

A Critical Analysis of Mob Lynching and Legal Mechanism in India

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Abstract:

Humanity is a common principle of all religions; everyone should have a solid faith in humanity. It is one of the highest agreed conditions in our community and it gives significance to the concept of harmony among human beings. However, it is a saddening fact that the country in which such religious principles are laid down in scriptures involves the hate crime of Mob Lynching. It is a serious crime and a violation of human rights. In recent years the incidents of mob lynching have increased which ruptures the social fabric of India. India being a democratic country has been facing this unfavourable form of crime against humanity. Lynching has not been yet characterized under the Indian legal system and there are no codified laws in respect of lynching. However, the Apex Court in the case of Poonawalla vs UOI & Ors issued certain guidelines and also recommended that authorities take preventive remedial punitive measures to curb this heinous crime. The present paper is going to analyse the causes, impact of mob lynching, Apex court on mob lynching, legal mechanism against mob lynching, challenges and solutions.

Keywords: *Causes of mob lynching, impact of mob lynching upon society, Apex court on mob lynching, legal mechanism against mob lynching in India, challenges and solution.*

Introduction:

Lynching now seems to have become the new normal in the country with the increased number of such cases, especially after the enactment of anti-cow slaughter laws by various state governments in India, instead of this there are various reasons and root causes of mob lynching still prevalent in India since long time. The spate of incidents of lynching over the past few years has led to a heightened sense of insecurity among the marginalised communities. Often, innocent people are targeted based on some rumour, misinformation, or suspicion. Lynching is more lethal and demoralizing than communal riots, though they serve the same purpose, that is, to create an environment of distrust and fear in the community and society.

Mob lynching is the act of killing a person without due process of law, by a group of people for an alleged offence. In recent years, mob lynching has emerged as one of those hate crimes which target people of specific identity or forms a minority community or strangers under mere suspicion. The mob takes law into their own hands to punish the purported accused in the interest of justice without following any rules of law and behind such horrendous act of mobocracy there are various aspects involved such as religious, political, communal etc where interested person used unemployed youth for their selfish interest.

India is the largest democratic country in the world, the basic feature of democracy is to protect the life, and liberty of the people but increased mob lynching incidents over the last few years show the right to life and liberty of the people are being violated. Currently, there is no present codified law against lynching; however, sections of the IPC, CrPC, and Evidence Act are adapted for this matter. In 2017 the Apex Court in the case of *Tehseen S Poonawalla vs UOI & Ors* (2018) 9 SCC 501 laid guidelines for centre and state governments to frame laws specifically to deal with the crime of lynching. In pursuance of this, the Manipur state government came up first and passed Anti lynching bill in 2018, inspired by Rajasthan, yet the central government has not enacted specific central legislation for that and in Maharashtra unfortunately yet Maharashtra government didn't take the initiative to enact a law after the direction of SC. On the other hand, in proposed *Bhartiya Naya Sanhita, 2023* made provision for mob lynching and its punishment.¹

A few months ago, in April 2023 mob lynching came into the news when the Special Court for SC/ST (Prevention of Atrocities) Act, Mannarkkad, Kerala convicted 14 accused persons in the Madhu Lynching Case, where Madhu's death was caused by lynching in 2018. She was a mentally challenged tribal youth who was killed due to a mere suspicion of theft of rice, and spices from shops in Kerala. The Kerala Court gave a sentence to 13 out of the 14 convicted persons to rigorous imprisonment for 7 years under Section 304 Part II (Punishment for culpable homicide not amounting to murder) read with Section 149 (Every member of unlawful assembly guilty of an offence committed in prosecution of common object) of the IPC.² In the month of July 2023, the SC asks Centre, six States ie Maharashtra, odisha, Bihar, Harayana, Rajasthan and Madhya Pradesh to respond to plea on lynchings filed by women's wing of CPI which claims an alarming rise in cases of lynching and mob violence against Muslims despite the SC 2018 authoritative ruling directing the state to act decisively against hate crimes including lynching.³

Types of Mob Lynching:

Mob lynching can be classified into five types, they are as follows:

1. Communal Based:

Unfortunately, many mob lynching incidents happen in India, often based on communal or religious differences, most of these are related to beef incidents. Here are a few examples:

1. **Pehlu Khan lynching:** In 2017, Pehlu Khan, a dairy farmer from Haryana, was lynched by a mob in Alwar, Rajasthan, on suspicion of smuggling cows for slaughter.
2. **Tabrez Ansari lynching:** In 2019, Tabrez Ansari, a Muslim man from Jharkhand, was beaten to death by a mob on suspicion of theft. Video footage of the incident showed Ansari being tied & beaten to death.
3. **Palghar lynching:** In 2020, two sadhus and their driver were lynched by a mob in Palghar, Maharashtra, on suspicion of being child kidnappers. The incident became widespread, with some groups claiming that it was communal in nature.
4. **Nashik lynching:** In 2023 two incidents of mob lynching were registered in Nashik district, killing two persons on suspicion of smuggling of beef.

