Mob Lynching: a challenge before Law and Order

Abstract

Cases of mob lynching is no new to India where a mob kills someone on its own judgements without legal approval. The major cases of lynching are based upon caste, religion, race, dietary practices. Although, people have been guaranteed the fundamental right of right to life under the constitution of India. But when this right has been put to risk by the frequent occurrence of mob lynching. It is being violated by public at large. The government has not taken any efficient step to prevent it by making any national law against it. So even the law does not protect everyone. People still have to survive with the fear of being caught into one those incidents of mob lynching as a victim. The crime is being carried on for centuries without fear of being caught. As most of the incidents are not even reported. The court came to pay attention to it only in 2018 in Tehseen S. Poonawala v. Union of India[i]. It laid down preventive, remedial and punitive measures to control the violence. It issued the guidelines to the state governments to take care of the issue.

Keywords

Mob Lynching, Mob violence, Justice, Cow-vigilantism, Right to Life

Introduction

Mob lynching, a violation of humanity which has become very prevalent in India, like a new norm. The rate of increasing cases has no threshold. People here in India talk of law and order, blaming the irresponsible authorities, when they themselves are the ones to create havoc. The warning by the government seems to fall on deaf ears. Now what does mob lynching means? "Lynch"[ii] came from phrase "law of the lynch mob" which means punishment without trial. Most probably the phrase has been made up by Charles Lynch and William Lynch. The Oxford dictionary defines lynching as the act of killing done by an uncontrolled group of people without any legal authority or process involved. Initially it meant to as form of unjust execution by hanging by a mob, not working with local police or law enforcement. But broadened with time and became a general term for targeted violence by a large group of people who form illegal assembly, to take law into their hands and commit a crime against an individual or a group. The mob believing that they are punishing the victims, hence they take up the law in their own hands deal with the accused whose trial has not yet been held, so many a times innocent lives become the victim on the assumption that the accused has committed the crime. While doing so, they cause harm to public property and human body. The ground of lynching varies from religion, race, caste, sex, place of birth,

language, dietary practices, sexual orientation, ethnicity and so on. In India lynching is largely because of conflicts between different communal groups.

The crime didn't even spare the online medium as India saw incidents of WhatsApp lynching. A series of violence and killing caused by mob after rumors largely about child theft, organ harvesting spread through WhatsApp. This incident occurred during 2017-2018. Violent acts were filmed and shared throughout the country on social media, creating an atmosphere of fear and false information leading to more violence in places that has nothing to do with each other. A video of an incident in one part led to the violence in other part of the country.

Research Methodology

This paper is detailed and descriptive in nature. It is based largely based on secondary sources but a considerable account of primary sources like court judgements have been utilized for the indepth study of legal position of mob lynching and its related aspects in India. Secondary source of data for this research purpose are journals, blogs, newspaper articles and websites. While primary sources are the judgments of the Supreme Court.

Review of Literature

One of the world's oldest manuscript, Rig Veda, gives preference to the existence of harmony between men. India being a birthplace of such scripts, has involved itself into hatred leading to hate crimes of mob Lynching and then looking for justification for such crimes in the religion, blaming it all to religion which taught to pursue nothing but harmony. But overall mob lynching is a crime against the universal religion of humanity.

Earlier lynching was used for punishing the violators, even by the rulers. But after coming into a legal framework, it is disallowed. It is different form of hate crime where community outside the legal system is involved.

Mob lynching has nowhere been recognized as a crime by the state under Indian Penal Code although, being a serios crime of violent of destructive nature. India couldn't come up with a national law, even when this crime has been corroding India since ages. The most serious cases which catches the attention of the government are dealt under the Constitution, the Indian Penal Code and the Protection of Human Rights Act, 1993. Most of the cases are not recorded by the National Crime Records Bureau (NCRB). It does not provide the reliable statistics on the account of mob lynching cases in India.

