

Bill No. 209 of 2022

THE PREVENTION OF MOB LYNCHING
BILL, 2022

By

SHRI E.T. MOHAMMED BASHEER, M.P.

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BILL

to prevent mob lynching and provide adequate punishment for persons committing mob lynching with a view to instill a sense of fear among the persons who involve themselves in such a kind of actions and for rehabilitation of victims of lynching and their families and for matters connected therewith or incidental thereto.

WHEREAS the Constitution of India guarantees to all persons the right to life and personal liberty and the equal protection of law;

AND WHEREAS in recent times, there have been a spate of incidents resulting in loss of livelihood, injuries and death of persons at the hands of lynch mobs;

AND WHEREAS it is deemed necessary and expedient to enact a legislation for the protection of these rights guaranteed by the Constitution in the light of Supreme Court direction dated 17-07-2018 in W.P.(C) No. of 754 of 2016 (Tahseen S. Poonawalia Vs. Union of India and Others).

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:— 5

CHAPTER I

PRELIMINARY

Short title, extent and commencement.	<p>1. (1) This Act may be called the Prevention of Mob Lynching Act, 2022.</p> <p>(2) It extends to the whole of India.</p> <p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p>	10
Definitions.	<p>2. In this Act, unless the context otherwise requires:—</p> <p>(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government.</p> <p>(b) “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 or any other related grounds;</p> <p>(c) “mob” means a group of two or more individuals, assembled with an intention of causing violence or lynching;</p> <p>(d) “prescribed” means prescribed by rules made under this Act;</p> <p>(e) “victim” means any person, who has suffered physical, mental, psychological or monetary harm as a result of any offence committed under this Act, and includes his or her relatives, legal guardian and legal heirs of a deceased victim; and</p> <p>(f) words and expressions used but not defined in this Act and defined in the Code of Criminal Procedure, 1973 or the Indian Penal Code shall have the meanings assigned to them respectively in the Code of Criminal Procedure, 1973, or as the case may be, in the Indian Penal Code, 1860.</p>	15 20 25 30 2 of 1974. 45 of 1860.

CHAPTER II

DUTIES OF NODAL OFFICERS AND POLICE OFFICERS

Nodal Officer.	<p>3. (1) The appropriate Government shall designate, a senior police officer, not below the rank of Superintendent of Police, as nodal officer in each district to prevent lynching in such district.</p> <p>(2) The nodal officer shall be assisted by one of the Deputy Superintendent of Police in the district for taking measures to prevent incidents of mob violence and lynching.</p> <p>(3) The nodal officer shall constitute a special task force so as to procure intelligence reports about the persons who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news.</p>	35 40
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4. The nodal officer designated under sub-section (1) shall,—

Duties of the
Nodal Officer.

(a) hold regular meetings (at least once in a month) with the local intelligence units in the district along with all Officers in-charge of Police Station of the district to identify the existence of the tendencies of vigilantism or mob lynching in the district;

(b) take such steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting lynching; and

(c) monitor the investigation of offences of mob lynching personally and ensure that the investigation is carried out effectively and the charge-sheet in such cases is filed within the statutory period from the date of registration of the First Information Report or arrest of the accused, as the case may be.

CHAPTER III

PREVENTION OF ACTS LEADING TO LYNCHING

5. (1) It shall be duty of every police officer, in-charge of a police station to take all reasonable steps to prevent any incident of lynching, including its incitement, commission and possible spread in the area under his jurisdiction and to that end—

Duty to prevent
lynching.

(i) make all possible efforts to identify patterns of violence in the area under their jurisdiction, that has led to occurrence of targeted violence;

(ii) obtain information regarding the likelihood of an act of lynching; and

(iii) act in furtherance of the duty to prevent any act of lynching in accordance with the powers vested in them.

(2) Every police officer exercising powers under this Act in discharge of their duties shall act without any delay in a fair manner.

CHAPTER IV

OFFENCES AND PUNISHMENT FOR LYNCHING

6. Whoever commits an act of lynching—

Punishment for
offence of
lynching.

