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**RABBLE'S MAJORITARIAN RADICALISATION AND HATE CRIMES**- B Thillai Nayage<sup>1</sup>**ABSTRACT**

The perpetration of hate crimes inflicts not only physical harm upon its victims, but also engenders a profound existential crisis, compelling both the targeted individuals and their families to interrogate the very essence of their being. This distressing phenomenon renders vulnerable segments of the population prone to the deleterious effects of such heinous acts within the societal fabric of the nation. The commission of hate crimes is not contingent upon an individual's behavioural patterns or personal conduct, but rather predicated upon their inviolable traits such as caste, gender, religion, race, and other similar attributes. The escalation of hate crimes in India over the course of recent decades has become a matter of great concern. It is imperative to recognise the gravity of this issue and actively engage in efforts to raise awareness and sensitivity towards this form of criminality. Failure to address this pressing matter in a timely manner will undoubtedly have profound implications for the future generations, rendering their ability to coexist peacefully and harmoniously within the diverse culture. The phenomenon of hate crimes possesses the potential to extend its deleterious effects beyond the immediate victims, permeating the fabric of an entire community. Consequently, it becomes imperative to establish a legislative framework comprising stringent laws and mechanisms that hold accountable those entrusted with the responsibility of maintaining societal harmony.<sup>2</sup>

**Keywords:** Hate crime, lynching, witch hunt, vigilantism, secularism.

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<sup>2</sup>Sasha Chauhan Kanwar, *HATE CRIMES IN INDIA: NEED FOR A COMPREHENSIVE LEGISLATION, IMPACT* IJRHAL, [file:///C:/Users/Acer/Downloads/05-08-2020-1596627320-6-IMPACT%20%20IJRHAL-8.%20IJRHAL-%20Hate%20crimes%20in%20India%20Need%20for%20a%20Comprehensive%20Legislation%20\(1\)%20\(1\).pdf](file:///C:/Users/Acer/Downloads/05-08-2020-1596627320-6-IMPACT%20%20IJRHAL-8.%20IJRHAL-%20Hate%20crimes%20in%20India%20Need%20for%20a%20Comprehensive%20Legislation%20(1)%20(1).pdf).

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## INTRODUCTION

Caste-based violence refers to acts of aggression, discrimination, and harm that are perpetrated against individuals or groups based on their caste affiliation within a social hierarchy. This phenomenon represents the most ancient manifestation of violence in the Indian context, which continues to persist without abatement. In 1955, the Indian government implemented a ban on caste-based discrimination within the country. The Constitution of India, specifically Article 15, establishes a prohibition against discrimination on the basis of caste, while Article 17 declares the practise of untouchability to be unlawful. However, this legislation fails to dissuade individuals who persistently adhere to the established framework. According to the Human Rights Watch (HRW), the caste system in India is widely regarded as one of the most enduring social hierarchies in existence. In the year 2020, a group of thirteen individuals perpetrated a violent assault on a 32-year-old individual belonging to the Dalit community, purportedly in response to an alleged incident involving contact with a motorbike owned by an individual from an upper caste. The individual belonging to the Dalit community was forcibly disrobed and subjected to physical assault in a public setting. The family members accompanying him were subjected to physical assault as well, as they intervened in an effort to rescue him from the violent crowd.<sup>3</sup>

The empirical investigations pertaining to hate crimes have revealed a notable and pronounced escalation in numerical figures during the course of the previous decade. The website “Halt the Hate,” hosted by Amnesty International India, serves as a repository for documenting the occurrences of hate crimes within the borders of India. This initiative has become necessary due to the inadequacy of our own National Crime Record Bureau, which has failed to maintain an up-to-date record of such incidents since the year 2016. During the period spanning from September 2015 to June 2019, the esteemed organisation has meticulously documented and recorded a comprehensive range of 902 reported incidents of hate crimes that have transpired within the borders of the nation of India. During the period spanning from January to June 2019, a significant proportion of the individuals who fell victim to various forms of injury were subjected to such mistreatment primarily due to their

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<sup>3</sup> Tarakeshwari D. Bulusu, Dr. Shweta Thakur, *The New Narrative of Mob Lynching in India Beyond the lens of Caste and Religion*, Volume 7, IJME, 1725, [https://kalaharijournals.com/resources/201-220/IJME\\_Vol7.1\\_212.pdf](https://kalaharijournals.com/resources/201-220/IJME_Vol7.1_212.pdf).

