

MOB LYNCHING IN INDIA: AN ONGOING PHENOMENON

Raghav Budakoti, LL.M (NLU-Delhi), UGC Net

INTRODUCTION

“The clearest way to show what the rule of law means to us in everyday life is to recall what has happened when there is no rule of law.”

- Dwight D. Eisenhower

Rule of law is the bedrock of democracy and must be upheld by all citizens and government agencies. The Indian Constitution guarantees its citizens, the right to life and personal liberty, and no one may be deprived of these protections unless in accordance with the procedure established by law¹. The idea that monarchs can do no wrong is now a quaint relic of a bygone era; in today’s modern world, kings and commoners alike are treated the same under the law. All citizens, including the government or its officials, must abide by the rules of civil society. Democracy, as described by former US President Abraham Lincoln, is “the governance of the people, by the people, and for the people,” an ideal that is reflected in the preamble of the US Constitution. The Constitution of India was written to foster a culture of unity and cooperation among Indian citizens. Everyone innocent must be protected from criminals, and those who break the law must be punished in accordance with the rules. Despite the widespread availability of safety resources in India, mob lynchings have been on the rise. When the crowd becomes suspicious, it often decides to take matters into its own hands, muddying the lines between law and justice.

When it comes to mob lynching in India, the 21st century is very far from progressive. Mob lynching is becoming more common in India. India’s responsible citizens are concerned about the escalation of mob lynching under various pretexts. History is replete with episodes of community violence not only in cities but also in villages, within communities, and across entire regions, with unrestrained and devastating violence in many locations and for reasons known only to the mob.

MOB LYNCHING:A RISING SPECTRE

In India, mob lynching is not a new phenomenon. Many times, the mob erupts into violence in a matter of seconds, without pausing to consider the underlying issue that has stirred the mob’s attention. The word lynching originated in the United States in the mid-18th century. Historians believe that the term was first used by planter Charles Lynch to describe extra-judicial authority assumed by private individuals like him. It came to be applied over time to extra-judicial killings by crowds, most commonly of African-Americans in the late 19th century². Although the word lynching is of foreign origin, this does not mean that mob lynching is alien to India.

A lynch mob may be defined as a form of violence in which a mob, under the pretext of administering justice without trial, executes a presumed offender, often after inflicting torture and corporal mutilation. The term lynch refers to a self-constituted court that imposes a sentence on a person without due process of law. It is a culmination of individuals taking the law into their own hands as a means of achieving justice³. Aptly referred to by the Hon’ble Supreme Court as a “horrendous act of mobocracy” mob

¹ The Constitution of India, art. 21.

² James Allen, “Lynch in America: Confronting the Legacy of Racial Terror” available at: <https://lynchinginamerica.eji.org/report/> (last visited on Nov. 5, 2022).

³ “Sociology of Mob Lynching” available at: <http://www.azadindia.org/social-issues/view-soc-news.php?id=3> (last visited on Nov. 5, 2022).

lynchings have a pattern and a motive⁴. More often than not, innocent people are targeted based on some rumor, misinformation, or suspicion.

On July 1, 2017, in response to the rising number of lynchings, former President Hon'ble Mr. Pranab Mukherjee stated that "when mob frenzy becomes so high and irrational, uncontrollable, people have to pause and reflect" and be pro-actively vigilant to save the fundamental principles of our country". The nation took a stance against the increasing frequency of mob lynchings and called for a stop to the killing frenzy.

In recent years, there has been a significant increase in mob lynchings in India. In 2018, Jharkhand has witnessed many mob lynching incidents. In these incidents, the majority of sufferers were Muslims so opposition parties alleged that these incidents are sponsored by Hindu organizations. Attempts have been made to reach the root cause of mob violence in Jharkhand and efforts have been made to establish that all violence in Jharkhand was not the outcome of communal hatred but deep-rooted insecurity in the rural area and also other factors are responsible. The study showed that in 2018 three types of the crowd were involved in mob violence incidents in Jharkhand. First were cow vigilantes, second angry villagers, and lastly so called anti mob lynching protestors.

