



MOB LYNCHING: SOCIO-LEGAL MORALITY

Dr. Ganesh Dubey

Associate Professor & Head,
Institute of Law, Jiwaji University, Gwalior.

Anchit Verma

Research Scholar,
Institute of Law, Jiwaji University, Gwalior.

Abstract

Now a day's mob lynching is becoming huge problem in our society, 'social clashes and intolerance are the triggers to fire,' 'bullet of such lynching.' In this research paper backdrop and categories of mob lynching discussed along with its effect and statutory provisions in India. Reasons, suggestions and solutions are the main focus of this research paper.

Key Word: Mob Lynching, Freedom of Matrimonial Alliances in the Name of Honour and Tradition bill-2019, The Rajasthan Protection from Lynching Bill-2019, Status of Lynching in India, 'NOT IN MY NAME' campaign.

1. Background

Mob lynching comprises a violent group of aggressive people and targeting an individual or a group of individuals, resulting in hate crime,¹ on the ground of caste, colour or creed - based discrimination, religious violence against a particular community. It can be explained as an extreme form of casual group social control, and it is often led with the display of a public vision for maximum bullying².

Cases of mob lynching across the country are rising day after day. Till date large of people have lost their lives in mob lynching over the last decade. Despite political promises and administrative assurance, not a single affective step has been taken on the field to neutralize the situation till now.

2. Categories of Mob Lynching

Mob lynching is not just an act out of hatred, but it's a psychology as well. In India psychology varies cast to cast, religion to religion and place to place. Such difference can be classified into categories of mob lynching-

¹ Hate Crime: https://en.wikipedia.org/wiki/Hate_crime

² Wood and Amy Louise. Rough Justice: Lynching and American Society, 1874-1947. North Carolina University Press, 2009. ISBN 9780807878118.

i. Cast Superiority and Inferiority

There are many cases of mob lynching based on cast superiority and inferiority held in the nation since years. Now a day's honour killing is another face of such brutal conflicts. A young couple who were planning to marry were brutally murdered in the Indian state of Haryana on Wednesday. Police are treating the case as an "honour crime".³ This is not a single case, we have big list held behind. Recently "Article 15" a Bollywood movie highlighted the issue.

'The Rajasthan Prohibition of Interference with the Freedom of Matrimonial Alliances in the Name of Honour and Tradition bill-2019' and 'The Rajasthan Protection from Lynching Bill-2019' were introduced. According to the bill to curb honour killing, "There has been a spurt in illegal intimidation by self-appointed bodies for bringing pressure against 'sagotra' marriages and inter-caste, inter-community and inter-religious marriages between two consenting adults in the name of justifying the honour of the family, caste or community."⁴

ii. Religious intolerance

India is brand of many ethnic and religious communities in comparison to other countries of the world. Around 2000- different castes, there are 8 "major" religions, more than 15- different languages in 22 states and union territories, and a large number of tribes and sects.⁵ Due Such diversity, conflict of interest arises, resulting in intolerance and finally mob lynching.

The Supreme Court blamed the frequent cases of lynching being reported from various parts of the nation on the rising "intolerance and polarisation", and advised the Parliament to enact a new law to develop some deterrence of law among those who take law into their own hands. A three -judge bench, led by CJI Dipak Misra, said. "Hate crimes as a product of intolerance, ideological dominance and prejudice ought not to be tolerated... Extra judicial elements and non-state actors cannot be allowed to take the place of law..." "These extrajudicial attempts under the guise of protection of the law have to be nipped in the bud."⁶

³ BBC News India India 'honour killings': Paying the price for falling in love 20 September 2013.
<https://www.bbc.com/news/world-asia-india-24170866>

⁴ India Today "Bills against honour killing and mob lynching introduced in Rajasthan assembly" Press Trust of India Jaipur July 30, 2019, UPDATED: July 30, 2019 17:10 IST.

⁵ [Cultural Survival Quarterly Magazine](#) "Ethnic And Religious Conflicts In India" September 1983 Author Varshney Ashutosh

⁶ "The Economic Times" Lynching due to rising 'intolerance': Supreme Court. By *Samanwaya Rautray* ET Bureau| Jul 18, 2018, 08.24 AM IST

iii. *Rage against crime and criminal*

Crime rate is increasing day after day, and due to negligence, unnecessary delay on part of public administration to assure justice and temerity on part of people results in rage against crime and criminal and even against public officials.