Causes of Mob Lynching

It can be concluded from the list on incidents that there is no constant cause of mob lynching, it varies with every new incident. People are intolerant for so many different causes. This shows that India still has a long way to fight for the peaceful co-existence of its diversity. It could be cow vigilante vendetta, suspicion of child lifters and social media rumors, witch

hunting, superstitions, caste and communal causes and many reported and unreported causes. Some of the major causes have been discussed below:

Caste and religious motivated: caste and religion is deep rooted in India. Most cases in recent are because of intolerance coupled with hostility, towards the other religion which is seen in the forms of mob crimes. Mob lynchings mostly are cast or religious motivated as seen in cases like 'Akhlaq lynching incident', Dadri lynching incident and many more to enlist. Mob lynching because of cow protection is one of the causes rooted in religion.

Politically motivated: The pollical class which is the vocal class remained silent over the incident that has been taking place in India. Instead, they are the one's inciting these violence crimes back-handedly to build their political careers over the dead bodies as a result of the violence. Indian crowd is easily moved in the name of the religion, caste, superstitions etc. As happened in the Kherlanji Massacre Maharashtra's 2006 case.

Cow Vigilantism: cow has always been a cause of conflict between two of the most important religious groups in India Which are Hindus and Muslims. The sale of cow meat for consumption has been an issue of disagreement leading to mob attacks. When under the Prevention of Cruelty to Animals in 2017, the sale of cow meat was banned, there has been uproar in cow-vigilante activities and worst cow-terror attacks were the results. Some of the reported cases were Haryana Lynching incident of 2017.

Suspicion of Child Lifters: the rumors of child lifters have been a serious reason for mob attacks. A piece of fake information shared over social media platforms triggered the violence, which was about kidnapping of children for the purpose of illegal sale of organs.

Many of the reported incidents have been heighted. One such incident was in Vellore, Tiruvannamalai and Tiruvallur, the three north Tamil Nadu districts. WhatsApp rumors circulated about 200 criminals from North India kidnapping children. This caused three deaths and many more mob attacks within a short span of time, that's the speed of social media. One of the first victim was a mentally deranged, Hindi Speaking man. Another victim was a 45-year-old beggar, who was beaten to death and hung from a bridge in Pullicat.

More and more people got trapped, losing their life to the suspicion of being a child lifter. A woman in Ahmedabad was beaten to death on the same cause. Then another incident happened in Surat, a woman was assaulted by a mob when she had stepped out from a wedding to buy balloons for her daughter.

Witch hunting: Indians are historically involved in superstitions. On of those superstitions is witch hunting which is branding of woman as a witch, having evil magic powers as declared by ojha and then they are molested and lynches by a mob in consequence. The underlying reason is noticed as family rivalry, property related issues, patriarchy, suppression, sexual advances, caste factors and the most important reason to stand out is superstition. Most easy and vulnerable targets are Scheduled Caste and scheduled tribe (Washington Post 2014). As per researches, many a times women questioning social norms have been targeted. NCRB data reveals that from 2000 to 2015, around 2200 cases have been registered against 'witch-

hunting' process in India. The record shows only registered data so many more unregistered cases could not be included.

In July 2015, an Adivasi woman was dragged out of her house and murdered by a mob as local priest branded her as a witch who bringing evils in the village.

Recently in November 2022, a woman belonging to the Schedules Caste community was burnt alive at her home by the local who themselves declared her a witch in Gaya district of Bihar.

Cases of mob lynching in India;

India homes different communities having different faiths and ideas and ideologies, which at times are conflicting. So, they are attempted to resolve through violence assaulting people from other groups. The cases of mob lynching are very common in India. Every other day the new cases seem to rise in number. The most vulnerable victims are those from the marginalized part.