In yet another case of mob lynching, Animesh Bhuyan, a 30-year-old leader of the All Assam Students Union (AASU), was lynched to death by an enraged crowd on November 29, 2021, in Jorhat, Assam owing to miscommunication. Two other youths Pranay Dutta (an AASU activist) and Mridusmanta Baruah (former AASU leader and a correspondent of Pratidin Time) were also injured in the incident and were rushed to Jorhat Medical College and Hospital (JMCH) immediately.

In the case of the *National Human Rights Commission v. State of Gujarat*⁵, The Apex Court observed as under "Communal harmony is the hallmark of a democracy. No religion teaches hatred. If in the name of religion, people are killed, that is essentially a slur and blot on the society governed by the rule of law. The Constitution of India, in its Preamble, refers to secularism. Religious fanatics do not belong to any religion, they are no better than terrorists who kill innocent people for no rhyme or reason in a society which as noted above is governed by the rule of law."

Hon'ble Justice of Supreme Court Dipak Mishra, in the case of *S. Krishna Shradha v. State of Andhra Pradesh*⁶, viewed that "A right is conferred on a person by the rule of law and if he seeks a remedy through the process meant for establishing the rule of law and it is denied to him, it would never subserve the cause of real justice."

In July 2018, the Supreme Court, while pronouncing its judgment in the case of *Tahseen S. Poonawala v. Union of India*⁷, then Hon'ble Chief Justice of India, Dipak Mishra along with the three-judge bench had laid down several preventive, remedial, and punitive measures to deal with lynching and mob violence. States were ordered to establish special fast-track courts in each district to deal solely with instances involving mob lynchings. The court had also recommended forming a special task force to collect information on those involved in spreading hate speeches, inflammatory comments, and fake news that might lead to mob lynchings and to appoint a senior police officer as a nodal officer in each district to take preventative measures against mob violence and lynching. The nodal officers are to hold monthly meetings with local intelligence units and the Director-General of Police of the state or Secretary of, the Home Department, must, in turn, hold regular review meetings with nodal officers to curb such instances of vigilantism by mobs.

⁴ Tahseen S. Poonawala v. Union of India (2016) (Civil) no.754/2016.

⁵ (2009) 6 SCC 342

⁶ (2017) 4 SCC 516.

⁷ Supra note. 4.

In addition, instructions were issued to establish victim compensation systems for the relief and rehabilitation of victims. A year later, in July 2019, the Supreme Court issued notices to the Centre and several states, urging that they submit their progress toward implementing the measures as well as compliance reports. The state's lethargic response was exceedingly disappointing. As of now, only three states Manipur, West Bengal, and Rajasthan have enacted laws against mob lynching.

Research indicates that there has been a 20% increase in lynchings and other forms of public disorder. In protest of the recent mob violence, a sizable portion of the population has made their displeasure known. An upsurge in reported cases of Lynching in India in the 21st century demonstrates the bizarre barbarism that certain people are capable of. The purpose of lynching was to cause bodily harm or death to a criminal or anyone suspected of committing a crime. Inter-caste marriage, cow slaughter, cattle smuggling, and beef consumption are some of the most outlandish modern justifications for lynching. In India, minorities like the Dalits and Muslims are disproportionately affected by lynching.

MOB LYNCHING LAW IN INDIA: THE NEED OF THE HOUR

Due to the lack of an appropriate regulatory framework, mob lynchings have created numerous concerns and obstacles in the present scenario.

In India, mob lynching is not a new phenomenon. Responsible citizens in India are concerned about the rise in mob lynchings under various pretexts. Lynching is a premeditated extrajudicial killing by a group. It is most often used to characterize informal public executions by a mob to punish an alleged transgressor or to intimidate a group. It can also be an extreme form of informal group social control, and it is often conducted with the display of a public spectacle for maximum intimidation.

