

Law Against Mob-Lynching in India: An Analytical Study

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Abstract

There is a high rise in Mob Lynching in India. Lynching is not defined under the Indian legal system and there are no punishments in regards to lynching. Mob- Lynching. Even though is a new glossary in the Indian scenario, but has been coming from time to time through the world society for centuries. but it was always considered as a great enemy of the society and so tried to be controlled by the society from time to time. In these countries, mob lynching can be considered centered on white black and nationality issues. But the mob lynching in India has been a different issue that has been observed by the political parties of the country from their own point of view and whether the place is on the road or in the parliament, they use it to achieve their own personal political motives.

Keywords

cow, punishment, vigilantism, offenses, lynch, Gau Rakshak Revolution

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Introduction

Lynching is a premeditated extrajudicial killing by a group. It is most often need to characterize informal public executions by a mob in order to punish an alleged transgressor, or to intimidate a group. It can be an extreme form of informal group social control, and it is often conducted with the display of a public spectacle for maximum intimidation. (Wood, Amy Louise, 2009)¹ Instances of lynching and similar mob violence can be found in every society. A million zeros joined together do not, unfortunately, add up to one. Ultimately everything depends on the quality of the individual, but our fatally shortsighted age thinks only in terms of large numbers and mass organizations, though one would think that would have seen more than enough of what a well-disciplined mob can do in the hands of a single madman.

In his 1896 book, ‘the Crowd - A study of the popular Mind’, Gustave Le Bon (1896) “thousands of isolated individuals may acquire at certain moments and under the influence of certain violent emotions—such, for example, as a great national event—the characteristics of a psychological crowd. It will be sufficient in that case that a mere chance should bring them together for their acts to at once assume the characteristics peculiar to the acts of a crowd. At certain moments half a dozen men might constitute a psychological crowd, which may not happen in the case of hundreds of men gathered together by accident. On the other hand, an entire nation, though there may be no visible agglomeration, may become a crowd under the action of certain influences.”

Incidents of mob lynching across the country are on the rise for the last 4-5 years. Dozens of people have lost their lives in the mindless cases of mob lynching over the last four to five years. Despite promises and some instances of judicial rebukes, nothing has been done on the ground to alter the situation till now. According to a Reuters report, a total of 63 cow vigilante attacks had occurred in India between 2010 and mid-2017^{2,3}

It is to be considered an act of terrorism and punishable by law. Instances of lynching and similar mob violence can be found in every society.⁴

Mob is the English word that means unrestrained or uncontrolled crowd. Lynching can be considered an American – Latin word, which means awarding the death sentence without any legal proceeding. That is, when an uncontrolled crowd kills an accused criminal person or otherwise kills him in some other way. Then it is being called Mob Lynching. In recent years, there have been many such incidents in India, especially in Rajasthan, Western Uttar Pradesh, Madhya Pradesh, Bihar, etc.

At the first recorded lynching, in St. Louis in 1835, a black man named

McIntosh who killed a deputy sheriff while being taken to jail was captured, chained to a tree, and burned to death on a corner lot downtown in front of a crowd of over 1,000 people⁵.

In Britain, a series of race riots broke out in several cities in 1919 between white and black sailors.

Historical Prospective

Lynching isn't something new to examine on, it has been happening for quite a while period. Prior to American Civil rights development, lynching was thought to be a legitimate support for whites against the dark individuals. Violations which constituted Rape, Murder, and Sexual Intercourse with a white lady, burglary, and the key is the limit from there.

The root of the word Lynch additionally prompted the presentation of "Lynch Law i.e. discipline without preliminary. The real meaning of lynching alludes to as put death, particularly by hanging, with no lawful specialist, and by the demonstration of (mob activity).

The origin of the word 'lynch' is said to have originated during the American Revolution phrased as 'lynch law' which is a punishment without trial. The word 'lynch' or 'lynch law' has been derived from two Americans known as Charles Lynch and William Lynch who were from Virginia.⁶ In 1782, Charles Lynch had written that the 'Loyalist' or 'Tories'. Who were supporters of the British side were provided Lynch Laws to deal with the 'Negroes'⁷

Root Causes of Mob Lynching

Recently mob lynching incidents have happened in many places across in the country due to false rumors the crowd has killed many people. After all law, many people are gathered together for the same purpose. Today's time mob who has been killed has emerged as a hero, experts say that as the protagonist this crowd is visible in two incarnations.

