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The Necessity of a Sui Generis Anti-Lynching Law in Bangladesh: Filling the Statutory Void

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ABSTRACT:

Mob lynching in Bangladesh represents a serious violation of the rule of law, involving collective extrajudicial violence often triggered by unsubstantiated rumors and resulting in death or grave injury. This doctrinal and comparative study identifies a critical statutory gap: the lack of specific legislation recognising mob lynching as a distinct aggravated offence. The general provisions of the Penal Code 1860 unlawful assembly (s 141), rioting (ss 146–148), common intention (s 34), and vicarious liability (s 149) are inadequate to address the spontaneity, digital incitement, and communal bias characteristic of contemporary cases. Drawing on black-letter analysis of domestic law and comparisons with jurisdictions sharing colonial legacies (India, South Africa) or similar vigilantism challenges (Indonesia, Nigeria, Kenya, Sri Lanka, Philippines), the paper highlights deficiencies in deterrence, attribution of responsibility, and enforcement. These shortcomings breach constitutional guarantees (Articles 27, 31, 32) and ICCPR obligations (Articles 6, 14), manifesting as constructive state acquiescence and denial of fair trial rights. The study concludes that only a sui generis anti-lynching statute with rebuttable presumptions of collective liability, provisions on incitement, police accountability, and expedited trials can fill this void and restore state legitimacy.

Keywords: Mob Lynching Bangladesh; Sui Generis Legislation; Statutory Void; Collective Criminality; Constructive Acquiescence; Fair Trial Rights; ICCPR Compliance; Vigilante Justice

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Introduction:

The number of mob lynchings has been on the rise since August 2024 when Bangladesh saw a change of political process. This shows that the criminal justice system fails to deter. Notorious instances of how crowds take on the role of judge and jury and wield terror or death without due process include coordinated attacks on leading media houses as well as the lynching in December 2025 of Dipu Chandra Das, a Hindu garment worker who died after he had been detained by police without any evidence whatsoever for breaking a blasphemy law.¹ These incidents, which generally are created by a rapid propagation of false rumors, are symptomatic of a broader trend that endangers the very monopoly state holds on legal force.

Most contemporary literature focusses on issues of impunity and minority persecution while examining mob violence from sociological or human rights perspectives. The analysis of statutory criminal law still has a serious flaw, though: there is no explicit clause that recognises the unique features of mob lynching, such as spontaneity, digital incitement, communal prejudice, and evidential ambiguity. This leads to a conceptual conflict with the general provisions of the Penal Code.

This paper bridges the gap by performing a doctrinal analysis of Bangladesh's criminal justice system and drawing comparisons with other nations dealing with comparable problems. It gradually looks at the definition of statutory failure in the Penal Code of 1860; discusses the international and constitutional issues that result from states doing nothing and finally suggests a special anti-lynching law as the only remedy.

Literature Review & Theoretical Framework:

Literature Review

South Asian legal scholarship has long criticised colonial criminal codes for upholding control rather than justice because foundational texts demonstrate how inherited frameworks, such as the Penal Code 1860, prioritise public order over individual rights in post-colonial contexts and often fail to adapt to

¹ Human Rights Watch, 'Bangladesh: Mob Violence Surge' (HRW 2025).

societal changes.² Bangladesh's shared colonial past is also subject to structural injustices, as demonstrated by Upendra Baxi's analysis of the problems with the Indian legal system.³ Social reality and the law don't always coincide, especially when it comes to extralegal violence, as Kamal Hossain's research on justice in Bangladesh shows.⁴

According to recent research on vigilantism, there is a "culture of impunity" because of people's mistrust of the police and the weakness of other institutions. Human Rights Watch claims that mob violence is getting worse as political unrest rises. They believe that this is because people think the police are doing nothing and the courts are taking too long.⁵ Hundreds of lynchings occurred in 2024–2025, with minorities and other vulnerable groups suffering more than others, according to Ain o Salish Kendra's annual reports.⁶ They claim that these actions violate both domestic and international law's guarantees of the right to life and a fair trial.

Comparative studies add even more value to the discussion. Laurens Bakker links power vacuums brought about by decentralisation to surges in which local leaders subtly promote vigilantism as a means of social control in his examination of Indonesia's "keroyokan" mobbing.⁷ Geert Arend van Klinken research on communal violence in Indonesia demonstrates how democratisation indirectly permits mob storms by reluctant states.⁸ These comparisons are significant for the post-transition situation in Bangladesh as well, since political fragility only accelerates institutional decline.

Unique among the papers, for Bangladesh at least, is a claim that current laws are insufficient. It has been argued, also in the academic scholarship, that the Penal Code treats mob lynching as business as usual rather than an issue of social and symbolic significance. References to lynching often treat it as a social breakdown, not only as a crime, highlighting the psychological and communal impact on witnesses and communities. Human rights views, such as the perspective of UN Special Rapporteur, highlight the need for concrete laws to fight impunity and violations of duties in cases relating to due diligence. The probe reveals widespread acceptance that sui generis reform is needed to address this complex legal and social lacuna.

Theoretical Framework: The Erosion of the Social Contract and the State's Monopoly on Violence

According to Thomas Hobbes, John Locke, and Jean-Jacques Rousseau, the Social Contract is what gives the modern state its legitimacy. In exchange for protection from the government and a centralised legal system, individuals in this system renounce their innate right to use force.

The Hobbes Violation: Hobbesian doctrine holds that the "Leviathan" (the State) exists primarily to put an end to the "war of all against all." The State is practically destroyed when a mob kills someone in a Rajshahi or Dhaka public square. The State failed to establish its exclusive right to use violence against other "justice regimes" (the mob), in addition to lawmakers' error with the "missing provision" in the Bangladesh Penal Code.

The Lockean Perspective: According to John Locke's social compact, the government ought to protect citizens' inalienable rights, including their right to life, liberty, and property. To avoid the problems that come with living in a state of nature, the government is based on consensus. People still have the right to take revenge if the government violates these rights. The state fails in the bargain to prevent vigilantism and lynch mobs from usurping punitive authority thus eroding consent-based legitimacy and has necessitated demands for reform to reclaim protective governance.

