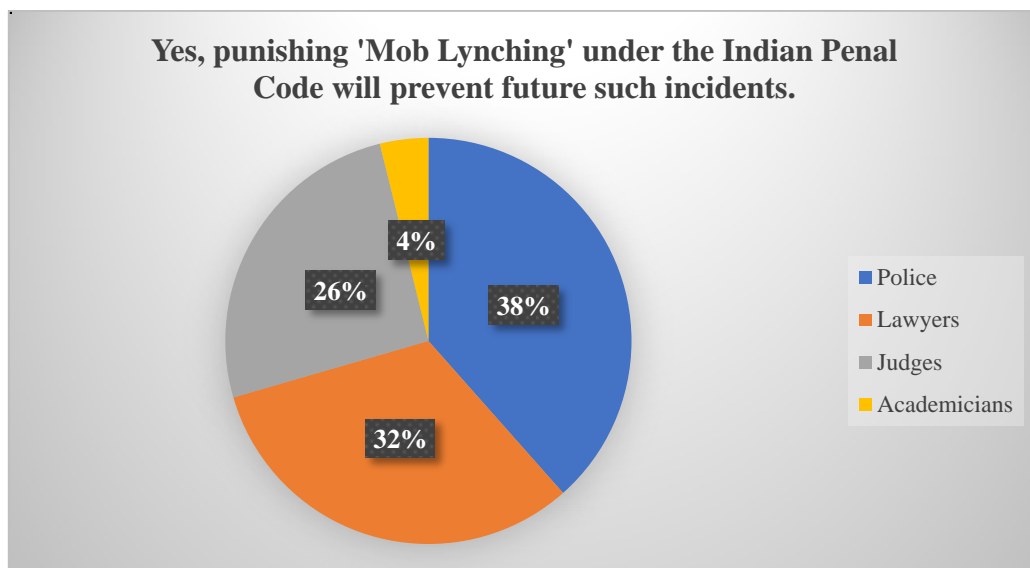
Sr. No.	Options	Responses					Percentage
		Police	Lawyers	Judges	Academicians	Total	
1	Yes	12	10	8	11	41	34 (34.17)
2	No	17	20	22	19	78	65
3	No Response	1	0	0	0	1	1 (0.83)
	<b>Total</b>					120	100



**Figure 7.23:** Percentage-wise break-up of responses to Q. No. 5

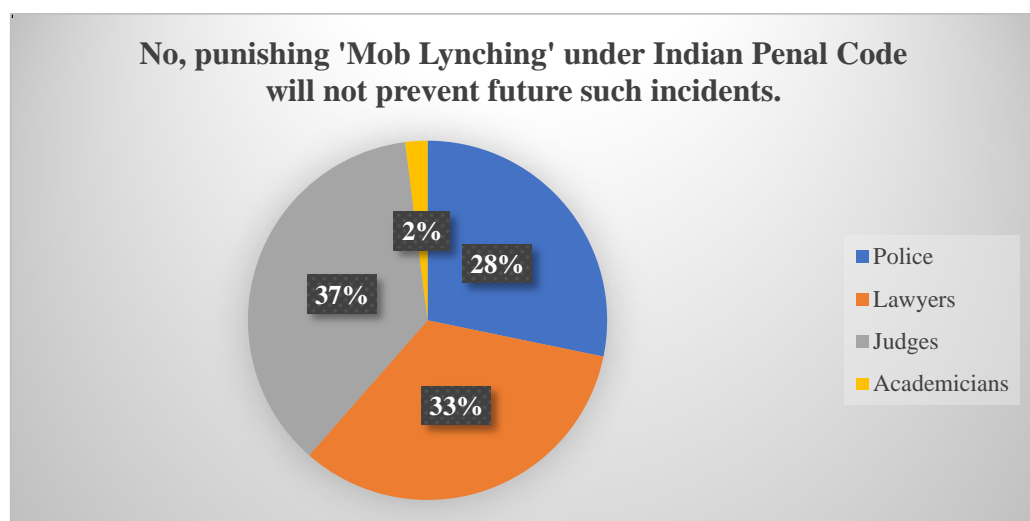
**Inference:** A 34% (34.17%) of the respondents have opined that punishing mob lynching as a specific offence under the Indian Penal Code, 1860 will be sufficient to prevent future incidents whereas 65% of the respondents said that punishing mob lynching under the Indian Penal Code, 1860 will not prevent future incidents. 1% (1

police officer) of the respondents did not respond to the question no. 5 as he felt that the existing laws are sufficient to combat mob lynching.



**Figure 7.24:** Respondent-wise break-up of those who answered in the affirmative to Q. No. 5

**Inference:** It can be inferred from the above Pie-Chart (Figure 7.24) that 38% of the respondent Police Officers, 32% of the respondent Lawyers, 26% of the respondent Judges and 4% of the respondent Academicians were of the opinion that punishing mob lynching under the Indian Penal Code, 1860 would help in preventing the future such incidents.



**Figure 7.25:** Respondent-wise break-up of those who answered in the negative to Q. No. 5

**Inference:** It can be inferred from Figure 7.25 that 28% of the respondent Police Officers, 33% of the respondent Lawyers, 37% of the respondent Judges and 2% of

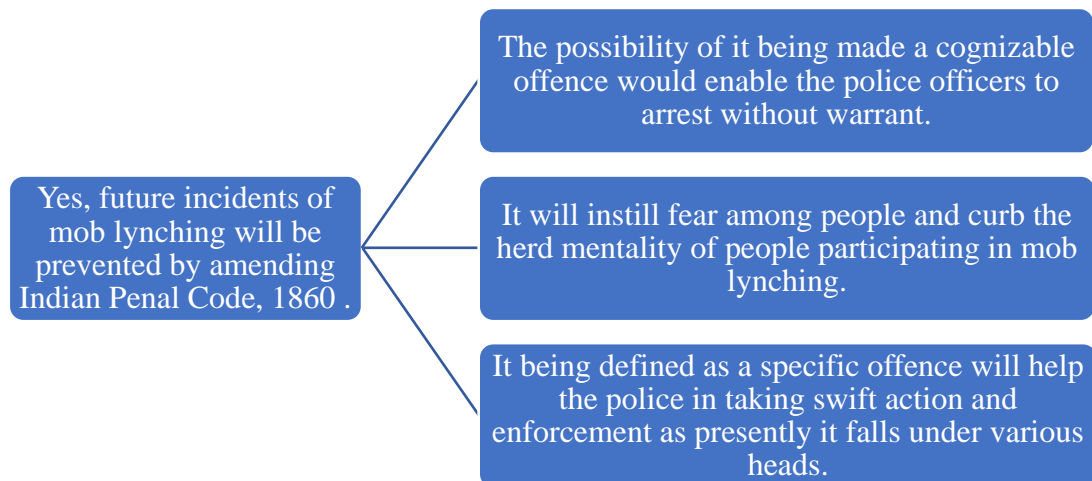
the respondent Academicians were of the opinion that making mob lynching punishable under the Indian Penal Code, 1860 would not help in preventing future incidents.

**Q. No. 6. Please specify the reasons for your answer to the above question.**

Question no. 6 was an open-ended question which sought to find from the respondents the reasons as to whether punishing mob lynching as a specific offence under the Indian Penal Code, 1860 would be sufficient or insufficient to prevent future incidents of mob lynching.

**(A) Responses of the Police Officers**

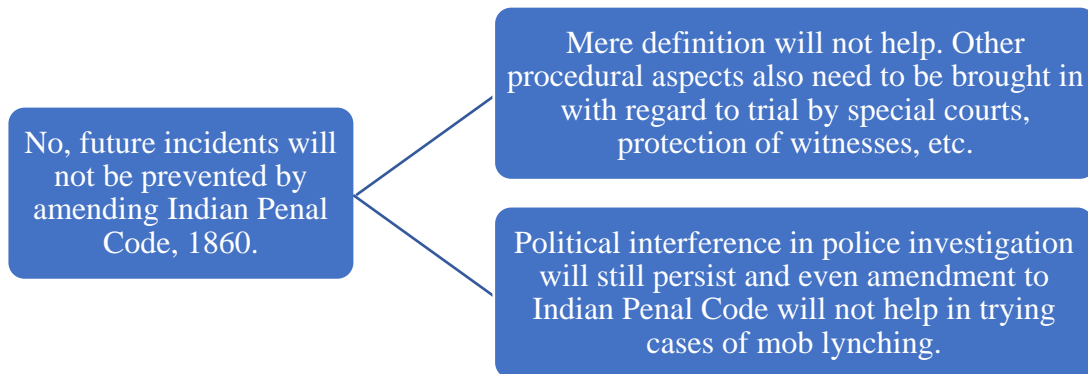
The reasons given by the respondent Police Officers as to why they felt that punishing mob lynching as a specific offence under the Indian Penal Code, 1860 would be sufficient to prevent future incidents has been summarized in Figure 7.26.



**Figure 7.26:** Reasons of the respondent Police Officers as to why future incidents of Mob Lynching will be prevented by amending the Indian Penal Code, 1860.

**Inference:** From the above responses of the Police Officers, it can be inferred that by amending the Indian Penal Code, 1860 and defining mob lynching as a specific offence would remove the ambiguities of applying the existing provisions which are overlapping in nature and it would deter people from participating in mob lynching incidents.

The reasons given by the Police Officers as to why they felt that punishing mob lynching as a specific offence under the Indian Penal Code, 1860 would not be sufficient to prevent future incidents has been summarized in Figure 7.27.

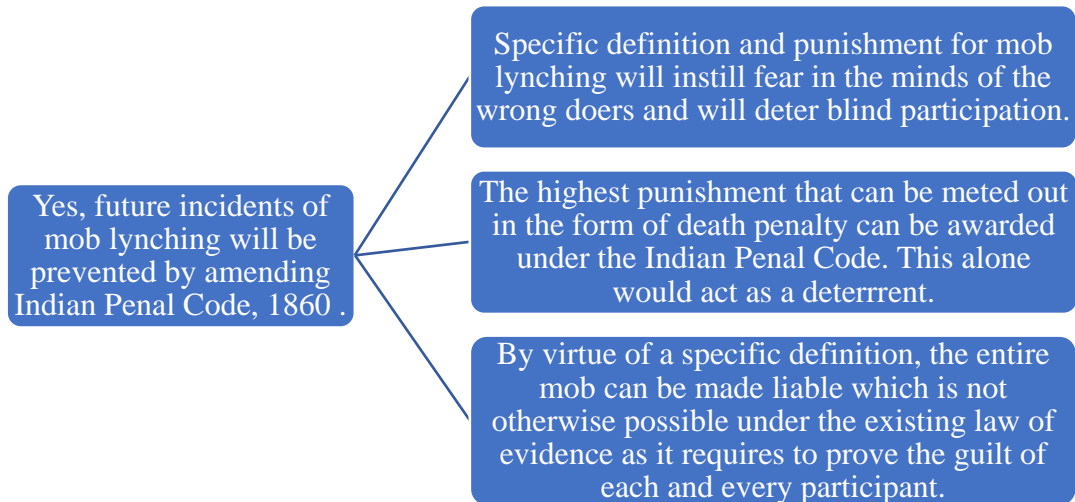


**Figure 7.27:** Reasons of the respondent Police officers as to why future incidents of Mob Lynching will not be prevented by amending the Indian Penal Code, 1860.

**Inference:** From the above responses of the Police Officers, it can be inferred that there are reasons like political interference in police investigation which lie beyond the realm of law and that cannot be curbed merely by amending the Indian Penal Code, 1860. Also, suitable amendments should be made in the procedural laws to tackle mob lynching incidents.

## (B) Responses of the Lawyers

The reasons given by the respondent Lawyers as to why they felt that punishing mob lynching as a specific offence under the Indian Penal Code, 1860 would be sufficient to prevent future incidents have been summarized as in the form of Figure 7.28.

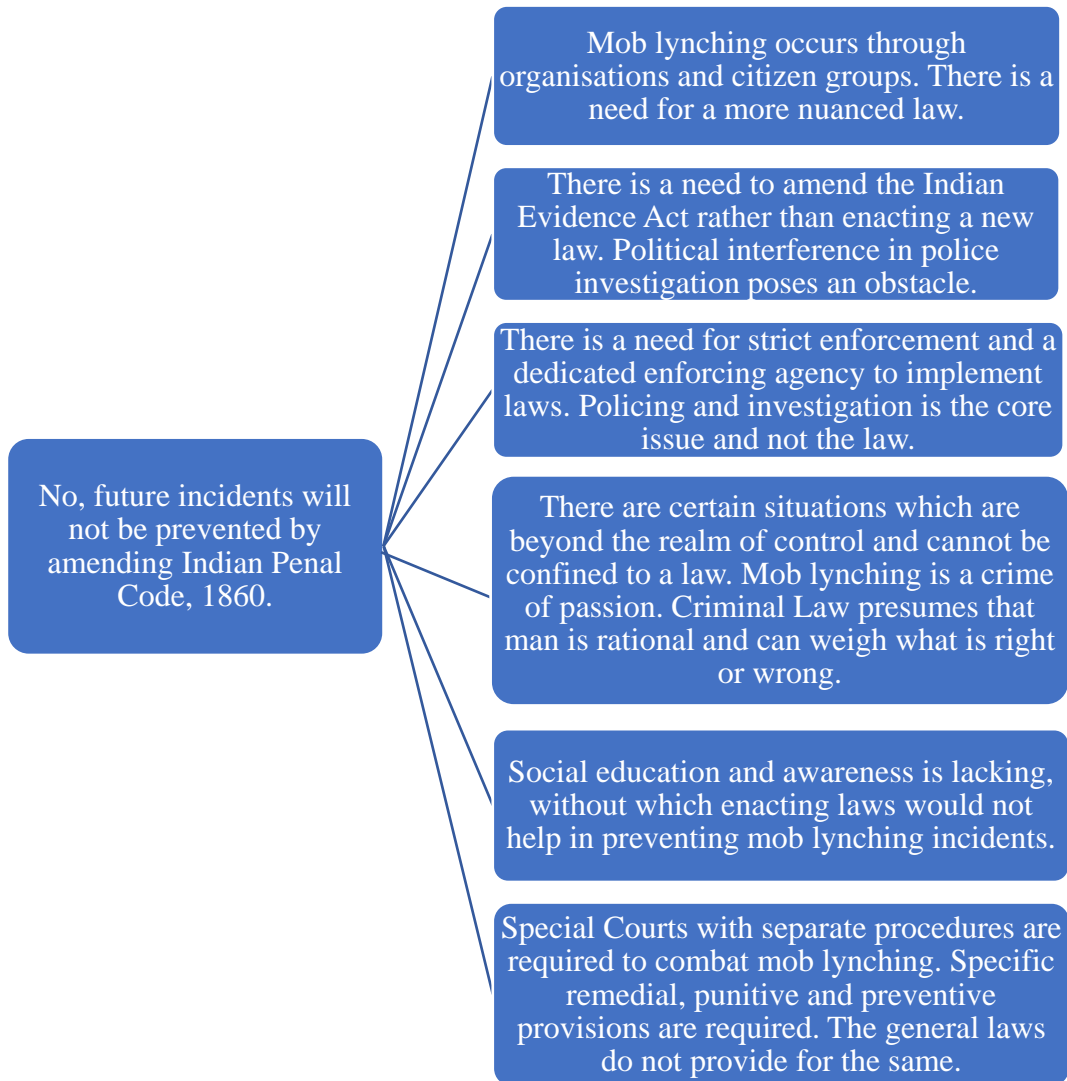


**Figure 7.28:** Reasons of the respondent Lawyers as to why future incidents of Mob Lynching would be prevented by amending the Indian Penal Code, 1860.

**Inference:** It can be inferred from the above responses of the respondent Lawyers that a specific definition of mob lynching which fixes joint liability of all the participants in a mob would ensure their conviction and act as a deterrent. Also, the prospect of death penalty being imposed would deter blind participation of the people in mob lynching incidents.

The reasons given by the respondent Lawyers as to why they felt that punishing mob lynching as a specific offence under the Indian Penal Code, 1860 would not be sufficient to prevent future incidents have been summarized in Figure 7.29.



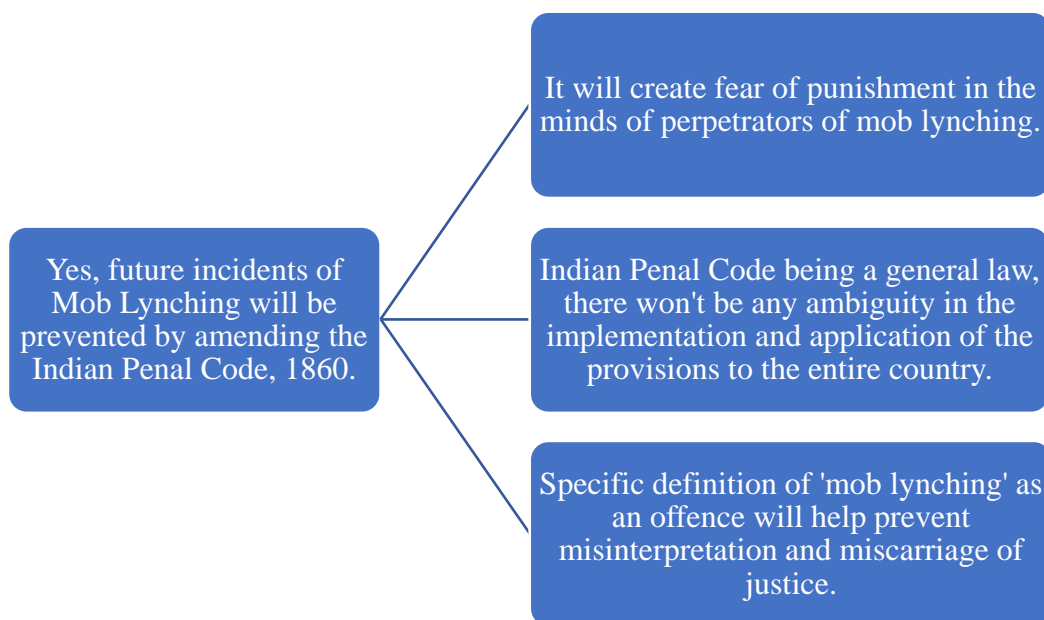


**Figure 7.29:** Reasons of the respondent Lawyers as to why future incidents of Mob Lynching would not be prevented by amending the Indian Penal Code, 1860.

**Inference:** From the various reasons attributed by the respondent Lawyers, it can be inferred that mere amendment to the Indian Penal Code, 1860 will not suffice and that there is a need to amend the procedural laws and improve policing and investigation of cases. A special legislation along with social education and awareness would be more effective in combating mob lynching.

### (C) Responses of the Judges

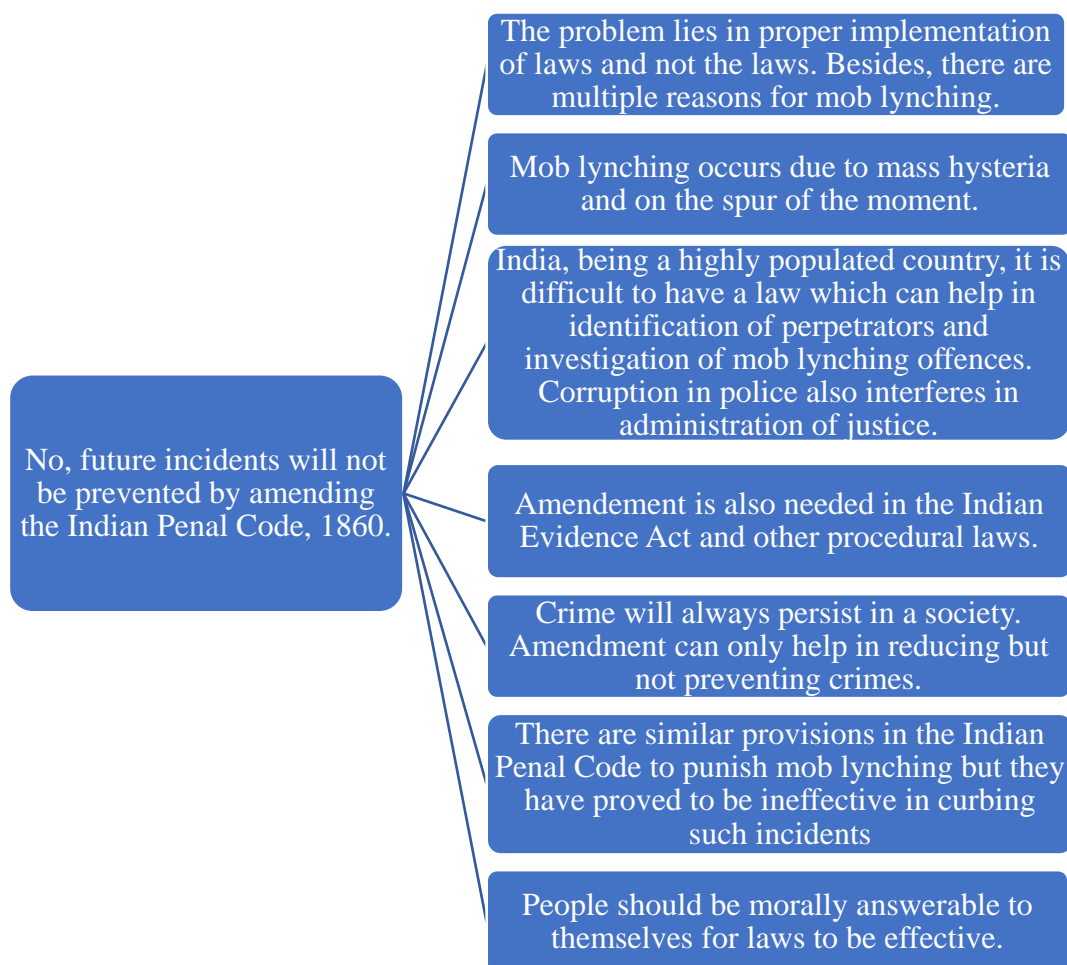
The reasons given by the respondent Judges as to why they felt that punishing mob lynching as a specific offence under the Indian Penal Code, 1860 would be sufficient to prevent future incidents have been summarized in Figure 7.30.



**Figure 7.30:** Reasons of the respondent Judges as to why future incidents of Mob Lynching would be prevented by amending the Indian Penal Code, 1860.

**Inference:** From the above responses given by eight (8) of the thirty (30) respondent Judges (refer Table No. 7.5), it can be inferred that specific definition of ‘mob lynching’ and punishment for the same under the Indian Penal Code, 1860 will help curb the problem of mob lynching in India. They also opined that the Indian Penal Code, 1860 being a general law would be applicable all over India which would dispel all ambiguities in implementation of the law pan India. However, the number of respondent judges who hold this opinion is very small.

The reasons given by the respondent Judges as to why they felt that punishing mob lynching as a specific offence under the Indian Penal Code, 1860 would not be sufficient to prevent future incidents have been summarized in Figure 7.31.

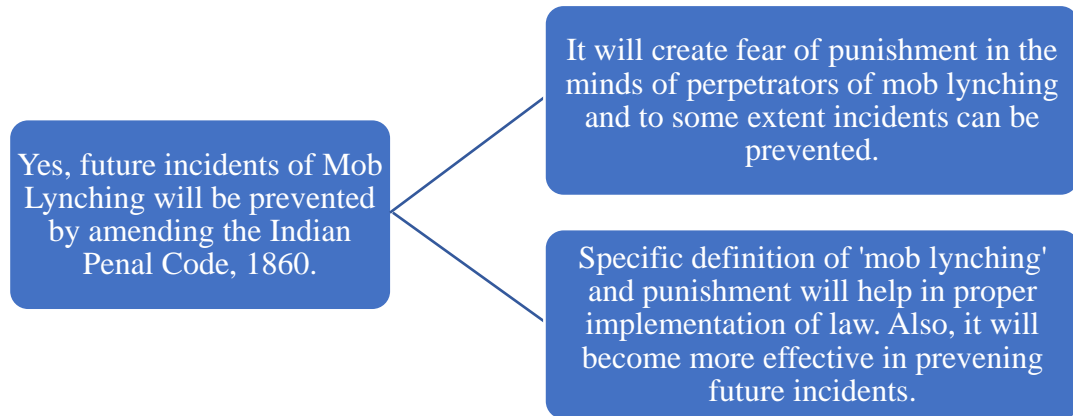


**Figure 7.31:** Reasons of the respondent Judges as to why future incidents of Mob Lynching would not be prevented by amending the Indian Penal Code, 1860.

**Inference:** From the above reasons attributed by twenty-two (22) of the thirty (30) respondent Judges (refer Table No. 7.5), it can be inferred that mere amendment to the Indian Penal Code, 1860 by way of creating a specific offence of mob lynching will not curb the incidents as the problems lie in procedural laws, their implementation, corrupt practices adopted by police and in human frailties.

#### (D) Responses of Academicians

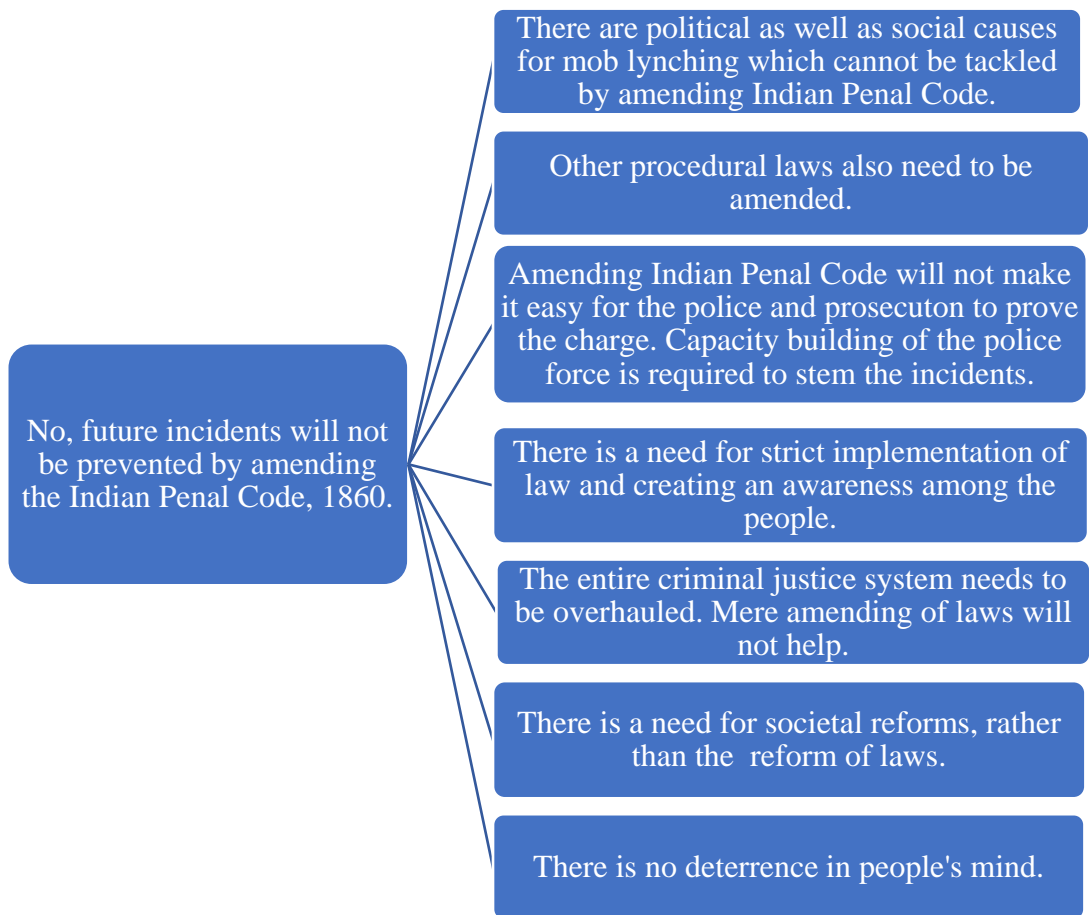
The reasons given by the respondent Academicians as to why they felt that punishing mob lynching as a specific offence under the Indian Penal Code, 1860 would be sufficient to prevent future incidents have been summarized in figure 7.32.



**Figure 7.32:** Reasons of the respondent Academicians as to why future incidents of Mob Lynching would be prevented by amending the Indian Penal Code, 1860.

**Inference:** From the above responses given by eleven (11) of the thirty (30) respondent Academicians, it can be inferred that creating a specific offence of ‘mob lynching’ by way of amendment to the Indian Penal Code, 1860 will prevent future incidents of mob lynching as it will enable proper implementation (charging and trying an offender under a specific head) and will instill fear in the minds of people.

The reasons given by the respondent Academicians as to why they felt that punishing mob lynching as a specific offence under the Indian Penal Code, 1860 would not be sufficient to prevent future incidents has been summarized in Figure 7.33.



**Figure 7.33:** Reasons of the respondent Academicians as to why future incidents of Mob Lynching would not be prevented by amending the Indian Penal Code, 1860.

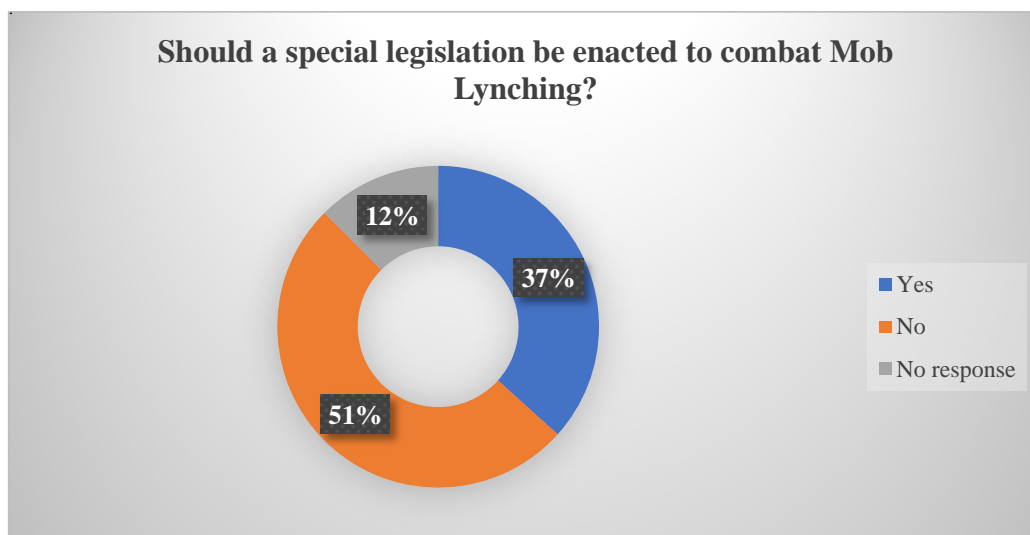
**Inference:** The above responses given by nineteen (19) of the thirty (30) respondent Academicians (refer Table No. 7.5) indicate that amending the Indian Penal Code, 1860 would not prevent future incidents of mob lynching and that overhauling the criminal justice system, social reforms, independence from political interference in criminal justice system will help curb mob lynching incidents in India.