Mob lynching is a heinous stain on our legal system. It is based on the twisted concept of vigilantism and leads to anarchy. Such excrescence must be strangled with an iron fist. In a civilized society, the most powerful sovereign is the rule of law. The majesty of law cannot be sullied simply because an individual or a group generates the attitude that they have been empowered by the principles set out in law to take its enforcement into their own hands and gradually become a law unto themselves and punish the violator on their assumption and in the manner in which they deem fit.⁸ The rule of law has to be upheld for any civilized society to endure.

In India, there is no codified law against mob lynching, however, provisions of the Indian Penal Code (IPC) are applied to deal with instances of mob lynchings like murder⁹, attempt to murder¹⁰, causing voluntary hurt¹¹, grievous hurt¹², rioting¹³, rioting armed with deadly weapons¹⁴ and unlawful assembly¹⁵. Similarly, according to the Criminal Procedure Code (CrPC), it is allowed to try two or more accused of conducting a crime in the same transaction¹⁶

Cases of mob lynching are increasing day by day, be it the killing of 16 years old Jhankar Saikia in Karbi Anglong district, Diphu's Nilotpal Das, Abhijeet Nath in Karbi Anglong, Akhlaq lynching case, Palghar

⁸ Krishnamoorthy v. Sivakumar (2015) 3 SCC 467.

⁹ The Indian Penal Code, 1860, s. 300.

¹⁰ Ibid, s. 307.

¹¹ Ibid, s. 323.

¹² Ibid, s. 325.

¹³ Ibid, s. 147.

¹⁴ Ibid, s. 148.

¹⁵ Ibid, s. 149.

¹⁶ The Criminal Procedure Code, 1973, s. 223(a).

lynching case or Dhule lynching case, etc. The need of the hour is to pass legislation to prohibit mob lynchings and honor killings. When it comes to mob lynchings in India, numerous reforms must be considered. Coupled with the guidelines laid down in Poonawala's¹⁷ case, we are sufficiently equipped to deal with mob lynching.

However, what we lack is due enforcement of the existing laws and the accountability of the enforcement agencies. It should be noted, that despite the prevalence of sections under the IPC and CrPC to prosecute mob lynchings, legal experts have suggested the need for separate legislation to tackle mob lynchings in India. People taking the law into their own hands in a country like India is unacceptable since citizens of the country have been granted several fundamental rights, and such lynching situations violate their right to life, right to a fair trial, and so on. A well-run criminal justice system is essential to maintain social order and is a cornerstone of stable democracies.

In the year 2017, The Protection of Lynching Bill, 2017 also known as the Manav Suraksha Kanoon Bill¹⁸ (MASUKA) put forth by the National Campaign against Mob Lynching (NCAML), defined, for the first time in Indian legal history, the terms "lynching", "mob" and "victim". It was introduced in the Rajya Sabha as a private member's bill. It reconciles the definition of the term "mob" as mentioned in the IPC and CrPC to require five or more persons as opposed to this Bill, wherein, two or more persons resorting to violence by extrajudicial means would constitute a mob.

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. Even the states of Rajasthan and West Bengal have formulated their 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". 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.

CONCLUSION

To say that India is a democratic country and that lynchings have no place there is an absurdity. The lynching of a man is a particularly disturbing example of governance gone awry, and an act of mob violence is itself evidence of a breakdown in law enforcement when it is perpetrated with the clear knowledge that there is no legal redress. Parliament has a significant role to play in enhancing anti-lynching laws. In response to directives from the Supreme Court, parliament should create legislation to handle mob lynching cases, to provide the greatest punishment for lynchers and officials implicated in mob lynching. In addition, the word "mob lynching," which is not defined in any existing laws, must be specified in the new legislation. In addition, a system should be established to guarantee that those who have been wrongfully killed by a mob will be compensated for their losses.

¹⁷ Supra note. 8.

¹⁸ "Draft law of Manav Suraksha Kanoon' (MASUKA) –National Campaign Against Mob Lynching" available at: https://blog.ipleaders.in/draft-law-manav-suraksha-kanoon-masuka-national-campaign-mob-lynching/#_ftn8 (last visited on Nov. 7, 2021).