The Rousseauian View: The "general will" that the people rule and the state is their instrument stands at the bottom of Jean-Jacques Rousseau's contract. Lynching is an ugly distortion of public will that advances the cause of certain groups, while creating social dissonance. The state tolerance, requiring the production of laws that prioritize collective justice over intergroup violence, challenges the contractual principle of fundamental equality.

The Monopoly of Weber: Max Weber defined the state as "a human community that claims the monopoly of the legitimate use of physical force."⁹ One illegal type of "sub-contract" violence is mob lynchings. A "shared monopoly" is implicitly allowed because "lynching" is not regarded as a separate crime under Bangladeshi law. As a result, the formal courts lose credibility.

Deindividuation and Collective Intent: Gustave Le Bon's Crowd Theory states that when individuals in a crowd surrender their personal conscience, a "collective mind" is formed.¹⁰ Bangladesh's current law (Section 34, PC) looks for a common goal. The theoretical remedy, however, is the "Theory of Collective Liability," which maintains that being a part of a violent group that causes death makes one guilty. This is how mob psychology works.

Marxist Perspective on Vigilantism: According to Marxists, is a bad, often reactionary practice that supports the bourgeois order rather than helping workers achieve freedom. Property rights are protected by the state in a capitalist society, and the ruling class benefits from crime and punishment. When the state loses its monopoly, vigilante groups usually defend popular ideas like nationalism, race, or community. This keeps the oppressed from organising and from getting their complaints taken seriously. Lynchings used to undermine class solidarity, but now ruling-class groups support mobs that use

² Penal Code 1860 (Act XLV of 1860) (Bangladesh).

³ Upendra Baxi, *The Crisis of the Indian Legal System* (Vikas Publishing House 1982).

⁴ Kamal Hossain, *Bangladesh: Quest for Freedom and Justice* (University Press Limited 2013).

⁵ Human Rights Watch (n 1).

⁶ Ain o Salish Kendra, *Annual Report 2025* (ASK 2025).

⁷ Laurens Bakker, 'Vigilantism in Indonesia' (2015) 52 *Asian Journal of Social Science* 258.

⁸ Geert Arend van Klinken, *Communal Violence and Democratization in Indonesia* (Routledge 2007).

⁹ Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (University of California Press 1978) vol 1, 34.

¹⁰ Gustave Le Bon, *The Crowd: A Study of the Popular Mind* (Batoche Books 2001).

economic hardship to incite violence between groups. To eliminate private property and attain true freedom, organised class struggle is required in place of capricious mob "justice" that divides people.

Critical Legal Studies (CLS) Perspective: Power, Class, and "Street Justice"

The Critical Legal Studies (CLS) movement, which originated primarily in American law schools in the late 1970s and early 1980s, offers a radical critique of the law as a tool of power that maintains social hierarchies rather than ensuring justice. Using Marxist, postmodern, and realist ideas, CLS scholars say that legal ideas are unclear, contradictory, and biased in favor of protecting the interests of the ruling class. According to a CLS study of mob lynchings in Bangladesh, "street justice" is more than just a random way for people to show their anger. It's not that simple; it's a complicated web of power dynamics where the law's supposed neutrality hides its role in keeping government power, inequality, and community control.

Law as Dominance and Belief: According to CLS, the law supports existing power structures by making it seem like social relationships are natural and unavoidable. Bangladesh's Penal Code 1860, a holdover from colonial rule, ignores the collective and ideological nature of mob violence by defining it in terms of individual crimes (such as murder and rioting). By placing the blame on the individual, this fragmentation promotes hegemonic objectives while hiding communal or class-based motivations (such as targeting minorities or the economically disadvantaged). The idea that lynching is abnormal and exceptional is reinforced by the lack of a clear anti-lynching law, which allows dominant groups to maintain "order" informally when the law benefits them.

Class, racism/ethnicity, and intersectional oppression: CLS shows how the law combines class, racism, gender, and religion to worsen the situation of already marginalised individuals. Mob lynchings, which are indicative of both sectarian animosity and class insecurity, disproportionately target religious minorities (Hindus), ethnic groups, or the impoverished accused of minor offences in a neoliberal economy characterised by the exploitation of garment workers and rural instability. "Street justice" gives the bourgeoisie more power while empowering those who are unhappy with elite-run institutions by placing the blame on "others" rather than structural exploitation. The law maintains the power of the ruling class while pretending to be neutral, as evidenced by the state's selective enforcement of the law, which is quick to punish political opponents but lenient when it comes to communal violence by the majority.

The Myth of the Rule of Law and Indeterminacy Legal indeterminacy permits doctrines to be twisted to support any outcome, according to a basic tenet of Critical Legal Studies (CLS). Although Sections 34 and 149 of the Penal Code could theoretically impose collective accountability, they are rarely strictly enforced in lynching cases due to prosecutorial discretion influenced by social and political factors. This ambiguity enables the government to accept "street justice" when it serves its own interests (such as oppressing minorities) while publicly denouncing it to preserve the appearance of the rule of law. CLS would argue that the reality of inequality in which the powerful go unpunished while the weak are punished is camouflaged by formal equality under law.

Looking "Justice" in the Eye: By looking at reification (the general process by which abstract principles are turned into hard things and that masks relations of power) in the eye, CLS challenges liberal justice theory. These are the romanticisation of mob action as "people's justice" against a corrupt state, which turns a blind eye to majority and gendered violence. Since 2024, lynchings in Bangladesh were increasingly directed on those perceived to be from a minority group or supporting the Awami League. For them, actual justice matters less than political consistency. By leaving it up to powerful factions whether they want the government to regulate violence, the law's refusal to treat lynching as a criminal act preserves the status quo.

Reform's Aftermath A sui generis anti-lynching law, CLS insists, can have the bitter side-effect of re-legitimizing the system by admitting dissension into reformist visions while asking no questions about the power as such. It will take more than new legislation to solve that problem. It must be considered that, the ideological role of the law. There are a million ways to do that, from orienting people to the deeply unethical contours of our local laws, to imagining radical alternatives to state justice. In practice, however, such a law might expose internal contradictions, and hold the government to account for its own contribution to the problem potentially inviting more criticism.