In **Khirlanji Lynching** incident of September 2006, four members of a family in Bhandara district of Maharashtra were lynched by a politically dominant caste Kunbi caste group over a land dispute. Two females of the family, mother and her daughter were paraded naked in the village, were sexually assaulted before slaughter.[iii]

There are many more serious incidents that took place in the last two decades which are

2009 Mangalore Pub attack, young men and women were attacked by a radical group, Sri Ram Sena, in Mangalore, Karnataka on 24th of January as according to them the victims were violating the traditional Indian values. They seemed unapologetic for their act. Lated they were not acquitted due to lack of evidence.[iv]

In **Dadri mob lynching or Akhlaq lynching case,** the victim Akhlaq was dragged and killed by a violent mob on the suspicion of eating beef in Dadri Bishada village on September 28. Local villagers attacked victims house at night.The 52 year-old was dragged out of his home and stoned to death on street as one of his neighbour accused him of slaughtering his missing calf and eaten it as the local temple has announced.. It is considered as one of the first incidents of mob lynching in the name of cow and beef. Thereafter a series of similar instances have happened and are still happening.[v]

Alwar lynching, where a man named Pehlu Khan, a 50-year-old was a dairy farmer in Nuh district, Haryana was transporting cows of his diary farm when he was beaten by a group of about 200 cow vigilantes and was lynched to death as there arose as suspicion of him being a cow smuggler.[vi]

West Bengal lynching case 2017, that happened on 26th of June when three Muslims were lynched in Durgapur village by a mob of in the name of cow vigilantism, merely over the suspicion of cow theft.[vii]

The **Jharkhand lynching 2019 incident,** in this incident a mob attacked a man aged 24 and name Tabrez Ansari in June 17, 2019. The video of the incident went viral and public anger arose. He was brutally lynched on suspicion of bike theft. He was tied to a tree and was forced to chant Hindu sayings. Victim was arrested while he was in severely injured, he was denied any medical assistance earlier but when he was taken to hospital, he was already on the verge of dying and eventually he died.[viii]

2020 Palghar mob lynching, this incident, where a two Hindu Sadhus and their driver were lynched to death in a village of Palghar district, Maharashtra as there were WhatsApp rumors about thieves in the area during the countrywide lockdown. The group mistaken the victims with the thieves. The police were also attacked when they tried to intervene and one of the police officers also got hurt.[ix]

On 15th October 2021, there came to happen one of the most serious incidents of **Singhu border lynching** incident. It killed a Dalit Sikh, Lakhbir Singh from Taran district of Punjab. His hands and leg were chopped off and then later the corpse was hanged on barricade.[x]

Legal Position

There is no uniform codifies law in India regarding this issue. And even lynching has nowhere been defined as a crime under the Indian Penal Code. Such a prolonged, serious and violent violation of human rights has not been recognized by the central government. Even the NCRB has collected data in 2017 on mob lynching, cow vigilantism and hate crimes but was not published was even discontinued as these crimes were not recognized and defined. And even the statistics were found not reliable.

But **subsection (a) of section 223 of CrPC, 1973** has relevant provisions for charge against joint group offences. It provides that, "persons accused of an offence committed in the course of the same transaction be charged together". While subsection (b) provides for persons accused for abetment or attempt to commit such offence.

Incidents of lynching are generally reported under section 302 for murder, 307 for attempt to murder, 323 for causing hurt, 324 for causing hurt, 147 for rioting, of the Indian Penal Code and so on.

Section 302 of Indian Penal Code, provides for the offence of murder of a person to be punished with death or life imprisonment and shall be liable for fine.

Section 304 of the Indian Penal Code, deals with the punishment for culpable homicide not amounting to murder. Thus, it provides imprisonment for life, or imprisonment of a term, may be extended to 10 years and shall be liable for fine if the act was done with the intention to kill or cause such bodily injury which is likely to cause death.

And if the act was done with the knowledge, then may be punished for a term extending upto 10 years of imprisonment, shall be liable with fine or with both.

Section 307 of the Indian Penal Code, prescribes punishment for attempt of murder by any person which is imprisonment which may be extended upto a period of 10 years and shall be liable for fine.

Section 323 of the Indian Penal Code, deals with the punishment for the offence of causing voluntary hurt. The punishment it provides is imprisonment which may extend upto 1 year or fine which may extend to 1000 rupees or with both.

Section 324 of the Indian Penal Code, provides punishment for causing hurt by the use of dangerous weapons or means like fire, poison, corrosive or explosive substance etc. likely to cause death. The punishment so provided is imprisonment of foe a term extending upto 3 years, or with fine, or with both.