2. Witchcraft:

Many of us have heard about several incidents wherein women are burnt alive by a mob due to the suspicion of being related to witchcraft. Unfortunately, mob lynching incidents in India have also been reported because of superstition and beliefs related to witchcraft. Here are a few examples.

1. **Assam lynching:** In 2018, two men were lynched by a mob in Karbi Anglong district of Assam on suspicion of being witches. Nilotpal Das and Abhijeet Nath, were the victims visiting a popular tourist spot when the mob attacked them.
2. **Jharkhand lynching:** In 2019, a woman was lynched by a mob in Jharkhand on suspicion of practising witchcraft. The victim, identified as Suman Devi, was beaten to death and the mob later burned her body.
3. **Odisha lynching:** In 2021, a man was lynched by a mob in Odisha on suspicion of practising black magic. The victim, identified as Ganeshwar Behera, was beaten to death by a group of villagers.

3. Honourkilling:

Mob lynching incidents due to honour killing are a serious concern in India, particularly in some communities. It is a barbaric practice where individuals, usually women, are killed by family members or members of the community for allegedly bringing shame to their family or community. For ex: marrying a man who is below her status. Here are a few examples of such instances.

1. **Tamil Nadu lynching:** In 2016, a young couple was beaten to death by a mob in Tamil Nadu on suspicion of eloping. The couple belonged to different castes and it was an unacceptable relationship to the family.
2. **Haryana lynching:** In 2018, a man was beaten to death by a mob in Haryana on suspicion of eloping with a woman from another caste. The incident took place in a village in Mahendergarh district.
3. **Bihar lynching:** In 2020, a man was beaten to death by a mob in the Bhojpur district of Bihar on suspicion of having an affair with a married woman.

4. Bovine related mob lynching:

Bovine-related mob lynching incidents, also known as cow vigilantism, are considered the main cause of mob lynching in India. These incidents involve mobs attacking individuals or groups of people on suspicion of cow slaughter, transportation, or consumption. Here are a few examples of such incidents:

1. **Dadri lynching:** In 2015: A 52-year-old Muslim man named Mohammad Akhlaq was beaten to death by a mob in Dadri, Uttar Pradesh, on suspicion of storing beef in his house.
2. **Alwar lynching:** In 2018, a man named Rakbar Khan was beaten to death by a mob in Alwar, Rajasthan, on suspicion of cow smuggling.

3. **Jharkhand lynching:** In 2019, a 24-year-old Muslim man named Tabrez Ansari was lynched by a mob, forcing him to chant Hindu slogans in Jharkhand on suspicion of theft. (Also a case of communal violence)

5. Suspension of child lifting:

In recent years, there have been several incidents of mob lynching in India due to the suspicion of child lifting. These incidents are as follows:

1. **Maharashtra lynching:** In 2018, five people were lynched by a mob in Dhule, Maharashtra, on suspicion of being child lifters. The victims were travelling in a van and were attacked by a mob when they stopped seeking directions.
2. **Assam lynching:** In 2018, two men were lynched by a mob in Assam on suspicion of being child lifters. The incident took place in the Karbi Anglong district of the state.
3. **Jharkhand lynching:** In 2019, a man named Tabrez Ansari was lynched by a mob in Jharkhand on suspicion of being a child lifter.

6. Theft Cases:

Mob lynching incidents related to theft are a serious issue in India. These incidents involve mobs attacking individuals suspected of theft. A few examples of theft-related mob lynching cases are:

1. **Jharkhand lynching:** In 2017, a man was beaten to death by a mob in the Chatra district of Jharkhand on suspicion of stealing a motorcycle.
2. **Nagaland lynching:** In 2018, a man suspected of theft was beaten to death by a mob in Nagaland. The incident raised several protests.
3. **Telangana lynching:** In 2019, two men in the Nizamabad district of the state were lynched by a mob in Telangana on suspicion of being thieves.
4. **Rajasthan lynching:** In 2019, a man was lynched by a mob in the Alwar district of Rajasthan on suspicion of stealing cattle.⁴

Causes of Mob Lynching in India:

The causes of mob lynching incidents in India depend on various aspects, including but not limited to:

1. **Rumours-** Information related to sensitive issues like child abduction, cattle theft, religion, and caste hatred, which is usually spread through social media often by fake accounts, fuelled the mob to take the law into their own hands against the perpetrator who was wrongfully accused of crimes.
2. **Social division-** India is a diverse country where people of different religions, castes and cultures reside. These divisions led to the practice of different cultures and even a slight misinformation led people to resort to violence against marginalised sections.