**Q. No .7. If the answer to question no. 4 is ‘no’, then should a special legislation to combat Mob Lynching be enacted?**

The analysis of the responses is depicted in Table 7.6 and Figures 7.34, 7.35 and 7.36 given below.

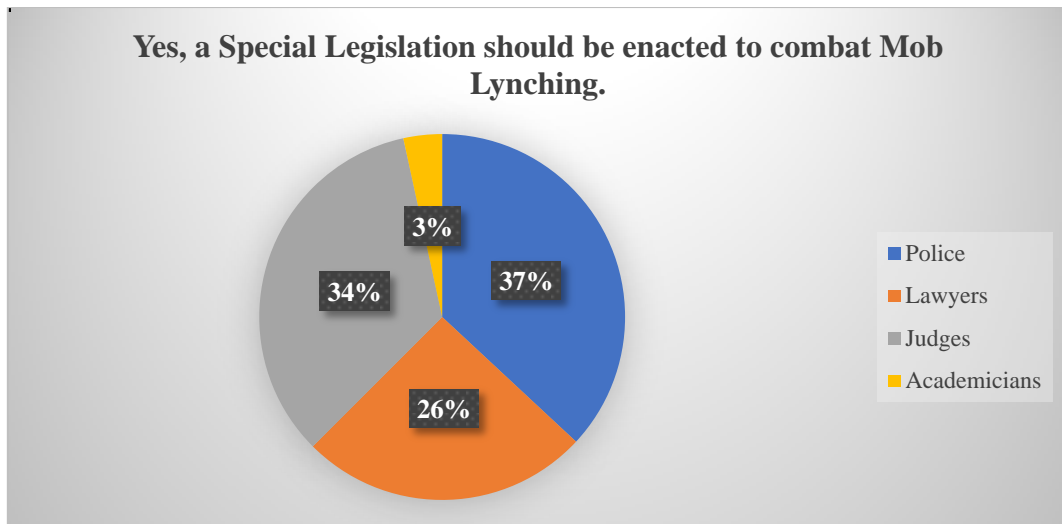
**Table 7.6:** Respondent-wise break-up of responses to Q. No. 7

Sr. No.	Options	Responses					Percentage
		Police	Lawyers	Judges	Academicians	Total	
1	Yes	13	9	12	10	44	37 (36.67)
2	No	17	18	16	10	61	51(50.83)
3	No Response	0	3	2	10	15	12 (12.5)
	<b>Total</b>					120	100



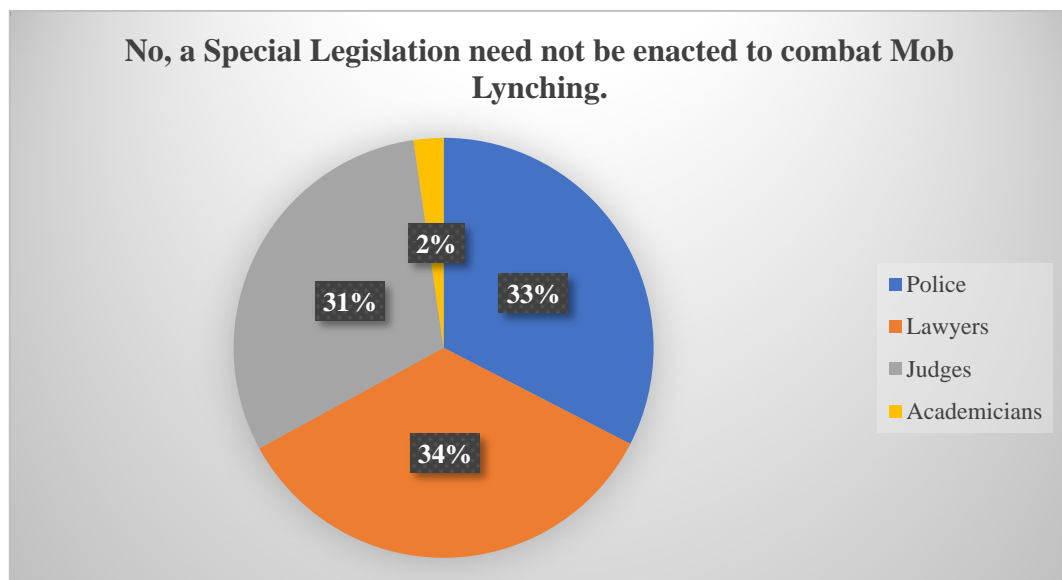
**Figure 7.34:** Percentage-wise break-up of responses to Q. No. 7

**Inference:** It can be inferred from Figure 7.34 that 37% (36.67%) of the respondents have opined that a special legislation should be enacted to combat mob lynching whereas 51% (50.83%) of the respondents said that no special legislation should be enacted. A 12% (12.5%) of the respondents did not respond to the question no. 7. Those who have not responded had either said that the existing laws are sufficient or that defining ‘mob lynching’ as specific offence under the Indian Penal Code, 1860 and making it punishable thereunder would prevent future such incidents. Likewise, there have been some respondents who have said that neither the existing laws nor amendment nor new legislations will prevent mob lynching in India.



**Figure 7.35:** Respondent-wise break-up of those who answered in the affirmative to Q. No. 7

**Inference:** From Figure 7.35, it can be inferred that 37% of respondent Police officers, 26% of respondent Lawyers, 34% of respondent Judges and 3% of the respondent Academicians expressed affirmatively that a special legislation should be enacted to combat mob lynching.



**Figure 7.36:** Respondent-wise break-up of those who answered in the negative to Q. No. 7

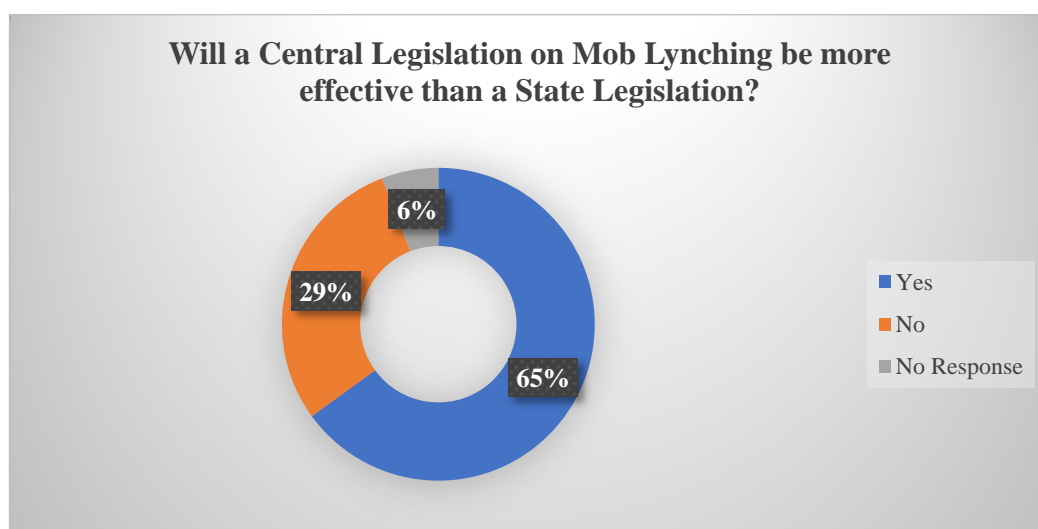
**Inference:** From the above Pie-Chart (Figure 7.36), it can be inferred that 33% of the respondent Police Officers, 34% of respondent Lawyers, 31% of respondent Judges and 2% of the respondent Academicians have opined that a special legislation need not be enacted to combat mob lynching.

**Q. No. 8. If a special legislation is to be enacted, would a Central Legislation be more effective in preventing Mob Lynching than a State Legislation?**

The analysis of the responses is depicted in Table 7.7 and Figures 7.37, 7.38 and 7.39 given below.

**Table 7.7:** Respondent-wise break-up of responses to Q. No. 8

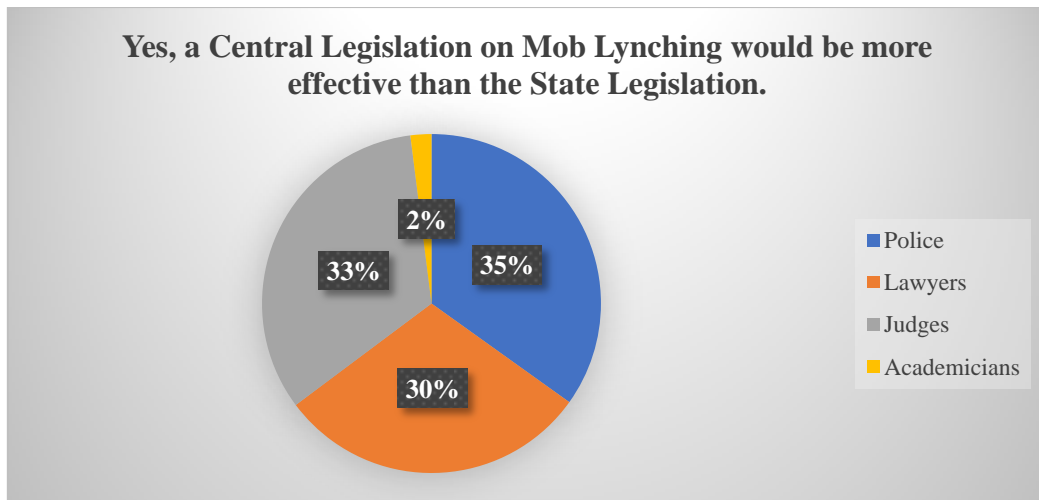
Sr. No.	Options	Responses					Percentage
		Police	Lawyers	Judges	Academicians	Total	
1	Yes	21	18	20	19	78	65
2	No	9	11	7	8	35	29 (29.17)
3	No Response	0	1	3	3	7	6 (5.83)
	<b>Total</b>					120	100



**Figure 7.37:** Percentage-wise break-up of responses to Q. No. 8

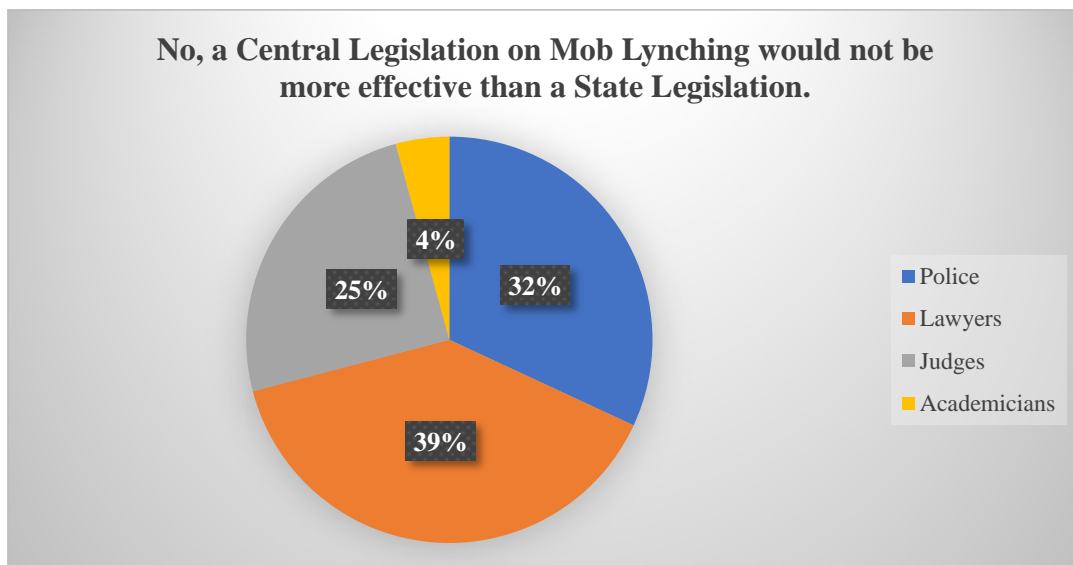
**Inference:** It can be inferred from Figure 7.37 that 65% of the respondents have opined that if a special legislation is enacted on the subject of mob lynching, then a Central Legislation would be more effective than a State Legislation. However, 29% of the respondents have expressed the contrary and 6% of the respondents did not respond to question no. 8. Those who have not responded had either said that the existing laws are sufficient or that defining ‘mob lynching’ as specific offence under the Indian Penal Code, 1860 and making it punishable thereunder would prevent future such incidents. Likewise, there have been some respondents who have said that neither the existing laws nor amendment nor new legislations will prevent mob lynching in India.





**Figure 7.38:** Respondent-wise break-up of those who answered in the affirmative to Q. No. 8

**Inference:** The above Figure 7.38 reveals that 35% of the respondent Police Officers, 30% of the respondent Lawyers, 33% of the respondent Judges and 2% of the respondent Academicians opine that a Central Legislation on mob lynching would be more effective than a State Legislation.



**Figure 7.39:** Respondent-wise break-up of those who answered in the negative to Q. No. 8

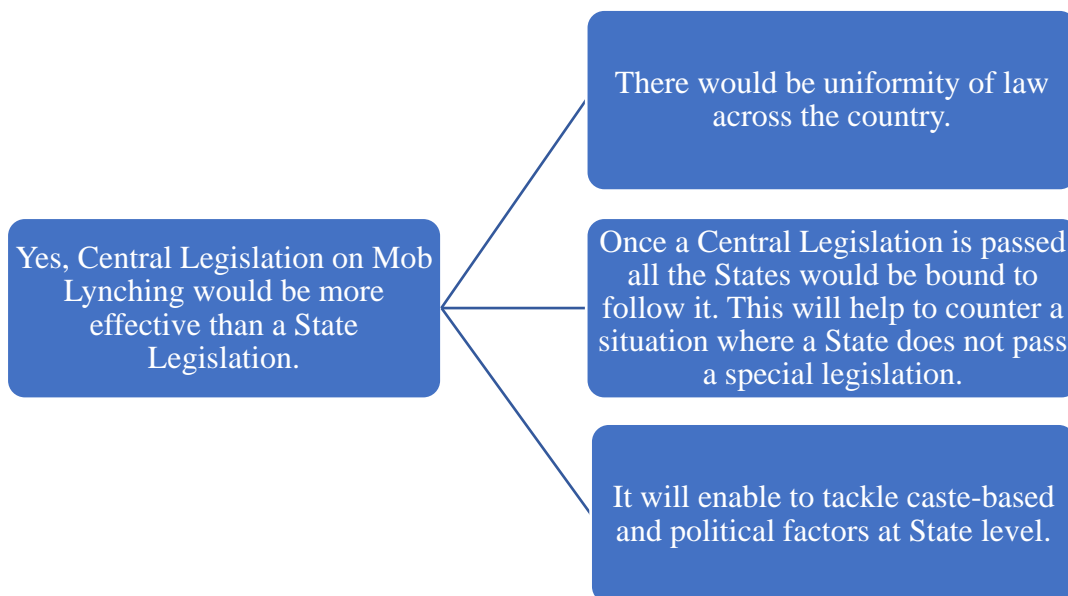
**Inference:** The above Figure 7.39 reveals that 32% of the respondent Police Officers, 39% of the respondent Lawyers, 25% of the respondent Judges and 4% of the respondent Academicians have opined that a Central Legislation on mob lynching would not be more effective than a State Legislation.

**Q. No. 9. Please specify the reasons for your answer to the above question.**

Question no. 9 was a corollary to the question no. 8 and was an open-ended question, wherein the Research Scholar had asked, if a special legislation on mob lynching was to be enacted, would a Central Legislation be more effective than a State Legislation. Question no. 9 sought to find the reasons as to why a Central Legislation would be more effective than a State Legislation.

**(A) Responses of the Police Officers**

The reasons attributed by the respondent Police Officers as to why a Central Legislation on mob lynching would be more effective than State Legislation have been summarized as under in the form of Figure 7.40.



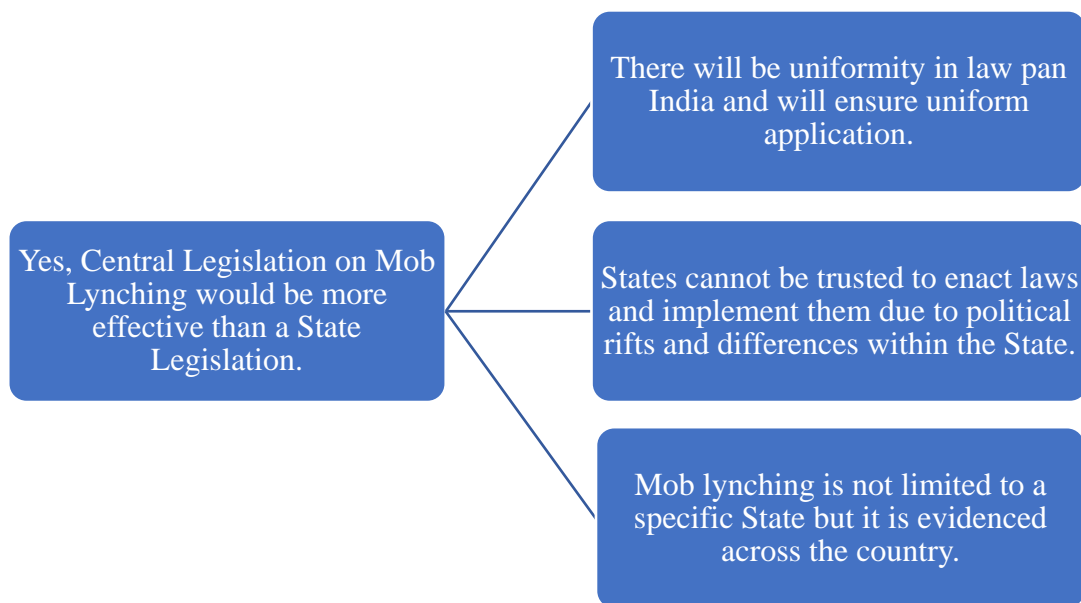
**Figure 7.40:** Reasons of the respondent Police Officers as to why a Central Legislation on Mob Lynching would be more effective than a State Legislation

**Inference:** From the reasons attributed by twenty-one (21) of the thirty (30) respondent Police officers, (refer Table No. 7.7) it can be inferred that a Central Legislation on ‘mob lynching’ would be more effective than a State Legislation in combating mob lynching as it will ensure uniformity of law across the country and it will also help counter those States which would not enact a special legislation due to local politics.

Those respondent Police Officers (4%) who were of the opinion that the existing laws are sufficient to curb mob lynching incidents and those who said that defining mob lynching as a specific offence under the Indian Penal Code, 1860 would help prevent future incidents had responded in the **negative** to question no. 9.

### **(B) Responses of the Lawyers**

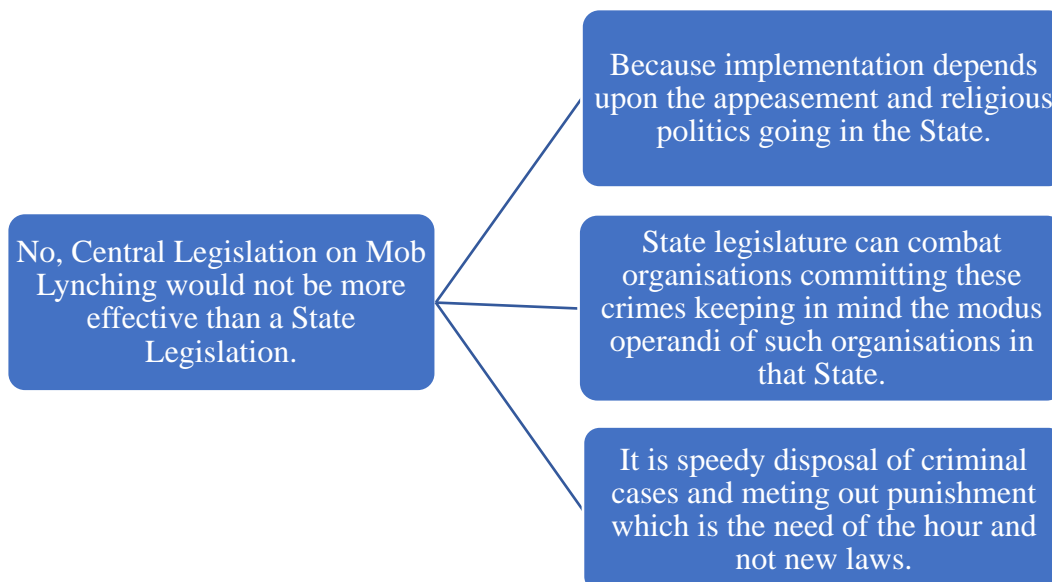
The reasons attributed by the respondent Lawyers as to why a Central Legislation on mob lynching would be more effective than a State Legislation have been summarized as under in the form of Figure 7.41.



**Figure 7.41:** Reasons of the respondent Lawyers as to why a Central Legislation on Mob Lynching would be more effective than a State Legislation

**Inference:** From the reasons cited above by eighteen (18) of the thirty (30) respondent Lawyers (refer Table No. 7.7), it can be inferred that a Central Legislation would be more effective than a State Legislation.

The reasons attributed by the respondent Lawyers as to why a Central Legislation on mob lynching **would not be more effective** than State Legislation have been presented in Figure 7.42.



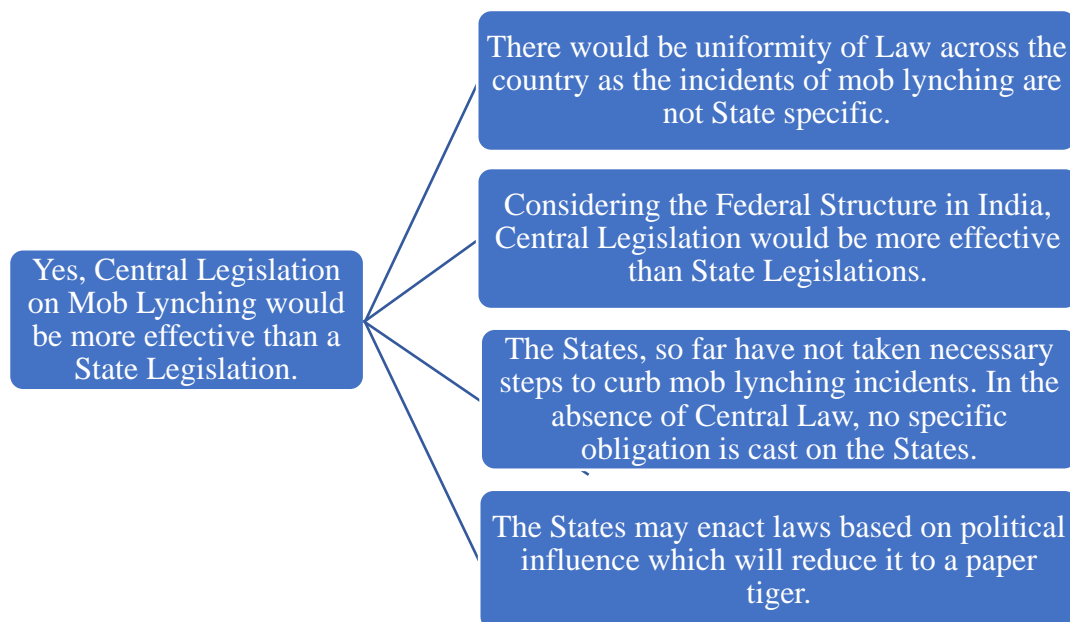
**Figure 7.42:** Reasons of the respondent Lawyers as to why a Central Legislation on Mob Lynching would not be more effective than a State Legislation

**Inference:** Eleven (11) of the thirty (30) respondent Lawyers (refer Table No. 7.7) were of the opinion that a State Legislation would be more effective than a Central Legislation as the incidents of mob lynching have their genesis in the religious politics and organisations operating at local level. The State would be more competent to enact a law considering the local factors that lead to mob lynching incidents.

One (1) of the thirty (30) respondent Lawyers did not respond to question no. 9 as the lawyer was of the opinion that the existing laws were sufficient to tackle mob lynching cases in India.

### (C) Responses of the Judges

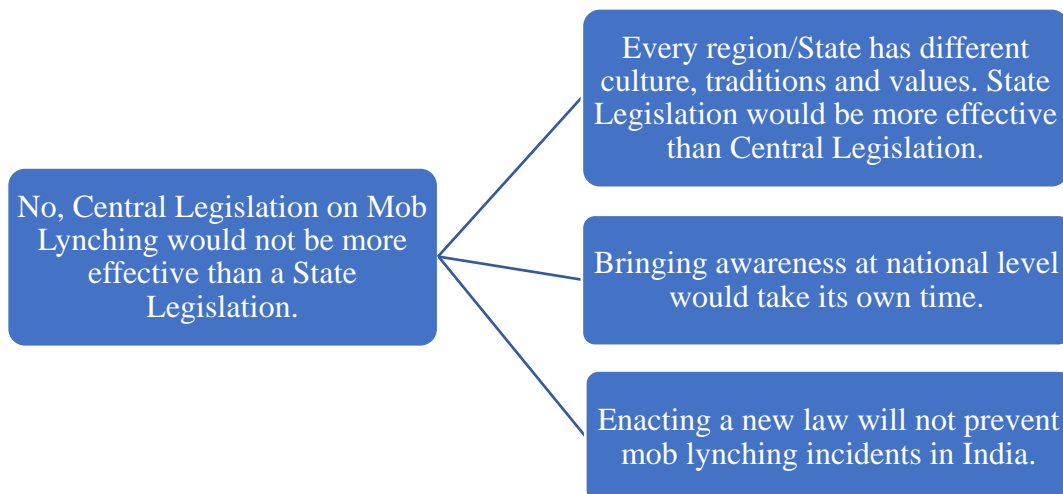
The reasons attributed by the respondent Judges as to why a Central Legislation on mob lynching would be more effective than State Legislation have been presented in Figure 7.43.



**Figure 7.43:** Reasons of the respondent Judges as to why a Central Legislation on Mob Lynching would be more effective than a State Legislation

**Inference:** Twenty (20) of the thirty (30) respondent Judges (refer Table No. 7.7) who had opined that a Central Legislation on mob lynching would be more effective than a State Legislation, cited the federal structure of the governance adopted in India, necessity of uniform law and inaction on part of States to take steps to curb mob lynching as reasons for the same. They also expressed that a Central Legislation would be more effective to counter political factors at the State level which would have the tendency of reducing the anti-mob lynching law to a paper tiger.

The reasons attributed by the respondent Judges as to why a Central Legislation on Mob lynching would not be more effective than State Legislation have been presented in Figure 7.44.



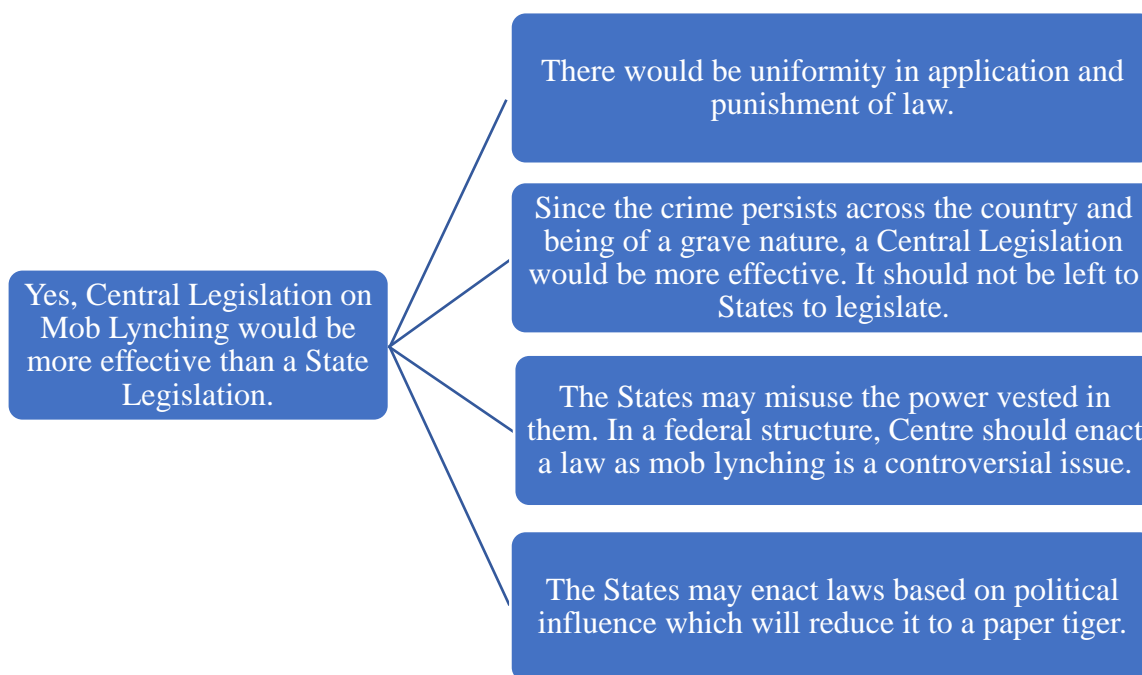
**Figure 7.44:** Reasons of the respondent Judges as to why a Central Legislation on Mob Lynching would not be more effective than a State Legislation

**Inference:** Seven (7) of the thirty (30) respondent Judges, (refer Table No. 7.7) have cited that due to the difference in culture, traditions and values in various States, each State could have specific or different reasons for mob lynching. Therefore, a Central Legislation would not be able to tackle the local issues leading to mob lynching effectively. The respondent Judges have expressed that ‘One size fits all’ formula cannot and should not be adopted. The long duration of time required to bring about the awareness of the Central Legislation at the national level has been pointed out as one of the reasons as to why a Central Legislation should not be brought in. Apart from the above, the respondent Judges have opined that enacting a new law will not prevent mob lynching incidents in India as there are deep-rooted social, religious and political fissures which need to be addressed and healed.

Three (3) of the thirty (30) respondent Judges **did not respond to question no. 9** (refer Table No. 7.7). Two (2) of the three (3) have not responded as they were of the opinion that the existing laws are sufficient to tackle mob lynching cases in India. One (1) of the three (3) respondent Judges has opined that no laws would be effective in India as there are inherent structural fissures in the society and the criminal justice system.