The CLS approach is compatible with both liberal and Marxist theory by showing that the law can be a part of the problem, rather than only a solution. It preserves social orders which enable "street justice" to operate. This more full-bodied picture is meant to indicate how the state, by both radical and liberal as well, has been ambushed in the spectacle of lynching. It called on legal action to save the agreement also to advance social justice.

Methodology:

This legal analysis is unique in law as it can interpret and analyze strictly the 3) what Evidences (from reliable origins) mean using a very doctrinal methodology. generally external methodologies and the collection of empirical data being avoided. This black-letter approach requires close readings of statutes, caselaw, and constitutional provisions to locate passages that are ambiguous or in conflict with one another. Articles 27, 31, 32 and 35 of the Bangladeshi Constitution deal with fundamental rights; the Evidence Act 1872 deals with presumptions and burden of proof; the Penal Code, 1860 deals with common intention, joint liability and bodily offences; the Code of Criminal Procedure, 1898 deals with how to investigate cases handle arrest and folly processions. The International Covenant on Civil and Political Rights (ICCPR, Articles 6 and 14) and the Articles on Responsibility of States for

Internationally Wrongful Acts (ARSIWA) also are two international instruments analyzing whether countries respect international human rights.¹¹

To put the legal lacunae of Bangladesh in perspective and gauge potential for improvement, a comparative standpoint is adopted as supplementary to the Doctrinal base. This requires comparing anti-lynching regimes in countries with similar colonial legal backgrounds (South Africa's constitutional bulwarks against vigilante activity) and in regions with kindred socio-political vigilantism trends, such as Indonesia (keroyokan mobbing during decentralization), Nigeria (jungle justice due to judicial malaise), Kenya (state-endorsed mob justice) and Sri Lanka (crime-focused vigilantism following a conflict). The ruling reflects similar anxieties about how to confront official complicity, how to balance due process and deterrence, and how to adapt traditional common law precepts to new group violence. This allows us to try to identify transferable things presumed liability models, for instance while also considering contextual differences: political turmoil, or cultural mores.

The approach involves more normative evaluation and (legal) interpretation than direct fact-finding in the field; necessary to uphold thoroughness when arguing for a sui generis legislative solution representative of case law.

The Anatomy of Statutory Failure

The Penal Code of 1860 contains the primary guidelines for mob activity. Five or more people gathering for a common illegal purpose is illegal under Section 143. While rioting is prohibited by Section 146, the penalties are harsher if lethal weapons are used, according to Sections 147 and 148. According to Section 149, members of an assembly may be held accountable for crimes they knew were being committed to accomplish a common objective. While Sections 300 and 302 deal with murder or culpable homicide when someone does die, Sections 319–338 deal with injuries that do not result in death.¹²

The "prior meeting of minds" requirement for common intention under Section 34 is insufficient for spontaneous mobs that emerge from viral rumours in the absence of a pre-concert. Collective culpability is ineffective against dynamic crowds because courts require strict proof of intent, which makes it impractical in practice.

To establish vicarious liability under Section 149, you must demonstrate that an individual was a member of an unlawful assembly and was aware of it. Even with video evidence, it's nearly impossible to determine who did what in a crowded area. As a result, there are few convictions and the "crowd" becomes an obstacle to holding individuals responsible.

Section 107 covers abetment, but digital sparks, like viral posts that get people excited, don't fit into any of the categories. Section 25 of the Cyber Security Act 2023 says that spreading false information that causes trouble is a crime, but there is no clear link between that information and physical violence. This doesn't change the "digital warrant" that comes before lynchings.¹³

Constitutional and International Law Conflict:

Articles 31 (protection in accordance with law) and 32 (right to life) say that the government must protect freedom and life in accordance with the law. If the government knows about a threat and does nothing about it, it breaks these rules and commits constitutional torts. When vigilantes go after minorities without any extra protection, they are breaking Article 27's promise of equality.

Bangladesh must follow the rules of the International Covenant on Civil and Political Rights (ICCPR) because it signed it in 2000. Mob lynching is directly connected to Articles 6 (the right to life) and 14 (the right to a fair trial).¹⁴ Article 6(1) says that everyone has the right to life and that the law must protect that right. It also says that no one should be able to kill someone for no reason. The Human Rights Committee says in General Comment No. 36 (2018) in Article 6 that this right is the most important and cannot be taken away. It gives states both positive (taking reasonable steps to stop threats that private people are likely to make) and negative (not killing people without cause) duties.¹⁵ Mob lynchings happen without due process and often with the help or approval of the government, so they are an arbitrary loss of life. The Committee's jurisprudence stresses that states have a duty to take reasonable steps to stop, investigate, and punish violations by non-state actors, especially vigilante groups, as shown in *Babu v. Trinidad and Tobago* (2000).

Article 14 says that a competent, independent, and impartial court will hold a fair and public hearing, with the presumption of innocence and enough time for the defence. Mob "trials" dismisses all these protections and make quick decisions based only on rumors, with no proof or defence. As affirmed in the

¹¹ Constitution of the People's Republic of Bangladesh, arts 27, 31, 32, 35; Evidence Act 1872 (Act I of 1872) (Bangladesh); Penal Code 1860 (n 2); Code of Criminal Procedure 1898 (Act V of 1898) (Bangladesh); International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) arts 6, 14; International Law Commission, 'Draft Articles on Responsibility of States for Internationally Wrongful Acts' (2001) UN Doc A/56/10 (ARSIWA).

¹² Penal Code 1860 (n 2) ss 141–149, 300, 302, 319–338.

¹³ Cyber Security Act 2023 (Bangladesh) s 25.

¹⁴ ICCPR (n 11).

¹⁵ UN Human Rights Committee, 'General Comment No 36 on Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life' (3 September 2019) UN Doc CCPR/C/GC/36.

Committee's General Comment No. 32 (2007), countries "need to have effective means to punish people who violate the law, for example, by performing investigations and prosecutions."¹⁶ Bangladesh is not complying with these rules because few are convicted, and the police do nothing to prevent or punish lynchings.