3. **Distrust in the legal system-** The famous quote “justice delayed, justice denied,” which means lengthy investigation and court proceedings, develops a lack of trust in the police and the judicial system, which often leads some individuals to take the law into their own hands on the perception that they will not get justice through the prevailing legal mechanism.
4. **Political vendetta-** Certain political parties, to fulfil their rivalries or for the vote bank, use the tactics of incitement through a series of provoking speeches and create bitter or feudal tendencies among groups of people based on religion and caste.⁵

Impact of mob Lynching:

The mob lynching incidents are not limited to victims; they affect society as a whole and it is a threat to mankind. It shows a lack of conscience in certain people in India, which is deeply heart-wrenching. Some of the major impacts are:

1. **Disrupts unity in diversity:** India claims to be the country with the motto “unity in diversity,” where different religions, castes, and cultures can reside peacefully. Cases of mob lynching show a lack of unity in diversity. This shows a lack of conscience in the group of people who participated, even those who supported these mobs.
2. **Fear environment:** The rise in mob lynching cases creates an environment of fear, especially among minorities. According to the Indian Spend analysis, in 2020, India reported 22 incidents of mob lynching, resulting in 22 deaths.
3. **Loss of human life:** There is also a famous quote “justice hurried, justice buried”. It is said that life is the “gift of god” and should be handled with care and the cases of mob lynching act as a dagger to such a precious gift because they are based on rumours.
4. **Infringes rule of law:** Article 21 in the Constitution of India provides “the protection of life and personal liberty of an individual”. The mob lynching cases infringe on the rights of individuals and undermine the rule of law and justice. Also, such acts bypass the legal principle of “innocent until proven guilty”.

Supreme Court Stand on Mob Lynching:

The Supreme Court in the case of *Tahseen s. Poonawala v. UOI &Ors (2018) 9 SCC 501* laid guidelines to centre and state governments to frame laws specifically to deal with the crime of lynching and the Supreme Court in this case aptly referred to mob lynching as a ‘horrendous act of mobocracy.’ And guidelines for the both Centre & state govts. to frame laws particularly to deal with lynching are as follows:

Designated Fast Track Courts:

States were directed to set up **designated fast-track courts in every district** to exclusively deal with cases involving mob lynchings.

Special Task Force:

The court had also mooted the **setting up of a special task force** to procure **intelligence reports about the people involved** in spreading hate speeches, provocative statements and fake news which could lead to mob lynchings.

Victim Compensation Schemes:

Directions were also issued to set up **Victim compensation schemes** for relief and rehabilitation of victims.

A year later in **July 2019, the Supreme Court** issued notices to the Centre and several states asking them to submit the steps taken by them towards implementing the measures and file compliance reports.⁶

As of now, **only three states Manipur, West Bengal and Rajasthan have enacted laws against mob lynching.**

The **Jharkhand** Assembly has passed the **Prevention of Mob Violence and Mob Lynching Bill, 2021** which has been returned by the governor recently for reconsideration of a few provisions.

Present legal mechanism in India against mob lynching:

The cases of mob lynching are on the increase in India and despite the Supreme Court of India stating that 'horrendous acts of mobocracy cannot be tolerated and cannot be allowed to become the new norm' very few steps have been taken by governments and States to form laws against mob lynching. Various bills have been passed by States against mob lynching however, the Union Governments have not implemented the same and have taken the view that because mob lynching is not defined as a crime in the Indian Penal Code, 1860, therefore, bills cannot be formed into laws against mob lynching.

The Union Home Ministry in the year 2019 stated in the Parliament that as there was no separate definition for lynching given in the Indian Penal Code, cases of mob lynching could be dealt with under Sections 300 and 302 of the Indian Penal Code. These sections of the IPC pertain to murder.

Manipur was the first State to form a law against mob lynching in the year 2018 and this law was in sync with the guidelines provided by the Supreme Court.

- i. The Manipur Law defined mob lynchings as "any act or series of acts of violence or aiding, abetting such act/acts thereof, whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity or any other related grounds."²
- ii. This law provides the provision for a nodal officer in all districts in order to control such crimes.
- iii. This law is the first law in India which deals with the rights and protection of the people who are vulnerable and has also defined a new crime of negligence of duty by public officials.