### (D) Responses of the Academicians

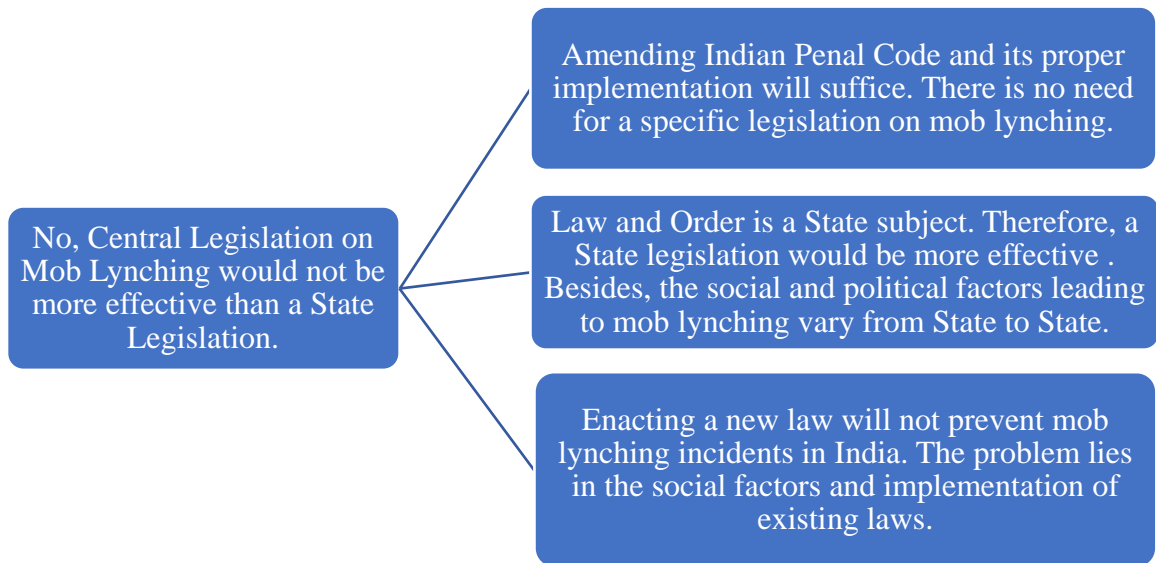
The reasons attributed by the respondent Academicians as to why a Central Legislation on mob lynching would be more effective than State Legislation have been presented as under in the form of Figure 7.45.



**Figure 7.45:** Reasons of the respondent Academicians as to why a Central Legislation on Mob Lynching would be more effective than a State Legislation

**Inference:** Eighteen (18) of the thirty (30) respondent Academicians (refer Table No. 7.7) had opined that Central Legislation on mob lynching would be more effective than a State Legislation. They have cited the nation-wide persistence of the problem of mob lynching in India, the possibility of abuse of power by States in enacting a law which would only pay lip service and the necessity of having a uniform law as their reasons. They also echoed the opinion expressed by the respondent Judges, that in a federal form of governance, the Centre should enact the law on mob lynching since it was a controversial issue and that the States could not be trusted to bring an effective legislation due to their own vested interests.

The reasons attributed by the respondent Academicians as to why a Central Legislation on mob lynching would not be more effective than State Legislation have been presented as under in the form of Figure 7.46.



**Figure 7.46:** Reasons of the respondent Academicians as to why a Central Legislation on Mob Lynching would not be more effective than a State Legislation

**Inference:** Eight (8) of the thirty (30) respondent Academicians who had expressed that a Central Legislation would not be more effective in preventing mob lynching incidents have attributed that an amendment to the Indian Penal Code, 1860 by defining mob lynching as a specific offence would suffice. Some of the respondent Academicians cited that Law and Order being a State subject, a State Legislation would be more effective as the States would be able to factor in the local and regional factors leading to mob lynching. Also, some the respondent Academicians were of the opinion that a specific legislation would not help prevent mob lynching incidents in India as the reasons for it are rooted in social factors of a particular State or region. They have advocated the need for tackling social issues to prevent incidents of mob lynching.



**Q. No. 10. How, according to you, can the administration of criminal justice system be made more effective in curbing vigilante acts in India?**

The above question was an open-ended question and the responses given by the Police, Lawyers, Judges and Academicians have been discussed below.

**(A) Responses of the Police Officers**

The suggestions given by the respondent Police Officers are as under:

- (i) The police force should be made an independent wing like the Judiciary.
- (ii) The investigation process should be made free from political interference.
- (iii) Legal advice should be given to the Investigating Officer in effective drafting as well as in presenting evidence which stands the scrutiny of the court.
- (iv) Courts must co-operate with the police and have confidence in them.
- (v) Speedy trial of cases must be ensured so that the complainant does not have to wait long for relief from the courts.
- (vi) Improve the Police-to-Population ratio in India as the Indian Police Department is presently working at a ratio of 144 police officers per 1,00,000 citizens. The existing 30% vacancy in police force should be filled and the police-to-population ratio should be improved.
- (vii) Specific laws with defined time lines to finish investigation and judicial process should be enacted. Strict enforcement of action in mob lynching cases should be ensured.
- (viii) Special enactment with death penalty as punishment for mob lynching should be legislated. Likewise, punishment for other heinous crimes should be enhanced and made more stringent.
- (ix) Citizens should be made aware of the law of the land.

**Inference:** Creation of an independent wing of the police force, improving the police-to-population ratio, rendering legal advice in framing of charges and presenting evidence, specific law on mob lynching with defined timelines in conduct of investigation and trials, stringent punishment, faith of judiciary in police and creating an awareness amongst the citizens of the law of the land have been the suggestions given by the respondent police officers to make the administration of criminal justice system more effective in preventing vigilante acts.

## **(B) Responses of Lawyers**

The suggestions given by the respondent Lawyers are as under:

- (i) Training to be given to investigating officer in scientific examination of crime.
- (ii) Cases of heinous nature should be tried on priority basis or special courts should be given charge to handle such cases.
- (iii) Mob lynching and vigilantism requires coordination, and often there are certain identifiable triggers. For a mob to be involved, the cause to lynch someone is often something that affects a collective belief system. It requires inciting and angering a large group. Social media has been often resorted to for doing such things. If more stringent Information Technology Laws (with due regard to right to privacy) are implemented then the criminal justice system would become more effective.
- (iv) There are many lacunae in procedural laws which benefit the offenders. There is a need to amend the procedural laws and not the penal laws of the country.
- (v) Police must provide all the possible protection to the witnesses of mob lynching cases. This will encourage others to come forward in helping the Police. By identifying the culprits at the earliest and bringing them to justice will help prevent mob lynching incidents in India.
- (vi) There should be strict enforceability and transparent process for laws. Also, strict time frame should be laid down to complete the investigation and trials in mob lynching cases which would go a long way in effectively curbing vigilante acts in India.
- (vii) The law and order maintaining agencies should be vigilant enough to prevent formation of any unlawful assembly, should curb the outburst of mob's sentiment and let the police function as per law instead of the will of their political bosses.
- (viii) Speedy trial of mob lynching cases by special courts would ensure speedy justice and instill fear in the minds of the perpetrators.
- (ix) Control of corrupt practices in administration of criminal justice system will help improve its efficiency.
- (x) Code Criminal Procedure, 1973 should be amended by insertion of a provision which holds the police officers accountable in face of police inaction.

(xi) Indian Evidence Act, 1872 should be amended. Witness statements should be recorded by Independent Agencies and Judicial Officers specially appointed for this purpose. These statements should be verified by higher authorities like a Retired Judge of High Court and then these statements after being verified by higher authorities should be directly admitted as evidence by the Court. If the documents are taken in evidence by investigating officer, then the documents should be examined by these authorities and can be testified from the concerned departments. Thereafter, the documents should straight way be admitted in evidence. The rigours of examination and cross examination in courts need to be curtailed. Only cross examination should be made permissible but statements verified by higher authorities and documents testified should not be allowed to be challenged. If the witness changes his statement, the accused should still be punished for creating a situation for the witness to change his statement. The accused should only get a chance to argue out on provisions of law and not on oral testimony of witnesses.

(xii) In preventing the frequent incidents of communal clashes, the aid of Intelligence Agencies at State and Central Level should be taken. More responsibilities and duties should be cast on public law enforcement officers and bodies to prevent vigilante acts. Disciplinary action should be taken against the erring officers.

(xiii) By increasing police patrolling (surveillance), installing more CCTV cameras and by quick disposal of criminal matters pending in court, administration of criminal justice system can be made more efficacious.

(xiv) Appointment of experienced Advocates as Judges or Senior Advocate and Special Prosecutor who have no political attachment or affiliation should be made.

(xv) Proper collection of evidence and timely testing of such evidence should be ensured.

(xvi) Reforms should be brought in the police force so that the citizenry has faith in police personnel. Secondly, citizens, specifically from backwards area and localities should be sensitized to respect laws. Bonafide policing and investigation are the need of the hour.

(xvii) Prompt steps to prevent such attacks and stopping the spread of incorrect information are needed. Stress should be laid on maintaining social harmony and swift action against offenders should be taken.

(xviii) Effective implementation of law is required more than new legislations.

**Inference:** The respondent Lawyers have suggested improving policing and police investigation, fixing police accountability in case of inaction, proper implementation of procedural laws, amendment to recording of evidence and examination of witnesses, according protection to witnesses, defining time lines for concluding investigation and trials, trial by special courts in cases of mob lynching, levying stringent punishment under Information Technology Laws and sensitizing the citizens to respect the law to make the administration of criminal justice system more effective in curbing vigilante acts in India.

### **(C) Responses of the Judges**

The responses given by the respondent Judges as to how the administration of criminal justice system should be made more effective in combating vigilante acts are presented as under:

- (i) By enacting special provisions which mandate investigation by Senior Police Officers and trial by a Special Judge. The Special Judge so appointed should be a Sessions Judge.
- (ii) By amending the existing criminal laws so that they are able to combat the new offences and new challenges faced by the society.
- (iii) An amendment should be made to the penal law of the country and the law of evidence. The trial of mob lynching cases should be conducted by Special Courts.
- (iv) By trying the cases within the prescribed time lines and improving the conviction rate as most of the cases of mob lynching have occurred due to a crying need for justice.
- (v) Procedural Laws should be amended so that the trial court awards its decision in mob lynching cases within one year.
- (vi) The police should refrain from filing counter complaints against victims' family members and witnesses as it deters them from pursuing justice. Intimidation from the authorities as well as from perpetrators of mob lynching have led the witnesses to turn hostile during the trial leading to the acquittal of the accused persons.
- (vii) Sufficient means and infrastructure should be created to make the criminal justice system monitoring-oriented. Policing system should be made more efficient. It should be made accountable so as to curb any mischief or misconduct on the part of

its officers. Deviation from the principles of criminal jurisprudence vis-à-vis accused persons should be made. Separate team for execution of summons and warrants should be created.

(viii) Police-to-population ratio should be improved.

(ix) Police should conduct investigation by employing scientific and forensic tools. The investigation should be completed promptly and, in a time-bound manner.

(x) A strong and efficient investigation agency should be created which ensures bold and fearless evidence collection.

(xi) An awareness of the legal consequences of mob lynching must be created amongst the people. Specially, people living in far flung areas, remote areas and slum areas should be made aware of the fundamental duties laid down in the Indian Constitution. And also, the punishment for mob lynching should be publicized. Since, various incidents of mob lynching incidents have emanated from communal and caste-based factors, sensitization of all the stakeholders is necessary.

(xii) By proper implementation of law at grass-root levels as well.

(xiii) By laying down stringent punishment for participating in mob lynching incidents.

**Inference:** The respondent Judges have suggested amendments to the Indian Penal Code, 1860 and the procedural laws. Apart from this, they have stressed on improving policing and ushering in police reforms, creating a separate investigative agency, conducting time-bound trial of mob lynching cases by special courts and special judges, laying down stringent punishment for participating in mob lynching incidents, sensitizing all the stakeholders of their fundamental duties towards the society.

#### **(D) Responses of the Academicians**

The responses given by the respondent Academicians as to how the administration of criminal justice system should be made more effective in combating vigilante acts are presented as under:

(i) In addition to police, there must be social groups unit to keep vigilance over such acts.

(ii) More deployment of trained personnel, sensitization amongst youth and strict and quick action is required.

- (iii) Every Police Officer should follow the guidelines given by the Supreme Court of India in *Tehseen Poonawalla v. Union of India & Ors.* on mob lynching in order to prevent, investigate, or facilitate the prosecution of any mob lynching crime.
- (iv) The police force needs to be more independent and accountable.
- (v) By conducting a proper investigation.
- (vi) Better trained police and an unbiased prosecution machinery to be set up.
- (vii) By reducing corruption in the justice dispensing system.
- (viii) By implementing unbiased justice system.
- (ix) The criminal justice system requires an overhaul. More trained and committed honest justice professionals are needed. There is a need to enhance the role of forensic science in evidence.
- (x) Speedy trial should be ensured and stringent punishment for such grave offences should be awarded.
- (xi) Existing rules to be enforced in their true spirit. People who engage in mob lynching are usually incited by hate speeches. Hence, prosecution resulting into punishment for hate speech should be the priority of administration. District administration should have an added accountability in case an incident of mob violence occurs in their jurisdiction.
- (xii) Trial of mob lynching cases should be done in fast-track courts. Police and court should be treated as an independent entity and there should be no political pressure and interference in their work.
- (xiii) Special Court should deal with mob lynching cases.
- (xiv) All three wings of Government Machinery must work collectively to bring stricter laws, minimum pendency and set examples by giving harsher punishments.
- (xv) Focus of the criminal justice system should be on changing the thinking of the people.
- (xvi) District level surveillance authority should be set up.
- (xvii) Awareness amongst citizens regarding law especially, by police agency at panchayat levels should be created.

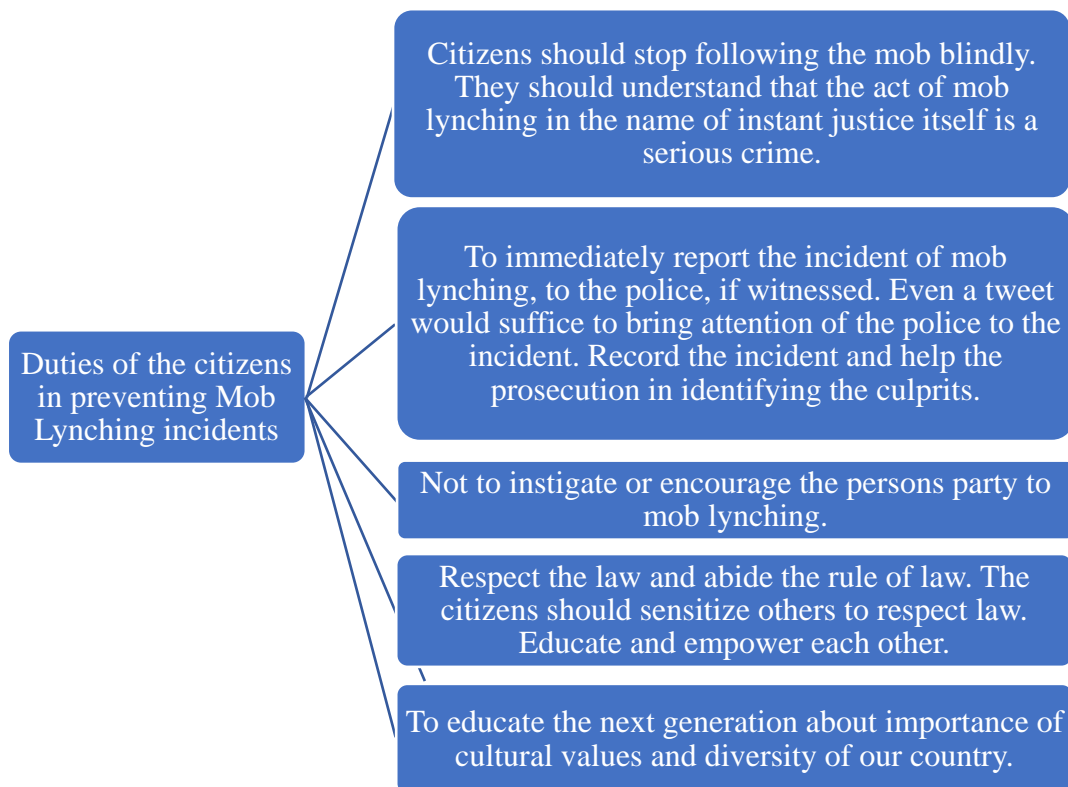
**Inference:** The thrust of the suggestions made by the respondent Academicians lie in the areas of independence of police force, use of scientific evidence collection, increased surveillance, co-ordination of all the wings of the Government, rooting out corrupt practices in administration of justice, speedy trial of mob lynching cases, punishment and engaging social groups to prevent vigilante acts.

**Q. No. 11. What, according to you, is the duty of the citizens in prevention of Mob Lynching incidents?**

This question was an open-ended question and the responses of the various respondents have been summarized and presented by the Research Scholar as under.

**(A) Responses of the Police officers**

The various duties of the citizens which the Police Officers felt would help prevent incidents of mob lynching are presented in Figure 7.47 given below.



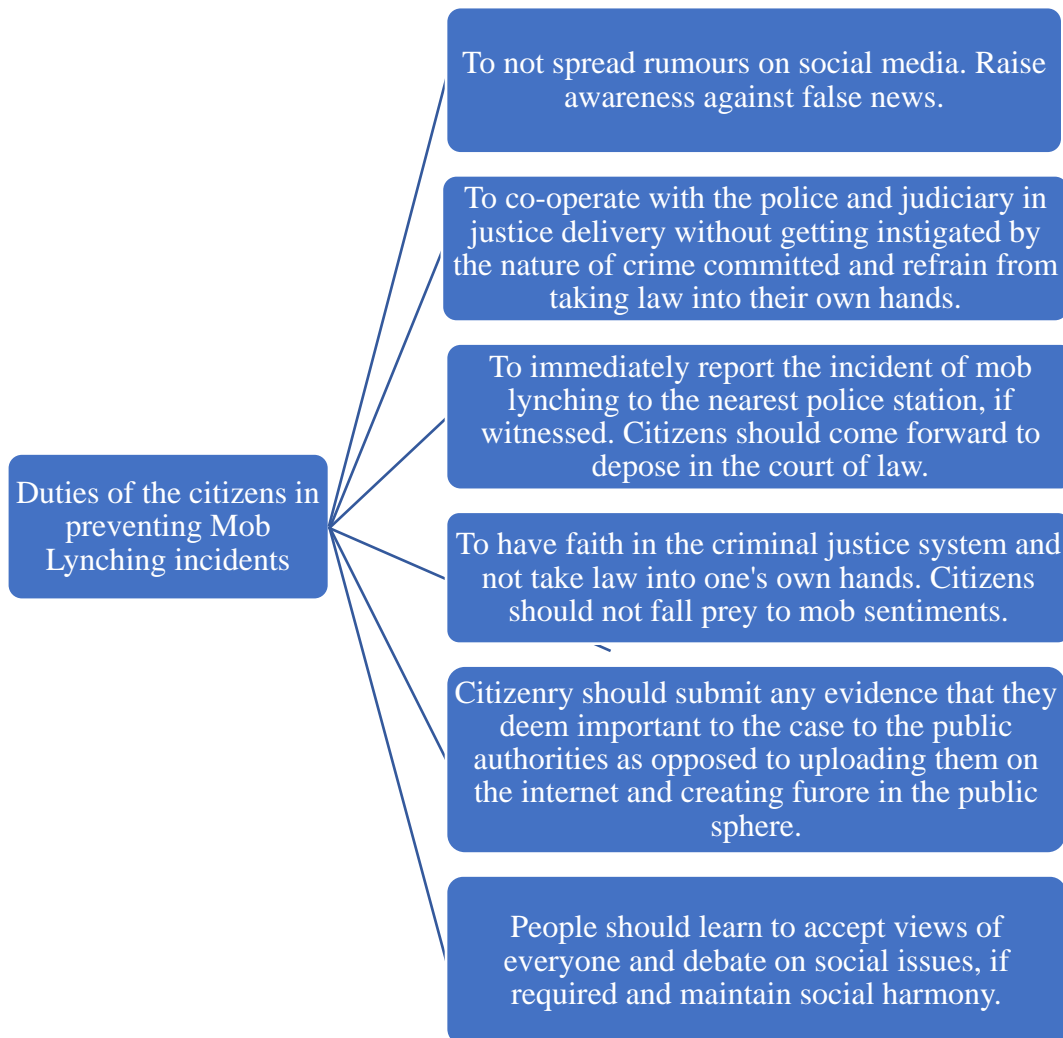
**Figure 7.47:** Responses of the Police Officers vis-à-vis duties of the citizens in preventing Mob Lynching incidents.

**Inference:** The responses of the Police Officers to the above questions have been more in the form of advice and caution. They have cautioned the citizens against blindly following the mob and instigating others to participate in lynching. They have advised the citizens (witnesses) to report the incidents of mob lynching to the police without delay and exhorted them to respect law and sensitize others to do the same. They have called upon the citizens to educate the next generation of the cultural values and diversity of the country so as to prevent future incidents of mob lynching.



## (B) Responses of Lawyers

The suggestions given by the respondent Lawyers have been summarized and depicted in the form of Figure 7.48 given below.

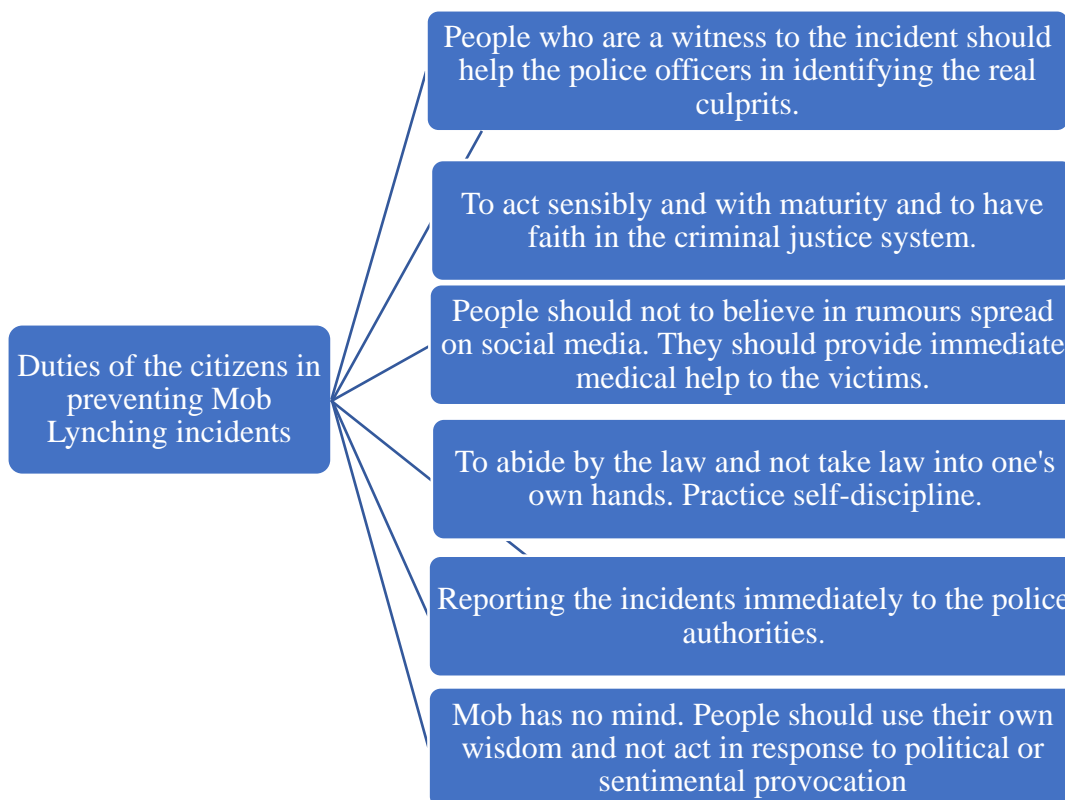


**Figure 7.48:** Responses of the Lawyers vis-à-vis duties of the citizens in preventing Mob Lynching incidents.

**Inference:** The respondent Lawyers have emphasized on reporting of mob lynching incidents to police, refraining from spreading rumours on social media, co-operating with the police and judiciary, showing faith in the criminal justice system and respecting the views of others as the primary duties of citizens in preventing mob lynching incidents in India.

### (C) Responses of the Judges

The respondent Judges gave the following suggestions which have been summarized and depicted in the form of Figure 7.49 given below.

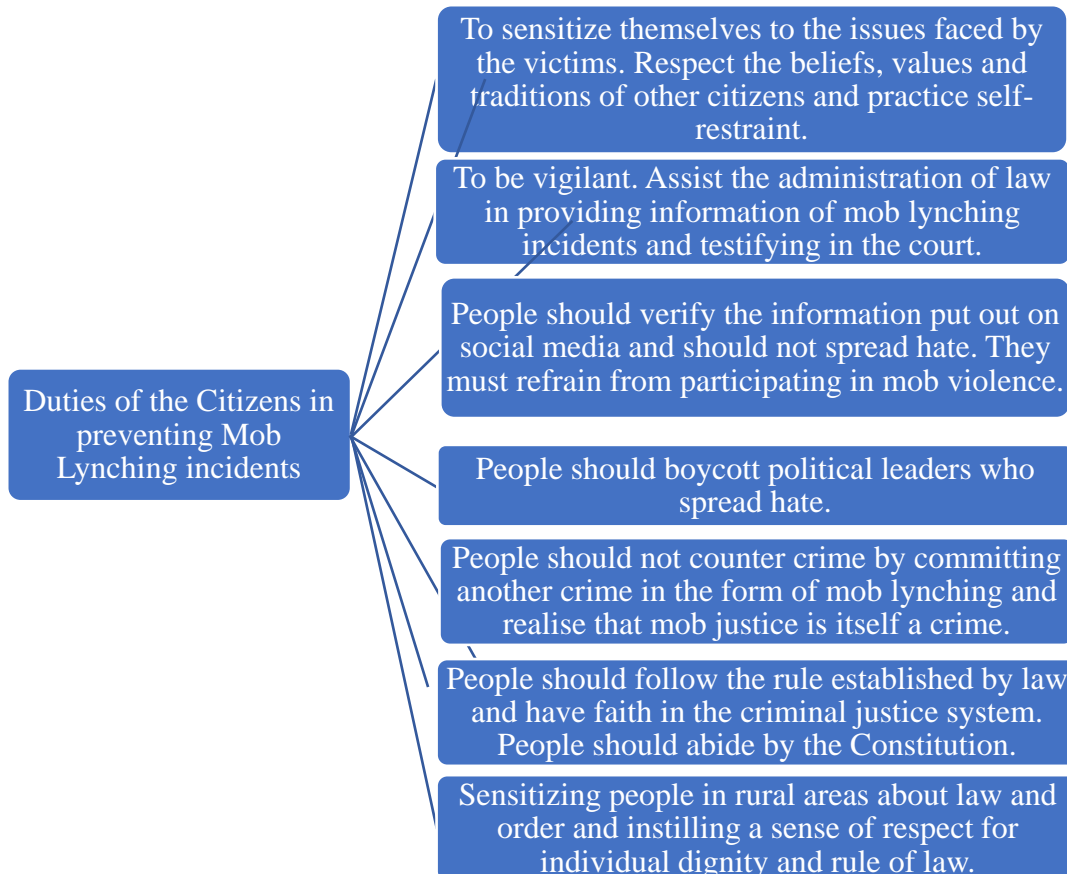


**Figure 7.49:** Responses of the Judges vis-à-vis duties of the citizens in preventing Mob Lynching incidents.

**Inference:** The respondent Judges have highlighted that reporting incidents of mob lynching to police, co-operating with the police in identifying the perpetrators, practising self-discipline, not fanning rumours on social media, providing medical help to the victims, not falling prey to political and sentimental provocations, as primary duties of the citizens in curbing mob lynching incidents in India.

#### (D) Responses of the Academicians

The various duties of the citizens which the respondent Academicians felt are necessary in curbing mob lynching incidents have been summarized in the form of Figure 7.50 depicted below.



**Figure 7.50:** Responses of the Academicians vis-à-vis duties of the citizens in preventing Mob Lynching incidents.

**Inference:** The respondent Academicians have stressed on the need for sensitizing oneself to the issues of the victims, co-operating with the administration of justice, refraining from being a vehicle of spreading hate, not participating in mob lynching, boycotting political leaders fomenting hate, respecting beliefs and values of others and abiding by the constitution as the duties of the citizens. They also pointed out that the citizens should not counter crime by committing crime and should demonstrate faith in the criminal justice system.

### 7.3 CONCLUSION

From the data analysis of the empirical study, the Research Scholar has drawn the following inferences:

A 14.17% of the respondents singled out ‘fear that offenders will escape punishment’ as the cause of mob lynching in India. A 10.83% of the respondents identified ‘Political reasons’ as the cause of mob lynching. A 9.17% of the respondents stated that ‘Unenlightened citizens’ were the cause and 5.83% of the respondents cited that ‘fear that social norms are being violated’ as its reason. A majority of the respondents, 50.83% cited ‘all of the above’, namely, fear that offenders will escape punishment, Political reasons, Unenlightened citizens, fear that social norms are being violated to be the causes of mob lynching in India.

An overwhelming 83.33% of the respondents stated that the existing laws were not sufficient to combat mob lynching in India.

A 45.83% of the respondents opined that mob lynching should be defined as specific offence punishable under the Indian Penal Code, 1860 while 51.67% of the respondents stated that mob lynching should not be made punishable under the Indian Penal Code, 1860 as mere amendment to it would not be sufficient to curb future incidents.

A **65%** of the respondents stated that making mob lynching punishable under the Indian Penal Code, 1860 **alone would not be sufficient** to prevent future incidents of mob lynching while 34.17% of the respondents were of the opinion that making mob lynching punishable under the Indian Penal Code, 1860 would be sufficient to curb future incidents of mob lynching in India.

A 36.67% of the respondents stated that a special legislation should be enacted to combat mob lynching in India while 50.83% of the respondents said that no special legislation was required as the problem lied in the procedural laws, proper implementation of the existing laws and in the administration of criminal justice system.

However, **65%** of the respondents opined that a Central Legislation on mob lynching would be more effective than a State Legislation in preventing future incidents, **if a special legislation was to be enacted**. Persistence of mob lynching incidents across India, necessity of a uniform law and to prevent inaction by vested political powers at

the State level have been cited as the main reasons by the respondents advocating a Central Legislation.

The Respondents have unanimously agreed that bringing in police reforms, setting up an independent police force, amending Procedural Laws and Information Technology Law, completing investigation and trials within defined timelines, trying mob lynching cases in special courts and by special judges, setting deterrents and sensitizing citizens to abide by the law, would make the administration of criminal justice system more effective in curbing mob lynching incidents in India.

The major thrust of the Respondents' advice to the citizens has been that the citizens have a bounden duty to respect rule of law and co-operate with the administration of justice in bringing the offenders to law. They have highlighted that practising self-discipline, not fanning rumours on social media, providing medical help to the victims, not falling prey to political and sentimental provocations, are the primary duties of the citizens in curbing mob lynching incidents in India.