There are cases when a mob in an Indian village has beaten to death three men suspected of trying to steal cattle, the latest in a spate of attacks that have provoked alarm among the country's religious minorities.⁷ A high-ranking police officer has been beaten to death in Kashmir by an angry mob that witnesses say had taken him for a spy or assassin.⁸ A mob in border district of Kupwara in Jammu and Kashmir on Tuesday accused a soldier of being a braid chopper and beat him before being rescued by the police and army....the jawan was rescued by troops, locals indulged in stone pelting on the security force personnel, who retaliated by lobbing tear smoke shells. The clashes continued for some time.⁹

3. Status of Lynching in India

i. *Rumours of child lifters*

Act of mob violence, flickered by rumours about child lifters are totally linked lack of public confidence in the police. Common feels that police lack the skill to track down the criminals. According to home-ministry figures, 54,723 child kidnapping cases (2016), 41,893 cases (2015), 37,854 cases (2014). It was found that the police filed charges against the kidnappers in only 40 per cent cases in 2016 and around 23 per cent of the cases decided in 2016. Practically speaking around three out of four people put to trial for child kidnapping walked free. Besides, state governments should be vigilante and try to prevent mob violence triggered by rumours.¹⁰

ii. *Cow 'protectors' and 'eaters'*

As far as religious sentiments for cow concern, from last few years these sentiments become matter of religious prestige and in response the socio-moral policing become vibrant and furious. There are many examples of mob lynching occurred between cow protectors and eaters, one of the major cases to be prominently covered by the media in recently was the 2015 murder of 52-year-old Mohammad Akhlaq. An angry mob accusing Akhlaq of eating beef dragged him out of his home in Bishara, a village near the city of Dadri in the state of Uttar Pradesh, and beat him to death.¹¹

⁷ Available at: <https://www.aljazeera.com/news/2019/07/vigilantes-india-kill-suspicion-theft-190719152312505.html> (Last seen 02/10/2019)

⁸ The Newyork Times "Police Officer Beaten to Death by a Mob in Kashmir" By Sameer Yasir and Nida Najar, June 23, 2017

⁹ The Indian Express "Soldier accused of braid chopping, beaten by mob in Kashmir" 17th October 2017 06:37 PM

¹⁰ Available at: <https://www.civilserviceindia.com/current-affairs/articles/rising-mob-violence-in-india.html> (Last Seen 30/09/2019)

¹¹ Available at: <https://www.aljazeera.com/indepth/opinion/2017/07/india-epidemic-mob-lynching-170706113733914.html> (Last Seen 30/09/2019)

iii. Silence of political class

Notwithstanding the increasing mob violence, the political parties and bureaucracy constantly remain a quiet observer. The human rights activists, feel political parties behind the rise of mob lynching meanwhile utmost people who are governing the country captured the power through political system which belligerent and violent. In addition, their political career have been built they have built publicising violence against individual communities, where the crowd feel authorised and robust. The political class, apart from their usual criticism, they are less interested to visit the sufferers or their alive families.

4. Statutory Arrangements

When we take a glance around, it appears that we have rules, regulations and laws to administer us on every step we are taking. Sometimes one don't like these regulations because it is human psychology that if someone is telling us what to do, or keeping us away from doing what we want, we oppose it. Yet to part of a civilized society, one must have particular rules to follow:

i. Modern Jurisprudence

The objective of jurisprudence is to attain an organised and universal understanding of law. Law aims to establish and command human communities, and safeguard rights of every individual. Even if law and morals are distinct from each other it remains fact that morality is somehow is a vital part of law or of legal growth, that morality is "unseen in the chinks" of the legal structure.

ii. Ancient Jurisprudence

In the prior phases of the society there was no difference amid law and morality. In Hindu law, Vedas and the Smritis are the key sources where no distinction found in between. Though, later on, Mimansa set down some principles separates mandatory from recommendatory injunctions. 'Natural right' the doctrine in Greek expressed a theoretical moral substance of law. The roman jurist in the name of 'natural law' highlighted certain moral principles as the basis of law.

iii. Indian Legislature

It has been said by the government in Rajya Sabha that, there is no signature move on mob lynching, there are various radical dispensations that fluctuates this national crime.¹² Presently there is no unified codified law against lynching; nevertheless some sections of Indian Penal Code 1860, Criminal Procedure Code 1973, Indian Evidence Act 1872 are familiar to deal with such matter. Punishment for murder.—Whoever commits murder shall be punished with death, or imprisonment for