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Dalit identity, constituting a staggering two-thirds of the total victims. Subsequently, individuals belonging to the Muslim community accounted for 40 instances of adverse effects, while those identifying as Adivasi experienced injury in 12 cases. Furthermore, individuals of Christian faith were subjected to harm in 4 instances, and individuals who faced harm based on their true or alleged sexual orientation or gender identification amounted to 6 cases. In the realm of purported hate crimes targeting Dalits, a notable subset pertains to the deprivation of their rightful access to public amenities, encompassing , potable water sources, cremation grounds, and educational institutions.<sup>4</sup>

One of such major incidents which happened in the year 2019 is the lynching of Tabrez Ansari, whereby on June 22, 2019, a video circulated widely on social media depicting an incident in which a 24-year-old individual named Tabrez Ansari was subjected to prolonged physical assault in the state of Jharkhand, purportedly on suspicion of theft. The individual in question entered into married life a duration of just over two months prior, assuming the role of sole provider for his spouse. The individual in question was subjected to a mob lynching incident, during which they were compelled to recite the phrases “Jai Shri Ram” and “Jai Hanuman.” These incidents, characterised by their deleterious consequences and profound implications for social harmony, warrant a comprehensive examination and analysis. By delving into the intricate details of these occurrences, we can gain a deeper understanding of the underlying factors contributing to their manifestation, as well as the potential ramifications for the affected individuals.<sup>5</sup>

## MAJOR RECURRING HATE CRIMES IN INDIA

- **HONOUR KILLING**

Other kind of hate crime which is prevalent in India is Honour killing, most often, the murder of a woman or girl by male family members. The killers justify their actions by claiming that

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<sup>4</sup> Sasha Chauhan Kanwar, *HATE CRIMES IN INDIA: NEED FOR A COMPREHENSIVE LEGISLATION*, IMPACTIJRHAL, [file:///C:/Users/Acer/Downloads/05-08-2020-1596627320-6-IMPACT%20%20IJRHAL-8.%20IJRHAL-%20Hate%20crimes%20in%20India%20Need%20for%20a%20Comprehensive%20Legislation%20\(1\)%20\(1\).pdf](file:///C:/Users/Acer/Downloads/05-08-2020-1596627320-6-IMPACT%20%20IJRHAL-8.%20IJRHAL-%20Hate%20crimes%20in%20India%20Need%20for%20a%20Comprehensive%20Legislation%20(1)%20(1).pdf) .

<sup>5</sup>S. Hasthisha Desikan, *Legal Regulation of Hate Crimes in India: A Look at the Current Regime and its Shortcomings*, IJLMH, <https://www.ijlmh.com/paper/legal-regulation-of-hate-crimes-in-india-a-look-at-the-current-regime-and-its-shortcomings/> .

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the victim has brought dishonour upon the family name or prestige. In India, the government enacted strict penalties for violence against women during the 1980s. However, honour killings based on inter-caste and inter-religious marriages continued to take place in rural areas, where they were largely unreported to police because of direct or indirect support among village residents. Such murders were often ruled as accidents when reported. A woman beaten, burned, strangled, shot, or stabbed to death could be ruled a suicide, even if there were multiple wounds and there was no possibility the woman could have killed herself. Honour killing results, mostly in the death of a woman as she is supposed to keep the honour of a family. The famous case of Manoj- Babli where a newlywed couple was killed in 2007. The cases of honour killing are prevalent more in northern regions of India particularly Haryana, Punjab, Rajasthan and Uttar Pradesh. Honour killings are a severe disregard to the human life and a clear violation of Universal Declaration of Human Rights and the fundamental rights enshrined in the Constitution of India. Now looking at the various crimes which can be covered under the hate crimes there is a dire need of enacting a comprehensive hate crime law.<sup>6</sup>