**CHAPTER 8**  
**CONCLUSION AND SUGGESTIONS**

## CHAPTER 8

### CONCLUSION AND SUGGESTIONS

#### 8.1 CONCLUSION

The rising incidents of mob lynching, an extreme form of vigilantism, spanning the length and breadth of India since 2015 posed a new challenge to the criminal justice system. From the criminological perspective too, vigilantism, as a concept has been less explored and researched in India. Vigilante attacks on those perceived to be violators of social norms rose. Vigilante groups masquerading as protectors of social norms, cows, and women subjected to violence at the hands of their spouses, grew. Vigilantism became more visible in various aspects of the Indian society and in various forms, like state-backed vigilantism, semi-organized, organized vigilantism and witch hunting. The lynching of alleged perpetrators of crime, cow smugglers and cow slaughterers was alien to the Indian Society. These attacks by private citizens posed a challenge to the rule of law and the criminal justice system. Though, conceptually, various forms of vigilantism have been explored and discussed by the Research Scholar, the study had been limited to cow vigilantism and mob lynching incidents orchestrated against offenders and alleged perpetrators of crime. To find solutions to this new challenge faced by the Indian society, the Research Scholar undertook the present study on vigilantism and criminal justice system.

The Research Scholar, to achieve the objectives made a conceptual analysis of the phenomenon of vigilantism, its various forms and its definition in **Chapter 2, entitled, 'Theoretical Exposition of the Concept of Vigilantism'**. Also, various other terms relevant to the study were defined for their proper interpretation. The Research Scholar has also demonstrated in this chapter as to why the criminological definition of vigilantism given by Prof. Les Johnston was more appropriate for the present study in the Indian context. While at it, technical distinctions between vigilantism, mob lynching and other forms of collective violence in India, namely, rioting and massacre, were drawn so as to have a proper understanding of the concept of vigilantism. The concept was explained and interspersed with incidents from other countries like United Kingdom, United States of America and India. The chapter also revealed that various forms of vigilantism exist in India as a tool for social control and crime control. This chapter has enabled the Research Scholar to conclude that mob lynching differs from other forms of collective violence, like, rioting and massacre.

**In Chapter 3 of the present study, entitled, ‘Origin, History and Growth of Vigilantism’,** the Research Scholar has traced the origin and rise of vigilantism in the United Kingdom, United States of America, Nigeria and India. Though vigilantism has been a global phenomenon, it has found a fertile ground in the United States of America. Therefore, the Research Scholar felt it pertinent to trace the historical backdrop of vigilantism in the United States of America. However, the growth in United States of America has its roots in the United Kingdom and thus, a narrative in the context of United Kingdom has been included in the Chapter 3. Following, the United Kingdom and United States of America, the Research Scholar discussed the rise and growth of vigilantism in Nigeria and India.

The Research Scholar began with the tracing of vigilantism in United Kingdom. It was found that the underlying reason for vigilante acts in the seventeenth century was perception of injustice to the society and victim. The inadequacy of law enforcement and high cost of public prosecution which the complainants had to bear acted as a catalyst in formation of the Private Prosecution Societies in the mid-eighteenth and mid nineteenth centuries. However, it was the failure of criminal justice system in curbing crime that had led to the vigilante acts perpetrated by individuals, small groups and mobs in the twentieth and twenty-first centuries in England. The fear that criminal justice system would fail the society and the perpetrators would escape punishment galvanised private citizens to take law into their hands.

The Research Scholar found that vigilantism in the United States of America found a fertile ground in the eighteenth century when the immigrants from British Isles and Ireland formed groups to fight cattle thieves as they did not have faith in the American criminal justice system. The American war of independence saw the birth of lynch law, a term used to refer to the summary justice given to criminals by Colonel Charles Lynch and his associates. A major part of the nineteenth century saw the White Americans galvanize attacks on African Americans as they perceived that granting civil rights to the latter would threaten the social structure of the American society. This era also saw the rise of Ku Klux Klan, and other vigilante groups which carried out bombings on schools and churches of African Americans and attacks on White Americans who advocated equal rights for the African Americans. The twentieth and twenty-first century has seen a rise in vigilante groups like Guardian Angels in New York to protect the citizens from crime as the law enforcement



agencies had failed to protect the citizens from criminals. It has been found that in the twenty-first century, vigilante groups have also emerged to tackle the problem of paedophiles on the internet and illegal immigrants into the United States of America. Thus, the American narrative points out to failure of law enforcement agencies in protecting its citizens and racial prejudice as the primary cause of vigilantism.

Nigeria was like India, a British colony and comprised of various indigenous ethnic groups. Historically, Nigeria has had witnessed vigilantism in its various forms like the Night Guard and Hunter Guard System, pre-dating its colonization. In Post-independence era, there exist thousand vigilante groups at State and community level to curb crime as the criminal justice system has failed in combating crime. Vigilantism has been more evident in the form of parallel policing in Nigeria by setting up of the Joint Civilian Task Force (Night Guards and Hunter Guards) to counter attacks by Boko Haram on citizens. Though state-backed vigilantism helped in subduing the Boko Haram, it led to the excesses of the Joint Civilian Task Force in the form of extortion, rape and violation of human rights in their dealing with the civilian population. The Nigerian experience serves as lessons for India, especially in the wake of cow vigilantism where private citizens (Gau Rakshaks) have been vested with policing functions under the various cow protection laws. It was for these reasons that the Research Scholar had included the birth and rise of vigilantism in Nigeria, in Chapter 3.

In order to trace the birth and rise of vigilantism in India, the Research Scholar studied the social organization and administration of justice during the ancient, medieval and post-independence era and a detailed account of the same was presented in this chapter. A live link was found between vigilantism, the social structure and the state of administration of criminal justice system in India. It has been found that throughout in Indian history from the medieval period to the twenty-first century, vigilantism for social control existed in the form of caste-based and religion-based violence. The fear that members belonging to lower caste and different religions would change the social structure of the Indian society has been the reason for vigilante acts. Also, superstitious beliefs leading to witch hunting has been a common thread running through out the Indian history from the ancient period to the present times. The Research Scholar has found that in the present times, riots and caste-based violence have been replaced by mob lynching emanating from cow slaughter or

suspicion of slaughter, cattle smuggling, consumption and possession of beef. It has also been found that, mob lynching due to the perception that law enforcement agencies are not adequate to deal with perpetrators of crime have also been on the rise. The study has revealed that it is the fear of inaction by the law enforcement agencies that has made the mobs attack perpetrators of theft, child lifting, rape, murder, etc. or those suspected to have committed crimes. Thus, it has been found by the Research Scholar that vigilantism in India exists with the twin objectives of social control and crime control.

**In Chapter 4, entitled, ‘Vigilantism in India: The Present Position and Causes’,** the Research Scholar analyzed the various incidents of mob lynching and tried to understand the various triggers and causes underlying these incidents. It was found that cow slaughter or its suspicion, cow smuggling, transportation, sale or possession of beef, were the major triggers of mob lynching incidents between 2015 to 2018. Lynching due to Child lifting and or its suspicion dominated the lynching statistics in the years 2018 and 2019. Mob lynching due to commission of theft or suspicion of committing theft began in the year 2017, peaked in 2018 and 2019. These continued to be the triggers in 2020 and 2021 while the other triggers pertaining to cow and child lifting had reduced. During the same period, lynching of individuals who had committed crimes like rape, murder, extortion and drug peddling rose. The study has revealed that the number of mob lynching incidents emanating out of commission of crime or suspicion of commission of crime were higher than the incidents emanating from cow vigilantism. This leads to the inference that there is a general lack of faith in criminal justice system amongst the citizens.

The Research Scholar identified the causes for mob lynching in India and the same are described below:

- (i) The triggers pertaining to child lifting, theft and the commission of crime or suspicion of commission of crime had their genesis in lack of faith in administration of criminal justice system.
- (ii) The triggers pertaining to cow vigilantism had emanated from caste-based and religion-based prejudices, legislative overreach of cow protection laws prevalent in various States, poor conviction rate of offences committed under cow protection laws, ideologies of political parties and their support to vigilantes.

(iii) Unenlightened citizenry and misuse of technology in disseminating rumours led to lynching incidents related to cow as well as commission of crime or suspicion of commission of crime.

The Research Scholar also studied the impact of vigilantism on the victims, society, the State and Criminal Justice System. The study showed that the various incidents of mob lynching had not only led to loss of life of the victims but had also violated the fundamental rights of the victims guaranteed under Aa. 14 and 21 of the Indian Constitution. The atmosphere of fear and uncertainty perpetuated by the mob lynching incidents has undermined and eroded the faith of the masses in the various institutions of the State. The study has revealed that the involvement of large number of persons in lynching has left the criminal justice system helpless not only in containing the mobs but also in identification and arrest of the perpetrators. Continued disregard of democratic values by lynch mobs has led to subversion of the Indian Constitution, undermining of the rule of law and has posed a threat to the very existence of State. Thus, **Objective No. 1, 'To understand the challenges faced by the State and the Criminal Justice System due to vigilantism and its extreme form of Mob Lynching in India'** and **Objective No. 2, 'To identify the underlying causes leading to vigilantism in India'** of the present study have been achieved by the Research Scholar. Objective No. 2 has been further achieved with the aid of the empirical study carried out by the Research Scholar.

In **Chapter 5** of the present study, **entitled 'The Contours of Law and Vigilantism'**, the Research Scholar analyzed the relevant provisions of the Indian Constitution, The Indian Penal Code, 1860, Prevention of Cruelty to Animals Act, 1960, Cow Protection Laws of twenty-two States and seven Union Territories, Draft Bills on Mob Lynching, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872. The object was to examine the sufficiency and efficacy of the existing laws in combating vigilantism.

The Research Scholar found that the relationship between directive principles of state policy and fundamental duties formed the genesis of cow protection laws. The analysis pointed out that while it was necessary to protect milch and draught animals on one hand, there was also a necessity to protect the various fundamental rights guaranteed by the Indian Constitution to all persons. It was also highlighted that in the

name of protecting the society from crime and criminals, citizens should not resort to vigilante justice as it resulted into violation of constitutional rights of the victims guaranteed under Aa. 14 and 21 of the Indian Constitution. It was found that acts of lynch mobs only undermined the rule of law.

The analysis of the provisions of Indian Penal Code, 1860 indicated the limitations of their use in mob lynching cases. The conceptual differences drawn by the Research Scholar between 'Rioting' and 'Mob Lynching' pointed out the fallacy of labelling mob lynching incidents as rioting. Also, the pitfalls of designating perpetrators of mob lynching as an unlawful assembly were identified. Thus, the study spelt out a need for a specific definition of the offence of 'Mob Lynching' and also a special legislation on the subject. In this endeavour, the Research Scholar made an attempt to define the term and suggested a concise definition of 'Mob Lynching'.

The study of the special legislations on cow protection in twenty-two States and seven Union Territories has enabled the Research Scholar in identifying the provisions that have led to a legislative overreach. It has been found that it is expedient to amend the provisions which grant immunity to persons who act in good faith, cast the burden of proof on the accused persons, criminalise incidental offences like transportation and possession beef and impose stringent punishment for incidental offences as these have created a legal framework for cow vigilantes to lynch.

The Research Scholar analyzed the Anti-Mob Lynching Bills passed by the States of Manipur, Rajasthan, West Bengal, Jharkhand and the Bill drawn by the NGO, National Campaign against Mob Lynching. The above-mentioned State Bills were also compared with the Draft Act drawn by National Campaign against Mob Lynching. The Research Scholar has found differences in definitions of the terms of 'Lynching' and 'Mob' and differing punishments for same offences in the various State Bills. Considering the cardinal principle of uniformity and certainty of law, it is opined by the Research Scholar that differing laws on the same subject do not instill confidence in the people. The Research Scholar has come to a conclusion that as the incidents of mob lynching span the length and breadth of India and to maintain uniformity of law, it is expedient to bring about a central legislation on the subject.

An examination of the relevant provisions of the procedural laws, namely, the Code of Criminal Procedure, 1973 and the Indian Evidence Act, 1872 revealed a need for

amending the same. It has been found on examination of the Code of Criminal Procedure, 1973 that:

- Lack of monitoring and guiding the officer-in-charge of the police station in investigation of cases by the superior police officers as required u/s. 36 has led to presenting evidence which does not stand the scrutiny of the court.
- Statements made to the police u/s. 161 though having high probative value are inadmissible in the court of law. This provision acts as an obstacle as it has often been found that witnesses resile from the statements previously made by them to the police officers during the trial which leads to the acquittal of the accused or granting of bail to the accused.
- Timelines for completing investigation and granting of bail u/ss. 57 and 167, respectively have led to the abuse by accused persons.

The Research Scholar, also examined the impediments in proper implementation of the Criminal Procedure Code, 1973 in relation to curbing crime in general and mob lynching incidents, in particular. It has been found that the long pending police reforms as to filling in the vacancies, training in scientific investigation of case, long working hours, etc., lack of witness protection law, lack of consensus as to the definition of the offence of ‘Mob Lynching’ and overlap of laws, pose obstacles in effective implementation of the Code of Criminal Procedure, 1973.

On analyzing the Indian Evidence Act, 1872, the Research Scholar found that the provisions pertaining to confession, especially under ss. 25 and 26 need to be amended as they act as an obstacle in trying offenders even in circumstances where they have been caught red-handed.

It has been inferred by the Research Scholar that amendments to the procedural and substantive laws should be made to not only remove the impediments in trying the mob lynching cases in particular but also criminal cases in general. It is further inferred that the amendment to the procedural laws shall to a large extent mitigate the incidents of mob lynching as the genesis of vigilantism lies majorly in failure of the criminal justice system.

From the above-mentioned analysis, the Research Scholar has found that the existing laws are insufficient to combat mob lynching incidents in India. The findings of Chapter 4 have enabled the Research Scholar to achieve **Objective No. 1, ‘To understand the challenges faced by the State and the Criminal Justice System**

**due to vigilantism and its extreme form of Mob Lynching in India’ and Objective No. 3, ‘To analyze the sufficiency and efficacy of the existing laws in tackling vigilantism’.**

In Chapter 6, entitled, ‘Analysis of Judicial Attitude vis-à-vis Vigilantism’, of the present study, the Research Scholar studied and analyzed the landmark judgements of the Supreme Court of India and the various High Courts pertaining to the constitutional validity of cow protection laws in the first segment as the genesis of cow vigilantism laid in the cow protection laws enacted by various States. In the second segment, case laws pertaining to vigilantism were studied by the Research Scholar.

With regard to the first segment of the chapter, the Research Scholar drew the following inferences:

- In questions affecting the interests of the society and the fundamental rights of individuals, the Supreme Court of India had given primacy to the societal interests. This was evinced in *Mohd. Hanif Quareshi & Ors. v. State of Bihar*<sup>605</sup>, wherein it held that a total ban on slaughter of cow and cow progeny, even after they ceased to be useful as milch and draught animals was unconstitutional. However, it upheld the ban on slaughter of cow and cow progeny that were below sixteen years of age and said that it did not violate the freedom of the Butchers from following their trade or occupation vide A. 19(1)(g) of the Indian Constitution.
- Reiterating its position on societal interest, especially in view of the fact that India was predominantly an agricultural country and that cow and cow progeny were integral to the agricultural sector, the Supreme Court of India upheld the total ban on slaughter of cow and cow progeny, irrespective of their age in *State of Gujarat v. Mirza Moti Kureshi Kassab Jamat and Ors.*<sup>606</sup>. It also upheld the constitutional validity of the Bombay Animal Preservation (Gujarat Amendment) Act, 1994. It declared that the Gujarat Amendment Act was not violative of Aa. 14, 19(1)(g), 25 and 29 of the Indian Constitution.
- Where the provisions deviated from the accepted norms of criminal jurisprudence and infringed upon the rights of the accused persons to a fair trial, the courts struck down the impugned provisions. To protect the interests

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<sup>605</sup> Supra note 487.

<sup>606</sup> Supra note 497.

of the accused persons, the High Court of Bombay<sup>607</sup>, struck down s. 9B of the Maharashtra Animal Preservation (Amendment) Act, 1995 which cast the burden of proof on the accused in prosecution of any of the offences laid down in the Act and declared it to be unconstitutional.

With regard to the second segment of Chapter 6, the Research Scholar analyzed the judgements pertaining to vigilantism and drew the following inferences:

- The swift and speedy disposal resulting into the conviction of the accused in *The State (through Md. Nijamuddin – Informant) v. Arun Sao & Ors.*, *State of Assam v. Sanjay Rajowar & Ors.* showed the intent of the Judiciary to set deterrents by awarding stringent punishment to the offenders and issue a warning to the perpetrators that enforcement of law was the function of the State and not that of private citizens.
- The Judiciary had observed in most of the cases that failure of law and order had prompted the perpetrators to punish the victim by causing grievous injuries in some cases and death in most of the cases. While making this observation, the courts had issued a warning to the perpetrators that they were not justified in taking law into their own hands. However, the Court in *The State of Maharashtra through P.S.O. Sadar, Nagpur v. Eknath Duryodhan Chauhan and Ors*<sup>608</sup> considered the frustration of the perpetrators as a mitigating factor and reduced the punishment.
- The Supreme Court of India has denounced State-backed vigilantism and declared *Salwa Judum*, a State-backed civil vigilante group formed to combat insurgency of the Naxalites in Chhattisgarh as unconstitutional in *Nandini Sundar and Ors. v. State of Chhattisgarh*<sup>609</sup>.
- The Supreme Court of India emerged as the true custodian of the Indian Constitution and intervened when the State machinery failed in combating an unprecedented rise in mob lynching incidents. It issued preventive, punitive and remedial measures to tackle the problem of mob lynching vide *Tehseen Poonawalla v. Union of India*<sup>610</sup>. It also directed the Central Government to enact a special law.
- The Courts have been wary of the cow protection laws that vested policing powers in private citizens and questioned the concerned State Governments.

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<sup>607</sup> Supra note 506.

<sup>608</sup> Supra note 541.

<sup>609</sup> Supra note 537.

<sup>610</sup> Supra note 547.

This activist role was carried out by the Punjab and Haryana High Court in *Mubbi alias Mubin v. State of Haryana*<sup>611</sup> vide order dated 30 April 2021 wherein it questioned the State Government as to the authority of cow vigilantes to carry out search and seizure of the property the victim.

- The Courts emphasized on the need for training the police in scientific investigation, evidence collection, recording of statements and witness protection laws in cases where it had to acquit the persons accused of mob lynching on technical grounds and where witnesses turned hostile.

The analysis of Chapter 6 has revealed the protectionist, activist and reformist attitude of the Judiciary in trying cases pertaining to constitutional validity of cow protection laws and mob lynching. Thus, through the analysis of various judgements in Chapter 6 and the inferences drawn from the same, the Research Scholar has achieved **Objective No. 4, 'To study and analyze the various judgements and judicial attitude towards vigilantism vis-à-vis punishment'**.

In **Chapter 7** of the present study entitled, '**Analysis and Interpretation of Data of the Empirical Study on Mob Lynching**', the Research Scholar conducted an empirical study to find out the causes of mob lynching in India, examine the sufficiency and efficacy of the existing laws in combating mob lynching in India, assess the need for enacting a special legislation and to find solutions to make criminal justice system robust so as to tackle the problem of mob lynching. The study was conducted by employing the questionnaire method. The various stakeholders of the criminal justice system, namely, Police Officers, Lawyers, Judges and Academicians in the field of law recorded their responses to the questionnaire. The data collected from **one hundred and twenty (120) respondents** was analyzed and interpreted in Chapter 7 and some of the important inferences arrived at by the Research Scholar are presented below:

- A 14.17% of the respondents singled out 'fear that offenders will escape punishment' as the cause of mob lynching in India while 10.83% of the respondents identified 'Political reasons' as the cause of mob lynching. A 9.17% of the respondents stated that 'Unenlightened citizens' were the cause and 5.83% of the respondents cited 'fear that social norms are being violated'

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<sup>611</sup> Supra note 600.



as its reason. A 50.83% of the respondents cited 'all of the above', namely, fear that offenders will escape punishment, Political reasons, Unenlightened citizens, fear that social norms are being violated to be the causes of mob lynching in India.

- An 83.33% of the respondents stated that the existing laws were not sufficient to combat mob lynching in India.
- A 45.83% of the respondents opined that mob lynching should be defined as a specific offence punishable under the Indian Penal Code, 1860 while 51.67% of the respondents stated that mob lynching should not be made punishable under the Indian Penal Code, 1860 as mere amendment to it would not be sufficient to curb future incidents.
- A 65% of the respondents stated that making mob lynching punishable under the Indian Penal Code, 1860 **alone would not be sufficient** to prevent future incidents of mob lynching while 34.17% of the respondents were of the opinion that making mob lynching punishable under the Indian Penal Code, 1860 would be sufficient to curb future incidents of mob lynching in India.
- A 36.67% of the respondents stated that a special legislation should be enacted to combat mob lynching in India while 50.83% of the respondents said that no special legislation was required as the problem lied in the procedural laws, proper implementation of the existing laws and in the administration of criminal justice system.
- A 65% of the respondents opined that a Central Legislation on mob lynching would be more effective than a State Legislation in preventing future incidents, **if a special legislation was to be enacted.** Persistence of mob lynching incidents across India, necessity of a uniform law and to prevent inaction by vested political powers at the State level have been cited as the main reasons by the respondents advocating a Central Legislation.
- The Respondents have unanimously agreed that bringing in police reforms, setting up an independent police force, amending procedural laws and Information Technology Law, completing investigation and trials within defined timelines, trying mob lynching cases in special courts and by special judges, setting deterrents and sensitizing citizens to abide by the law, would make the administration of criminal justice system more effective in curbing mob lynching incidents in India.

- The major thrust of the Respondents' advice to the citizens has been that the citizens have a bounden duty to respect rule of law and co-operate with the administration of justice in bringing the offenders to law. They have highlighted that practising self-discipline, not fanning rumours on social media, providing medical help to the victims, not falling prey to political and sentimental provocations, are the primary duties of the citizens in curbing mob lynching incidents in India.
- Thus, through the analysis of the data collected by the non-doctrinal study, the Research Scholar has achieved **Objective No. 2, 'To identify the underlying causes leading to vigilantism in India', Objective No. 3, 'To analyze the sufficiency and efficacy of the existing laws in tackling vigilantism' and Objective No. 5, 'To find out the necessity of enacting a special legislation to combat Mob lynching in India and suggest a draft legislation on it'**.

### **8.1.1 Testing of Hypotheses**

Based on the analysis of all the chapters and the above inferences, the Research Scholar has drawn conclusions on the hypotheses of the present research and the same are as follows:

**Hypothesis No. 1:** Inadequate laws and lacunae in implementation of existing laws have led to people losing faith in the Criminal Justice System, leading to rise in cases of vigilantism.

*The said hypothesis has been affirmed by inferences drawn in Chapters 4, 5, 6 and 7 of the present study.*

**Hypothesis No. 2:** Laws prohibiting cow slaughter have led to legitimization of vigilantism.

*The said hypothesis has been affirmed by inferences drawn in Chapters 4, 5 and 6 of the present study.*

**Hypothesis No. 3:** Vigilantism not only violates the right of the victim to fair trial but also right to life and equality as guaranteed by the Indian Constitution.

*The said hypothesis has been affirmed by inferences drawn in Chapters 4, 5 and 6 of the present study.*

## **8.2 SUGGESTIONS**

The present study has identified that the causes of vigilantism lie primarily in the society and politics, law and in the administration of criminal justice system of India. Reforms to the society and the criminal justice system are warranted to combat the problem of vigilantism in India. The lacunae in the existing substantive and procedural laws to tackle mob lynching as brought out by the present study warrants amendment to the existing laws and enactment of a special legislation on mob lynching. In an endeavor to achieve the same, the Research Scholar has suggested a multi-pronged approach to the problem of vigilantism in India. The first part of this segment deals with suggestions to make the substantive and procedural laws more effective in combating vigilantism. The second part deals with suggestions to improve the administration of criminal justice system which will help stem the mob lynching incidents triggered by commission of crime and suspicion of commission of crime. The third part will deal with the changes that need to be brought to the Indian society so as prevent future incidents of mob lynching.

The same are presented as under:

### **8.2.1 Suggestions to make the substantive and procedural laws more effective in preventing mob lynching incidents in India**

#### **8.2.1.1 Amendments to Cow Protections Laws in India**

The overreach of the cow protection laws prevalent in various States of India has enabled the cow vigilantes (Gau Rakshaks) to lynch within the framework of law. The following provisions of the cow protections laws need to be amended and they are as under:

**8.2.1.1.1 Private citizens should not be appointed as volunteers** - The provision which allows the State to authorise the appointment of private citizens to act as volunteers or informers should be done away with. No Private citizens should be vested with powers similar to that of the police. As it is under the guise of this provision, that the Gau Rakshaks have entered, searched the premises of a suspect and seized cattle. Also, it is under the refuge of this provision that the Gau Rakshaks have stopped the vehicles transporting cows, other agricultural cattle or beef and lynched the victims.

**8.2.1.1.2 Restrict the use of ‘good faith’ clause to public authorities alone** - The State cow protection laws have incorporated the ‘good faith’ clause which grant immunity from prosecution to those who act in good faith to achieve the objects of the said laws. The immunity is granted not merely to public authorities but also to private citizens who act to protect the cows. The blanket immunity to private citizens has emboldened them to carry out attacks on suspicion of cow slaughter, cow smuggling, etc. Private citizens (Gau Rakshaks) who are neither trained in policing functions, nor sensitized to fundamental and constitutional rights of the people cannot be trusted with the powers of public authorities. Vesting of policing powers in untrained civilians has led the Gau Rakshaks to abuse these powers leading to the death of many victims in the mob lynching incidents. Thus, the ‘good faith’ clause granting immunity from prosecution should be restricted only to public authorities and not to private citizens as it cloaks a vigilante.

**8.2.1.1.3 Reversal of burden of proof to be done away** - Presumption of innocence is a sacrosanct principle of the criminal jurisprudence. This principle requires the prosecution (State) to prove the guilt of the accused beyond reasonable doubt. Thus, the burden of proving the guilt is the responsibility of the State. The rationale underlying this principle is to enable an accused to avail the right to fair trial as envisaged under A. 21 of the Indian Constitution. Casting the burden of proof on the accused implies that he has to prove that the slaughter, transport or sale of agricultural cattle or beef was not in contravention of the cow protection law. It is against the rule of proving a negative fact. Proving the negative leads to hardship and oppression of the accused.

The provision which casts the burden of proof on the accused should be repealed as it is contrary to the sound principles of criminal jurisprudence. The various offences like cow slaughter, cow smuggling, etc. cannot be designated as heinous crime so as to deviate from the accepted principles of criminal jurisprudence. The burden of proving the guilt of the accused beyond reasonable doubt should be on the prosecution alone.

**8.2.1.1.4 Safeguards to be placed vis-à-vis punishment for transportation or sale, etc. of beef or beef products** - The provision punishing transportation, possession and sale of beef and beef products needs to be relooked. As pointed out earlier by the Research Scholar that this provision has widened the ambit of criminal justice system so as to create more offenders out of transporters, hoteliers, consumers and workers in

leather industry, it is necessary that safeguards should be put in place.<sup>612</sup> When Penologists across the world are exhorting the States to adopt decriminalisation and diversion methods so as to reduce the number of people coming within the fold of criminal justice system, it is not prudent to define incidental and innocent acts as offences, out of offences which are not heinous. Also, considering the possibility of innocent persons being punished under the cow protection laws, this provision needs to be either repealed altogether or amended with necessary safeguards.

**8.2.1.1.5 Offences to be made bailable** - Cow slaughter, cow smuggling, transporting or selling beef or beef products, etc. cannot be equated with heinous offences like terrorism, drug trafficking, possession of arms, etc. It is expedient that the offences under the cow protection laws be made bailable, albeit, cognizable as it has the tendency of amplifying the magnitude of the offence in the eyes of the public, leading them to take law into their own hands.

**8.2.1.1.6 Punishment for cow slaughter needs to be relooked** - The Research Scholar found direct linkages to stringent punishment and incidents of mob lynching. Life imprisonment is awarded as punishment by the State of Gujarat for cow slaughter. The States of Haryana, Jharkhand, Rajasthan, Uttarakhand and Uttar Pradesh have imposed a maximum prison term of ten years. In the State of Karnataka, second and subsequent conviction for slaughter is punishable with a prison term which may extend to seven years. Along with imprisonment, a fine of minimum of one lakh rupees and maximum of ten lakh rupees has been laid down.

Ironically, the States that have imposed stringent punishment, have witnessed more incidents of mob lynching than the rest of the States. Imposing stringent punishment is not a sound penological principle as the severity of the punishment alone does not deter a person from committing crime. It sometimes becomes counter-productive. Laying down stringent punishment for crimes which are not heinous magnifies their culpability in the eyes of the public. The public perceives it to be their righteous indignation to punish the suspected transgressor. And thus, this righteous indignation takes form of lynch mobs and enables the establishment of its tentacles in the society. And when perpetrators of lynching escape punishment, it only further legitimises their

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<sup>612</sup> Supra note 16.

actions. Thus, there is a necessity to relook the aspects of punishment and find alternative means to prevent cow slaughter.

### **8.2.1.2 Amendments to the Code of Criminal Procedure, 1973.**

**8.2.1.2.1 Senior Police Officers to mandatorily monitor and supervise investigation of cases** - The police officers of superior rank like District Superintendent of Police, Deputy Superintendent of Police, Circle Inspectors, etc. are vested with the supervisory powers under the Code of Criminal Procedure, 1973. They also have the power to monitor and guide the officer-in-charge of the police station in investigation of cases.<sup>613</sup> Lack of investigative skills of the subordinate police officers often leads to presenting evidence which does not stand the scrutiny of the court. Such weak evidence becomes inadmissible and often leads to acquittal of accused persons. The superior police officers do not discharge their duty to supervise and guide the subordinates which in turn leads to poor conviction rate. Thus, the senior police officers should be mandatorily made to supervise and guide the subordinate officer in investigation of cases. In case of lapse in this duty, the senior police officers should be held accountable.

**8.2.1.2.2 Statement made to police under Sections 161 and 162 of the Code of Criminal Procedure, 1973 to be made admissible as evidence and to be mandatorily signed by the maker** - The Code has empowered the police officers to orally examine witnesses who are acquainted with the facts and circumstances of a case which is under investigation. The statements so made may be reduced into writing by the concerned police officer and he is bound to make a separate and true record of the statement of each such witness.<sup>614</sup>

However, these statements made by the witnesses and accused persons to the police officers and reduced into writing are not to be signed by maker of the statements. Further, the Code lays down that such statements cannot be used as evidence during inquiry or trial. They can at the most be made use of to contradict the statements of the maker by the defence counsel.<sup>615</sup>

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<sup>613</sup> Supra note 477 at s. 36.

<sup>614</sup> Id. at s. 161.

<sup>615</sup> Id. at s. 162.