- The law provides that the police officials who fail to prevent the crime of lynching in their jurisdiction are liable to be imprisoned for a term that may extend from one year to three years and with a fine of Rs. 50,000.
- iv. This law has also removed the protection which is otherwise extended to the public officials who are charged with any offence they commit while discharging their official duty.
- Hate crimes which are related to fostering enmity between people on the basis of race, religion, language, etc. can be punished under Section 153A of the Indian Penal Code.
 - Prior permission of the State government is required for the registration of such crimes and most of governments use this power to shield the offenders who perpetrate hate crimes who politically support the ruling party.
 - As per the Manipur Law, no prior sanction of the state government is required to register crimes against public officials who fail to prevent lynching and other hate crimes.
- v. It is the duty and responsibility of the State government, as per the Manipur Law, to ensure the protection of victims and witnesses against any kind of threats, coercion, inducement, force, violence or threats of violence.
- The Law also provides that it is the duty of the State officials to prevent a malevolent and hostile environment against the people who have been lynched.
- vi. The Law also provides that the victims of lynching have to be rehabilitated and relief camps have to be set up for the victims and compensation has to be given to the families in case of the death of the victim. This step has proved to be beneficial for the survivors of mob lynching.

Even the states of Rajasthan and West Bengal have formulated their own laws against mob lynching, gaining inspiration from Manipur. The West Bengal (Prevention of Lynching) Bill 2019 was passed by the West Bengal Assembly providing life imprisonment to those who injured a person and death punishment or rigorous imprisonment for those who caused death. Compensation up to Rs. 5 Lac and job to the victim's kin is also included in the new law. As per this law, the state government will appoint "nodal officers" who will "monitor and co-ordinate prevention of lynching".³ The Rajasthan Protection from Lynching Bill, 2019 was passed by the Vidhan Sabha which provides for life imprisonment and a fine of Rs. 1 Lac to Rs. 5 Lac to those who are convicted of causing the death of a person in mob lynching. If someone causes grievous hurt then the person would be imprisoned for a term of 10 years and would be fined Rs. 25,000 up to Rs. 3 Lac and if other injuries are caused then the punishment would be imprisonment for 7 years and a fine of Rs. 1 Lac.⁷

Punishment for mob lynching:

As stated supra, there are no specific laws or statutes to deal with mob lynching. A person who is involved in the act of mob lynching will be dealt with under the provisions of IPC and CrPC. The punishment for mob lynching is provided under the following laws:

Section 223 in The Code Of Criminal Procedure, 1973:

Sub-section (a) of Section 223 provides for persons accused of the same offence in the course of the same transaction to be charged and be subjected to trial together. Whereas, sub-section (b) also involves persons accused of abetment or attempt to commit such offence.

Section 302 of the Indian Penal Code:

This section of IPC provides that an accused convicted of murdering a person will be sentenced to death or life imprisonment and shall also be liable for a fine.

Section 304 of the Indian Penal Code:

This section of the IPC deals with punishment for culpable homicide not amounting to murder which may be:

-Life imprisonment for life

-Imprisonment for a term which may extend for a period up to ten years and shall also be liable to fine if the act is done with the intention to kill or cause injury which is likely to cause death.

-Imprisonment for a term which may extend for a period up to ten years, or with fine, or with both, if the act is done with the knowledge which is likely to cause death or injury which is likely to cause death, but without any intention.

Section 307 of the Indian Penal Code:

This section of the IPC prescribes punishment for any person found guilty of an attempt to murder. Such a person shall be sentenced to imprisonment which may extend up to 10 years and shall also be liable for a fine.

Section 323 of The Indian Penal Code:

This section of IPC prescribes punishment for a person found guilty of causing voluntary hurt. A person voluntarily causing hurt to someone else shall be sentenced to an imprisonment which may extend upto a period of 1 year or fine which may extend to one thousand Rupees or both.

Section 34 of The Indian Penal Code:

According to this section of IPC, when a criminal act is committed by several persons or a group, with a common intention, then every individual of the group will be held liable for that act, as if it was performed by him alone.

Section 120B of The Indian Penal Code:

Punishment for Criminal Conspiracy- According to this section, if the parties involved in the conspiracy, conspired to commit an offence punishable with death, imprisonment for life or rigorous imprisonment for a term of two years or more, shall be punishable in the same manner as if he/she had abetted the commission of such an offence, if no explicit punishment for the commission of such a conspiracy has been provided for, by the Code. However, if the parties involved in the conspiracy, conspired to commit an offence punishable with

terms not prescribed previously, such persons shall be sentenced to imprisonment for a term not exceeding six months, or a fine, or both.