- **MOB LYNCHING**

The term “mob lynching” describes the use of force by a sizable gathering of people to punish someone who is thought to have broken the law. In the Indian setting, frequent lynching and mob violence incidents indicate the underlying tensions between different racial populations. In India, incidents of mob violence, assaults, torture, and honour murders are prevalent. The highest and most inviolable right is the one to live with dignity, as stated in Article 21 of the Indian Constitution. Any civilised society cannot tolerate the practise of mob lynching. It is morally and ethically unacceptable for anybody to take another person's life, whether they do so on their own or in concert with others. There are no acceptable excuses or explanations for such behaviour. Any civilised culture that has a lynching incident has the potential to completely collapse the structure of law and order. As such, it is morally unacceptable for anyone to violate the dignity and worth of another human being and take on the role of vigilante. It is crucial that the court preserve the rule of law and

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<sup>6</sup> Tarakeshwari D. Bulusu, Dr. Shweta Thakur, *The New Narrative of Mob Lynching in India Beyond the lens of Caste and Religion*, Volume 7, IJME, 1725, [https://kalaharijournals.com/resources/201-220/IJME\\_Vol7.1\\_212.pdf](https://kalaharijournals.com/resources/201-220/IJME_Vol7.1_212.pdf).

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forbid mob rule from taking precedence over it, hence it is necessary to stop normalising the practise of mob lynching.

Furthermore, mob lynching erodes public trust in the justice system and fosters a culture of fear and violence. It also hampers social cohesion by deepening divisions within communities and exacerbating tensions between different groups. The prevailing sentiment among the majority is one of apprehension towards the minority, while alternatively, the minority holds a sense of anxiety towards the majority. This reciprocal fear engenders a pernicious cycle, ultimately culminating in the abhorrent phenomenon of mob lynching. This particular form of criminal activity undermines the social structure and presents a significant challenge to the concept of harmonious coexistence amidst diversity. This creates a context characterised by a dichotomy between the majority and minority groups. There is a possibility for the exacerbation of caste, class, and racism. The potential threat to the unity and integrity of the nation arises from the sectarian division within Indian society.

- **COW VIGILANTISM**

India is a pluralistic country. The fundamental principles of Indian politics are upheld by the Indian constitution, which also safeguards the country's diverse culture. One form of mob lynching that occurs often in India is cow vigilantism. The act of killing someone on the grounds that they may have ingested beef or engaged in cattle trafficking against their religious convictions is known as "cow vigilantism," and it is a practise that is in direct opposition to our secular constitution. Only the State Government holds the power to pass legislation restraining the trading in dairy cattle or prohibiting the slaughter of cows, calves, and other milch livestock, according to Article 48 of the Indian Constitution.

This has led to the cow being considered a holy animal and the State having an obligation to protect the religious beliefs of the Hindu population above all else. This has led to a religious war between Muslims and Hindus. A fresh wave of anti-dairy animal vigilantism swept the nation with the passage of the Prevention of Cruelty to Animals Act, which generated debate about whether the government should regulate animal operations or conserve animals. Cow vigilantes have become more fearless and alert in their attacks on innocent individuals based on unfounded rumours or allegations since the ban on beef was implemented in certain parts of the country. Those who identify as vigilantes and who actively target minorities in their

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pursuit of law enforcement are attempting to usurp the role of society's first law enforcement officials. Thus, under the pretence of acting as vigilantes, the crowd completely mocks the rule of law by assuming the positions of judge.<sup>7</sup>

- **WITCH HUNTING**

The terrible practise of “witch-hunting” involves torturing women who are thought to have witchcraft or other dark magical abilities in an effort to save mankind. Although India has evolved into a contemporary nation that guarantees various fundamental rights such as right to personal dignity, privacy, but still the country's cultural practises and beliefs are still traditional and archaic. The majority of people, particularly those living in rural regions, have become so enmeshed in superstitions that they are contributing to the oppressive structures of their culture and religion. As a result, there has been a rise in intolerance and the number of crimes motivated by superstitions throughout time. Witch-hunting is one such atrocity that stemmed from this inflexible religious system. Despite the fact that several State laws have been passed to combat this problem, our society is nevertheless plagued by the horrible reality of witchcraft and human sacrifice. This practise violates women's fundamental human rights to a decent life by agonizing them.