The above-mentioned rules have been laid down so as to ensure fair and impartial investigation. However, at the heart of this rule lies the fear and distrust for the police. Though the probative value of these statements recorded in the initial stages of investigations is higher, they are inadmissible in the court of law. This provision acts as an obstacle as it has often been found that witnesses resile from the statements previously made by them to the police officers during the trial which leads to the acquittal of the accused or granting of bail to the accused. This has been witnessed in many cases. Lack of trust in the police has made justice a casualty. Therefore, an amendment to ss. 161 and 162 should be made so as to enable the police officer record the statement of the maker in a narrative or question-answer form in writing. The statement should then be read over to the maker. If the statement recorded is found to be correct, it should be mandatorily signed by the maker. The admissibility of such duly recorded statements as evidence will prevent the witnesses from turning hostile during the trial.

**8.2.1.2.3 Safeguards to be brought in while granting bail when investigation is not completed as per the timelines stipulated under sections 57 and 167 of the Code of Criminal Procedure, 1973.** - If the investigation is not completed by the police and a charge-sheet is not filed within the time limits laid down in ss. 57 and 167, the arrested person is bound be released on bail, if he furnishes a bail.

The object of ss. 57 and 167 was to prevent the police from using third degree methods against the arrested person and to ensure an expeditious investigation of crimes. If the investigation has not been completed within the stipulated time frames, the accused persons would be entitled to a bail. Thus, this provision sometimes proves to be a boon to the accused persons. Delay in investigation and filing a charge-sheet has resulted into granting of bail to the accused persons in mob lynching cases. Sometimes, delay in investigation is made so as to facilitate the accused persons due to political interference.

This section should also provide safeguards in the form of vesting power in the judge to inquire into the delay in investigation and filing of charge-sheet. The Investigating Officer should be required to file a report on the delay to the judge and the same should also be signed by a superior police officer. The reasons alluded in the report should form the basis on which the judge should grant a bail. Also, the Code should

be amended to allow the judge to grant a further period of ninety days to complete the investigation and file a charge-sheet considering the nature and circumstances of the case.

**8.2.1.2.4 Including the victim's perspective in aspects of punishment in the form of Victim Impact Statements** - Criminal Justice System, more often than not, has become offender-centric. The victim's perspective is lost. It is important that the statement of the victims is taken to assess the impact of the crime on them and/or their family members. This will help the court in determining the quantum of punishment and the manner in which reparation to the victim can be brought about. In the administration of criminal justice system, it is imperative that a victim of crime feels that justice has been done. If this aspect is overlooked, it will permeate feelings of injustice and foment vigilante acts in the society. Just as a Pre-sentence report collects information of the offender, Victim Impact Statements should gather information from the victim and/or relatives of victims to assess the effect of crime on the latter. A provision to this effect should be inserted in the Code of Criminal Procedure, 1973 making it mandatory for the courts to record Victim Impact Statements.

### **8.2.1.3 Amendments to Indian Evidence Act, 1872.**

**8.2.1.3.1 Confessions made to superior Police Officers should be admissible** - Sections 25 and 26 of the Indian Evidence Act, 1872 exclude confessions made to a police officer and confessions made in the custody of a police officer to third persons from realm of admissibility. The scope of s. 25 is so wide that a confession made to a police officer in his private capacity is also rendered inadmissible. The general distrust of the police lies at the heart of these provisions. The cumulative effect of these sections makes even those confessions made voluntarily to the police by offenders who have been caught red-handed, inadmissible. This makes the task of the police and prosecution difficult in proving the guilt of the accused persons. The Indian Evidence Act, 1872 should be amended to make confessions to police officers of the rank of Superintendent of Police or above admissible in the court of law. However, the accused must be informed of his right to consult a lawyer. Such a confession



should be video-recorded.<sup>616</sup> The above suggestion finds support in the recommendation made by the Malimath Committee.

The Research scholar further suggests that the said video recording should be produced in the court of law with a certificate from the Government Forensic Science Laboratory that the electronic record has not been tampered with or doctored.

**8.2.1.3.2 Recording of statements of witnesses and examination of documents to be made by independent agencies comprising of Judicial Officers** - Witness statements should be recorded by Independent Agencies, Judicial Officers specially appointed for this purpose. These statements should be verified by higher authorities implying a person of the category of Retired Judge of High Court and then these statements after being verified by higher authorities should be directly admitted as evidence by the Court. If the documents are taken in evidence by investigating officer, such documents should be examined by these authorities, further testified by the departments and directly admitted as evidence. The process of examination and cross examination in courts need to be changed drastically. Only cross examination should be made permissible but statements verified by higher authorities, documents testified, should not be allowed to be challenged. If the witness changes his statement, the accused person should be punished for creating a situation for witness to change his statement. The accused should only get a chance to argue out on provisions of law and not on oral testimony of witnesses.

**8.2.1.4 Enactment of Witness Protection Law** - Witnesses turning hostile during the trial is a common problem faced by the criminal justice system. To counter this problem there is a necessity to have a specific law which affords protection to the witnesses from being threatened and suborned by the opponent party. On the recommendations made by the various Law Commissions and the Supreme Court of India in various cases, the Central Government in consultation with the National Legal Services Authority came up with the Witness Protection Scheme, 2018. However, the protection accorded to the witness cannot exceed a period of three months.<sup>617</sup> The threat to a witness can be beyond the period of three months. The Scheme ensures protection for a limited period only. Therefore, it may serve a limited purpose. The Scheme itself is not sufficient, a specific law is required to be enacted

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<sup>616</sup> Government of India, Report of the Committee on Reforms of Criminal Justice System (Ministry of Home Affairs, 2003).

<sup>617</sup> Supra note 483.

by the Parliament which should include furnishing new identities to the witnesses and relocating them for life.

#### **8.2.1.5 Regulation of Social Media Platforms in dissemination of rumours -**

Misuse of various social media platforms like WhatsApp, Facebook, Instagram have played a very important role in the incidents of mob lynching. Unfortunately, these social media platforms are largely unregulated and the existing laws are not adequate to tackle the problem. Besides, the social media companies do not take adequate steps to curb misinformation and rumours in the name of freedom of speech and expression of its users. The fear of losing users and business, prevents the social media companies from making stringent policies vis-à-vis dissemination of information through their platforms.<sup>618</sup> There is need to check their misuse by the masses and to penalise the failure of social media platforms to check its misuse. There is a compelling need for regulating of social media platforms to prevent dissemination of misinformation and disinformation and to make suitable amendment to the Information Technology Law.

### **8.2.2 Suggestions to improve the administration of criminal justice system**

**8.2.2.1 Creation of an independent wing of the Police Force -** For effective functioning of the administration of criminal justice system, an independent Police Force, like the Judiciary should be created. This would ensure independence from the executive and prevent political interference in investigation of cases. The political factors leading to cow vigilantism in various States across the country and political interference created a hindrance for the police to carry out an impartial and independent investigation in mob lynching cases. The consequent acquittal of the perpetrators had only led to further emboldening the people in taking law into their own hands.

**8.2.2.2 Improving the Police-to-population ratio and filling vacancies -** The Indian Police Force is presently working at a ratio of 144 police officers per 1,00,000 citizens while the recommended ratio by the United Nations is 222 policemen per 1,00,000 people. There exists an overall 30% vacancy in police force which should be filled. A

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<sup>618</sup> Supra note 6.

healthy police-to-population ratio and operation of the police force with its full strength would reduce the burden of the police and ensure equitable distribution of case load leading to timely investigation and disposal of cases. The Central and the State Governments should take steps on a war footing basis in this direction.

**8.2.2.3 Creation of separate teams for investigation and patrolling** - The primary role of the police is to maintain law and order and bring offenders to justice. However, in India, apart from these, the police carry out myriad functions like ensuring that various religious processions and gatherings are carried out peacefully, regulating the traffic when political leaders visit and carry out rallies, rendering assistance to citizens in face of natural calamities, etc. This puts a huge burden on the limited strength of the police force. This also interferes with carrying out effective investigation of the cases. It is suggested by the Research Scholar that a separate team of police for investigation of cases and another team for maintaining law and order should be created. The separation of investigation from patrolling will enable the police to function more effectively. The investigative team should comprise of police officers who are specially trained and skilled in evidence collection and investigation of crimes.

**8.2.2.4 Prosecution to advise and assist the Police in investigation, drafting and presenting evidence** - It has been found in many cases that the evidence gathered, recorded and presented by the police barely stands the scrutiny of the court resulting into the acquittal of offenders. This results in low conviction rate which erodes the confidence of the people in the administration of criminal justice system. To tackle this issue, it is suggested that from the stage of investigation itself legal advice should be given to the police in recording statements of the witnesses and suspects, framing the charge-sheet and on the evidence collated during the investigation. If the advice of prosecuting lawyer is sought right from the stage of investigation, it would help in building a strong case against the accused which would stand the scrutiny of the court, leading to improved conviction rate.

**8.2.2.5 Creation and deployment of Forensic Units to assist the police in collection of evidence** - It is important that the crime scene is preserved and the evidence is bagged and sealed without any contamination. The police are ill equipped

to deal with these aspects of collation of evidence. Therefore, it is imperative that separate forensic units are created and are attached to police stations. On receiving report of commission of crime, these units should be deployed immediately to secure the scene of crime and collect evidence. This would help the police in investigation as well as presenting evidence in the court of law.

**8.2.2.6 Improving the weaponry and working hours of the police** - In face of technological and scientific developments, arms and ammunition too have become more sophisticated. The outdated weapons used by the police force are no match in face of crimes committed using sophisticated weapons. Therefore, there is a need to equip the police with modern weapons and gadgets.

Considering the nature of job, the police face fatigue and burnout leading to mental health issues. To achieve this, healthy working hours should be maintained and the police personnel should be encouraged to go on annual vacations. Apart from the above, programmes to reduce stress of the police should be devised.

**8.2.2.7 Improving the Judge-to-Population Ratio and filling the judicial vacancies** - The Judge-to-Population ratio in India is dismally low. The criminal justice system in India functioned with merely 21.03 judges per million population for the year 2020.<sup>619</sup> On the other hand the number of cases pending in the various courts are to the tune of 4.5 crores. The figures show that the Indian Judiciary is not fully equipped to deal with the cases that come up before it. There is presently a vacancy of 42% of the sanctioned posts for judges in High Courts and 21% in the Subordinate Courts.<sup>620</sup> The judicial vacancies in the various courts and the poor Judge-to-Population ratio have a direct co-relation to the disposal of the cases. Delayed justice leads to erosion of faith of the people in the criminal justice system. It is imperative that the ratio is improved and all judicial vacancies are filled.

**8.2.2.8 Imposition of costs for frequent adjournments sought by the party** - Seeking frequent adjournments by lawyers and their award by the judges hampers the

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<sup>619</sup> PTI, *Judge-population ratio stood at 21.03 judges per million people in 2020: Law minister*, THE ECONOMIC TIMES (Aug 5, 2021), <https://economictimes.indiatimes.com/news/india/judge-population-ratio-stood-at-21-03-judges-per-million-people-in-2020-law-minister/> (Last visited on Nov 13, 2021).

<sup>620</sup> O. Kumar and S. Dutt, *Pendency and Vacancies in Judiciary*, PRS LEGISLATIVE RESEARCH (Oct 11, 2021), <https://prsindia.org/policy/vital-stats/pendency-and-vacancies-in-the-judiciary/> (Last visited on Nov 13, 2021).

functioning of the courts and delays the justice dispensation. Such adjournments cause inconvenience to the other party to the case as well as to the witnesses who are called to testify. Section 309 of the Procedure of Criminal Code, 1973 stipulates that adjournment should be granted only where it is necessary and the reasons for the same should be recorded by the judge. The section also gives a discretionary power to the judge to grant adjournment subject to imposition of costs. However, the guidelines given under this provision are not often followed by the courts. Therefore, s. 309 should be amended so as to impose mandatory costs on the party seeking adjournment.

**8.2.2.9 Reducing sentencing disparities** - Certainty and uniformity of law and its application are the hallmarks of a competent justice dispensing administration. The judiciary is charged with an onerous duty to balance the thin line between certainties in application of law and meet the goals of punishment vis-à-vis individualization. The sentence itself and the sentencing process should echo the criminal jurisprudence which is nothing but the conscience of the society.

However, disparities in sentencing and inadequate punishment have only fomented discontent and distrust of the administration of criminal justice system amongst the masses. This has been evidenced in many mob lynching incidents. While it is accepted that sentencing cannot be reduced to a mathematical calculus as offenders differ in their personality, motives and manner in which the crime is committed but common goals and principles of punishment can be set. This can be laid down in the form of sentencing guidelines by the legislature in consultation with the criminologists, penologists and psychologists. Likewise, refresher training and sentencing circles should be formed to enable the judiciary to reflect upon the sentencing jurisprudence and help it devise coherent sentencing principles. To repose the faith of the society in the administration of criminal justice system, coherent and sound sentencing policies need to be formulated and applied.

## **8.2.3 Politics and Society**

**8.2.3.1 Permanent disqualification of Political parties and Politicians fomenting caste, religious and social divide from contesting elections** - The Research Scholar in the present study found that there was a nexus between political parties and the vigilante groups which led to mob lynching incidents related to cow, religion and

caste. The political backing, open and brazen support to the perpetrators of lynchings has only further emboldened them. The political parties and politicians, fomenting caste and religious-based divide for their vested interests should be permanently disqualified from contesting elections.

**8.2.3.2 Citizens to cultivate respect for constitutional and democratic values** - The form of governance, the state of the nation, the criminal justice system and the various organs of the State are not independent of a society. They have been born out of the society and become important appendages or extensions of the society. The success or failure of these appendages is also incumbent on the society and its people. India is a democratic country and it is governed by the Constitution. It is the bounden duty of the citizens to ensure that they respect the constitutional rights of the others and abide by the fundamental duties. Sight should not be lost that the rights conferred by the constitution are not subject to caste, religion, race, language and place of birth of a citizen. These are guaranteed to every citizen, equally. It is the right of every citizen to be treated equally. Rule of law is the edifice on which the pillars of democracy stand. Attacks on citizens due to religious and caste-based differences are a direct attack on the constitution and lead to its subversion. These attacks infringe not only upon the victims' right to equality but also right to life and liberty. Citizens should not fall prey to political and religious provocations and fan rumours spreading hate. They should refrain from being instruments of hate and violence. In a civilized society, State alone has the power to punish. None are above law. Citizens cannot take law into their own hands save, in the exercise of right of private defence. Even this right is not absolute. It permits the use of power or force on the perpetrator till the danger or threat is averted. Once the threat abates, right of private defence ends and the perpetrator is to be handed over to the public authorities. Citizens cannot mete out punishment in the form of mob justice. Rising crime rate and poor conviction rate cannot be used as a justification for extra-judicial executions. Co-operating with the police in identifying perpetrators of crime, testifying as witnesses and furnishing information of commission of crimes will aid the criminal justice system and help improve the conviction rate. Lynching offenders or suspects of commission of crime violates their right to life and right to a fair trial on one hand and negates the rule of law on the other. Thus, the citizens need to cultivate respect for constitutional and

democratic values, failing which, the institutions of State, the Society and the State will collapse.

#### **8.2.4 MODEL LEGISLATION**

The Supreme Court of India had in 2018 suggested to the Central Government to consider enacting a special legislation to curb mob lynching incidents in India. The Central Government is yet to legislate on the subject. The States of Manipur, West Bengal, Rajasthan and Jharkhand have passed the Anti-Mob Lynching Bills in their respective State Assemblies. The Bills are yet to receive the assent from the President of India as the Governors of the respective States have referred the matter to the President of India. Further, the empirical study conducted by the Research Scholar revealed that 83.33% of the respondents opined that the existing laws are inadequate to combat mob lynching. A 65% of the respondents stated that making mob lynching punishable under the Indian Penal Code, 1860 **alone would not be sufficient** to prevent future incidents of mob lynching. A 36.67% of the respondents stated that a special legislation should be enacted to combat mob lynching in India and 65% of the respondents opined that a Central Legislation on the subject should be enacted. In view of the above, the Research Scholar has suggested the following Model Legislation to prevent and punish mob lynching incidents in India.

#### **MODEL LEGISLATION ON THE PREVENTION OF MOB LYNCHING ACT, 2022.**

*An Act to preserve the rule of law as well as to protect the human rights of individuals and Constitutional rights of the citizens of India, to provide punishment to the perpetrators of mob lynching and to provide for special courts for speedy trial and restorative justice in mob lynching cases, to prevent future incidents of mob lynching in order to maintain peace and harmony in the country and for other incidental matters.*

WHEREAS in the last decade an outbreak of mob lynching incidents has been witnessed in India leading to considerable loss to victims in the form of physical injuries, loss of life and livelihood;

AND WHEREAS it is expedient to prevent incidents of mob lynching, to punish acts of lynching in India and provide compensation to the victims thereof;

AND WHEREAS it is deemed imperative in the present Indian scenario, to enact a special legislation to uphold the rule of law and protect the constitutional rights of victims of mob lynching:

Be it enacted by the Indian Parliament in the seventy-third year of the Republic of India as follows:

## **Chapter I**

### **Preliminary**

#### **1. Short Title, Extent and Commencement. –**

- (1) This Act shall be called ‘The Prevention of Mob Lynching Act, 2022’.
- (2) This Act shall be equally applicable throughout India.
- (3) This Act shall become effective on the date notified by the Central Government in the Official Gazette.

#### **2. Definitions Clause. –**

- (a) “appropriate government” means the Central Government or Government of a State and also includes the administration of a Union Territory in India;
- (b) “code”, in this Act means the Code of Criminal Procedure, 1973;
- (c) “communication device” shall have the same meaning designated under the Information Technology Act, 2000;
- (d) “hostile environment” means creating an intimidating and coercive environment against a victim and/or family members of the victim and/or any witness and/or any person aiding the witness or a victim. The creation of hostile environment includes subjecting the victim and/or family member(s) of the victims and/or witness(es) to any of the following acts: -
  - (i) deprivation or threatening the deprivation of fundamental rights; or
  - (ii) boycott of trade or business of such members in order to create hurdle in earning sustainable livelihood; or
  - (iii) externing of the victim and/or any witness and/or their family members from their permanent locality; or



(iv) force the victim and/or family members of the victim and/or any witness to leave place of residence or livelihood; or

(v) exclusion from public services such as education, health, transportation or prohibition on sharing of common resources like water, parks, etc., or any act of indignity; or

(vi) any other act with an intention of creating an intimidating, coercive and hostile environment;

(e) “lynching” is an act or series of acts of violence, whether spontaneous or planned, perpetrated by a mob on a person or persons for violations or perception of violations of law, social, cultural and religious norms.

Explanation 1: The acts of abetting or attempting to use violence as afore-said would also constitute the offence of lynching.

Explanation 2: Abetting means and includes abetment by way of instigation, conspiracy and aiding the commission of the offence of lynching.

Explanation 3: The words social, cultural and religious norms imply rules or behavioural expectations and thoughts based on a belief system prevalent within specific social, cultural or religious groups; These include matters pertaining to religious practices, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity and any other related ground;

(f) “mob” means two or more individuals who have gathered with an intention of lynching;

(g) “offensive material” means any material or content expressed in words, figures or any visible representation that can be reasonably construed to incite a mob to lynch a person on the grounds of commission or suspicion of commission of crime, of religion, ethnicity, gender, origin, linguistic background, dietary practices, sexual orientation, political leanings, or any other related ground;

(h) “public servant” shall have the same meaning assigned to in section 21 of the Indian Penal Code, 1860 as well as under any other law;

(i) “victim” shall mean any deceased person, or any other person who has suffered physical, mental, psychological or monetary harm due to mob lynching. This term also includes legal heirs of a deceased victim;

(j) “victim impact statement” shall mean a written or oral account given by the victim or his relatives, of the physical, emotional and psychological harm, economic loss and damage to the property, suffered by the victim to the court or an officer appointed by the court;

(k) “witness” means any person who is acquainted with the facts and circumstances which are helpful and required for the purpose of investigation, inquiry or trial of any offence committed under this Act, and any person who is or may be required to make a statement or produce any document during investigation, inquiry or trial. It also includes a victim of any offence committed under this Act.

(2) Words and expressions used herein and not defined in this Act but defined in Code of Criminal Procedure, 1973, or in the Indian Penal Code, 1860, or in the Police Act, 1861, shall have the same meanings assigned to them in those Acts.

## **Chapter II**

### **Duties of the State Governments, Nodal Officers, Police Officers and Magistrate in Prevention of Mob Lynching Incidents**

**3. Duties of the State Governments.** – (1) An officer of the rank of Superintendent of Police and above shall be appointed as a Nodal Officer for every district by the State Governments.

(2) Identification of districts and places where mob lynching incidents have occurred in the last five years shall be made by the State Governments forthwith.

(3) Directions or recommendations shall be issued by the Secretary, Home Department of the State to the Nodal Officers so as to make sure that the Station House Officer in the places so identified in sub-section (2) mentioned above are more vigilant in case a mob lynching incident occurs in the area of their superintendence.

**4. Appointment of a Nodal Officer.** – (1) An officer of the rank of Deputy Superintendent of Police shall aid the Nodal Officer appointed under section 3 in curbing mob lynching incidents.

(2) The Nodal Officer and the Deputy Superintendent of Police shall set up a separate squad to obtain information of persons who have a likelihood of engaging in mob lynching incidents and of persons who have made inflammatory speeches, utterances fanning hatred or have spread misinformation through various media.

**5. Duties of a Nodal Officer.** – (1) Frequent meetings with the separate squads constituted to gather information and the Station House Officers in the district are to be convened by the Nodal Officer in order to recognize the circumstances which can lead to mob lynching incidents and adopt suitable measures to prevent propagation of offensive material by means of social networking websites or any other media for fanning hatred.

(2) It shall be the duty of the Nodal Officer to –

(i) endeavour and eliminate hostile environment created against any group of persons that has been victimized in mob lynching incidents;

(ii) draw the attention of the Director General of Police to any problems pertaining to co-ordination with other districts in formulating a plan of action so as to combat mob lynching in the State;

(iii) personally supervise and ascertain that the investigation of the offences pertaining to mob lynching is conducted efficiently and to ensure that the charge-sheet is registered within the stipulated time frame from the date of filing the First Information Report or apprehension of the perpetrator.

**6. Duties of a Police Officer.** – (1) It shall be the duty of every police officer to undertake all appropriate measures in the area of his superintendence to curb the acts which have a tendency to provoke lynching as well as the acts of lynching. In order to achieve the object, -

(i) every endeavour shall be made to recognize and curb propagation of offensive material or other methods used to instigate or advocate lynching of a particular individual or group of individuals;

(ii) every endeavour shall be made to curb lynching in consonance to the powers conferred on him by law;

(iii) every endeavour shall be made to curb circumstances creating hostile environment against an individual or group of individuals targeted in incidents of mob lynching.

(2) Every police officer shall employ all possible measures to his fullest extent to curb the occurrences of various offences specified in this Act.

**7. Duties of a District Magistrate.** – (1) When the District Magistrate or the Commissioner of Police have a reason to believe and apprehend that the circumstances have become conducive to lynching in his area of superintendence, he may, by a written order, forbid any action that has a tendency to incite lynching and the actual commission of lynching.

(2) Every feasible step shall be taken by the District Magistrate or the Commissioner of Police to his fullest extent to curb circumstances creating hostile environment against an individual or group of individuals targeted in incidents of mob lynching.

### **Chapter III**

#### **Preventive Measures in combating Mob Lynching**

**8. Duty to take preventive measures.** – (1) Every Station House Officer shall adopt all necessary measures to avert instigation, perpetration and spread of mob lynching incidents in the area under his superintendence and in order to achieve this object, -

(i) strive to discern the modus-operandi of outbreaks of violence that led to targeting of particular individuals or group of individuals in the area under his superintendence and recognize the circumstances leading to the creation or prevalence of hostile environment against such an individual or group of individuals;

(ii) gather intelligence about the possibility of occurrence of a mob lynching incident;

(iii) act in consonance to the powers conferred on him by law in pursuance of his duty to arrest mob lynching incidents.

(2) It shall be the duty of every police officer to carry out his functions swiftly, impartially and fairly.

**9. Power to disperse a mob.** – Every Station House Officer shall be duty bound to use all the powers vested in him under section 129 of the Code in order to disperse a mob.

## **Chapter IV**

### **Punishment for Lynching**

**10. Punishment for Lynching.** – Any person who engages in lynching which leads to, - (i) the victim suffering hurt, shall be punished with either rigorous or simple imprisonment along with fine. Such a person shall not be sentenced to a term less than one year and more than seven years. The fine that he shall be liable to pay shall not exceed one lakh rupees;

(ii) the victim suffering grievous hurt, shall be punished with either rigorous or simple imprisonment along with fine. Such a person shall not be sentenced to a term less than three years and more than ten years. The fine that he shall be liable to pay shall not exceed three lakh rupees;

(iii) the death of the victim, shall be sentenced to death or life imprisonment and shall also be liable to a fine which shall not exceed twenty-five lakh rupees.

Any fine levied by the court under this section shall be remitted to the victim or his legal heir(s).

**11. Punishment for conspiring or abetting the act of lynching.** – Any person found guilty of conspiring or abetting the act of lynching shall be liable to a punishment similar in manner and extent to that of the actual perpetrator.

**12. Punishment for interfering with the administration of justice.** – Any person who – (i) voluntarily or having a reason to believe that a person has committed an offence under this Act, assists that person in a way which leads to prevention, resistance or interference with his apprehension, trial or conviction shall be liable to be punished with a prison term of not more than five years along with fine;

(ii) in order to prevent a person from testifying as a witness in an investigation or trial of an offence under this Act, employs coercive measures which endanger his person or property or the person or property of any individual in whom the witness is interested shall be liable to be punished with a prison term of not more than five years along with fine.

## Chapter V

### Ancillary Offences and their Punishment

**13. Punishment for propagation of Offensive Material.** – any person who publicizes, conveys or propagates any offensive material, physically, orally or in an electronic form shall be liable to be punished with a prison term of either description of not less than one year and not more than three years along with a fine not exceeding fifty thousand rupees.

**14. Punishment for creating or imposing hostile environment.** – Any person who creates or imposes a hostile environment on an individual or a group of individuals shall be liable to be punished with a prison term of either description of not more than three years along with a fine not exceeding one lakh rupees.

**15. Punishment for causing destruction of any property.** – Any person who destroys property, whether public or private, movable or immovable while committing the offence of lynching, shall be liable to be punished with either rigorous or simple prison term of not less than one year and not more than three years along with fine. The Court may impose a fine which amounts to twice the value of destruction caused to the property or a sum equivalent to the loss caused to the property.

**16. Authority of the Court to levy collective fine.** – If it is found to the satisfaction of the Court that people living in a locality have committed or abetted an offence which is punishable under this Act, or harboured persons who have committed an offence punishable under this Act or refrained from assisting the police in discovering or apprehending the perpetrator or perpetrators or suppressed cogent evidence pertaining to the offence, it may levy a collective fine on all families living in the locality where such an offence was committed. The Court shall levy an equal amount of fine on each family in such locality so as to recover the collective fine.

**17. Punishment for abusing the process of law, not obeying the process of law, etc.** – (1) Whoever causes search of any person's premises or his apprehension by intentionally or malignantly furnishing false information shall be liable to be punished to a prison term of not more than two years or with fine not exceeding fifty thousand rupees or with both.

(2) Whoever,

(i) bound by law to speak the truth of commission of any offence under this Act, refrains from answering any question posed to him by an authorized person in consonance to the powers vested in him by this Act; or

(ii) declines to put his signature on a statement made by him in an investigation, inquiry or any judicial proceeding under this Act, which he is bound to sign before an authorized person; or

(iii) fails to appear before an authority under this Act inspite of receiving summons to that effect, shall be liable to pay a fine of not less than one thousand rupees but not more than ten thousand rupees for every default made by him.

(3) before imposing a fine on the transgressor under this section, no order shall be passed by the authorized person mentioned in sub-section (2) without according him an opportunity of hearing.

(4) Whoever deliberately refuses to comply with any order or directive given under this Act shall be prosecuted under section 174 of the Indian Penal Code, 1860 in addition to an imposition of fine under clause (iii) of sub-section (2) of this Act.

**18. Dereliction of duty by Police Officer.** – (1) Whenever an omission is made by a police officer entrusted with the responsibility of preserving law and order in a locality, in employing the powers conferred on him by law, without any justification, and consequently, falls short in preventing the occurrence of mob lynching incident, shall be held liable for dereliction of duty.

Explanation. – Other than what is stated in sub-section (1) of this section, dereliction of duty by a police officer shall also constitute the following acts:

(i) failing to accord protection to a victim of mob lynching incident;

(ii) failing to take adequate steps when circumstances have become conducive to lynching;

(iii) declining to document any information pertaining to the commission of an offence under this Act in accordance to sub-section (1) of section 154 of the Code; and

(iv) failing to discharge his duties under sections 5, 6 and 8 of this Act.

**19. Punishment for dereliction of duty by a Police Officer.** – A police officer found guilty of dereliction of duty shall be liable to be punished with a prison term of either description not less than one year and not more than three years along with a fine which shall not exceed fifty thousand rupees. Such a police officer shall be punished in accordance to this section notwithstanding the fact that he may be liable to a punishment for failing to discharge his duty under any other law which is in force.

**20. Dereliction of duty by District Magistrate and punishment thereof.** – If a District Magistrate empowered to take action in accordance to this Act,

(i) uses the authority conferred on him malafidely, which results or is likely to result into an injury to any individual or property;

(ii) intentionally refrains from using the authority conferred on him by this Act and falls short in preventing the occurrence of mob lynching incident, shall be liable to be punished with a prison term of either description for not less than one year and not more than three years along with a fine which shall not exceed fifty thousand rupees.

## **Chapter VI**

### **Procedure for Investigation, Prosecution and Trial**

**21. Code of Criminal Procedure, 1973 to apply.** – The provisions of the Code of Criminal Procedure, 1973 shall be applicable for the purposes of carrying out the investigation, prosecution and trial of offences under this Act, excepting to the extent of an amendment made to any of the provisions of this chapter.

**22. Nature of offences under the Act.** – Except as otherwise provided, every offence defined in this Act, shall be cognizable, non-bailable and non-compoundable.

**23. Senior Police Officers to investigate and monitor.** – A police officer of the rank of Inspector of Police and above shall undertake the investigation of any offence perpetrated under this Act. An officer of the rank of Superintendent of Police and above shall directly monitor the investigation and provide guidance to the investigating officer in matters not only relating to investigation but also in preparing the investigation report.



**24. No sanction required for prosecution.** – If the court is satisfied that an offence defined under this Act has been committed, it may take cognizance of such an offence. No sanction from a superior authority is required to prosecute a person for committing an offence under this Act and to this end, sections 196 and 197 of the Code shall not apply.

**25. Designated Judge to try the cases.** – Notwithstanding any provision laid in the Code or in any other law which is in force, trial of the offences under this Act shall be conducted by a Designated Judge appointed for the said purpose.

**26. Appointment of Designated Judges.** – (1) The Appropriate Government shall in consultation with the Chief Justice of the High Court appoint Designated Judges for trial of offences committed under this Act by notifying the same in the Official Gazette.