(i) where the act leads to the victim suffering hurt, shall be punished with imprisonment of either description for a term which may extend up to seven years and with fine which may extend to one lakh rupees;

(ii) where the act leads to the victim suffering grievous hurt, shall be punished with imprisonment of either description for a term which may extend up to ten years, and with fine which may extend to three lakh rupees;

(iii) where the act leads to the death of the victim, shall be punished with rigorous imprisonment for life and with fine which may extend to five lakh rupees.

7. Whoever takes part in a conspiracy or conspires to lynch another person, or abets or aides or attempts an act of lynching shall be punished in the same manner as if they had taken part in the actual incident of lynching.

Punishment for
conspiracy or
abetment or
aides or attempt
to lynch.

8. Any person who,—

(a) knows or have reasonable cause to believe that any other person is guilty of an offence under this act, gives that other person any assistance

Punishment for
obstructing
legal process.

with intent thereby to prevent, hinder or otherwise interfere with his arrest or administration of Justice for the said offence, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to such fine as may be prescribed; and

(b) threatens a witness with any injury to his person or property or to the person or property of any one in whom the witness is interested, with intent to cause harm to that person, or to compel that person to refrain or withdraw from being a witness in any investigation or trial under this act shall be punished with imprisonment for a term which may extend to five years and shall also be liable to such fine as may be prescribed.

CHAPTER V

OTHER OFFENCES AND PUNISHMENT

Punishment for dissemination of offensive material.	9. Notwithstanding anything contained in any other law for the time being in force, whoever publishes, communicates or disseminates by any method, print or electronic, any offensive material, shall be punished with imprisonment of either description for a term of not less than one year which may extend upto three years, and with fine which may extend upto fifty thousand rupees.	15
Punishment for causing damage to any property movable and immovable.	10. Notwithstanding anything contained in any other law for the time being in force, whoever causes damage to any property movable or immovable in the act of lynching, shall be punished with imprisonment of either description for a term of not less than one year which may extend upto three years, and with fine which may extend to twice the amount of damage or loss caused to the property, as may be determined by the Court.	20
Punishment for false information or failure to give information.	11. Any person willfully and maliciously giving false information and so causing an arrest or a search to be made under this Act shall on conviction be liable for imprisonment for a term which may extend to two years or with fine which may extend upto fifty thousand rupees or both.	25
Dereliction of duty by Police Officer.	12. When any police officer, directly incharge of maintaining law and order in an area, omits to exercise lawful authority vested in him under law, without reasonable cause, and thereby fails to prevent lynching, shall be guilty of dereliction of duty.	30
	<i>Explanation</i> — For the purposes of this section, dereliction of duty by a police officer shall also include the following:	
	(i) failure to provide protection to a victim of lynching;	
	(ii) failure to act upon apprehended lynching;	35
	(iii) refusing to record any information under sub-section (1) of section 154 of the Code of Criminal Procedure, 1973 relating to the Commission of an offence under this Act.	2 of 1974.

CHAPTER VI

INVESTIGATION, PROSECUTION AND TRIAL

Application of Code of Criminal Procedure, 1973.	13. The provisions of the Code of Criminal Procedure, 1973, shall apply to this Act, save and except as amended or supplemented to the extent provided under this Chapter.	2 of 1974.
Offences to be cognizable, non-bailable and non-compoundable.	14. Unless otherwise specified, all offences specified under this Act, shall be cognizable, non-bailable and non-compoundable.	45