Article 26 says discrimination is illegal, and Article 2(3) states that there should be penalties for violating the law. This is important; because minorities are often targeted. The latest observation of the Committee on Bangladesh expressed concern at extra-legal killings and absence of accountability. They called for tougher investigations and safety precautions. ARSIWA strengthens this by holding the state liable for private acts when officials fail to act themselves. That means Bangladesh must stop, not do it again, and make things right on the world stage.¹⁷

The violations of ICCPR involved both universal jurisdiction and similarity in the local constitutions. Newer laws required for the right thing and adjust the rules.

The Proposed "Anti-Lynching" Statutory Model:

The Prevention of Mob Lynching Act is necessary because group vigilantism is different from other types of vigilantism. The law says that mob lynching is any violent act or series of violent acts, as well as any help, encouragement, or attempt to carry out such acts by a group of people because of their religion, race, caste, sex, place of birth, language, dietary habits, sexual orientation, political beliefs, or just because they think someone has done something wrong. This law says that a "mob" is a group of five or more people who work together.

One of the main ideas behind collective criminality is that people in an "inner circle" are guilty until they can prove otherwise. This means that they are working together and are close to each other. This method keeps the presumption of innocence, as the Constitution says it should, but puts the burden of proof on the accused to show that they did not take part. This presumption is not relevant to the *mens rea* of the underlying offence; it pertains solely to the act of participation. This would make it follow both Article 14(2) of the ICCPR and Article 35 of the Constitution.

Police prevention of lynchings Key Pillar Two says, police must prevent lynching. If they do not, they could face jail sentences of five to 10 years. This would be true even of officers who delay filing a complaint as long as they know about the incident, are present during an unlawful search or seizure, or protect someone in legal custody from a mob. This is a question of state collusion and acquiescence and one that accords with the positive obligations found in Article 32.

Trials should be over in six months. Tougher laws to protect witnesses and special courts will make certain deterrence occur rapidly and that intimidation is not probable. That keeps the evidence from going stale, which often occurs in lengthy cases.

The German government's Cyber Security Act 2023 would make digital incitement worse, and platforms need to do what is in their power to prevent algorithms from disseminating toxic material. There is also a victim's fund, financed by fines and state funds. It provides help immediately, within 30 days of the perpetrator's conviction.

Command Responsibility: Imposing Accountability on Superiors for Failure to Prevent or Punish Mob Lynching

Mob lynchings are still common in Bangladesh, which not only shows that front-line law enforcement is failing, but it also often exposes systemic negligence at higher levels of command within district administration and law enforcement. We have a powerful tool to deal with this institutional involvement thanks to the concept of command responsibility, which was initially applied in international criminal law to hold military and civilian leaders accountable for the crimes of their subordinates.¹⁸ District magistrates, police superintendents, and officers-in-charge would become the focus instead of individual constables under a special anti-lynching law that included command responsibility. This would guarantee that those in authority are required to abide by the law.

The Doctrine's Past and Present: The Yamashita case (1945), in which General Tomoyuki Yamashita was held responsible for war crimes committed by his subordinates even though he didn't directly take part, is a well-known example of the legal system that came about after World War II and led to command responsibility.¹⁹ Article 28 of the Rome Statute of the International Criminal Court (1998) made the doctrine official. It said that military leaders and civilian supervisors who knew about crimes or should have known about them but didn't do anything to stop or punish them were responsible.²⁰ Both domestic and international law have used the "knew or should have known" test in cases of serious human rights abuses. This test combines actual knowledge with constructive knowledge.

Application to Law Enforcement in the US: In order to hold police and administrative leaders accountable for systemic failures, command responsibility

¹⁶ UN Human Rights Committee, 'General Comment No 32 on Article 14: Right to Equality before Courts and Tribunals and to a Fair Trial' (23 August 2007) UN Doc CCPR/C/GC/32.

¹⁷ ARSIWA (n 11).

¹⁸ *In re Yamashita* 327 US 1 (1946).

¹⁹ Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 90 art 28.

²⁰ *Tehseen S Poonawalla v Union of India* (2018) 9 SCC 501.

has been changed in domestic settings. In the case of *Tehseen S. Poonawalla v. Union of India* (2018), the Indian Supreme Court said that nodal officers in each district should stop lynching.²¹ State laws, like those in Rajasthan (2019) and Manipur (2018), hold officers accountable for their actions by punishing them for "wilfully neglecting" their duties. The Inter-American Court of Human Rights set the standard for government liability for private violations when officials don't do their jobs in *Velásquez v. Honduras* (1988).²² The Constitution of Bangladesh says the same thing in Articles 31 and 32.

The Bangladesh Anti-Lynching Act says that the proposed Act should have a separate part that explains how command responsibility works. Part X: Order A police officer who was not below the rank of Officer-in-Charge, Superintendent of Police, or equivalent, an executive magistrate, or a district administrator would be guilty of criminal negligence and face up to ten years in prison and a fine if they knew or should have known that a mob lynching was about to occur or was occurring in their area and did not take all reasonable and necessary steps to stop or punish the act, such as using enough force, issuing dispersal orders, or protecting the victim, or failing to turn in the perpetrators for investigation and prosecution. People think the police knew about it if the officer was there or nearby, if the victim was in legal custody at the time of the attack, or if previous intelligence reports or social media surveillance showed that there was a risk. If bosses didn't keep an eye on or punish workers whose carelessness led to the crime, they will be held responsible.

Reasons and Benefits: This section discusses the "constructive acquiescence" that international assessments of Bangladesh have declared to be incorrect. There are issues at the command level when someone claims that the police "handed over" the victim to the mob, as was the case with Dipu Chandra Das (2025). Superiors are compelled to act because they are held strictly accountable by the law. Strict regulations, quick response teams, and improved social media monitoring are a few of these tactics. Comparative models increase the likelihood of success: According to India's Rajasthan Act 2019, police officers who fail to perform their duties face up to five years in prison. Governments are required by the ICCPR's General Comment 36 to employ command structures to prevent private violations.²³

How to avoid receiving poor treatment: By requiring evidence of jurisdictional control and the chance to act, permitting defences based on inadequate resources (subject to judicial review), and requiring a separate monitoring agency to carry out independent investigations, the law should shield officers from abuse.