(2) A person who is or has been a Sessions Judge under the Code shall be qualified to be appointed as a Designated Judge or Additional Designated Judge under this Act.

**27. Trial Procedure and Powers of a Designated Judge.** – (1) The Designated Judge shall adopt the procedure laid down for trial of warrant cases in the Code while trying an accused person under this Act.

(2) In so far as the provisions of the Code are consistent with this Act, they shall be applied to any trial before a Designated Judge appointed under this Act. The Court of the Designated Judge shall be considered to be a Sessions Court with regard to the said provisions.

(3) An accused person being tried for an offence under this Act, may also be tried by a Designated Judge for an offence punishable under any other law, if he has been charged with it in the same trial under the Code, provided that it is linked to the offence punishable under this Act.

(4) During a trial proceeding under this Act, if it is proved that the accused person has committed another offence, irrespective of the fact that the such an offence is punishable or not under this Act, the Designated Judge may adjudge him guilty of committing such an offence and award him a punishment sanctioned by law.

(5) Notwithstanding anything contained in the Code, the trial proceeding of an offence under this Act shall be conducted daily by the Designated Judge, except in circumstances not under the control of the parties to the proceeding.

In case a Designated Judge is not able to conduct the trial proceeding of an offence daily, he shall record the reasons thereof in writing.

(6) To the extent possible, the Court should record the statements of victims and witnesses within 180 days from the date of framing the charge.

(7) To the extent possible, the Court should make sure that no witness is obliged to appear before it on more than two dates of hearing.

(8) The Designated Judge shall record the Victim Impact Statement or admit the same where it has been presented to the court in writing. The Designated Judge shall take account of the Victim Impact Statement at the sentencing stage and in determining the quantum of compensation and relief to the victim and/or relatives of the victim.

**28. Duties of the Court, Police and Appropriate Government towards witnesses, informers and victims during trial.** – (1) During any trial proceeding under this Act, a Designated Judge may initiate necessary steps to conceal the identity and address of the witness, suo motu or on an application tendered by a witness or by the prosecution.

(2) The victim shall not only be given a notice of the trial proceedings but also an opportunity of hearing shall be accorded on matters pertaining to sentencing, conviction, grant of bail, parole or discharge of the accused person(s). The right of the victim under this sub-section shall also extend to filing written submissions on sentencing, acquittal and conviction of the accused person(s). The right of the victim shall be further extended to receiving a notice of any other related proceeding under this Act and according an opportunity of hearing at such a proceeding.

(3) The victim shall be apprised in writing by the Superintendent of Police, of the developments made in the investigation of the offence, of the arrests made in the case, whether the arrested persons have been charge-sheeted, released on bail, formally

charged or convicted. In case a person has been formally charged with an offence, the name of the person so charged shall be intimated to the victim.

(4) Apart from a copy of the statement made by a witness at the stage of inquiry or investigation, copies of the charge-sheet, closure report and all other statements and documents kept under section 173 of the Code are to be furnished to the victim by the police.

(5) If a victim desires to avail free legal aid or decides to secure the services of a lawyer enrolled as a Panel Lawyer under the Legal Services Authorities Act, 1987, the expenses and costs incurred by the lawyer and his retainer shall be borne by the State Legal Aid Services Authority set up under the said Act. The right conferred upon a victim under this sub-section shall also extend to an informer in a case being tried under this Act.

(6) The Designated Judge conducting the trial proceedings under this Act may allow the prosecution of the accused by a lawyer recommended by the victim. The victim is entitled to this right even when there are provisions in other laws which run contrary to sub-section (6) of this section.

Provided that any person, apart from the Advocate-General or Government Lawyer or a Public Prosecutor or Assistant Public Prosecutor, can prosecute only after obtaining permission from the Designated Judge.

(7) The Appropriate Government shall bear the expenses of engaging a lawyer recommended by the victim for the purposes of prosecuting the case.

(8) The Appropriate Government is duty bound and responsible to accord protection to the victims and witnesses of any offence committed under this Act from coercive practices adopted, inducement offered and violence perpetrated by the accused person(s). For the said purpose, the Appropriate Government shall undertake all necessary measures.

(9) The Appropriate Government is duty bound to apprise the Designated Judge of the security measures undertaken to protect a witness, victim or informer. The Designated

Judge is bound to carry out a periodic assessment of the security measures undertaken and issue suitable directives, if deemed necessary.

(10) The Investigating Officer is duty bound to register any oral or written complaint made by a witness, victim or informer against the accused person(s) for adopting coercive practices, offering inducement or perpetrating violence. The Investigating Officer is also duty bound to send the copy of the complaint within twenty-four hours of its registration to the Designated Judge.

**29. Appropriate Government to constitute a Review Committee.** – (1) Notwithstanding any provision laid in the Code, the Appropriate Government shall constitute a Review Committee helmed by an officer of the rank of Inspector-General of Police, in case an Investigating Officer fails to frame a charge-sheet with respect to an offence punishable under this Act, within three months of registering the First Information Report. If the said committee comes to a finding that a fresh investigation needs to be carried out, it may issue directives to that effect and such an investigation shall be carried out by an officer of the rank of Deputy Superintendent of Police and above.

(2) Where the trial of offences under this Act ends in an acquittal, the committee set up in accordance to sub-section (1) may review the case and issue orders for filing an appeal, if it deems it necessary in the interests of justice.

(3) A report of the findings of the review and the steps taken by the committee set up in accordance to sub-section (1) shall be submitted by it to the Director General of Police.

## **Chapter VII**

### **Treatment, Compensation and Rehabilitation**

**30. Medical Treatment of victims.** – (1) It shall be the duty of all private or public hospitals, irrespective of the fact that they are administered by the State or any private individual to give emergency medical aid and/or treatment without any delay to the victim of mob lynching and apprise the police of the occurrence of the incident forthwith.

(2) All the State-run hospitals shall give free medical treatment to the victim of mob lynching.

(3) Where the victim is or has been given a medical treatment by a hospital or a clinic or medical center not run by the Central Government, State Government or local bodies, the cost of treatment and any medical expenses related thereto shall be borne by the Appropriate Government.

**31. Compensation to victims.** – (1) The Appropriate Government shall frame a scheme to provide compensation to the victim of mob lynching as per the guidelines delineated in section 357A of the Code and shall pay the same to the victim within thirty days of the occurrence of the mob lynching incident.

(2) Where a victim of mob lynching incident dies, the compensation shall be remitted to his legal heir(s).

(3) In determining the compensation, the Appropriate Government shall consider the extent of injuries caused to the body, mind and property of the victim, loss of remuneration as well as loss of employment opportunities, learning loss, legal and medical costs.

(4) Remittance of any fine imposed under section 10 of this Act shall be made to the victim or his legal heir(s) in case of his death.

**32. Rehabilitation of displaced victims.** – (1) Where the victim and his family members are rendered displaced from their place of residence as a consequence of any of the offences committed under this Act, it shall be the duty of the Appropriate Government to provide accommodation to them and adopt all adequate measures in the rehabilitation of the victims.

(2) Where more than fifty persons are displaced as a consequence of any of the offences committed under this Act, it shall be the duty of the Appropriate Government to establish relief camps as per the guidelines delineated in section 33 of this Act.

**33. Appropriate Government to establish Relief Camps.** – (1) It shall be the duty of the Appropriate Government to establish relief camps for all victims in a secure place, where more than fifty persons have been displaced as a consequence of any of the offences committed under this Act.

(2) Till the displaced persons return to their place of residence or are relocated in another suitable place, it shall be the duty of the Appropriate Government to run the relief camps so established by it under sub-section (1) of this section.

(3) It shall be the duty of the relief camps to provide to all those placed in them, without any discrimination and under all circumstances:

(a) suitable accommodation which not only affords protection to the inhabitants of the relief camps from harsh climatic conditions but also accords privacy to the female inhabitants;

(b) round-the-clock police protection;

(c) potable drinking water, adequate and nutritious food which is culturally appropriate;

(d) adequate clothing which is not only culturally appropriate but also weather appropriate;

(e) primary medical facilities which include ante-natal care, post-natal care for pregnant women, child health care and services for dealing with emergencies and recuperation of those injured;

(f) counselling and psychiatric care to deal with trauma and psychological issues;

(g) day-care facilities for young children;

(h) facilities for imparting education to children;

(i) adequate sanitation;

(j) specialized services and aid to minors who have been separated from their parents, single mothers, persons with disabilities and older people.

## **Chapter VIII**

### **Appeals**

**34. Right of Appeal.** – Notwithstanding any provision laid down in the Code, –

(1) it shall be the right of any of the parties to the proceedings under this Act to file an appeal against any judgement, order or decree passed by a Designated Judge to the

High Court on questions of law as well as facts. However, the right of appeal shall not extend to any interlocutory orders passed by the Designated Judge;

(2) such an appeal so mentioned in this section shall be filed not later than sixty days from the date on which the judgement, order or decree was passed by the Designated Judge.

Provided that the High Court on being satisfied that the appellant had a strong justification for not filing an appeal within the stipulated period of sixty days, may condone the delay and permit the appellant to file an appeal after the expiration of sixty days.

## **Chapter IX**

### **Miscellaneous**

**35. Power of the Central Government to remove difficulties.** – In case any difficulties are encountered in implementing the provisions of this Act, the Central Government, may by publishing an order in the Official Gazette, enact provisions consistent with this Act in order to remove such difficulties.

**36. Non-derogation Clause.** – The provisions specified in this Act are in addition to, and not in derogation of any other law for the time being in force.

*‘Respect for the rule of law is not optional; it's fundamental’.*

**- Frans Timmermans**

# REFERENCES

## Bibliography

- 1) ALBERT V. DICEY, LAW OF CONSTITUTION (Springer, 10th ed. 1985).
- 2) DR. MATA PRASAD, INDIAN HISTORY (Central Law Agency, 1st ed. 2008).
- 3) ELIZABETH RALPH-MORROW, *Vigilantism in the United Kingdom*, in VIGILANTISM AGAINST MIGRANTS AND MINORITIES 229 (Routledge, 1st ed. 2019).
- 4) H. V. SREENIVASA MURTHY, HISTORY OF INDIA, PART-I (Eastern Book Company, Reprint 2014).
- 5) HELEN TAYLOR GREENE & SHAUN L. GABBIDON, AFRICAN AMERICAN CRIMINOLOGICAL THOUGHT (State University of New York Press, 2000).
- 6) JAMES E. CUTLER, LYNCH LAW: AN INVESTIGATION INTO THE HISTORY OF LYNCHING IN THE UNITED STATES (Longmans, Green, and Company, 1905).
- 7) JOHN C. FREDRIKSEN, REVOLUTIONARY WAR ALAMANAC (Infobase Publishing, 1st ed. 2006).
- 8) K. D. GAUR, COMMENTARY ON THE INDIAN PENAL CODE (Central Law Publication, 3rd ed., 2019).
- 9) K. I. VIBHUTE, PSA PILLAI'S CRIMINAL LAW (LexisNexis, 12th ed. 2014).
- 10) KATHERINE S. WILLIAMS, TEXTBOOK ON CRIMINOLOGY (Oxford University, 7th ed. 2012).
- 11) LOIS MARTIN, A BRIEF HISTORY OF WITCHCRAFT (Hachette, 2010).
- 12) MANSFRED BERG, SIMON WENDT, GLOBALIZING LYNCHING HISTORY: VIGILANTISM AND EXTRALEGAL PUNISHMENT FROM AN INTERNATIONAL PERSPECTIVE (Palgrave Macmillan, 1st ed.2011) New York
- 13) MARK BUTTON, PRIVATE POLICING (Routledge, 2nd ed. 2019).



- 14) Michael J. Pfeifer, *Extralegal Violence and Law in the Early Modern British Isles and the Origins of American Lynching* in GLOBALIZING LYNCHING HISTORY: VIGILANTISM AND EXTRALEGAL PUNISHMENT FROM AN INTERNATIONAL PUNISHMENT 22 (Springer, 1st ed. 2011).
- 15) RAY BULL ET AL., CRIMINAL PSYCHOLOGY (Oneworld, 1st ed. 2010).
- 16) RICHARD ENGLISH, CHARLES TOWNSHEND, THE STATE: HISTORICAL AND POLITICAL DIMENSIONS (Routledge, 1<sup>st</sup> ed. 1998).
- 17) S. M. AFZAL QADRI, AHMAD SIDDIQUE'S CRIMINOLOGY, PENOLOGY AND VICTIMOLOGY (Eastern Book Company, 7th Ed. 2016).
- 18) Tarakeshwari D. Bulusu, *A Lynch Mob State: The New Identity of the Indian Democracy?* in LEX ET SOCIETATIS, K. D. GARDNER ET AL (ed.), (Infinity Publishing, 2019).
- 19) WILLIAM E. BURROWS, VIGILANTE! (Harcourt Brace Jovanovich Inc., 1st ed.1976).
- 20) WILLIAM G. ARCHER, THE SANTALS: READINGS IN TRIBAL LIFE, compiled by J. Troisi (Indian Social Institute, 1979).
- 21) ZIYA U. SALAM, LYNCH FILES: THE FORGOTTEN SAGA OF VICTIMS OF HATE CRIMES (Sage Publications, 2019).

### **INTERNATIONAL JOURNALS**

- 1) African Journal on Conflict Resolution
- 2) American Sociological Review
- 3) Brazilian Journal of African Studies
- 4) British Journal of Criminology
- 5) Conflict Studies Quarterly
- 6) International Journal of Criminology and Sociology
- 7) Journal of Social and Economic Studies Legal-Studies Monograph Series
- 8) Michigan Law Review
- 9) The American University Law Review

## NATIONAL JOURNALS

- 1) All India Reporter
- 2) Criminal Law Journal
- 3) Rostrum's Law Review
- 4) Supreme Court Cases
- 5) Supreme Court Journal
- 6) Supreme Court Reports
- 7) The Indian Police Journal

## REPORTS

- 1) Government of India, Report of the Committee on Reforms of Criminal Justice System (Ministry of Home Affairs, 2003),
- 2) Human Rights Watch, Report on Vigilantism in Nigeria (2002), <https://www.hrw.org/reports/2002/nigeria0502=02.htm> (Last visited on May 25, 2020).
- 3) Jerry Hester, The Early history of Guardian Angels and their controversial New York City Subway Patrols, NEW YORK DAILY NEWS (Aug. 14, 2017), <https://www.nydailynews.com/new-york/guardian-angels-started-protecting-nyc-subways-article-1.804336> (Last visited May 19, 2020).
- 4) Southern Poverty Law Centre, United Constitutional Patriots, <https://www.splcenter.org/fighting-hate/extremist-files/group/united-constitutional-patriots> (Last visited on May 21, 2020).
- 5) State Law Commission, Seventh Report of VII Law Commission Report of Mob Lynching (Jul. 2019).
- 6) T. W. Gilbreth, The Freedmen's Bureau Report on The Memphis Race Riots Of 1866 (May 22, 1866), <http://teachingamericanhistory.org/library/document/the-freedmens-bureau-report-on-the-memphis-race-riots-of-1866/> (Last visited on May 14, 2020).
- 7) The National Association for the advancement of Coloured People (NAACP) *'Thirty Years of Lynching in the United States, 1889-1918'* (Negro Universities Press, New York, 1969).

- 8) The National Association for the advancement of Coloured People (NAACP), *Thirty Years of Lynching in the United States, 1889-1918* 7 (1969), *Thirty years of lynching in the United States, 1889-1918*. (archive.org) (Last visited on May 18, 2020).
- 9) The National Crime Records Bureau, *Crime in India 2020* (September 2021), <https://ncrb.gov.in/> (Last visited on May 23, 2022).
- 10) World Health Organization, *World Report on Violence and Health* (2002), <https://www.who.int/violence> (Last visited on Feb. 3, 2021).

## ARTICLES

- 1) Angad, *Man tied to pole, beaten to death on suspicion in Jharkhand*, THE INDIAN EXPRESS (Mar. 15, 2021), <https://indianexpress.com/article/india/man-tied-to-pole-beaten-to-death-on-theft-suspicion-in-jharkhand-7228459/> (Last visited on Mar. 24, 2021).
- 2) Bhardwaj, *Muslim boy stabbed to death on train after argument turns into religious slurs*, HINDUSTAN TIMES (Jun. 27, 2017), <https://www.hindustantimes.com/india-news/man-stabbed-to-death-2-injured-on-mathura-train-after-fight-with-passengers-for-allegedly-carrying-beef/story-BiJyILYIUloErWASvKQ51M.html> (Last visited on Feb. 18, 2021).
- 3) Chandrachud, *In Republic of Religion: The Rise and Fall of Colonial Secularism in India*, FIRSTPOST (Feb. 18, 2020), <https://www.firstpost.com/living/how-the-colonial-imposition-of-secularism-on-india-propheesied-its-erosion-with-the-end-of-british-rule-8029471.html> (Last visited on Jan. 22, 2021).
- 4) Chaturvedi, *Police Reforms in India*, (Jun. 2017), <https://www.prsindia.org/> (Last visited on Jan. 26, 2021).
- 5) Chauhan, *Woman beggar lynched over suspicion of child theft*, THE TIMES OF INDIA (Jun. 27, 2018), <https://timesofindia.indiatimes.com/city/ahmedabad/ahmedabad-woman-beggar-lynched-over-suspicion-of-child-theft/articleshow/64750565.cms> (Last visited on Feb. 22, 2021).

- 6) Dubey, *Judgement Primer: Alimuddin Ansari lynching case*, CJP (Aug. 7, 2018), <https://cjp.org.in/judgment-primer-alimuddin-ansari-lynching-case/> (Last visited on Feb 18, 2021).
- 7) Masoodi, *Who is a Gau Rakshak*, MINT (Jul. 26, 2016), <https://www.livemint.com/Politics/Mi6HZpayTzwJT7G6zy8dTO/Who-is-a-Gau-Rakshak.html> (Last visited on Feb. 18, 2021).
- 8) Ojha, *Akhlaq lynching case accused seen sitting in front row, chanting Yogi in BJP's Bisada rally*, INDIA TODAY (March 31, 2019), <https://www.indiatoday.in/india/story/mohammed-akhlaq-lynching-dadri-case-accused-bjp-yogi-adityanath-bisada-rally-1490912-2019-03-31> (Last visited on Feb. 16, 2021).
- 9) Riffel, S. Lorenz, *Towards an International History of Lynching*, HEIDELBERG UNIVERSITY (Feb. 6, 2019), <https://www.hsozkult.de/conferencereport/id/tagungsberichte-3210> (Last visited Feb 9, 2019).
- 10) Saha, *Assam: Two brothers released as part of prison decongestion killed by mob*, THE INDIAN EXPRESS (Apr 22, 2020), <https://indianexpress.com/article/north-east-india/assam/assam-two-brothers-released-as-part-of-prison-decongestion-killed-by-mob-6373893/> (Last visited on Feb 22, 2021).
- 11) Adeniyi S. Basiru, Olusesan A. Osunkoya, *Vigilante Groups And Policing In A Democratizing Nigeria: Navigating The Context And Issues*, 4 (8) BRAZILIAN JOURNAL OF AFRICAN STUDIES 179, 184-185 (2019).
- 12) Akankshit Jha, Aditya Agrawal, *Mob-Lynching and Massacre, Threats to The Nation: Can Masuka Address the Issue?* IV (II) Rostrum's L. R. (2018), <https://rostrumlegal.com/journal/nob-lynching-and-massacre-threats-to-the-nation-can-masuka-address-the-issue/> (Last visited on Jan. 1, 2019).
- 13) Angela Ajodo-Adebanjoko, *Towards ending conflict and insecurity in the Niger Delta region: A Collective non-violent approach*, 1 AJCR (2017), <https://www.accord.org.za/ajcr-issues/towards-ending-conflict-insecurity-niger-delta-region/> (Last visited on Jun. 4, 2020).
- 14) Avinash Patel, *Is Mob Lynching a Contemporary Social Problem in India*, 9 INTERNATIONAL JOURNAL OF CRIMINOLOGY AND SOCIOLOGY, (2020).

- 15) Becky Little, *How Scotland, Wales and Northern Ireland became a part of the U.K.*, (May 21, 2020), <https://www.history.com/news/united-kingdom-scotland-northern-ireland-wales> (Last visited on May 24, 2020).
- 16) Campbell, *How 'witches' were hunted and punished in 19th century India*, SCROLL.IN (Apr. 5, 2020), <https://scroll.in/article/957914/how-witches-were-hunted-and-punished-in-19th-century-india> (Last visited on Jan. 21, 2021).
- 17) CAIN Web Service, *Malcolm Sutton: An Index of Deaths from the conflict in Ireland*, MALCOLM SUTTON, [https://cain.ulster.ac.uk/sutton/tables/Organisation\\_Summary.html](https://cain.ulster.ac.uk/sutton/tables/Organisation_Summary.html) (Last visited on May 24, 2020).
- 18) Craig B. Little, Christopher P. Sheffield, *Frontiers of and Criminal Justice: English Private Prosecution Societies and American Vigilantism in the Eighteenth and Nineteenth Centuries*, AMERICAN SOCIOLOGICAL REVIEW (1983).
- 19) Culture, Politics, Society, THE WIRE (February 14, 2018), <https://thewire.in/> (Last visited on Feb. 14, 2018).
- 20) Deb, *Tripura youth dies after mob attack on suspicion of theft*, THE INDIAN EXPRESS (Dec. 22, 2020), <https://indianexpress.com/article/north-east-india/tripura/tripura-youth-dies-after-mob-attack-on-suspicion-of-theft-two-arrested-7115510/> (Last visited on Feb. 23, 2021).
- 21) Dhar, *In Gujarat, Dalits Under Attack for Watching Garba, Sporting Moustache*, THE WIRE (Oct 4, 2017), <https://thewire.in/caste/gujarat-dalits-attack-watching-garba-sporting-moustache> (Last visited on Feb. 18, 2021).
- 22) Grey, *Victim of Gautankwad: Alimuddin Ansari*, CJP (Nov. 6, 2017), <https://cjp.org.in/victims-of-gautankwad-alimuddin-ansari/> (Last visited on Feb. 18, 2021).
- 23) D. Kikon, *The City of Sorrow: Revisiting the 2015 Dimapur lynching*, SCROLL.IN (Jun. 24, 2015), <https://scroll.in/article/729595/the-city-of-sorrow-revisiting-the-2015-dimapur-lynching> (Last visited on Feb. 16, 2021).
- 24) D. Mukherjee, *Cow vigilantes' lynch MP man transporting cattle in Rajasthan*, THE INDIAN EXPRESS (Jul. 15, 2021), <https://indianexpress.com/article/india/cow-vigilantes-lynch-mp-man-transporting-cattle-in-rajasthan-7359292> (Last visited on May 16, 2022).
- 25) D. N. Jha, *How the story of the cow in India is riddled with puzzles and paradoxes*, INDIAN EXPRESS (Oct. 7, 2015), <https://indianexpress.com/>

- article/opinion/columns/elusive-holiness-of-the-cow/ (Last visited on June 18, 2020).
- 26) D. Varma (2007, "Witch-Hunt among Santhals". *Economic & Political Weekly*. 42 (23): 2130. JSTOR 4419670. (Last visited on Jan. 22, 2021).
  - 27) Dan Haverty, *Paramilitaries are surging again in Northern Ireland* (May 24, 2019), <https://foreignpolicy.com/2019/05/24/paramilitaries-are-surging-again-in-northern-ireland/> (Last visited on May 24, 2020).
  - 28) Danny Lewis, *The 1873 Colfax Massacre Crippled the Reconstruction Era*, SMITHSONIAN MAGAZINE (Apr. 13, 2016), <https://www.smithsonianmag.com/smart-news/1873-colfax-massacre-crippled-reconstruction-180958746/> (Last visited on May 16, 2020).
  - 29) David Pratten, *The Politics of Vigilance in South-Eastern Nigeria*, 37(4) *Development and Change* 707(2006).
  - 30) DT Next, *Assamese youth caught for theft lynched in Vellore*, DT NEXT (Feb. 6, 2019), <https://www.dtnext.in/News/TamilNadu/2019/02/06044551/1105644/Assamese-youth-caught-for-theft-lynched-in-Vellore.vpfb> (Last visited on Feb. 19, 2021).
  - 31) Dwight D. Murphey, Murphey's monograph "Lynching: History and Analysis," JOURNAL OF SOCIAL AND ECONOMIC STUDIES LEGAL-STUDIES MONOGRAPH SERIES (1995).
  - 32) Equal Justice Initiative, *Lynching in America: Confronting the Legacy of Racial Terror*, <https://lynchinginamerica.eji.org/report/> (Last visited on May 14, 2020).
  - 33) Express News Service, *Jharkhand High Court grants bail to 8 lynching convicts*, THE NEW INDIAN EXPRESS (Jun 30, 2018), <https://www.newindianexpress.com/nation/2018/jun/30/jharkhand-high-court-grants-bail-to-8-lynching-convicts-1835794.html> (Last visited on Apr 28, 2021).
  - 34) Express News Service, *Maharashtra: 89 accused granted bail in Palghar lynching case*, THE INDIAN EXPRESS (Jan 17, 2021), <https://indianexpress.com/article/cities/mumbai/maharashtra-court-grants-bail->

- to-89-accused-in-palghar-mob-lynching-case-7149127/ (Last visited on Feb. 22, 2021).
- 35) Express News Service, *Pavi Jetpur Lynching: Families perform last rites after authorities say trio not thieves*, INDIAN EXPRESS (Jul. 23, 2009), <https://indianexpress.com/article/cities/ahmedabad/pavi-jetpur-lynching-families-perform-last-rites-after-authorities-say-trio-not-thieves> (Last visited on Feb. 17, 2021).
  - 36) Express News Service, *Two men lynched over suspicion of theft at Azadpur Mandi*, (March 10, 2021), <https://indianexpress.com/article/cities/delhi/two-men-lynched-over-suspicion-of-theft-at-azadpur-mandi-7221616/> (Last visited on Feb 24, 2021).
  - 37) R. Siddiqui, TNN, *Bajrang Dal activists thrashed, humiliated several young couples on Valentine's Day*, THE TIMES OF INDIA (Feb. 15, 2015), <https://timesofindia.indiatimes.com/city/kanpur/bajrang-dal-activists-thrashed-humiliated-several-young-couples-on-valentines-day/articleshow/46249364.cms> (Last visited Feb. 5, 2021).
  - 38) Dheer, *Minor raped in Punjab, accused lynched to death*, DECCAN HERALD (Jun 2, 2019), <https://www.deccanherald.com/national/north-and-central/minor-raped-in-punjab-accused-lynched-to-death-737736.html> (Last visited on Feb. 19, 2021).
  - 39) Korgaonkar, *Three State Anti-Lynching Bills gather dust on President Kovind's table*, SABRANG (Nov. 4, 2019), <https://sabrangindia.in/article/three-state-anti-lynching-bills-gather-dust-president-kovinds-table> (Last visited on May 28, 2021). World Bank Collection of Development Indicators, India
  - 40) J. Rosenbaum, P. C. Sederberg, *Vigilantism: An Analysis of Establishment Violence*, 6 (4) Comparative Politics (1974).
  - 41) H. Tabassum, *88 Incidents of Cow-Related Violence Since 2012; 86 Of Them During BJP Rule*, NEWS 18 INDIA (Jul. 19, 2018), <https://www.news18.com/news/india/88-incidents-of-cow-related-violence-since-2012-86-of-them-during-bjp-rule-1817051.html> (Last visited on Mar. 16, 2021).

- 42) Henry A. Rhodes, “Lynch Law”: *An American Community Enigma*, YALE-NEW HAVEN TEACHERS INSTITUTE (Sep. 1, 1989), <http://teachersinstitute.yale.edu/curriculum/units/1989/1/89.01.09.x.html> (Last visited on Apr. 3, 2019).
- 43) Hine, K. D., *Vigilantism Revisited: An Economic Analysis of the Law of Extra-Judicial Self-help or why can't Dick shoot Henry for stealing Jane's truck?* 47 THE AMERICAN UNIVERSITY LAW REVIEW, 1222-1254 (1998).
- 44) History.com editors, *Civil war breaks out in Nigeria*, A & E TELEVISION PUBLISHERS (Jul. 27, 2019), <https://www.history.com/this-day-in-history/civil-war-in-nigeria> (Last visited on Jun. 2, 2020).
- 45) HT Correspondent, *ST panel sends notice to J'khand DGP in Gumla lynching case*, HINDUSTAN TIMES (May 10, 2019), <https://www.hindustantimes.com/ranchi/st-panel-sends-notice-to-j-khand-dgp-in-gumla-lynching-case/story-JZeJyMTG7GYGRRU7cEG0sK.html> (Last visited on Feb. 22, 2021).
- 46) PTI, *More than 19,500 mother tongues spoken in India: Census*, INDIAN EXPRESS (Jul. 1, 2018), <https://indianexpress.com> (Last visited on Jan. 25, 2021).
- 47) Scroll Staff, *2016 Una flogging case: Gujarat court orders daily hearing from July 29*, SCROLL.IN (Jul. 2, 2019), <https://scroll.in/latest/929207/2016-una-flogging-case-gujarat-court-order-daily-hearing-from-july-29> (Last visited on Feb. 17, 2021).
- 48) Human Rights Watch, *The O'odua People's Congress (OPC), Fighting violence with violence* (February 28, 2003), <https://www.hrw.org/report/2003/02/28/oodua-peoples-congress-opc/fighting-violence-violence> (Last visited on Jun. 3, 2020).
- 49) Engineer, *Mob lynching is the latest pattern of low intensity communal violence*, UMMID.COM, (Jul. 11, 2018), <https://ummid.com/news/2018/July/11.07.2018/mob-lynching-let-us-act-now.html> (Last visited on Feb. 8, 2021).
- 50) Naseem, *Nayeem Ahmad Shah, who was killed by cow vigilantes in Jammu's Bhandarwah, was carrying no animal during the attack, claims relative*, FIRSTPOST (May 16, 2019), <https://www.firstpost.com/india/nayeem-ahmad->



shah-who-was-killed-by-cow-vigilantes-in-jammus-bhaderwah-was-carrying-no-animal-during-attack-claims-relative-6646081.html (Last visited on Feb. 22, 2021).