	15. No police officer below the rank of Sub-Inspector of Police shall investigate any offence committed under this Act.	Investigation by Senior Police Officers.
2 of 1974.	16. The provisions of sections 196 and 197 of the Code of Criminal Procedure, 1973 shall not apply to offences committed under this Act and the Court may take cognizance of such offence when satisfied that the said offence has been committed.	Sanction not required for offences under the Act.
	17. Notwithstanding anything contained in the Code of Criminal Procedure 1973, or in any other law for the time being in force, the offences specified under this Act shall be tried by Designated Judges appointed under this Act.	Case triable by Designated Judges.
10	18. (1) The Appropriate Government by notification in the Official Gazette, appoint as many Designated Judges in consultation with the Chief Justice of the High Court of the State as it may be necessary to try offences punishable under this Act.	Power to appoint Designated Judges.
15	(2) A person shall not be qualified for appointment as a Designated Judge under this Act unless he or she is or has been a Sessions Judge under the Code of Criminal Procedure, 1973.	
2 of 1974.		
2 of 1974.	19. (1) The victim shall have the right to receive a copy of any statement of the witness recorded during investigation or inquiry, and a copy of all statements and documents filed under section 173 of the Code of Criminal Procedure, 1973 including the charge-sheet or closure report submitted by police.	Rights of victim.
	(2) A victim shall be entitled to receive free legal aid if he or she so chooses and to engage any advocate who he or she chooses from among those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987 and the State Legal Aid Services Authority shall pay all costs, expenses and fees of the advocate appointed by the victim or informant in accordance with relevant rules.	
39 of 1987.	25	
	(3) Notwithstanding anything contained in any other law being in force, the Designated Judge trying a case may permit the prosecution to be conducted by any advocate recommended by the victim:	
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	Provided that no person, other than the Advocate-General or Government Advocate or a Public Prosecutor or Assistant Public Prosecutor, shall be entitled to conduct the prosecution without the prior approval of the Designated Judge.	
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	(4) Where the prosecution is conducted by an advocate recommended by the victim, the expenses arising out of such service, shall be borne by the State Government.	
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	(5) It shall be the duty and responsibility of the State Government for making arrangements for the protection of victims and witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence.	
	(6) The State Government shall inform the concerned Designated Judge about the protection provided to any victim, informant or witness and the Designated Judge shall periodically review the protection being offered under this section and pass appropriate orders.	
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	(7) It shall be the duty of the Investigating Officer to record the complaint of victim, informant or witnesses against any kind of intimidation coercion or inducement or violence or threats of violence, whether given	

orally or in writing and copy of the same shall be sent to the Designated Judge within twenty-four hours of recording it.

Constitution
of Review
Committee.

20. (1) Notwithstanding anything contained in the Code of Criminal Procedure Act, 1973, every case, registered in connection with an offence under this Act and where the Investigating Officer does not file a charge-sheet within a period of three months from the date of registration of the First Information Report, shall be reviewed by a committee headed by an officer of the level of an Inspector-General of Police to be constituted by the State Government and such committee may pass orders for a further investigation by another officer not below the rank of Deputy Superintendent of Police wherever it comes to the conclusion that, having regard to the nature of investigation already carried out, such investigation would be necessary. 2 of 1974.
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(2) The Committee constituted under sub-section (1) may also review cases of such offences where the trial ends in quittal and issue orders for filing appeal, wherever required. 15

(3) The Committee shall submit a report of its findings and action taken in each case or cases to the Director General of Police.

CHAPTER VII

MISCELLANEOUS

Power to
remove
difficulties.

21. If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty: 20

Provided that no such order shall be made after expiry of the period of two years from the date of commencement of this Act. 25

Act to be in
addition to
any other law.

22. The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force except to the extent the provisions of other laws are inconsistent with the provisions of this Act.

Power to
make rules.

23. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. 30

(2) Every rule made under this Act shall be laid as soon as may be after it is made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 35
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STATEMENT OF OBJECTS AND REASONS

There has been an increase in the number of cases related to mob lynching in India. This act of people taking the law into their hands because of the shallow knowledge of the Justice system poses a serious threat to the rule of law and principle of natural justice. Such acts have also posed serious threats to minority groups in the country and appropriate steps must be taken in order to check deter such crimes.

In a country like India, a person taking law into their own hands is unacceptable. Citizens of the country have been granted fundamental rights and such lynching cases are abusing right to life, right to a fair trial, etc. India is a secular state and it is important to ensure that interest of the minorities are being protected and they are not suppressed by the majority.

In *Tehsen S. Poonawalla Vs. Union of India and others*, the then Hon'ble Chief Justice of India along with three Judge bench had condemned the recent incidents of mob lynching and mob attack taking place in different parts of Country.

Mob lynching and mob vigilantism must be prevented by the government by taking strict action and people ought to report such incidents.

Months have been passed since the Supreme Court expressed anguish by what it described as 'horrific acts of mobocracy' and issued a slew of direction to the Union and State Government to protect India's 'pluralist social fabric' from mob violence.

Hence this Bill.

NEW DELHI;
10 August, 2022.

E.T. MOHAMMED BASHEER

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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(Shri E.T. Mohammed Basheer, M.P.)