This perverted understanding of witch-hunting warps reality and permits the murder and rape of innumerable innocent people. It is a sombre reflection of the ingrained ignorance and biases in society. Regretfully, these actions not only deprive women of their lives but also damage families, undermine education, and upend any sense of stability or serenity. The repressive forces that incite these atrocities tear away the fundamental fabric of society. Article 14 and Article 21 of the Indian Constitution, respectively, protect an individual's intrinsic claim to equitable treatment and preservation of life, both of which are violated by the unhindered continuation of such practises. Just eight Indian states have passed laws criminalising witchcraft to yet. A number of illogical and unscientific activities, such as spiritual healing, fraud, and the spread of false information about medical treatment, can proliferate when superstitions are left unchecked.

## **THE ROLE OF POLICE OFFICIALS IN PROSECUTION AND INVESTIGATION**

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<sup>7</sup> Shubham Bajaj, *Mob lynching and Issue of Human Rights*, VOLUME 1 ISSUE 2, BRILLOPEDIA, (2021), [https://www.brillopedia.net/files/ugd/134683\\_112d568b373f4c8ba6516a0c4060f89e.pdf?index=true](https://www.brillopedia.net/files/ugd/134683_112d568b373f4c8ba6516a0c4060f89e.pdf?index=true)

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In light of vigilantism, it is disconcerting to observe that the police officials in charge of maintenance of law and order have displayed a lack of expediency in conducting thorough investigations and bringing the perpetrators to justice. Alarming statistics reveal that in a significant proportion of the documented incidents, approximately one-third to be precise, the police have chosen to file complaints against the relatives and friends of the victims. These complaints are lodged under the purview of laws that prohibit cow slaughter. The phenomenon of counter complaints lodged against witnesses and relative members has frequently engendered a climate of fear, thereby impeding their pursuit of justice. In certain instances, it has been observed that witnesses have exhibited a disposition of hostility, which can be attributed to the presence of intimidation tactics employed by both the governing bodies and the individuals' facing charges.<sup>8</sup>

The '*Status of Policing in India Report 2019*', a comprehensive study conducted by Common Cause and Lokniti-Centre,<sup>9</sup> involved the examination of a sample of 11,834 police officers, hailing from a total of 21 states. The research endeavour sought to examine the perceptions held by staff members regarding different types of criminal activities, diverse societal groups, and the adequacy of the existing police infrastructure. The results of this survey revealed a diverse range of perspectives on the perceived naturalness of mob violence in the aforementioned context. Notably, a significant proportion of respondents, constituting 15% of the total sample, expressed a belief that mob violence in relation to "cow slaughter" was predominantly natural. Furthermore, an additional 20% of respondents opined that such violence possessed a degree of naturalness, albeit to a lesser extent, characterising it as "somewhat natural." Conversely, a noteworthy segment of the respondents, comprising 16% of the sample, contended that mob violence in this context was rarely natural. This perspective suggests a departure from the notion of inherent naturalness, implying that instances of mob violence are infrequently aligned with the natural order of societal dynamics.

Also, In the Pehlu Khan lynching case the Police officials misused their authority and has filed a case against the petitioner for violating the Section 5(1) of the Rajasthan Bovine

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<sup>8</sup>*Violent Cow Protection in India*, HUMANRIGHTSWTACH ,(2019), <https://www.hrw.org/report/2019/02/19/violent-cow-protection-india/vigilante-groups-attack-minorities>.