Section 325 of the Indian Penal Code, has outlined the provisions for punishment of causing bodily harm to another person willfully. Punishment provided in here is imprisonment for a term of up to 7 years and fine.

Section 34 of the Indian Penal Code provides that when a criminal act is committed by several persons sharing a common intention, then every individual of the group will be held liable as if the offence has been committed individually.

Section 120 B of the Indian Penal Code, provides for the penalties for parties who conspire to commit a crime together. Its provides that if the offender conspires for an offence punishable by life imprisonment, death, or a rigorous sentence of two or more years in prison, it is as if the offender has abetted the commission of an offence if no explicit punishment has been given in the code. And if an offender conspires for an offence not punishable with the same as mentioned above the offender is liable for six months imprisonment or fine or both.[xi]

Section 143 of the Indian Penal Code, provides that a member of an unlawful assembly (defined in section 141 of the IPC) shall be punishable with imprisonment of either description for a term which may extend upto 6 months, or with fine or with both

Section 147 of the Indian Penal Code, according to persons liable for rioting shall be punished with imprisonment which may extend upto a period of two years or with fine or both.

The crime of mob Lynching has been covered under many more sections of the Indian Penal Code, which includes, section **153A** for promoting enmity between groups and acts prejudicial to maintenance of harmony, **153B** includes acts prejudicial to maintenance of national integration**, 295A** about acts intended to outrage religious feelings.

State provisions

In compliance with the guide lines issues by the Supreme Court in **Tehseen Poonawala v. Union of India[xii],** the Manipur government came up first with its law against lynching in 2018. It attempted to define mob lynching as "any act or series of act of violence or aiding, abetting such act thereof, whether spontaneous or planned, by the 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."

On 30 August, 2019, the West Bengal Assembly passed the West Bengal (Prevention of Lynching) Bill, 2019[xiii] which provides punishment for imprisonment for a term of three

years to life for those in assaulting and injuring any person and it also defines terms such as 'lynching' and 'mob'.

On 5th of August, 2019, the Rajasthan Assembly passed the Rajasthan government passed the Rajasthan Protection from Lynching Bill, 2019[xiv] which also made the offence of lynching Punishable. The punished so given is life imprisonment and a fine of 1lakh rupees to 5 lakh if the death of the victim occurs.

Prevention of Mob Violence and Mob Lynching Bill, 2021[xv] passed on 22nd of December by the Jharkhand Assembly, providing punishment for three years to life imprisonment.

Response from Judiciary

Indirect refences to the causes have been given in may court judgements of the Supreme Court. For instance, in **2015 Krishnamurthy case**[xvi], the court noted that no one is allowed to take law into his own hands and judge a person as guilty based upon his shallow sense of justice. Everybody in law is innocent unless proven guilty after a fair trial.

The court came to action when Tehseen Poonawala, a social activist filed a writ petition under article 32 of the constitution, which questioned the states ignorance for not coming up with effective and immediate action plans to be undertaken against cow protection organizations that engaged in excessive violence and also asked for the removal of social media contents shared by these groups. One more issue was raised regarding section 12 of the Gujarat Animal Prevention Act, 1954, section 13 of the Maharashtra Animal Prevention Act, 1976 and section 15 of the Cow Slaughter and Cattle Preservation Act, 1964. It prayed for the removal of these sections.

In **Tehseen S. Poonawala v. Union of India & others**[xvii], the three-judge bench, constituted by Chief Justice Deepak Mishra, Justce A.M. Khanwilkar and D.Y. Chandrachud condemned the frequent occurrences of mob lynching and mob attacks on Dalits and members of other communities.it described lynching as " horrendoud act of mobocracy'. The court didn't justify the taking of law of the land into the hands of any group of people and have the power to impose punishments. It suggested the enactment of restrictive law by the parliament as fear of law would deter the offenders.

It stressed the necessity of issuing orders for punitive, rehabilitive, and preventive measures by the government.