- 51) IANS, *Mob attacks 6-year-old Hoshiarpur girl's rapist and his grandfather*, THE TRIBUNE (Oct. 23, 2020), <https://www.tribuneindia.com/news/punjab/mob-attacks-6-year-old-hoshiarpur-girls-rapist-and-his-grandfather-159993> (Last visited on Feb 22, 2021).
- 52) IANS, *Mob attacks 6-year-old Hoshiarpur girl's rapist and his grandfather*, THE TRIBUNE (Oct. 23, 2020), <https://www.tribuneindia.com/news/punjab/mob-attacks-6-year-old-hoshiarpur-girls-rapist-and-his-grandfather-159993> (Last visited on Feb. 22, 2021).
- 53) India News, *Sri Ram Sena goons brutally thrash youth for possessing beef; arrested*, TIMESNOWNEWS.COM (May 25, 2019), <https://www.timesnownews.com/india/article/sri-ram-sena-goons-brutally-thrash-youth-for-possessing-beef-arrested-watch/424976> (Last visited on Apr. 1, 2021).
- 54) India Today Web Desk, *A 22-year-old tribal man was allegedly lynched to death by a mob in Gujarat's Dahod*, INDIA TODAY (Jul. 29, 2019), <https://www.indiatoday.in/india/story/gujarat-mob-lynching-man-beaten-to-death-by-mob-in-dahod-district-1299553-2018-07-29> (Last visited on Feb. 19, 2021).
- 55) IndiaToday.in, *Nagaland mob lynching: Rape victim says accused offered her Rs 5,000 to remain silent*, INDIA TODAY (Mar. 8, 2015), <https://www.indiatoday.in/> (Last visited on Feb. 16, 2021).
- 56) Invasions of Siri Harmandir Sahib, GURMAT DISCUSSIONS, <https://www.gurmatbibek.com>
- 57) Deogharia, *Gumla tribals thrashed by mob booked for carving dead ox*, THE TIMES OF INDIA (Apr. 19, 2019), <https://timesofindia.indiatimes.com/city/ranchi/gumla-tribals-thrashed-by-mob-booked-for-carving-dead-ox/articleshow/68946510.cms> (Last visited on Feb. 22, 2021).
- 58) Jyotsana Morris, *We are like this only...violent*, QRIUS (Jul. 23, 2018), <https://qrius.com/we-are-like-this-only-violent/> (Last visited on Jun. 16, 2020).
- 59) Saiyed, S. Jha, *Gujarat cow law: Hundreds of cases, but only one conviction since 2011*, THE INDIAN EXPRESS (April 3, 2017), Gujarat cow law:

Hundreds of cases, but only one conviction since 2011(Last visited May 23, 2022).

- 60) K. Shagun, *Agri share in GDP hit 20% after 17 years: Economic Survey*, DOWNTOEARTH (Jan 29,2021), <https://www.downtoearth.org.in/news/agriculture/agri-share-in-gdp-hit-20-after-17-years-economic-survey-75271> (Last Visited on May 21, 2021).
- 61) Spencer, *Vigilantism is flourishing in Nigeria - with official support*, THE CONVERSATION (Nov. 9, 2017), <https://theconversation.com/vigilantism-is-flourishing-in-nigeria-with-official-support-86867> (Last visited on Jun. 3, 2020).
- 62) Laurent Fourchard, *A New Name for an Old Practice: Vigilantes in South-Western Nigeria*, Africa, February 2008, p.13 <https://www.researchgate.net/publication/236753160> (Last visited on May 25, 2020).
- 63) Les Johnston, *What is Vigilantism?* 36 ed. 2 BRIT.J. CRIMINOL, (1996), <https://www.jstor.org/stable/23638013?seq=1> (Last visited on Oct. 26, 2018).
- 64) Lisa Cardyn, *Sexualized Racism/Gendered Violence: Outraging the Body Politic in the Reconstruction South*, 100 MICH. L. REV. (Feb. 2002).
- 65) Alam, *Why do Mob Lynchings still Continue Unabated?*, THE WIRE (Sep. 7, 2019) <https://thewire.in/communalism/mob-cow-lynching-vigilante> (Last visited on Oct. 10, 2019).
- 66) M. F. Bhattacharjee, *The Lynching of a Nation*, THE WIRE (Jun. 25, 2017), <https://thewire.in/2017/06/25/communalism/the-lynching-of-a-nation> (Last visited on Mar. 5, 2019).
- 67) M. Krishnan, *3.7 million cases pending in courts for over 10 years: Data*, HINDUSTAN TIMES (Jun. 29, 2020), <https://www.hindustantimes.com> (Last visited on Jan. 26, 2021).
- 68) M. Langa, *Gujarat plagued by vigilantes*, THE HINDU (Jul. 22, 2016), <https://www.thehindu.com/news/national/other-states/Gujarat-plagued-by-vigilantes/article14502962.ece> (Last visited on Apr. 2, 2021).
- 69) M. Ojha, *Doctor's Family Seeks Justice from Modi*, THE TELEGRAPH ONLINE (Sep. 7, 2019), <https://www.telegraphindia.com/north-east/doctors->

- family-seeks-justice-from-narendra-modi/cid/1703305 (Last visited on Apr. 28, 2021).
- 70) M. Ranjan, *22-year-old lynched on suspicion of vehicle theft in Jharkhand*, THE NEW INDIAN EXPRESS (Mar. 8, 2021), <https://www.newindianexpress.com/nation/2021/mar/08/22-year-old-lynched-on-suspicion-of-vehicle-theft-in-jharkhand-2273954.html> (Last visited on Feb. 24, 2021).
- 71) M. Singha, *21 years on, Odisha village still weeps for Graham Staines*, THE TIMES OF INDIA (Jan. 23, 2020), <https://timesofindia.indiatimes.com/india/21-years-after-his-killing-odisha-village-says-it-still-weep-for-staines/articleshow/68666096.cms> (Last visited on Mar. 24, 2021).
- 72) M. Thaver, S. Rao, *Maharashtra mob pattern: Victims strangers, targeted in the dark*, THE INDIAN EXPRESS (Jul. 5, 2018), <https://indianexpress.com/article/india/maharashtra-mob-pattern-victims-strangers-targeted-in-the-dark-dhule-lynching-5246283/> (Last visited Feb. 22, 2021).
- 73) Mirror Now Digital, *2 Dalit teenagers tied to tree, brutally thrashed for stealing in Andhra Pradesh*, TIMES NOW (Jan. 21, 2021), <https://www.timesnownews.com/hyderabad/article/2-dalit-teenagers-tied-to-tree-brutally-thrashed-for-stealing-in-andhra-pradesh/710313> (Last visited on Feb. 23, 2021).
- 74) Mirror Now Digital, *Delhi: Out for walk, 20-year-old youth thrashed to death over theft suspicion*, TIMES NOW (May 24, 2021), <https://www.timesnownews.com/delhi/article/delhi-out-for-walk-20-year-old-youth-thrashed-to-death-over-theft-suspicion/760869> (Last visited on May 16, 2022).
- 75) Mirror Now Digital, *Karnataka: School headmaster assaulted, locked up in classroom for sending obscene messages to nurse*, TIMES NOW (Aug. 6, 2021), <https://www.timesnownews.com/india/article/karnataka-school-headmaster-assaulted-locked-up-in-classroom-for-sending-obscene-messages-to-nurse/795679>(Last visited on May 16, 2022).
- 76) Mirror Now Digital, *Mob thrashes man, blackens his face for molesting three-year-old-girl in UP; police takes him into custody*, TIMES NOW (Mar. 13,

- 2021), <https://www.timesnownews.com/india/article/mob-thrashes-man-blackens-his-face-for-molesting-three-year-old-girl-in-up-police-takes-him-into-custody/732111>(Last visited on Mar .24, 2021).
- 77) Mirror Now Digital, *Tamil Nadu: 23-year-old man lynched after being caught stealing cellphones from shop*, TIMES NOW (Nov. 13, 2020), <https://www.timesnownews.com/mirror-now/crime/article/tamil-nadu-23-year-old-man-lynched-after-being-caught-stealing-cellphones-from-shop/681421> (Last visited on Feb. 23, 2021).
- 78) Mirror Now Digital, *UP: Mentally challenged man shot dead by Mainpuri villagers on suspicion of being cattle thief*, TIMES NOW (Jan. 16, 2021), <https://www.timesnownews.com/india/article/up-mentally-challenged-man-shot-dead-by-mainpuri-villagers-on-suspicion-of-being-cattle-thief/707919> (Last visited on Feb. 23, 2021).
- 79) Bajpai, *UP sees 20 mob attacks in three days after child-lifting rumours go viral*, THE NEW INDIAN EXPRESS (Aug. 27, 2019), <https://www.newindianexpress.com/nation/2019/aug/27/up-sees-20-mob-attacks-in-three-days-after-child-lifting-rumours-go-viral-2025092.html>, (Last visited on Feb. 19, 2021).
- 80) Neal Baker, *Vigilante Justice who are the vigilante Paedophile Hunters and what do they do? From TRAP to Dark Justice and Guardians of the North*, THE SUN (Apr. 10, 2018), <https://www.thesun.co.uk/news/4506205/paedophile-hunters-trap-dark-justice-guardians-of-the-north/> (Last visited on May 24, 2020).
- 81) NEWSMETER NETWORK, (February14, 2020), <https://newsmeter.in/> (Last visited on February 5, 2021).
- 82) NH Web Desk, *Bihar: Muslim man lynched to death in Patna's Phulwari Sharif over cattle theft suspicion*, NATIONAL HERALD (Dec. 18, 2020), <https://www.nationalheraldindia.com/india/bihar-muslim-man-lynched-to-death-in-patnas-phulwari-sharif-over-cattle-theft-suspicion> (last visited on Feb. 23, 2021).
- 83) NH Web Desk, *Latehar lynching: Jharkhand Police lets murderers get away*, NATIONAL HERALD (Apr. 8, 2018), <https://www.nationalheraldindia.com/>

- india/latehar-lynching-jharkhand-police-lets-murderers-get-away (Last visited on Feb. 17, 2021).
- 84) Kumar and S. Dutt, *Pendency and Vacancies in Judiciary*, PRS LEGISLATIVE RESEARCH (Oct 11, 2021), <https://prsindia.org/policy/vital-stats/pendency-and-vacancies-in-the-judiciary/> (Last visited on Nov 13, 2021).
  - 85) Okoli Al Chukwuma, *Nigeria: Volunteer Vigilantism and Counter-Insurgency in the North-East*, (20), CONFLICT STUDIES QUARTERLY (2017).
  - 86) Operation Banner: The British Army in Northern Ireland, ALPHA HISTORY (updated last on Mar. 7, 2022), <https://alphahistory.com/northernireland/Operation-Banner/> (Last visited on May 5, 2019).
  - 87) OpIndia Staff, *Man accused of sacrilege lynched at Golden Temple in Amritsar, video shows people hailing instant mob justice*, OPINDIA (Dec. 18, 2021), <https://www.opindia.com/2021/12/man-accused-of-sacrilege-lynched-at-golden-temple-in-amritsar/> (Last visited May 16, 2022).
  - 88) Outlook Web Bureau, *Assam Shocker: Two Youth Lynched On Suspicion Of Child Lifting*, OUTLOOK (Jun. 9, 2018), <https://www.outlookindia.com/website/story/assam-shocker-two-youth-lynched-on-suspicion-of-child-lifting/312385> (Last visited on Feb. 19, 2021).
  - 89) Agarwal, *The Dadri Truth: A Personal Grudge Twisted Into a Communal Killing*, THE QUINT (Sep. 28, 2019), <https://www.thequint.com/> (Last visited on Feb. 5, 2021).
  - 90) P. Chakraborty, *Uttar Pradesh: Man shoots teacher to death in Kushinagar, lynched by mob in presence of police*, THE TIMES OF INDIA (Sep. 7, 2020), <http://timesofindia.indiatimes.com/articleshow/77983069.cms> (Last visited on Feb. 19, 2021).
  - 91) PTI, *Judge-population ratio stood at 21.03 judges per million people in 2020: Law minister*, THE ECONOMIC TIMES (Aug 5, 2021), <https://economictimes.indiatimes.com/news/india/judge-population-ratio-stood-at-21-03-judges-per-million-people-in-2020-law-minister/> (Last visited on Nov 13, 2021).
  - 92) PTI, *Maharashtra: Man lynched on suspicion of abducting minor girl; 5 arrested*, TIMES NOW (May 31, 2021), <https://www.timesnownews.com/india/article/maharashtra-man-lynched-on-suspicion-of-abducting-minor-girl-5-arrested/763896> (Last visited on May 16, 2022).

- 93) PTI, *More than 19,500 mother tongues spoken in India: Census*, INDIAN EXPRESS (Jul. 1, 2018),
- 94) PTI, *Shri Ram Sene to counter Valentine's day with 'Mata-Pita' pooja*, THE INDIAN EXPRESS (Feb. 13, 2021), Shri Ram Sene to counter Valentine's day with 'Mata-Pita' pooja (Last visited on Apr. 2, 2021).
- 95) Asnani, *Pehlu Khan lynching case: Two minors convicted for three years*, THE NEW INDIAN EXPRESS (Mar. 13, 2020), <https://www.newindianexpress.com/nation/2020/mar/13/pehlu-khan-lynching-case-two-minors-convicted-for-three-years-2116372.html> (Last visited on Feb. 18, 2021).
- 96) Asnani, *Pehlu Khan lynching case: Two minors convicted for three years*, THE NEW INDIAN EXPRESS (Mar. 13, 2020), <https://www.newindianexpress.com/nation/2020/mar/13/pehlu-khan-lynching-case-two-minors-convicted-for-three-years-2116372.html> (Last visited on Feb. 18, 2021).
- 97) R. Choudhury, *Will Be Beaten": Right-Wing Group's Christmas Threat For Hindus In Assam*, THE NDTV, (Dec. 5, 2020.), <https://www.ndtv.com/> (Last visited Feb. 5, 2021).
- 98) R. K. Agarwala, *History of Courts and Legislatures* (Jan. 21, 2021 12:21 AM), [www.jspui/](http://www.jspui/).
- 99) R. Kumar, *Begusarai murder: Angry mob lynches man*, THE TIMES OF INDIA (Dec. 23, 2020), <https://timesofindia.indiatimes.com/city/patna/angry-mob-lynches-man/articleshow/79884841.cms>, (Last visited on Feb. 22, 2021).
- 100) R. Kumar, *Goa Inquisition: Portuguese Massacre of innocent Hindus and Destruction of Temples*, <https://www.myindiamyglory.com> (Last visited on Jan. 28, 2021).
- 101) R. Venkatesan, *Laws Prohibiting Cow Slaughter Are Creating Both Vigilantes and Victims*, THE WIRE (Sept. 15, 2017), <https://thewire.in/2017/09/15/politics/cow-slaughter-laws-vigilantes-victims> (Last visited on Mar. 5, 2019).
- 102) Radhey Shyam Jha, Vipin Jain, Chanchal Chawla, *Hate Speech & Mob Lynching: A Study of its Relations, Impacts & Regulating Laws*, 22 (3) THINK INDIA (2019).

- 103) Religion And Public Life, The Colonial Era (1882-1960) HARVARD DIVINITY SCHOOL (May 31, 2020, 9:16 PM), <https://rlp.hds.harvard.edu/for-educators/country-profiles/nigeria/colonial-era-1882-1960>.
- 104) Baksi, A. Nagarajan, NEWSLAUNDRY (2017), <https://www.newslaundry.com/2017/07/04/mob-lynchings-in-india-a-look-at-data-and-the-story-behind-the-numbers> (Last visited on Jan. 16, 2019).
- 105) S. Das, *Witch hunting in Assam—Capital of black Magic to National Shame*, TIMES OF ASSAM (Aug. 30, 2011), <https://www.timesofassam.com/headlines/witch-hunting-in-assam-capital-of-black-magic-to-national-shame/> (Last visited on Jan. 22, 2021).
- 106) S. G. Kashyap, *Nagaland: Angry mob raids Dimapur Central Jail, lynches 35-year-old rape accused alleged to be 'Bangladeshi infiltrator'*, THE INDIAN EXPRESS, (Mar. 6, 2015), <https://indianexpress.com/> (Last visited Feb. 5, 2021).
- 107) S. Kumar, *Jharkhand HC grants bail to 6 accused in Tabrez Ansari Mob lynching*, INDIA TODAY (Dec. 11, 2019), <https://www.indiatoday.in/india/story/tabrez-ansari-mob-lynching-jharkhand-high-court-six-accused-bail-1627205-2019-12-11> (Last visited on Feb. 22, 2021).
- 108) S. Lakhani, *A boy called Junaid*, THE INDIAN EXPRESS (Jul. 2, 2017), <https://indianexpress.com/article/india/faridabad-lynching-train-beef-ban-a-boy-called-junaid-4731198/> (Last visited on Feb. 18, 2021).
- 109) S. Nair, *Refrain in sangh turf: Cards will give us power*, THE INDIAN EXPRESS, (Jan. 27, 2017), <https://indianexpress.com/article/india/india-news-india/maharashtra-government-beef-ban-gau-rakshak-id-cards-animal-husbandry-modi-sangh-turf-2991489/> (Last visited on May 23, 2021).
- 110) S. Prasoorn, P. Kashyap, *From Salwa Judum to Gau Rakshaks, Indian Laws are giving Vigilantes an out*, (Sept.18, 2017), <https://thewire.in/law/2017/09/18/law-vigilante-powers-impunity> uploaded on 18 Sept 2017
- 111) S. Raj, *Two Dalits beaten for 'stealing' cocks in Andhra Pradesh*, THE TIMES OF INDIA (Jan. 21, 2021), <https://timesofindia.indiatimes.com/city/>

- vijayawada/two-dalits-beaten-for-stealing-cocks-in-andhra-pradesh/articleshow/80377203.cms (Last visited on Feb. 23, 2021).
- 112) S. Sharma, *800 Cases, Zero Conviction: Calling Out The Bluff On Haryana's Tough Anti-Cow Slaughter Act*, SWARAJYA (Nov 19, 2019), <https://swarajyamag.com/politics/800-cases-zero-conviction-calling-out-the-bluff-on-haryanas-tough-anti-cow-slaughter-act> (Last visited May 23 2022).
- 113) S. Sinha, *Witch hunts, Adivasis, and the Uprising in Chhotanagpur*, Economic and Political Weekly: 42(19): 1672-1676 (2007) JSTOR 4419566 (Last visited on Jan. 22, 2021).
- 114) S. Yamunan, *In Idyllic Lakshadweep, Centre's controversial administrator is sparking tumult*, SCROLL.IN (May 25, 2021), <https://scroll.in/article/995667/in-idyllic-lakshadweep-controversial-measures-by-centres-administrator-leads-to-uproar> (Last visited on May 28, 2021).
- 115) Sabrangindia, *Latehar lynching case: Jharkhand HC dismissed plea for convict's suspension of sentence*, SABRANG (Dec. 18, 2020), <https://sabrangindia.in/article/latehar-lynching-case-jharkhand-hc-dismissed-plea-convicts-suspension-sentence> (Last visited on Feb. 17,2021).
- 116) Scroll Staff, *2016 Una flogging case: Gujarat court orders daily hearing from July 29*, SCROLL.IN (Jul. 2, 2019),
- 117) Scroll Staff, *Pehlu Khan case: Rajasthan HC quashes cow smuggling FIR against dairy farmer's sons*, SCROLL.IN (Oct. 30, 2019), <https://scroll.in/latest/942125/pehlu-khan-case-rajasthan-hc-quashes-cow-smuggling-fir-against-dairy-farmers-sons> (Last visited on Feb. 18, 2021).
- 118) Scroll Staff, *Pehlu Khan case: Rajasthan HC quashes cow smuggling FIR against dairy farmer's sons*, SCROLL.IN (Oct. 30, 2019), <https://scroll.in/latest/942125/pehlu-khan-case-rajasthan-hc-quashes-cow-smuggling-fir-against-dairy-farmers-sons> (Last visited on Feb. 18, 2021).
- 119) Summary by Human Rights Watch, *Violent Cow Protection in India: Vigilante Groups Attack Minorities*, HUMAN RIGHTS WATCH (Feb. 18, 2019), <https://www.hrw.org/report/2019/02/18/violent-cow-protection-india/vigilante-groups-attack-minorities> (Last visited on Apr. 2, 2021)
- 120) Chandra, *Literacy in India: The Gender and Age Dimension*, OBSERVER RESEARCH FOUNDATION (Oct 2019),



- <https://www.orfonline.org/research/literacy-in-india-the-gender-and-age-dimension-57150/> (Last visited on Mar 23, 2021).
- 121) T. Haider, *Delhi: Man lures 4-year-old into factory on pretext of offering toffee, rapes her*, INDIA TODAY (Aug. 31, 2021), <https://www.indiatoday.in/cities/delhi/story/delhi-man-minor-rape-factory-toffee-bapa-nagar-1847727-2021-08-31>(Last visited on May 16, 2022).
- 122) Tarakeshwari D. Bulusu, *Vigilantism: The Frankenstein of the Failed criminal justice system*, 4 SCJ (2016).
- 123) The Quint, *Hunted: India's Lynch Files*, THE QUINT (2018), <https://www.thequint.com/quintlab/lynching-in-india/> (Last visited on Mar. 16, 2021).
- 124) The Quint, *MASUKA Unveiled: What Does The Anti-Lynching Draft Bill Say?* THE QUINT (Jul. 7, 2017), <https://www.thequint.com/news/masuka-unveiled-anti-lynching> (Last visited on May 29, 2021).
- 125) The Quint, *MASUKA Unveiled: What Does The Anti-Lynching Draft Bill Say?* THE QUINT (Jul. 7, 2017), <https://www.thequint.com/news/masuka-unveiled-anti-lynching> (Last visited on May 29, 2021).
- 126) The Wire Staff, *BJP Minister Jayant Sinha felicitates "Gau Rakshaks" Convicted for Ramgarh Murder*, THE WIRE (Jul. 7, 2018), <https://thewire.in/communalism/bjp-minister-jayant-sinha-gau-rakshaks-convics-ramgarh-lynching> (Last visited on Mar. 23, 2021).
- 127) The Wire Staff, *Dalit Man Lynched in Gujarat for watching Garba Performance*, THE WIRE (Oct. 2, 2017), <https://thewire.in/caste/dalit-gujarat-lynched-garba> (Last visited on Feb. 18, 2021).
- 128) Times Now Digital, *Kapurthala lynching: Victim had about 30 sword-inflicted cuts, says autopsy report, cops yet to file murder case*, TIMES NOW (Dec. 23, 2021), <https://www.timesnownews.com/india/article/kapurthala-lynching-victim-had-about-30-sword-inflicted-cuts-says-autopsy-report-cops-yet-to-file-murder-case/843122> (Last visited May 18, 2022).
- 129) TimesofIndia.com, *Mangalore pub attack: 17 held, Ram Sena unapologetic*, THE ECONOMIC TIMES (Jan. 26, 2009), <https://economictimes.indiatimes.com/news/politics-and-nation/mangalore-pub-attack-17-held-ram-sena-unapologetic/articleshow/4033613.cms> (Last visited on Apr .1, 2021).

- 130) TNN, *4 Dalits stripped, beaten up for skinning dead cow*, THE TIMES OF INDIA (Jul 13, 2016), <http://timesofindia.indiatimes.com/articleshow/53184266.cms> (Last visited on Feb. 17, 2021).
- 131) TNN, *Mob had lynched 3 thieves in 2009*, THE TIMES OF INDIA (Feb. 7, 2011), <http://timesofindia.indiatimes.com/articleshow/7447430.cms> (Last visited on Feb. 17, 2021).
- 132) TNN, *Mob had lynched 3 thieves in 2009*, THE TIMES OF INDIA (February 7, 2011), <http://timesofindia.indiatimes.com/articleshow/7447430.cms> (Last visited on February 17, 2021).
- 133) TNN, *Mob lynches two Guwahati youth suspecting them to be child lifters*, THE TIMES OF INDIA (June 10, 2018), <https://timesofindia.indiatimes.com/india/mob-lynches-two-guwahati-youth-suspecting-them-to-be-child-lifters/articleshow/64525529.cms> (Last visited on Feb 19, 2021).
- 134) Baxi, *Re-arming the Law*, THE INDIAN EXPRESS (Jul. 21, 2017), <https://indianexpress.com/2017/07/21/re-arming-the-law-targeted-killings-bill-bjp-lynching-4760192>.
- 135) U. Baxi, *The Global Itineraries of Lynch Justice*; LAW AND OTHER THINGS. BLOG (Sep. 14, 2018), <https://lawandotherthings.com/2018/09/the-global-itineraries-of-lynch-justice>.
- 136) Ganjapure, *Decade after Akku's courtroom murder, all accused go free*, THE TIMES OF INDIA (November 11, 2014), <http://timesofindia.indiatimes.com/articleshow/45104117.cms> (Last visited on Feb. 16, 2021).
- 137) World Bank Collection of Development Indicators, India – Rural Population, TRADING ECONOMIES, (May 2021), <https://tradingeconomics.com/india/rural-population-percent-of-total-population-wb-data.html>. (Last visited on May 21, 2021).
- 138) Yaagnaseni, *Cow Slaughter and Hindu Persecution in the Indian Subcontinent: A Short History*, SWARAJYA (May 1, 2020), <https://swarajyamag.com> (Last visited on Jan. 22, 2021).
- 139) Z. Shaikh, *Palghar lynching: A recap of what happened*, THE INDIAN EXPRESS (Apr. 24, 2020), <https://indianexpress.com/article/explained/palghar-mob-lynching-mahant-kalpavruksha-giri-6370528/> (Last visited on Feb. 22, 2021).

## LEGISLATIONS

- 1) Andaman & Nicobar Islands Prohibition of Cow Slaughter Regulation, 1967.
- 2) Assam Medicare Service Persons and Medicare Service Institutions (Prevention of violence and Damage to Property) Act, 2011.
- 3) Bombay Animal Preservation (Gujarat Amendment) Act, 1994.
- 4) Chhattisgarh Agricultural Cattle Preservation Act, 2004.
- 5) Chhattisgarh Police Act, 2007.
- 6) Code of Criminal Procedure, 1973.
- 7) Constitution of India, 1950.
- 8) Goa, Daman and Diu Prevention of Cow Slaughter Act, 1978.
- 9) Gujarat Animal Preservation (Amendment) Act, 2011.
- 10) Gujarat Animal Preservation (Amendment) Rules, 2017.
- 11) Gujarat Animal Preservation Act, 1954.
- 12) Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015.
- 13) The Indian Penal Code, 1860.
- 14) Indian Police Act, 1861.
- 15) Jharkhand Bovine Animal Prohibition of Slaughter Act, 2005.
- 16) Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964.
- 17) Legal Services Authorities Act, 1987.
- 18) Maharashtra Animal Preservation (Amendment) Act, 1995.
- 19) Prevention of Cruelty to Animals (Regulation of Livestock Markets) Rules, 2017.
- 20) Prevention of Cruelty to Animals Act, 1960.
- 21) Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989.
- 22) Sikkim Prevention of Cow Slaughter Act, 2017.
- 23) The Andhra Pradesh Prohibition of Cow Slaughter and Animal Preservation Act, 1977.
- 24) The Assam Cattle Preservation Act, 1950.
- 25) The Bihar Preservation and Improvement of Animals Act, 1955.
- 26) The Central Provinces and Berar Animal Preservation Act, 1949.
- 27) The Delhi Agricultural Cattle Preservation Act, 1994.

- 28) The Himachal Pradesh Prohibition of Cow Slaughter Act, 1979.
- 29) The Indian Evidence Act, 1872.
- 30) The Karnataka Prevention of Slaughter and Preservation of Cattle Act, 2020.
- 31) The Madhya Pradesh Govansh Vadh Pratishedh Adhiniyam, 2004.
- 32) The Maharashtra Animal Preservation Act, 1976.
- 33) The Orissa Prevention of Cow Slaughter Act, 1960.
- 34) The Pondicherry Prevention of Cow Slaughter Act, 1968
- 35) The Punjab Prohibition of Cow Slaughter Act, 1955.
- 36) The Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995.
- 37) The Tamil Nadu Animal Preservation Act, 1958.
- 38) The Telangana Prohibition of Cow Slaughter and Animal Preservation Act, 1977.
- 39) The U.P. Govadh Nivaran Niyamavali, 1964.
- 40) The Uttar Pradesh Prevention of Cow Slaughter (Amendment) Ordinance, 2020.
- 41) The West Bengal Animal Slaughter Control Act, 1950.
- 42) Uttarakhand Protection of Cow Progeny Act, 2007.
- 43) Uttarakhand State Protection of Cow Progeny Rules, 2011.

## **BILLS**

- 1) Jharkhand Prevention of Mob Violence and Mob Lynching Bill, 2021.
- 2) Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011.
- 3) Protection from Lynching Act, 2017.
- 4) The Jharkhand (Prevention of Mob Violence and Mob Lynching) Bill, 2021.
- 5) The Manipur Protection from Mob Violence Ordinance, 2018,
- 6) The Rajasthan Protection from Lynching Bill, 2019.

## OTHER E-RESOURCES

- 1) CAMBRIDGE DICTIONARY, *Mob*, (2019), <https://dictionary.cambridge.org/dictionary/english/mob>, (Last visited on February 09, 2021).
- 2) CAMBRIDGE DICTIONARY, *crowd* (2019), <https://dictionary.cambridge.org/dictionary/english/crowd>, (Last visited on May 31, 2021).
- 3) COLLINS ENGLISH DICTIONARY, *Massacre* (2019), <https://www.collinsdictionary.com>, (Last visited on Feb. 8, 2021).
- 4) Department of Justice, Vacancy positions, <https://doj.gov.in/appointment-of-judges/vacancy-positions> (Last visited on Mar 23, 2021).
- 5) DICTIONARY.COM AND OXFORD UNIVERSITY PRESS, *Mob* (2019), <https://www.lexico.com/definition/mob>, (Last visited on Feb. 9, 2021).
- 6) G. Abbot, *Lynching: Mob Violence*, ENCYCLOPEDIA BRITANNICA, (Aug. 13, 2019), <https://www.britannica.com/topic/lynching>, (Last visited on Feb. 9, 2021).
- 7) History Time Line, <https://www.undiscoveredscotland.co.uk/usbiography/p/johnporteous.html> (Last visited on May 22, 2020).
- 8) <http://guardianangels.org>
- 9) <https://digitalcommons.wcl.american.edu>
- 10) <https://discovery.nationalarchives.gov.uk/details/c/F82882> (Last visited on May 22, 2020).
- 11) <https://doaj.org>
- 12) <https://gulabigang.in>
- 13) <https://lawandotherthings.com>
- 14) <https://www.newslaundry.com>
- 15) <https://www.scobserver.in/court-case/judicial-vacancies-in-the-lower-courts>, visited on 23/03/21 at 12:54 p.m. Case-Number: Suo Motu WP (C) 2/2018; CA 1867/2006 (Case pending).
- 16) Indian Religions, CULTURAL INDIA, <https://www.culturalindia.net/indian-religions/> (Last visited on Jan. 25, 2021).
- 17) LEXICO DICTIONARY, *Witchcraft* (2019), <http://www.lexico.com/en/definition/witchcraft> (Last visited on Feb. 3, 2021).