Section 143 of The Indian Penal Code:

According to this section, a member of an unlawful assembly (as defined under Section 141 of IPC) shall be punished with imprisonment of either description for a term which may extend up to six months, or with a fine, or with both.

Section 147 of The Indian Penal Code:

According to this Section, any person guilty of rioting is liable to get punished with imprisonment which may extend up to two years, or with a fine, or with both.⁸

Provisions in proposed criminal law against mob lynching:

On 11 August 2023, the Home Minister of India, Amit Shah, Introduced the Bharatiya Nyaya Sanhita Bill, 2023 in Lok Sabha to replace the colonial-era Indian Penal Code (IPC). It has incorporated a specific provision for mob lynching and stipulated punishment ranging from seven years in jail to the death penalty for those convicted of the crime. This bill is considered to be a significant and monumental reform in the Indian Criminal Justice System.⁹

Present challenges and solutions:

Following are the present challenges as a result of current legal framework and suggestions thereto.

Lack of education and awareness:

In India, many religious conservatives teach hatred about each other's religion, which is instilled in the minds of people, especially those who have been with them since early childhood.

The Central and state governments should monitor those agencies that create a milieu of hatred and try to curb such teachings. They should launch awareness campaigns promptly.

Strengthening legal mechanisms:

The existing legal mechanism is not specific to mob lynching, which hinders a speedy trial. The existing laws, such as the Indian Penal Code, 1860, and the Code of Criminal Procedure, 1973, lead to the longevity of cases. Also, prosecuting those who are involved in mob lynching remains a challenge due to various reasons, such as threats to witnesses, influence of political groups, difficulties in collecting evidence, etc.

There have been instances where law enforcement agencies have not followed the guidelines given by the Supreme Court in 2018 due to political pressure or communal bias. There have been cases where the police have not registered FIRs, delayed the proper investigation, and fabricated evidence. Also, there have been

instances where the court has granted bail to the perpetrators of mob lynching. For example, in the G. Krishnaiah case, the main accused, Anand Mohan Singh, has been released by the Patna High Court due to an amendment in Prison Manual by the Bihar State Government. It shows political influence to release such goons to fulfil their political vendetta.

The state governments should make provisions that provide speedy trials, protection, and compensation to victims. They should conduct mock drills of police officers to handle such situations. They should teach the police authorities about the values of the Constitution so they can register FIRs and lawfully conduct investigations.

Many state governments have made laws to curb such horrendous acts, such as in Rajasthan, Manipur, and West Bengal, and provide stringent punishment. Other state governments should take lessons and prepare specific laws to curb such menace.

Media responsibility:

The media personnel should provide genuine news to the general public. It is said that the media is the fourth pillar of democracy and if the media is spreading false news and rumours for the sake of the Television Rating Programme (TRP), then it hampers democracy in India.

The media should not be influenced by political parties and telecast the truth without bias or prejudice. The state government should create awareness programmes through the media and also make laws for the protection of media personnel.

Information technology law:

There are certain social media platforms, such as Facebook and WhatsApp, that are being used by conservatives to provoke mob lynching. For example, in the Palghar lynching case, there was a rumour that some thieves had entered the village and on the pretext of that, two Sadhus and one driver were killed by the mob. The Information Technology Act, 2000 and its amendments have made proper guidelines to monitor and check these social media platforms, but despite such laws, there is an incident like Palghar. Hence, the state government should make a pact with such platforms to track perpetrators who are responsible for spreading fake information, whereby they will get punished for influencing such horrendous acts.

Conclusion:

Mob lynching in India is one of the grave issues that causes a threat to humanity, mankind and the democratic values of the world's largest democracy, it disrupts the objectives of the preamble of the Indian Constitution and undermines the rule of law and Social solidarity. The incidents of mob lynching create fear, and insecurity among the vulnerable group and disrupt the social fabric of society. The present legal mechanism provides provisions to combat such menace but it is not sufficient, it requires special law to deal with such offences. Apex court laid down guidelines but it's not properly implemented yet. Along with the strict central legislation great education and awareness among the public are required to address such issues. The majority of mob attack instances in rural India indicated a nearly identical general operandi, which had to be improvised. The right to life is an individual's most important right, and the state must safeguard it. The Supreme Court's preventive, corrective, and punitive measures must be strictly followed. The role of the media, civil society, and non-governmental organizations (NGOs) must improve in a good way.

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