The Act gives police leaders command responsibility, which increases their level of activity. This closes the accountability gap that allows mobs to seize power by ensuring that institutions are punished in accordance with international due diligence standards and constitutional positive requirements, this section fortifies the current pillars.

The Evidentiary Crisis: Bridging the Gap between Mob Anonymity and Judicial Proof

Because mob lynchings are communal events, it is difficult to obtain evidence because the anonymity of the crowd prevents the perpetrators from being prosecuted, even in cases where there is substantial circumstantial evidence connecting them. The main causes of this issue are the lack of use of digital forensics and witnesses who are reluctant to come forward.

It is extremely difficult to obtain eyewitness testimony in public settings due to the "bystander effect" and people's reluctance to testify. Because they are afraid of what the community or the crowd will do to them, people who are not involved in a mob event frequently feel as though they are unable to speak up. There's a lot of quiet because of this. In small towns, where testifying against neighbours could result in rejection or increased violence, this situation is even worse. When fear prevents people from reporting, the Evidence Act of 1872's restrictions on hostile witnesses (section 154) and emphasis on oral testimony (sections 59–60) are insufficient.²⁴ An immediate "Witness Protection Scheme" is required for mob violence. Moving assistance, legal privacy protections, and methods to remain anonymous should all be part of this strategy until the trial. The 2018 Witness Protection Scheme in India should serve as its model, but it should be modified to operate in communities and incorporate quick response teams for witnesses who feel unsafe.

Digital forensics works against this by using user-generated content, like viral videos and images, as primary evidence in the same transaction under the *res gestae* doctrine (section 6 of the Evidence Act). These tools record interactions in real time to help with identification issues. Still, there are problems with what the Evidence Act of 1872 allows as evidence. For example, § 65B says that electronic records must have certified digital evidence, which means that the chain of custody and the authenticity of the metadata must be kept. Courts have thrown out recordings because they were thought to have been tampered with or didn't have hash verification. *Anvar P.V. v. P.K. Basheer* (2014) and other Indian cases show how important it is to follow the rules.²⁵ Standard hashing methods must be set up, police must follow forensic procedures when taking devices, and judges must learn how to tell if digital evidence is true. If the chain of evidence is strong, this kind of evidence should be allowed. To fill in this gap in evidence, we need to combine presumed guilt with better digital tools and protection for witnesses. This is how justice will be served, even if the mob is anonymous.

²¹ *Velásquez Rodríguez v Honduras* (Merits) Inter-Am Ct HR (Ser C) No 4 (29 July 1988).

²² UN Human Rights Committee (n 15).

²³ Evidence Act 1872 (n 11) ss 59–60, 154.

²⁴ *Anvar PV v PK Basheer* (2014) 10 SCC 473.

²⁵ *Emmett Till Antilynching Act*, Pub L No 117-107, 136 Stat 1125 (2022) (US).

Comparative Definitions of Mob Lynching in Anti-Lynching Legislation:

Countries that have specific anti-lynching laws can help by giving clear legal definitions that show where Bangladesh's general framework falls short. These explanations, which show how a new law might work, usually focus on group activity, intent to act outside of the law, and bias as a reason for acting. A thorough look at definitions from different countries shows that there is a need for tailored laws in the face of ongoing mob violence. This is done by looking at historical, legal, and sociological points of view to show how things are done around the world. This study looks at places with clear laws (like the US and India) and places that use general criminal laws because there is a lot of vigilantisms (like Brazil, Mexico, South Africa, Nigeria, Kenya, Sri Lanka, and the Philippines).

United States of America: In the USA, lynching has a long history as a means of maintaining white dominance, particularly against African Americans in the South following the Civil War. According to the Emmett Till Antilynching Act of 2022, lynching is defined as a hate crime in which two or more people plot to harm or kill someone due to their race, colour, religion, or national origin.²⁶ The perpetrator of a lynching faces a maximum 30-year prison sentence if the victim is injured or dies as a result. According to 18 U.S.C. § 245, it concerns conspiracy to violate civil rights. The Act closes the gaps left by earlier attempts (such as the Dyer Bill 1918) that failed due to opposition from the South. Because it emphasises group action (at least two people), bias motivation, and punishment outside of the law, it differs from regular homicide in that its purpose is to frighten people. Bangladesh can use this model's hate crime enhancements to punish lynchings who harbor prejudices against minorities.

India: Although lynching is not prohibited by federal law in India, it is defined by state and court regulations. According to the Manipur Protection from Mob Violence Act 2018, "lynching" is defined as any act or sequence of acts of violence committed by a mob (five or more people) that results in death or serious injury and is motivated by factors such as religion, race, caste, sex, place of birth, language, dietary habits, sexual orientation, political affiliation, ethnicity, or suspicion of criminal activity.²⁷ A person could be sentenced to life in prison if they die, or seven to ten years if they are injured. Like this, Rajasthan's 2019 Act focusses on the harm caused by mobs that are motivated by bias or false information, and it imposes harsher penalties for bias. Digital incitement is now considered a form of abetment under Jharkhand's 2021 Act. Rumor-mongers risk up to three years in prison. In *Tehseen S. Poonawalla v. Union of India* (2018), the Supreme Court declared that lynching is mob violence that undermines justice and demanded action to put an end to it.²⁸ These highlight the mob's small size (five), the cause (bias or suspicion), and the outcome (death or injury), all of which are crucial to comprehending rumor-based religious lynchings in Bangladesh.

Brazil: In Brazil, lynchings, also known as "linchamentos," are a frequent means of obtaining justice. Over 1.5 million people have participated in them over the past 60 years, with an average of one lynching attempt per day, according to sociologist José de Souza Martins. Lynching is not prohibited by federal law. Rather, those who do this face charges of either bodily injury (Article 129) or murder (Article 121 of the Brazilian Penal Code). Murder carries a maximum sentence of thirty years. Lynching is the term for when groups of people typically ten or more kill people they believe to be criminals without following the proper legal procedures. They don't trust the courts or the police, which is the cause of this. To frighten people away, they frequently employ public displays and torture techniques like beatings and burnings. The absence of specific laws indicates that "jungle justice" is more prevalent in rural and favelas, where racial and class factors influence the results most victims are Black and impoverished. Brazil's strategy demonstrates the need for special legislation to address evidence issues related to mob anonymity. When members of the community are involved, general prosecutions are ineffective.