- 18) MERRIAM-WEBSTER, *Vigilante* (2019), <https://www.merriam-webster.com/dictionary/vigilante> (Last visited on Feb. 3, 2021).
- 19) [ncrb.gov.in](http://ncrb.gov.in)
- 20) NEWSMETER NETWORK, (Feb.14, 2020), <https://newsmeter.in/> (Last visited on Feb. 5, 2021).
- 21) OXFORD DICTIONARY, *Vigilantism* (2019), <https://en.oxforddictionaries.com/definition/vigilantism>, (Last visited on February 10, 2021).
- 22) Responses to Information Requests, Oodua People's Congress, GOVERNMENT OF CANADA (Feb. 16, 2016), <https://www.justice.gov/sites/default/files/eoir/legacy/2013/12/18/NGA101048.E.pdf> (Last visited on Jun. 3, 2020).
- 23) Supreme Court of India, Summary, Types of Matters in Supreme Court of India, (Jul. 7, 2022), <https://main.sci.gov.in/statistics> (Last visited on Jul. 15, 2022).
- 24) THE FREE DICTIONARY BY FARLEX, *Criminal Justice*, <https://www.thefreedictionary.com/Criminal+justice+system> (Last visited on Feb. 4, 2021).
- 25) THE TIMES OF INDIA, (Feb. 14, 2015), <https://m.timesofindia.com/> (Last visited Feb. 5, 2021).
- 26) UN (World Population Prospects 2019), *Demographics of India*, STATISTICS TIMES (Nov. 4, 2021), <http://statisticstimes.com/demographics/population-of-india.php> (Last visited on Nov. 18, 2021).
- 27) WISDOM LIBRARY, *Dakini* (2019), <https://www.wisdomlib.org/definition/dakini#sanskrit>.
- 28) [www.britannica.com/topic/lynching](http://www.britannica.com/topic/lynching)
- 29) [www.hsozkult.de](http://www.hsozkult.de)
- 30) [www.indianexpress.com](http://www.indianexpress.com)
- 31) [www.indiaspend.com](http://www.indiaspend.com)
- 32) [www.indiatoday.in/india/](http://www.indiatoday.in/india/)
- 33) [www.jstor.org](http://www.jstor.org)
- 34) [www.newsclick.in](http://www.newsclick.in)

# APPENDICES

## APPENDIX I

### **The Constitution of India, 1950.**

**Article 14: Equality before law.** – The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India  
Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

**Article 19: Protection of certain rights regarding freedom of speech, etc.** –

(1) All citizens shall have the right

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India; and

(f) omitted

(g) to practise any profession, or to carry on any occupation, trade or business

(2) Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence

(3) Nothing in sub clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub clause

(4) Nothing in sub clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or

morality, reasonable restrictions on the exercise of the right conferred by the said sub clause

(5) Nothing in sub clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe

(6) Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub clause, and, in particular, nothing in the said sub clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise

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

**Article 25: Freedom of conscience and free profession, practice and propagation of religion.** –

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus



Explanation I: The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion

Explanation II: In sub clause (b) of clause reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

**Article 29: Protection of interests of minorities.** – (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same. (2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

**Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health.** – The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health

**Article 48: Organisation of agriculture and animal husbandry.** – The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle

**Article 48A: Protection and improvement of environment and safeguarding of forests and wild life.** – The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country

**Article 51A: Fundamental duties.** – It shall be the duty of every citizen of India

(a) to abide by the Constitution and respect its ideals and institutions, the national Flag and the National Anthem;

(b) to cherish and follow the noble ideals which inspired our national struggle for freedom;

(c) to uphold and protect the sovereignty, unity and integrity of India;

- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;
- (g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- (h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
- (i) to safeguard public property and to abjure violence;
- (j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement

**Article 301: Freedom of trade, commerce and intercourse.** – Subject to the other provisions of this Part, trade, commerce and intercourse throughout the territory of India shall be free.

## APPENDIX II

### The Indian Penal Code, 1860.

**Section 141: Unlawful assembly.** – An assembly of five or more persons is designated an “unlawful assembly”, if the common object of the persons composing that assembly is— (First) — To overawe by criminal force, or show of criminal force, 1[the Central or any State Government or Parliament or the Legislature of any State], or any public servant in the exercise of the lawful power of such public servant; or (Second) — To resist the execution of any law, or of any legal process; or (Third) — To commit any mischief or criminal trespass, or other offence; or (Fourth) — By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or (Fifth) — By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation. – An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

**Section 142: Being member of unlawful assembly.** – Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

**Section 143: Punishment.** – Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

**Section 144: Joining unlawful assembly armed with deadly weapon.** – Whoever, being armed with any deadly weapon, or with anything which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**Section 145: Joining or continuing in unlawful assembly, knowing it has been commanded to disperse.** – Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**Section 146: Rioting.** – Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

**Section 147: Punishment for rioting.** – Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**Section 148: Rioting, armed with deadly weapon.** – Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**Section 149: Every member of an unlawful assembly guilty of offence committed in prosecution of common object.** – If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

**Section 152: Assaulting or obstructing public servant when suppressing riot, etc.** – Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavouring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**Section 153A: Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony. –**

Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, or

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

**Offence committed in place of worship, etc. –** (2) Whoever commits an offence specified in sub-section (1) in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

**Section 302: Punishment for murder. –** Whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.

**Section 304: Punishment for culpable homicide not amounting to murder. –** Whoever commits culpable homicide not amounting to murder shall be punished with

imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death, or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

**Section 307: Attempt to murder.** – Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

**Attempts by life convicts.** – When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

**Section 308: Attempt to commit culpable homicide.** – Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**Section 323: Punishment for voluntarily causing hurt.** – Whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**Section 325: Punishment for voluntarily causing grievous hurt.** – Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**Section 326: Voluntarily causing grievous hurt by dangerous weapons or means.** – Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with 1[imprisonment for life], or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**Section 341: Punishment for wrongful restraint.** – Whoever wrongfully restrains any person shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred rupees, or with both.

**Section 342: Punishment for wrongful confinement.** – Whoever wrongfully confines any person shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**Section 353: Assault or criminal force to deter public servant from discharge of his duty.** – Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

**Section 379: Punishment for theft.** – Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both

**Section 427: Mischief causing damage to the amount of fifty rupees.** – Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

**Section 435: Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.** – Whoever commits mischief by fire or any explosive substance intending to cause, or

knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards or (where the property is agricultural produce) ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**Section 435: Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees.** – Whoever commits mischief by fire or any explosive substance intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards or (where the property is agricultural produce) ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**Section 447: Punishment for criminal trespass.** – Whoever commits criminal trespass shall be punished with imprisonment of either description for a term which may extend to three months, with fine or which may extend to five hundred rupees, or with both.

**Section 448: Punishment for house-trespass.** – Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**Section 120B: Punishment of criminal conspiracy.** – (1) Whoever is a party to a criminal conspiracy to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or upwards, shall, where no express provision is made in this Code for the punishment of such a conspiracy, be punished in the same manner as if he had abetted such offence. (2) Whoever is a party to a criminal conspiracy other than a criminal conspiracy to commit an offence punishable as aforesaid shall be punished with imprisonment of either description for a term not exceeding six months, or with fine or with both.

**Section 34: Acts done by several persons in furtherance of common intention.** – When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.]



**Section 504: Intentional insult with intent to provoke breach of the peace.** – Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both

**Section 505(2): Statements creating or promoting enmity, hatred or ill-will between classes.** – Whoever makes, publishes or circulates any statement or report containing rumour or alarming news with intent to create or promote, or which is likely to create or promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, feelings of enmity, hatred or ill will between different religious, racial, language or regional groups or castes or communities, shall be punished with imprisonment which may extend to three years, or with fine, or with both.

**Section 506: Punishment for criminal intimidation.** – Whoever commits, the offence of criminal intimidation shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; If threat be to cause death or grievous hurt, etc.—And if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or imprisonment for life, or with imprisonment for a term which may extend to seven years, or to impute, unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

**Section 511: Punishment for attempting to commit offences punishable with imprisonment for life or other imprisonment.** – Whoever attempts to commit an offence punishable by this Code with imprisonment for life or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with imprisonment of any description provided for the offence, for a term which may extend to one-half of the imprisonment for life or, as the case may be, one-half of the longest term of imprisonment provided for that offence, or with such fine as is provided for the offence, or with both.

## APPENDIX III

### **Maharashtra Animal Preservation (Amendment) Act, 1995.**

**Section 5: Prohibition of slaughter of cows, bulls and bullocks.** – Notwithstanding anything contained in any other law for the time being in force or any usage or custom to the contrary no person shall slaughter or cause to be slaughtered or offer for slaughter any cow, bull or bullock, in any place in the State of Maharashtra.

**Section 5A: Prohibition on transport and export of cow, bull or bullock for slaughter.** –

(1) No person shall transport or offer for transport or cause to be transported cow, bull, or bullock from any place within the State to any place outside the State for the purpose of its slaughter in contravention of the provisions of this Act or with the knowledge that it will be or is likely to be, so slaughtered.

(2) No person shall export or caused to be exported outside the State of Maharashtra cow, bull or bullock for the purposes of slaughter either directly or through his agent or servant or any other person acting on his behalf, in contravention of the provisions of this Act or with the knowledge that it will be or is likely to be, so slaughtered.

**Section 5B: Prohibition on sale, purchase, disposal in any other manner of cow, bull or bullock.** –

No person shall purchase, sell or otherwise dispose of or offer to purchase, sell or otherwise dispose of any cow, bull or bullock for slaughter or knowing or having reason to believe that such cow, bull or bullock shall be slaughtered.

**Section 5C: Prohibition on possession of flesh of cow, bull or bullock.** –

Notwithstanding anything contained in any other law for the time being in force no person shall have in his possession flesh of any cow, bull or bullock slaughtered in contravention of the provisions of this Act.

**Section 5D: Prohibition on possession of flesh of cow, bull or bullock slaughtered outside the State of Maharashtra.** –

No person shall have in his possession flesh of any cow, bull or bullock slaughtered outside the State of Maharashtra.

**Section 9: Penalty for contravention of sections 5, 5A or 5B.** – Whoever contravenes the provisions of sections 5, 5A or 5B shall, on conviction, be punished with imprisonment for a term which may extend to five years, or with fine which may extend to 5[ten thousand rupees], or with both:

Provided that except for special and adequate reasons to be recorded in the judgement of the court such imprisonment shall not be of less than six months and such fine shall not be less than one thousand rupees.

**Section 9A: Penalty for contravention of sections 5C, 5D or 6.** – Whoever contravenes the provisions of sections 5C, 5C, 5D, or 6 shall on conviction be punished with imprisonment for a term which may extend to one year or fine which may extend to two thousand rupees.

**Section 9B: Burden of proof on accused.** – In any trial for an offence punishable under sections 9 or 9A for contravention of the provisions of this Act, the burden of proving that the slaughter, transport, export outside the State, sale, purchase or possession of flesh of cow, bull or bullock was not in contravention of the provisions of this Act shall be on the accused.

## **APPENDIX IV**

### **Chhattisgarh Police Act, 2007.**

**Section 9: Special Police Officers.** –

(1) Subject to Rules prescribed in this behalf, the Superintendent of Police may at any time, by an order in writing, appoint any person to act as a Special Police Officer for a period as Specified in the appointment order.

(2) Every special police officer so appointed shall have the same powers, privileges and protection, and shall be liable to perform the same duties and shall be amendable to the same penalties, and be subordinate to the same authorities, as the ordinary officers of the police.

## **APPENDIX V**

### **Gujarat Animal Preservation Act, 1954.**

**Section 12: Protection of persons acting in good faith under Act or rules.** – No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

## **APPENDIX VI**

### **Maharashtra Animal Preservation Act, 1976.**

**Section 13: Protection of persons acting in good faith under Act or rules.** – No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

## **APPENDIX VII**

### **Karnataka Prevention of Cow Slaughter and Cattle Preservation Act, 1964.**

**Section 15: Protection of persons acting in good faith.** – No suit, prosecution or other legal proceedings shall be instituted against the competent authority or any person exercising powers under this Act for anything which is in good faith done or intended to be done under this Act or the rule made thereunder.

## **APPENDIX VIII**

### **THE INDIAN EVIDENCE ACT, 1872.**

**Section 65B: Admissibility of electronic records.** –

(1) Notwithstanding anything contained in this Act, any information contained in an electronic record which is printed on a paper, stored, recorded or copied in optical or magnetic media produced by a computer (hereinafter referred to as the computer output) shall be deemed to be also a document, if the conditions mentioned in this section are satisfied in relation to the information and computer in question and shall be admissible in any proceedings, without further proof or production of the original, as evidence of any contents of the original or of any fact stated therein of which direct evidence would be admissible.

(2) The conditions referred to in sub-section (1) in respect of a computer output shall be the following, namely: –

(a) the computer output containing the information was produced by the computer during the period over which the computer was used regularly to store or process information for the purposes of any activities regularly carried on over that period by the person having lawful control over the use of the computer;

(b) during the said period, information of the kind contained in the electronic record or of the kind from which the information so contained is derived was regularly fed into the computer in the ordinary course of the said activities;

(c) throughout the material part of the said period, the computer was operating properly or, if not, then in respect of any period in which it was not operating properly or was out of operation during that part of the period, was not such as to affect the electronic record or the accuracy of its contents; and

(d) the information contained in the electronic record reproduces or is derived from such information fed into the computer in the ordinary course of the said activities.

(3) Where over any period, the function of storing or processing information for the purposes of any activities regularly carried on over that period as mentioned in clause

(a) of sub-section (2) was regularly performed by computers, whether–

(a) by a combination of computers operating over that period; or

(b) by different computers operating in succession over that period; or

(c) by different combinations of computers operating in succession over that period; or

(d) in any other manner involving the successive operation over that period, in whatever order, of one or more computers and one or more combinations of computers, all the computers used for that purpose during that period shall be treated for the purposes of this section as constituting a single computer; and references in this section to a computer shall be construed accordingly.

(4) In any proceedings where it is desired to give a statement in evidence by virtue of this section, a certificate doing any of the following things, that is to say, –

(a) identifying the electronic record containing the statement and describing the manner in which it was produced;

(b) giving such particulars of any device involved in the production of that electronic record as may be appropriate for the purpose of showing that the electronic record was produced by a computer;

(c) dealing with any of the matters to which the conditions mentioned in sub-section (2) relate, and purporting to be signed by a person occupying a responsible official position in relation to the operation of the relevant device or the management of the relevant activities (whichever is appropriate) shall be evidence of any matter stated in the certificate; and for the purposes of this sub-section it shall be sufficient for a matter to be stated to the best of the knowledge and belief of the person stating it.

(5) For the purposes of this section, –

(a) information shall be taken to be supplied to a computer if it is supplied thereto in any appropriate form and whether it is so supplied directly or (with or without human intervention) by means of any appropriate equipment;

(b) whether in the course of activities carried on by any official information is supplied with a view to its being stored or processed for the purposes of those activities by a computer operated otherwise than in the course of those activities, that information, if duly supplied to that computer, shall be taken to be supplied to it in the course of those activities;

(c) a computer output shall be taken to have been produced by a computer whether it was produced by it directly or (with or without human intervention) by means of any appropriate equipment.

**Explanation.** – For the purposes of this section any reference to information being derived from other information shall be a reference to its being derived therefrom by calculation, comparison or any other process.

## APPENDIX IX

### **Rajasthan Bovine Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995.**

**Section 5: Prohibition of export of bovine animal for the purpose of slaughter and regulation of temporary migration or export for other purposes.** – (1) No person shall export and cause to be exported any bovine animal himself or through his agent, servant or other person acting in his behalf from any place within the State to any place outside the State for the purposes of slaughter or with the knowledge that it may be or is likely to be slaughtered.

(2) Notwithstanding anything contained in sub-section (1) temporary migration of bovine animal from the famine and scarcity affected areas of Rajasthan may be allowed by the Competent Authority to other States in India for grazing purposes under a valid permit in the manner prescribed and hereinafter laid down.

(3) Any person residing in any famine and scarcity affected area and desiring migration of any bovine animal shall apply to the Competent Authority having jurisdiction over such areas stating the circumstances necessitating the proposed migration together with the number of bovine animals and name of the State or States to which migration is proposed and the period for which the permit is required.

(4) The Competent Authority after satisfying itself about the genuineness of the request of the applicant referred in sub-section (3), may grant him a permit in the prescribed form and manner which among other things may provide for affixing of identification mark before such temporary migration of bovine animal is allowed out of the State and in no case the period of said migration shall extend beyond the month of August next following the date of grant of the permit.

(5) On return from temporary migration the applicant referred to in sub-section (3), shall inform the Competent Authority in writing about the number of bovine animal brought back by him together with the explanation for variations, if any.

(6) If any person does not bring back such bovine animal into the State and also within the period specified in the permit, he shall be deemed to have contravened the provisions of sub-section (1).

(7) The Competent Authority may issue special permit in the prescribed manner for export of bovine animal from Rajasthan for agricultural or dairy farming purposes or for participation in a cattle fair, and before granting such permission the Competent Authority shall also ensure that such export in no way reduces the number of such bovine animal below the level of actual requirement of the local area.

(8) Any applicant referred to in sub-section (3) or any person seeking special permit under sub-section (7), aggrieved by an order of the Competent Authority made under sub-section (4), sub-section (6) or sub-section (7) may make an application, within thirty days from the date of the order, to the Divisional Commissioner and the Divisional Commissioner may upon such application or *suo-motu* call for and examine the record of the case for the purpose of satisfying himself as to the correctness, legality or propriety of any order and may pass such order as it may deem just and proper and such order shall be final and conclusive and shall not be called in question in any civil court.

**Section 8: Penalty.** – (1) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of Section 3 shall, on conviction, be punished with a rigorous imprisonment for a term which shall not be less than one year but may extend to ten years and with fine which may extend to ten thousand rupees.

(2) Whoever contravenes or attempts to contravene or abets the contravention of the provisions of Section 4 or Section 5 shall, on conviction, be punished with rigorous imprisonment for a term which shall not be less than six months but may extend to five years and with fine which may extend to five thousand rupees.

**Section 9: Punishment for causing hurt.** – (1) Whoever causes bodily pain, disease or infirmity. to any bovine animal is said to cause hurt.

(2) Whoever intentionally causes hurt to a bovine animal shall, on conviction, be punished with rigorous imprisonment for a term which may extend to three years and with fine which may extend to three thousand rupees.

(3) Whoever abets the commission of an offence under sub-section (2), shall be guilty of abetment as is provided for the said offence.



## **APPENDIX X**

### **Assam Medicare Service Persons and Medicare Service Institutions (Prevention of Violence And Damage to Property) Act, 2011.**

**Section 4: Penalty.** – Whoever commits any offence as defined in section 3 shall be punished with imprisonment for a term which may extend to three years and with fine which may extend to fifty thousand rupees.

## **APPENDIX XI**

### **Haryana Gauvansh Sanrakshan and Gausamvardhan Act, 2015.**

**Section 3: Prohibition of cow slaughter.** – Notwithstanding anything contained in any other law for the time being in force or any usage or custom to the contrary, no person shall slaughter or cause to be slaughtered or offer or cause to be offered for slaughter any cow in any place in the State:

Provided that killing of a cow in an accident or self-defence shall not be considered as slaughter under the Act

**Section 8: Prohibition of sale of beef.** – Notwithstanding anything contained in any other law for the time being in force, no person shall directly or indirectly sell, keep, store, transport or offer for sale or cause to be sold beef or beef products except for such medicinal purposes and in such form as may be prescribed.

## **APPENDIX XII**

### **The Prevention of Cruelty to Animals Act, 1960.**

**Preamble.** –

to prevent the infliction of unnecessary pain or suffering on animals and for that purpose to amend the law relating to the prevention of cruelty to animals

Section 2(a) definition of Animal:

"animal" means any living creature other than a human being

Section 3: Duties of persons having charge of animals: It shall be the duty of every person having the care or charge of any animal to take all reasonable measures to ensure the well-being of such animal and to prevent the infliction upon such animal of unnecessary pain or suffering.

**Section 11. Punishment for Treating animals cruelly. –**

(1) If any person,

(a) beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes, or being the owner permits, any animal to be so treated; or

(b) employs in any work or labour or for any purpose any animal which, by reason of its age or any disease infirmity; wound, sore or other cause, is unfit to be so employed or, being the owner, permits any such unfit animal to be employed; or

(c) wilfully and unreasonably administers any injurious drug or injurious substance to 14(any animal) or wilfully and unreasonably causes or attempts to cause any such drug or substance to be taken by any animal; or

(d) conveys or carries, whether in or upon any vehicle or not, any animal in such a manner or position as to subject it to unnecessary pain or suffering; or

(e) keeps or confines any animal in any -cage or other receptacle which does not measure sufficiently in height, length and breadth to permit the animal a reasonable opportunity for movement; or

(f) keeps for an unreasonable time any animal chained or tethered upon an unreasonably short or unreasonably heavy chain or cord; or

(g) being the owner, neglects to exercise or cause to be exercised reasonably any dog habitually chained up or kept in close confinement; or

(h) being the owner of (any animal) fails to provide such animal with sufficient food, drink or shelter; or

(i) without reasonable cause, abandons any animal in circumstances which tender it likely that it will suffer pain by reason of starvation thirst; or

(j) wilfully permits any animal, of which he is the owner, to go at large in any street, while the animal is affected with contagious or infectious disease or, without reasonable excuse permits any diseased or disabled animal, of which he is the owner, to die in any street; or

(k) offers for sale or without reasonable cause, has in his possession any animal which is suffering pain by reason of mutilation, starvation, thirst, overcrowding or other ill treatment; or

(l) mutilates any animal or kills any animal (including stray dogs) by using the method of strychnine injections, in the heart or in any other unnecessarily cruel manner or;

(m) solely with a view to providing entertainment (i) confines or causes to be confined any animal (including tying of an animal as a bait in a tiger or other sanctuary) so as to make it an object or prey for any other animal; or

(n) organises, keeps uses or acts in the management or, any place for animal fighting or for the purpose of baiting any animal or permits or offers any place to be so used or receives money for the admission of any other person to any place kept or used for any such purposes; or

(o) promotes or takes part in any shooting match or competition wherein animals are released from captivity for the purpose of such shooting:

he shall be punishable (in the case of a first offence, with fine which shall not be less than ten rupees but which may extend to fifty rupees and in the case of a second or subsequent offence committed within three years of the previous offence, with fine which shall not be less than twenty-five rupees but which may extend, to one hundred rupees or with imprisonment for a term which may extend, to three months, or with both.

(2) For the purposes of section (1) an owner shall be deemed to have committed an offence if he has failed to exercise reasonable care and supervision with a view to the prevention of such offence; Provided that where an owner is convicted permitting cruelty by reason only of having failed to exercise such care and supervision, he shall not be liable to imprisonment without the option of a fine.

(3) Nothing in this section shall apply to –

- (a) the dehorning of cattle, or the castration or branding or nose roping of any animal in the prescribed manner, or
- (b) the destruction of stray dogs in lethal chambers by such other methods as may be prescribed or (c) the extermination or destruction of any animal under the authority of any law for the time being in force; or
- (d) any matter dealt with in Chapter IV; or
- (e) the commission or omission of any act in the course of the destruction or the preparation for destruction of any animal as food for mankind unless such destruction or preparation was accompanied by the infliction of unnecessary pain or suffering.

**Section 12: Penalty for practising phooka or doom dev.** – If any persons upon any cow or other milch animal the operation called practising phooka or doom dev or any other operation (including injection of any or doom dev. substance) to improve lactation which is injurious to the health of the animal] or permits such operation being performed upon any such animal in his possession or under his control, he shall be punishable with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to two years, or with both, and the animal on which the operation was performed shall be forfeited to the Government.

**Section 13: ‘Destruction of suffering animals’.** – (1) Where the owner of an animal is convicted of an offence under section 11, it shall be lawful for the court, if the court is satisfied that it would be cruel to keep the animal alive, to direct that the animal be destroyed and to assign the animals to any suitable person for that purpose, and the person to whom such animal is so assigned shall as soon as possible, destroy such animal or cause such animal to be destroyed in his presence without unnecessary suffering: and any reasonable expense incurred in destroying the animal may be ordered by the court, if the court is satisfied that it would be cruel to keep the animal alive, to direct that the animal be destroyed and to assign the animal to any reasonable expense incurred in destroying the animal may be ordered by the court to be recovered from the owner as if it were a fine: Provided that unless the owner assents thereto, no order shall be made under this section except upon the evidence of a veterinary officer in charge of the area.

(2) When any magistrate, commissioner of police or district superintendent of police has reason to believe that an offence under section 11 has been committed in respect of any animal, he may direct the immediate destruction of the animal, if in his opinion, it would be cruel to keep the animal alive.

(3) Any police officer above the rank of a constable or any person authorised by the State Government in this behalf who finds any animal so diseased or so severely injured or in such a physical condition that in his opinion it cannot be removed without cruelty, may, if the owner is absent or refuses his consent to the destruction of the animal, forth with summon the veterinary officer in charge of the area in which the animal is found, and if the veterinary officer certifies that the animal is mortally injured or so severely injured or in such a physical condition that it would be cruel to keep it alive, the police officer or the person authorised, as the case may be, may, after obtaining orders from a magistrate, destroy the animal injured or cause it to be destroyed; (in such manner as may be prescribed)

(4) No appeal shall lie from any order of a magistrate for the destruction of an animal.

**Section 14: Experiments on animals.** – Nothing contained in this Act shall render unlawful the performance of experiments (including) experiments involving operations) on animals for the purpose of advancement by new discovery of physiological knowledge or of knowledge which will be useful for saving or for prolonging life or alleviating suffering or for combating any disease, whether of human beings, animals or plants.

## APPENDIX XIII

### Questionnaire of the Empirical Study on Mob Lynching in India

*'I, Tarakeshwari Bulusu, am an Assistant Professor at the Faculty of Law, The Maharaja Sayajirao University of Baroda, am pursuing my Doctoral Studies from Galgotias University, Uttar Pradesh, India on the topic entitled "A Critical Study on Vigilantism and Criminal Justice System in India". This is a questionnaire to collect data for the purposes of my Doctoral Studies on the above-mentioned topic. I sincerely request your valuable insights on the subject by responding to this questionnaire. Any data or information furnished by you would be kept confidential and would be used for academic purposes only'.*

**Name:** \_\_\_\_\_

**Occupation:** \_\_\_\_\_

**Organisation:** \_\_\_\_\_

**Age:** \_\_\_\_\_

**Note: (i)** Please indicate your response by putting a tick mark (✓) in the boxes given below.

1. What, according to you are the reasons for Mob Lynching in India?

- |   |                          |
|---|--------------------------|
| (a) Fear that offenders will escape punishment. | <input type="checkbox"/> |
| (b) Fear that social norms are being violated   | <input type="checkbox"/> |
| (c) Unenlightened Citizens                      | <input type="checkbox"/> |
| (d) Political reasons                           | <input type="checkbox"/> |
| (e) All of the above                            | <input type="checkbox"/> |

(f) If any other, please specify:

\_\_\_\_\_

2. Are the existing laws sufficient to combat Mob Lynching in India?

(a) Yes

(b) No

3. Please specify the reasons for your answer to the above question.

---

4. If the answer to question no. 2 is 'no', should the Indian Penal Code, 1860 be amended to define "Mob Lynching" as a specific offence punishable under it?

(a) Yes

(b) No

5. Will the making of "Mob Lynching" punishable under the Indian Penal Code, 1860 be sufficient to prevent future such incidents?

(a) Yes

(b) No

6. Please specify the reasons for your answer to the above question.

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7. If the answer to question no. 4 is 'no', then should a special legislation to combat Mob Lynching be enacted?

(a) Yes

(b) No

8. If a special legislation is to be enacted, would a Central Legislation be more effective in preventing Mob Lynching than a State Legislation?

(a) Yes

(b) No

9. Please specify the reasons for your answer to the above question.

---

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10. How, according to you, can the administration of criminal justice system be made more effective in curbing vigilante acts in India?

---

---

11. What, according to you, is the duty of the citizens in prevention of Mob Lynching incidents?

---

---

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Place:** \_\_\_\_\_



**ANNEXURE 1**  
**STATEMENT OF THESIS PREPARATION**

1. Thesis Title: A Critical Study on Vigilantism and Criminal Justice System in India.
2. Degree for which the thesis is submitted: Doctor of Philosophy in Law
3. Thesis Guide was referred to for preparing the thesis.
4. Specifications regarding thesis format have been closely followed.
5. The contents of the thesis have been organized based on the guidelines.
6. The thesis has been prepared without resorting to plagiarism.
7. All sources used have been cited appropriately.
8. The thesis has not been submitted elsewhere for a degree.

(Signature of the student)

**Name:** Tarakeshwari Dineshkumar Bulusu

**Roll No.:** 18GSOL3010002

## **BRIEF PROFILE OF THE RESEARCH SCHOLAR**

**Name:** Tarakeshwari D. Bulusu

**Educational Qualifications:** M.Com., University of Bombay, Mumbai.

LL.M., Faculty of Law, The Maharaja  
Sayajirao University of Baroda, Vadodara.

**Academic Achievements:** Secured Five Gold Medals for standing first in  
LL.B and LL.M Programmes.

**Profession:** Assistant Professor

Faculty of Law

The Maharaja Sayajirao University of Baroda, Vadodara

**Area of Specialisation:** Criminal Law

**Teaching Experience:** Has taught subject like Law of Crimes, Law of  
Evidence, Criminal Psychology, Forensic Science  
apart from Intellectual Property Laws and  
Property Law in the past thirteen years of  
teaching.

**Publications:** Has fourteen publications in national and international  
journals.

**Conferences:** Participated in various national and international  
conferences and seminars.

## **BRIEF PROFILE OF THE SUPERVISOR**

**Name:** Dr. Shweta Thakur

**Profession:** Associate Professor

School of Law

Galgotias University, Greater Noida, Uttar Pradesh

**Awards & Achievements:** Has been awarded Gold Medal in LL.B.

Awarded Radha Kishan Punshi Memorial Gold Medal for securing first position in LL.B. examination of H. P. University in June 2008.

Recipient of H.P.U. J.R.F. IN 2008-2010 for pursuing research in LL.M.

**Career Summary:** Experienced Law Professor and Practitioner with over 12 years of experience in advocacy, academics, research and academic administration. Proven success in leadership, operational excellence and organizational development with keen understanding or elements of teaching, learning, research and advocacy skills. Proven motivator for the slow learners and bringing them in the main stream.

## **BRIEF PROFILE OF THE CO-SUPERVISOR**

**Name:** Prof. (DR.) Kiran Dennis Gardner

**Profession:** Dean, School of Law, Alliance University, Bengaluru.

- Double Doctorate with Ph. D in Law and Ph. D in Education, having more than three decades of teaching and administrative experience.
- Areas of interest are Criminal Law, Constitutional Law, Gender Studies and Research Methodology.
- As resource person has actively contributed to police training programmes and legal awareness mainly in the area of Juvenile Justice Act, Protection of Children from Sexual Offences Act, Domestic Violence Act, Amendment in Criminal Laws, Bail Provisions, Women Empowerment, etc.
- Has edited many books and is an editor of many law journals.
- Has participated in and organised many Conferences, Seminars, Moot Court Competitions, Workshops, and Faculty Development programmes.