<sup>9</sup> STATUS OF POLICING IN INDIA REPORT (SPIR) 2019, CSDS, <https://www.lokniti.org/otherstudies/status-of-policing-in-india-report-spir-2019-207>

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Animal (Prohibition of Slaughter and Regulation of Temporary Migration or Export) Act, 1995 even while carrying the receipt, which is an utter wasting of time of the Hon'ble Court, when in fact Pehlu Khan was ultimately dead in the lynching act by the accused. But the Police officials tried to protect the accused enjoining their hands with cow vigilante group and were not punished for their wrongful act. It is thus essential for the implementation of the guidelines issued by the Hon'ble Court in Tehseen S Poonawalla Vs. Union of India as to punish these law enforcement authorities from their deliration of duties. Thus, the police officials' attitude of treating the mob lynching as a part of cow vigilantism is absurd. They need to create more awareness on the seriousness of mob lynchings happening. Only when the police officials do their duties properly mob lynchings can be reduced and the victims can get proper justice.

### **NEED FOR COMPREHENSIVE LEGISLATION**

The National Crime Records Bureau (NCRB), a department under the purview of the Ministry of Home Affairs responsible for the maintenance of a secure database pertaining to criminal activities within the country, does not currently recognise hate crimes, lynching or mob violence as a separate criminal offence. Consequently, there is an absence of official data regarding these particular types of crimes by NCRB owing to absence of comprehensive law on the same. The aforementioned behaviour can be classified as either inciting animosity between two religious groups or recognised as an instance of communal violence. In contrast to the National Crime Records Bureau, the Ministry of Home Affairs also maintains records of communal incidents and publishes its statistical data on an annual basis. The computation methodology employed by the National Crimes Records Bureau is grounded in the "Principal Offence Rule". Under this rule, in cases where a lynching incident results in a murder, all other crimes committed in conjunction with the lynching are disregarded for the purposes of calculation, with only the murder offence being officially recorded. Consequently, the absence of official statistical data on lynching can be attributed to the fact that it is not recognised as a distinct criminal offence within the framework of the Indian Penal Code. Given the circumstances, there is a scarcity of official government statistics pertaining to incidents of lynchings and hate crimes. According to the Ministry of State, the decision to halt data collection on instances of mob lynching and incidents of hatred was motivated by

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the perceived lack of reliability in the information gathered. This unreliability stems from the absence of clear definitions for these types of crimes.<sup>10</sup>

Thus, it becomes essential to define the hate criminalities so as to enable proper data collection to analyse the same. Defining is crucial in order to establish a clear understanding of the phenomenon and facilitate effective data collection. By having a standardized definition, authorities can accurately document and analyse incidents of mob violence across various occupations and locations. This comprehensive approach will help identify patterns, root causes, and potential preventive measures to address this alarming issue.

## CONCLUSION

At present, hate crimes, lynchings and mob violence are the hallmark of several incidents occurring throughout India. The aforementioned instances can be mostly attributed to the intolerance of the public towards the diversity that occurs. Article 14 and Article 15 of the Indian Constitution prohibit discrimination against any group of people on the basis of identities, and hate crimes that target persons on the basis of their identity are a blatant example of this. Enacting precise laws and strictly enforcing implementation procedures are essential given the nation's present mob attack concerns. This will help to swiftly and efficiently stop these assaults and punish those who commit them. Upholding the core principles of the Indian Constitution is essential to guaranteeing the preservation of the intrinsic right to human dignity, as outlined in Article 21 of the Constitution of India. It is now commonly understood that no one has the right to independently administer justice, hence there is an urgent need to create legislation that can function as an effective deterrent against those who engage in such behavior.

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<sup>10</sup>Ananya Bhardwaj, *NCRB stopped collecting data on lynching, hate crime as it was 'unreliable' Govt tells LS*, THE PRINT, (June 25,), <https://theprint.in/india/governance/ncrb-stopped-collecting-data-on-lynching-hate-crime-as-it-was-unreliable-govt-tells-ls/785201/>.

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