Mexico: Since the colonial era and the revolution, lynchings have occurred in Mexico. These lynchings are typically connected to religious or social disputes, but there is no federal law prohibiting them. The Federal Penal Code defines lynching as either qualified murder (Article 320 for cruelty or premeditation) or murder (Article 307). 15 to 60 years in prison is the penalty. According to human rights reports and case law, lynching is defined as mob violence (typically involving five to twenty people) that kills or injures someone without legal approval. These violent acts are typically motivated by a desire for vigilante justice or suspicion of a crime (such as theft or witchcraft). Two well-known examples are the 1968 San Miguel Canoa lynching, in which five university employees were killed because they were believed to be communists, and the 2004 *Tláhuac* incident, in which three undercover agents were killed because they were believed to be kidnappers. According to the National Human Rights Commission, the majority of the more than 200 lynchings that occur each year target indigenous people. This demonstrates how crucial it is for the government to fail in distant regions. It states that Bangladesh should enact laws that grant the local government more authority in areas where people congregate.

South Africa: Instead of a unique anti-lynching law, South Africa uses regular criminal law to deal with vigilantism. Nonetheless, the constitution does shield citizens from violence that occurs outside of the legal system. Mob killings are considered murder or assault under common law and the Criminal Procedure Act 51 of 1977. The individual may be imprisoned for the remainder of their life if there are aggravating circumstances, such as torture. A form of lynching known as "necklacing" first appeared during apartheid. It entails wrapping a petrol-filled tyre around someone's neck and lighting it on fire. It was supported by some anti-apartheid leaders. After 1994, these kinds of actions became illegal under the Constitution (Section 12, freedom from

²⁶ Manipur Protection from Mob Violence Act 2018 (Manipur) s 2.

²⁷ *Tehseen S Poonawalla v Union of India* (n 20).

²⁸ *Ain o Salish Kendra* (n 6).

violence; Section 35, fair trial). Lynchings may also be classified as hate crimes based on bias under the Prevention and Combating of Hate Crimes and Hate Speech Bill, which is currently under development. The number of murders committed by mob justice increased from 849 in 2017 to 1,849 in 2022. In general, people don't trust the police, particularly in impoverished areas. Definitions emphasise public display and focus on collective (five or more people) extrajudicial punishment for alleged offences. According to this approach, Bangladesh must amend its constitution to combat discrimination against various groups.

Nigeria: Lynchings, which are unlawful mob punishments, are part of "jungle justice" in Nigeria. According to the Penal Code Act (Northern states) or the Criminal Code Act (Southern states), these are punishable by either the death penalty or life in prison (Section 221). Lynching is not specifically prohibited by law. It is defined as organised or unplanned mob violence (usually involving ten or more people) against individuals who are believed to have committed crimes, such as blasphemy or theft. Necklacing, stoning, and beatings are examples of this violence. Rumours that four university students had stolen something led to their lynching in Aluu in 2012. People were upset about this, but not much changed. According to Human Rights Watch, corruption and a lack of justice lead to thousands of deaths every year. This shows that Bangladesh needs to change its laws about evidence so that mobs can't hide their identities.

Kenya: In Kenya, vigilante justice and mob justice (lynching) are not against the law. The police say that these kinds of crimes are murder, assault, or something like that according to the Penal Code (Cap. 63). This method usually lets people get away with crimes because of problems with evidence, a lack of community involvement, and a lack of trust in the police and courts.

People still believe that vigilantes, also known as "mob justice" or "jungle justice," are common because they think the police are dishonest, incompetent, and slow to act. According to human rights reports, hundreds of these incidents occur annually, and the victims are typically believed to be criminals or thieves who are burned, stoned, or beaten to death.

Important Legal Provisions (Penal Code Cap. 63): Unlawful Assembly and Rioting (Sections 78–86): According to Section 78, an unlawful assembly occurs when three or more people gather with the intent to commit a crime or instill fear of a breach of the peace. Rioting is the use of violence by an illegal group to achieve its goals. one could be imprisoned for up to a year if found to be gathering illegally. If caught rioting, one could spend up to seven years in prison (or more if weapons were found). If necessary, police may use force to put an end to riots (Sections 81–83). Murder and Manslaughter (Sections 203–206): Murder is a crime that carries a death or life sentence if a mob kills someone and they pass away. For instance, ten men were sentenced to life in prison in Migori in 2017 for lynching three people. Mob attacks that do not result in death fall under the category of assault and grievous harm (Sections 250–251). one could be sentenced to life in prison if significant harm is caused. Section 96: Incitement to Violence: This law imposes a maximum five-year sentence on those who say or do anything intended to incite violence or violate the law. Police have the authority to disperse crowds under the National Police Service Act and the Criminal Procedure Code, but they frequently allow mobs to form by doing nothing or taking too long.

Human rights concerns: According to reports, mob justice is becoming more widespread. Every year, the police monitored hundreds of cases. Thousands of people, many of whom reside in informal settlements, have been monitored over the years by KNCHR and NGOs like IMLU. Victims are more likely to be impoverished or perceived as small-time offenders. Human rights organisations Amnesty and HRW claim that this type of punishment violates both Articles 26 and 50 of the Constitution and Articles 26 and 50 of the ICCPR. Sometimes police refer to killings as "mob justice," which may conceal the use of unlawful force. According to the 2023 Country Reports, mob violence occurs frequently. For example, a group of people in Kirinyaga County threw stones at a man they believed to be a thief in September. If it is socially acceptable, people can exact revenge on others. The Human Rights Committee is concerned that the investigations into the unlawful killings committed by vigilante groups are taking too long.

Both the government and the police claim that the accused should turn themselves in and that mob justice is wrong. People are occasionally arrested, but convictions are uncommon due to the fear of witnesses and the difficulty in locating them. No new legislation aimed at preventing vigilantes has been proposed. People don't believe in community policing and education, which is why they don't work.