¹² Legal Service India "Mob Lynching: A Rising Threat" by Muskan

life, and shall also be liable to fine,¹³ attempt to murder,¹⁴ causing voluntarily hurt,¹⁵ people charged together for committing same offence in the same course of transaction.¹⁶ punishment for Acts done by several persons in furtherance of common intention. each of such persons is liable for that act in the same manner as if it were done by him alone.¹⁷ 'rioting' is an offense where an unlawful assembly or a member uses force or violence in the prosecution of a common object of the assembly.¹⁸ Thus the clause of mob lynching will be also included in the abovementioned sections.

The Supreme Court further observed that it is the duty of the State to strive, incessantly and consistently, to promote fraternity amongst all citizens such that dignity of every citizen is protected, nourished and promoted i.e. it is the duty of the state to prevent crime and maintain harmony in the country.¹⁹ It was held that the victims of mob violence cannot be discriminated against on the basis of community or religion. The relief of rehabilitation and compensation should be given to all communities. The Apex Court also observed that it is the duty of the State Administration in association with the intelligence agencies of both the State and the Centre to prevent recurrence of communal violence in any part of the State. If any officer responsible for maintaining law and order is found negligent, he/she should be brought within the ambit of law.²⁰

A three-judge Bench led by Hon'ble Chief Justice of India, Dipak Misra on 17th July 2018 asked the Parliament to pass a law in view of lynching as an offence distinctly and regulate punishment regarding the same. The bench commented that no individual in his capacity or as a part of a group (which within no time assumes the character of a mob) can take the law into his/their hands and deal with a person treating him as guilty.²¹

5. Reason

- Attitude of Police leads people to take law in their own hands
- With the beginning of modern era, growth of individualism and destruction of associational life moved one step ahead. As a result association which inspire an individual to escalate various culture and moderate our aggressive instincts, lacks.
- Crowd has no face. This exemption leads people to take life-threatening steps.

¹³ The Indian Penal Code, 1860, Sec. 302

¹⁴ Ibid, Sec. 307

¹⁵ Ibid, Sec. 323

¹⁶ The Code Of Criminal Procedure, 1973, Sec. 223

¹⁷ The Indian Penal Code, 1860, Sec. 34

¹⁸ Ibid, Sec. 146 and 147.

¹⁹ Nandini Sundar and others v. State of Chhattisgarh (2011) 7 SCC 547.

²⁰ Mohd. Haroon and others v. Union of India and another AIR 2000 SC 2306

²¹ Tehseen S. Poonawalla Vs. Union of India & Ors. Writ Petition (Civil) No. 754 of 2016

- A principle of political deployment that uses violence as an instrument of politics.
- Apathetic arrogance towards other cultures and religions.

6. Suggestion and Possible Remedies on Mob Lynching

- There should be check and balance on Misuse of Social Media and viral rumours
- Some more campaigns should be launched as Civil Society Launched 'NOT IN MY NAME' campaign: to protest against the cow vigilantism and National Campaign against Mob Lynching (NCAML). It also known as 'Masuka', short for Manav Suraksha Kanoon (law to protect humans).
- Mob violence should be criminalized.
- Pre-emptive action should be taken by law enforcement officials.
- Communal Sensation and alertness through multi-media campaigns. Counter-information campaign to check fake news.

7. Conclusion

Without any doubt lynching activities usually based on identity discriminate against any individual or a group violates 'right to equality'²² and 'Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth'²³ clause of the Constitution of India. For the state of mob attacks in the country now there is a necessity for discrete legislation and firm application and procedures to control the outbreaks and penalise the wrongdoers.

When the circumstance of the criminal justice system providing safe-havens and exemption to the culprits of such awful acts of mobocracy observed, it is found that in maximum cases the police department which lacks in infrastructure, man-power to deal with such situations, and most importantly political support to make a difference.

Now a days due to unnecessary delay and bad administration, and lack of deterrence it is becoming general perception of mob that if police administration and judiciary cannot provide them justice, they should get it by themselves even if an individual has committed the minor offence such as theft. This shows that somehow somewhere citizen of country have lost their trust on law and order on one side and on another side they have no fear that they can be punished, even if they are a part of big lynching crowd.

A draft of the proposed legislation is currently up, awaiting suggestions from the public.

²² The Constitution of India, Art. 14

²³ Ibid: Art. 15