Further, the Supreme Court has issued guidelines which can be briefed as follows:

1. The state was ordered to designate an officer of Senior Police rank as Nodal Officer for taking steps to prevent mob violences. A special team should be appointed to receive reports on incidents, victims and perpetrators involved in violence: there must be regular meetings to find out the tendencies of mob violence and take measures.
2. The message must be broadcasted of the severe consequences for the involvement into lynching by the Centre, State, and local authorities; it shall be the duty of the police to disperse the crowds by the use of their powers under section 129 of the CrPC.
3. FIR would be filed against the person for spreading rumors regarding anything related to mob lynching;

4. It said that in case the police and the district administration, fails to comply with the SC's guidelines will amount to negligence on their part;
5. State shall come up with compensation schemes foe the victims of mob lynching.
6. The cases of lynching shall be tries by fast-track courts in each district and to be concluded in 6 months.

Conclusion and Suggestions

Indian Constitution has declared itself as a democratic nation and it must protect and preserve its democracy and a mob should not be empowered to rule. Mob Lynching is a proof of existence of intolerance among Indians for variety of reasons being manifested through violent killings. Indians are yet to be educated to value the lives, are yet to be taught not to kill somebody and rather try to cooperate. The lynchers are so intolerant that they don't spare even children or women and of course men are their most common victims. The ongoing situation is in dire need of a central law for the regulation of crimes of these kinds.

The demand for a central law is valid demand as the constitution of India has guaranteed the right to life and the state needs to protect it. Certain intolerant groups must be deterred who have presumed themselves to be above law to announce the punishments for a crime of the accused which has not yet been proved. They are continuously violating the provisions of the constitution and creating public disturbances, they are creating an environment of panic and terror, adding restraints to the development of India.

India needs strict laws and supervision in this regard. It needs to educated its population and make them aware. The police must be more vigilant to protect the lives, the assets of the nation. The measures laid down by the Supreme Court must in 2018 must be strictly followed. The social media must be used for positive purposes to save lives by being aware of what is wrong and what is right rather than spreading fake rumors to put lives at risk.

---

[i] (2018) 9 SCC 501

[ii] Michael Quinion. "Lynch". World Wide Words, 2008.

[iii] https://www.thehindu.com/opinion/Readers-Editor/Khairlanji-the-crime-and-punishment/article16149798.ece

[iv] https://indianexpress.com/article/india/mangalore-pub-attack-sri-ram-sena-pramod-muthalik-others-acquitted-as-victims-stay-away-5096883/

[v] https://indianexpress.com/article/cities/delhi/dadri-lynching-case-pace-seven-years-akhlaq-daughter-records-testimony-7972061/

[vi] https://www.indiatoday.in/india/story/rajasthan-alwar-news-hindu-man-vegetable-seller-lynched-mob-thief-suspicion-1988362-2022-08-16

[vii] https://indianexpress.com/article/cities/kolkata/west-bengal-cow-theft-lynching-coochbehar-6131099/

[viii] https://www.newindianexpress.com/nation/2022/mar/16/jharkhand-government-admits-46-mob-lynching-cases-reported-since-2016-2430657.html

[x] https://www.indiatoday.in/india/story/what-led-to-singhu-border-lynching-skm-nihang-sikhs-1865146-2021-10-15
[xi] Criminal Conspiracy under Section 120B IPC, https://lexforti.com/legal-news/criminal-conspiracy-120b-ipc/, (Visited on 02 August, 2022).
[xii] Supra note 1.
[xiii] https://www.thehindu.com/news/national/other-states/west-bengal-passes-bill-against-lynching/article29302545.ece
[xiv] https://www.thehindu.com/news/national/rajasthan-assembly-passes-anti-mob-lynching-bill/article28823205.ece
[xv] https://www.hindustantimes.com/india-news/jharkhand-assembly-passes-bill-against-mob-lynching-101640108073314.html
[xvi] https://indiankanoon.org/doc/169274383/
[xvii] Supra note 2.

Author:
Bushra Nawaz
Aligarh Muslim University