Ten individuals in Migori received life sentences in 2017 for murdering a crowd. Recent spikes (2024–2025): Several lynchings have occurred in Bomet, Kericho, and Nakuru. People are warned by the police, but few are convicted. Aluu Four analogue: Comparable violent incidents with minimal responsibility.

To put it simply, it is difficult to consistently abide by Kenya's extensive criminal laws. As in other nations, people are demanding change, but as of 2026, no legislation has been put in place. Vigilantism continues to be an indication that something is wrong with the legal system.

Sri Lanka: There are no laws in Sri Lanka that shield citizens from vigilantism or lynching. Mob violence is illegal under Ordinance No. 2 of 1883 (as amended). Murder, rioting, unlawful assembly, and serious harm are possible charges. Mob actions are frequently divided into distinct crimes due to a lack of evidence and social barriers, and this overall plan does a poor job of holding people accountable.

Unlawful Assembly (Sections 138–140): It is illegal for five or more people to gather with the intention of breaking the law, frightening the police, or opposing the law. A fine or up to six months in jail are possible penalties. Rioting (Section 141): If any member of an illegal group uses force or violence, they are all guilty of rioting. If lethal weapons being used, one could spend up to three years in prison. Murder and Culpable Homicide (Sections 293–298): If a mob kills someone, they may be charged with either culpable homicide, which is different from murder, or murder, which carries a death

sentence or life in prison. Grievous Hurt (Section 311): one could spend up to ten years in prison if seriously injured during a mob attack. Police may disperse unlawful gatherings under Section 95, even if doing so requires the use of force.

Although less frequent than in neighboring nations, vigilantism does occur, typically as a result of ethnic tensions or criminal suspicions. Mobs occasionally attack people, according to reports from the US State Department, HRW, and Amnesty, particularly in areas where there has recently been a fight or where tensions between ethnic groups are high. Mob attacks on journalists and interfaith organisations covering land encroachments (August 2023, Batticaloa) and Tamil MPs honouring LTTE figures (September 2023, Trincomalee) occurred between 2023 and 2025. Although there isn't as much "jungle justice" as there is in Africa, people occasionally take matters into their own hands because they don't trust the legal system. According to reports from the UN and HRCSL, minorities' rights to life and a fair trial are being violated by mob actions, and they are being watched and threatened.

Philippines: In the Philippines, mob lynching also referred to as vigilantism or "mob justice" is not specifically criminalised by law. Mob violence, such as lynchings or summary executions by groups, is prohibited by the Revised Penal Code (Act No. 3815, as amended). Murder (Article 248), homicide (Article 249), riots and other issues (Article 153), or grave threats or assaults are the most common. A person may be sentenced to reclusion perpetua to death if they kill another person with betrayal, obvious premeditation, or cruelty (though the death penalty is no longer an option). Because mob killings are more severe and involve a larger number of people, they frequently qualify. Homicide is the most fundamental form of unlawful killing, and the penalty is temporal reclusion. Jail time may result from riots or other disturbances that make people feel afraid or unsafe. In the US (the Emmett Till Antilynching Act) and India (state-level regulations), there is neither a minimum group size requirement nor a more severe penalty for "lynching" or bias-motivated mob violence.

For a long time, people in the Philippines have been vigilantes, typically because they don't trust the legal system, believe the police are corrupt, or don't do their jobs. Between 2016 and 2022, President Rodrigo Duterte's "war on drugs" claimed thousands of lives. While some perished in police operations, others were killed by unidentified vigilantes. Additionally, there were allegations that the state condoned or disregarded violence. Between 12,000 and 30,000 drug-related killings have been reported by human rights organisations like Human Rights Watch and Amnesty International, many of which were not carried out by the authorities. However, police report frequently stated that these were acts of self-defence rather than "lynchings." Even if the government permits private individuals to use torture, it is illegal according to the Anti-Torture Act of 2009 (Republic Act No. 9745). However, it makes no mention of mob behaviour specifically. Only armed conflicts are covered by the Philippine Act on Crimes Against International Humanitarian Law (Republic Act No. 9851), which holds superiors accountable for failing to stop atrocities. There are currently no bills that would clarify what extrajudicial killings are and how to punish them, including vigilante acts.

Like how Bangladesh lacks specific laws, the Philippines uses general laws during a period of high-profile vigilantism. This demonstrates how difficult it is to prosecute, discourage, and hold people accountable in the absence of clear laws, particularly when the state condones or promotes mob violence. These definitions demonstrate that while there are more general regulations in other countries, there are explicit laws in the US and India. To effectively combat vigilantism, Bangladesh needs a comprehensive law that incorporates prejudice, digital components, and evidentiary aids. This is demonstrated by common factors such as group size, extrajudicial motive, and harm outcomes.

Recent Case Studies: Illustrating the Statutory Void in Action:

After August 2024, there was a significant increase in gang violence. According to human rights organisations, 637 individuals were lynched between August 2024 and July 2025. Twelve times as much as in 2023. This demonstrates how urgently laws that exclusively impact groups are needed.²⁹

On December 18, 2025, a mob killed Dipu Chandra Das. This is an instance of vigilante justice that is founded on false information. Das, a Mymensingh-based Hindu textile worker, was charged with blasphemy during a factory function. As soon as the accusation spread, he was beaten, his body was hung from a tree, and it was set on fire. The claim was unsupported by evidence, but being in police custody did not protect him. Although some people were arrested, the fact that so few were found guilty illustrates how difficult it is to obtain evidence under general laws.

A few days later, on December 24, 2025, Amrit Mondal (also known as Samrat), another Hindu man in Rajbari, was lynched after it was alleged that he was attempting to demand money. He died from his wounds despite the police's best efforts to assist him. The mob got away with breaking the law because of this.

Following the December 2025 murder of student leader Sharif Osman Hadi, things worsened. People believed that cultural institutions and the offices of Prothom Alo and The Daily Star were biased in favour of India, so they attacked them. Although these assaults are instances of politicised vigilantism, few people are being prosecuted.

Prior to the uprising, there were lynchings at universities, such as the one that occurred to Tofazzal Hossain at Dhaka University in March 2025. Following the uprising, there was sectarian violence that primarily targeted minorities and individuals believed to be associated with the Awami League.