First

The crowd is seen as part of the majority, democracy where he himself works the law, from food to clothing he has control over everything

You can see that the mob believes itself to be right and tells its violence to be practical and necessary in the case of Afrajul and Akhilak the response of the crowd and the tortoise to defend the accused in the case of Unnao and kathua appears to show that the crowd themselves decide to do justice and fix the scope of ethics.

Here crowd (includes the killers who kill them) the expansion of the dictatorship system is that the crowd eliminates the way to understand the thinking

of civilized society and solve the problem with the negotiating

Second

In the incidents that led to raising children, the different from of the crowd have been found in it there is also a deep worry behind the anger of the mob, there is also a lot of fear for the child to be stolen thinking that people's anxiety increases. There are different reasons behind the reaction of mob. Here violence is born not by force but by nervousness.

Their purpose is not to harm minorities, but to punish the strangers and the outsiders. Who do not fit in their society, it is doubt in both cases, but the reason for death is different

In one case power (government) is challenged by minorities and in the second there are accusations of any crime on outsiders and strangers.

Increasing Techniques – Growing Trouble

In both cases the technique works to spread the virus of this Anger. Rumors spread rapidly through the use of technology and the trust is increased in rumors by listening to each other. The development of the first technique was very low or due to the fact the rumors did not take more dangerous form, even this digital violence work much horrible in small towns and remote villages.

Transfer a Major Problem

Behind this violence the environment of anxiety and panic can be attributed to those who have been born in areas where the location is very large in these areas. People come to settle due to employment or other reasons from other states. They get a place of living but people do not believe in them, it takes time to trust

Technology and Logical Inferiority

Incidents of mob lynching can be linked to technology. Cell phones are used to spread rumors about this type of problem. The biggest problem is that social media may be a medium for spreading rumors

Fear and Superstition

There are also some other reasons this type of problem

Illiteracy

There are also some other reasons for this type of problem

Lake of Law and Legal Knowledge

Lake of law and legal knowledge are also some other reasons for the mob lynching.

Some Leading Case Laes of Mob Lyching

➤ **Kherlan ji Massacre Case of Lynching Violence 2006**

Held in Sept. 2006, this is the first listed (filed) case of mob lynching in India

Issue - Due to land disputes, where around 50 villagers entered forcefully into the house and lynched the family comprising 4 daughters. The act was so gruesome that females of the family i.e. wife and daughter were paraded naked in the whole village. Later on murdered them⁸.

➤ **Dimapur Lynching Violence Case 2015**

Held in 2015, Dimapur district of Nagaland

Issue – A person was accused of rape, a group of angry mob entered into the jail where he was arrested and lynched him

Fact – the person who committed rape was Syed Farid Khan, who was a Muslim whereas the girl who was raped from Hindu background. This could also be included in the religious and communal reasoning of lynching.

➤ **Dadri Lynching Case 2015**

Bisara village, Dadri, G.B. Nagar Uttar Pradesh

Issue – Mohammed Akhlaq and his son Danish was accused of slaughtering and theft of cow-calf and storing its meat for consumption⁹. When knowledge of this fact came into the observance of Hindus, then a Hindu mob lynched the father and son for this fact

Fact – it is considered one of the first Mob lynching cases which were religiously based on the name of cow and beef.

➤ **Chatra Lynching Case 2016**

Issue – A mob named as ‘Gau Rakshak’ brutally lynched 2 people belonging to the Muslim community named Mazloom Ansari and Imteyaz Khan who was accused of smuggling as well as selling cows and oxen in the market¹⁰.

➤ **Delhi Lynching Case 2017**

Issue – the intoxicated students got furious and burst into anger which led to lynching.

Fact – Rickshaw driver was killed in the incident of mob lynching

➤ **Alwar Lynching Case April 2017**

Issue – some people of the Muslim community are accused for cattle smuggling and slaughter. They were lynched by a Hindu mob.

Fact – the police department of Alwar had filed a case against Khan for smuggling but he was permitted by the government as he had a valid license for transportation.