Collective intent, digital triggers, and government approval are not included in the general Penal Code, which classifies mob actions as ordinary crimes. This implies that individuals are not penalised.

Potential Challenges & Counter-Arguments:

The enactment of a sui generis anti-lynching law is significant, but it also raises several legitimate issues that must be considered and resolved to ensure that it is constitutional, practical, and well-liked by the public.

Some people may think that the new law is too strict and is a way for the government to silence people who disagree with it. In a politically divided country like Bangladesh, vague definitions of "mob" or "incitement" could be used to stop peaceful protests or disagreement. People are worried about the Cyber Security Act of 2023, which came after the Digital Security Act of 2018. Some people might think that the rebuttable presumption of collective liability makes the threat worse because it makes mass arrests at public events more likely. To fix this, we need strong protections, such as sunset clauses that require parliamentary review of the law every five years, independent prosecutorial review mechanisms, strict judicial oversight that requires magistrates to approve charges within 48 hours, and a clear *mens rea* requirement that connects participation to knowledge of violent intent. State anti-lynching laws in India show how good definitions and careful judges can stop abuse while still being helpful.

The rebuttable presumption, which contradicts the presumption of innocence in Article 35(3) of the Constitution and Article 14(2) ICCPR, is one of the most significant civil rights issues. Making the accused prove they didn't do it seems unfair at first. According to Le Bon's crowd psychology and India's Bharatiya Nyaya Sanhita § 103(2) group liability, this assumption is logically connected to the unique evidentiary features of mob violence, wherein individual responsibility is diminished in collective action. The prosecution must still prove causation and intent because the presumption only relates to participation (*actus reus* of presence) and not the *mens rea* of the offence. The presumption is more likely to be constitutional because it can be contested on a balance of probabilities. Even in situations where the evidence is unclear, judges have the authority to request additional proof if they choose. International law permits limited burden-shifting when it is reasonable and objectively justified.

There are significant implementation issues. For example, the police and courts may not have enough funding to implement fast-track provisions, and witnesses may still be afraid even with safeguards in place. Delays lessen the deterrent effects, according to comparative research from India's special courts operating under state laws. In addition to using funds from the victim compensation fund and collaborating with other existing fast-track systems (like those for sexual assaults), mitigation must be implemented gradually.

The right to free speech is safeguarded by Article 19 of the ICCPR and Article 39 of the Constitution. These rights might be violated by the digital incitement regulations. If applied too widely, it might prevent genuine dialogue. The three-part test from General Comment No. 34 legality, legitimacy, and necessity/proportionality is the solution. This implies that low thresholds for causation and a clear intention to cause immediate violence are required. Opponents of change who reside in rural areas may believe that the law obstructs concepts of "community justice." Public awareness campaigns, the integration of community policing, and judicial education on mob psychology are all necessary to alter people's perceptions of institutions.

These issues are significant, but they can be resolved with careful planning and safeguards that ensure the law serves its purpose of preventing crime without infringing upon fundamental rights.

Socio-Legal Recommendations for Implementation:

We need to do more than just write the law to make sure it works and to learn why people are vigilantes. We need a socio-legal approach that includes the community, changing institutions, and giving us ways to keep an eye on things. The first thing to do is set up a National Anti-Lynching Commission with members from the police, the courts, civil society, human rights groups, and groups that aren't in the majority. This group will oversee enforcing the law, doing yearly audits, and making suggestions for changes based on what they learn from lynching cases. This commission should look at socio-economic data to find areas that are especially at risk, such as rural areas with a lot of poverty or urban slums with a lot of crime. Then, they should make plans for places that are very likely to have problems and send resources there to help stop them from happening.

Second, use schools, churches, and the news to tell people how lynching hurts the community and keeps the cycle of violence going. If this happens, people will stop caring about "community justice." These campaigns could work with groups like Ain o Salish Kendra to hold workshops in the community and use online tools to fight rumors and teach people how to check information before they share it. This would make it less likely that violence would happen. The Bangladesh Police Academy should also teach police how to stop people from killing other people. You should learn how to spot bias, how to act quickly in an emergency, and how people act when they are in groups. To get a higher rank, police officers should have to pass a test.

Third, set up a central helpline and a quick response app for reporting threats to make it easier for victims to get help. These should be linked to police units with GPS so that they can be sent out right away. The victim compensation fund should have clear rules, like giving survivors and their families counseling and help getting back on their feet. The criminals should have to pay for this with a different budget and fines. Add special anti-lynching benches to high courts where trials have a set time limit to make the courts better. Also, set up digital evidence labs that can look at movies and social media for forensic reasons.

Fourth, make sure that police, intelligence agencies (like the NSI), and cyber units all work together to keep an eye on people who are trying to get others to do bad things online. They should use AI to find viral rumors early on, but they should still follow the Data Protection Act and keep people's privacy

safe. Working with international organizations like the UN Human Rights Council could help build capacity by providing technical support, such as teaching people about command responsibility based on ICC models. Regular socio-legal effect assessments, such as surveys that ask people how much they trust the justice system, would help keep track of how the law works and make sure it keeps up with changes in society.

Lastly, connect the law with bigger changes that need to happen to fix social and economic problems. Mobile courts and legal aid clinics, for example, can help people who are on the brink of society get the justice they deserve. Programs that help people who are at risk become more financially stable can also help calm the anger that leads to vigilante justice. This all-encompassing approach will not only stop lynching, but it will also restore faith in the rule of law and make the law a tool for social justice instead of just a set of rules.

Conclusion:

The way Bangladesh deals with crime is not only old-fashioned, but it also doesn't fit with the specific harms of mob lynching. This makes it easier for criminals to get away with their crimes because they don't fear punishment or get enough of it. Being spontaneous, having digital triggers, and having trouble with identity are not general requirements. This is against the law in the US and everywhere else, and it makes people less likely to trust the government. The only way to bring back the state's monopoly on lawful violence, restore the rule of law, and protect basic rights is to pass a special anti-lynching law that looks at group crime, online incitement, state responsibility, and faster justice.