Indian Law and Mob Lynching

Masuka Bill – ‘Manav Suraksha Kanoon’ (MASUKA) – National Campaign against Mob lynching

The current laws for mob lynching which were expressed before aren't sufficient to make a strict obligation. The current laws don't characterize lynching as a sort of offense. There is a need for a particular definition under the Indian Penal Code. MASUKA charges constitute fast preliminaries as well and not just quick preliminaries.¹¹ The lawful support of this bill will repay the casualties and help in the recovery of groups of the casualty. The bill will characterize lynching as an offense and furthermore manage the purpose for the start of the aim of the mob to lynch.

Some advantages of the MASUK Bill:

Rehabilitation of victim's family

Compensation provided to victim's family

Speedy justice by setting up of special courts

Protection of witness – protection of the identity of witnesses to the lynching

Responsibility of mob lynching incident allotted to SHO of the area – this will create extra awareness and care among police about the mob lynching incidents.

Under the umbrella of MASUKA, we cannot define what all will be covered but according to the bill it will cover the following aspects such as:

Victims of a specific community – majorly backward classes of people

Suspensions of cow slaughter

People representing political interest from the campaign

Existing Law and Mob Lynching

Indian Penal Code

Sec. 34 common intention

Sec. 141 – Unlawful assembly – an assembly of five or more people designated an “unlawful assembly”,

Sec. 147 – punishment for rioting – whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.¹²

Sec. 148 – Rioting armed with a deadly weapon.

Sec. 149 – Every member of unlawful assembly guilty of offense committed in prosecution of common object¹³

Sec. 302 – Punishment of murder

Sec. 304 – Capable homicide not amounting to murder

Sec. 307 — Attempt to murder

Sec. 323 – punishment for voluntarily causing hurt

Sec. 325 – punishment for voluntarily causing grievous hurt

Sec. 326 – voluntarily causing grievous hurt by dangerous weapons or means

Sec. 436 – Mischief by fire or explosive substance with intent to destroy house

Code of Criminal Procedure

Sec. 223 – the persons may be charged and tried together namely¹⁴ -

(a) Person accused of the same offense committed in the course of some transaction.

(b) Person accused of an offense and person accused of abatement of, or attempt to commit such offense.

(c) Persons accused of more than one offense of the same kind. Within the meaning of sec. 219 committed by them jointly within the period of twelve months.

Some Other Laws by the State Government of India

(1) Protection from lynching bill – 2017/12/29 (As introduced in the RAJYA SABHA bill no. of 2017)

(2) The Manipur protection from mob violence ordinance, 2018/11/08 (Manipur ordinance no. 3 of 2018)

(3) Uttar Pradesh combating of mob lynching bill, 2019

Some other states are going to draft bills against mob lynching and violence

Conclusion

There are the usual flaws of police and prosecution omission and commission of sustained by bias and poor commitment to rule of law, rather than mere capacity and resource issues. There is also the specific role in this poor working, of the state formalizing stringent laws against cattle transport and trade, as well as, in some cases, creating space for private parties to aid the police in enforcing those laws.

Impunity of state and private actors in cases of hate crime, including lynching and vigilante violence as a result of the poor working of the criminal justice system ensures that hate violence persists. Ultimately, impunity is aided by the victims' disadvantaged condition. They are too poor, unaware, unconnected, and demoralized, to pursue the legal cases strongly. The protracted police processes, lack of transparency, and the long delays in courts, means the only end. In our interactions with families of those brutally lynched, not many have either.

Recommendations

- Ensure speedy investigation and prosecution of the perpetrators and instigators of lynching and vigilante violence, also investigate inaction by police where relevant.

- Ensure provision of relief and rehabilitation along with free and accessible legal aid to families of survivors.

- Investigate hate speech and instigation of hate crime, and prosecute the guilty.

- Revoke the center’s notification, restricting trade in cattle.

- Ensure states amend cattle protection laws to prevent the out-sourcing of law enforcement.

- Enact hate crime law, stronger than existing provisions, and collect and publish data on hate crime, disaggregated by social groups and hate crime categories.

- Document hate crime and hate violence, and report those to wider audiences

- Advocate with stakeholders for safeguards against hate crime and improved outcomes.

- Legal awareness and legal training to victims/vulnerable communities on hate crime.

- Enable, through discussions and dialogue, acceptance in society for hate crime laws.

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