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Mob Lynching, Hate Speech and their Implications in India

KUMAR ROSHAN DUSAD¹

ABSTRACT

Mob Lynching is an action by group of violent people which takes life of another person without any authority or legal sanction. It amounts to extrajudicial sentence like public hanging to take revenge or to teach a lesson to a suspected offender. It is also defined as vigilantism in which a group of self appointed people takes law in their hands to enforce having no legal authority. Today lynching has become a new normal in India. Mob Lynching is a clear violation of rule of law and basic human right of 'right to life.' The central reality in India is the abuse of law. The participation of people as a racialized group with extra-legal punitive power of death and how it catalyzes the rise of mobocracy, affecting the individual right of the person by their ostensible judgement, conclusively is an ambush on democracy. The research article looks at the concept of mob lynching, its causes, judicial standpoint together with its impacts in the society. The relation of hate speech and mob violence is also taken into account. Indian laws and International laws are studied in the context.

Keyword: *Mob lynching, hate speech, intolerance, causes and effects, judicial standpoint.*

I. INTRODUCTION

The term "Mob lynching" has been derived from two words 'mob' meaning 'group of people' with the intention of causing trouble or violence in the society, and 'lynching' indicate 'extra judicial killing' by the group. It is a form of violence in which a mob in the pretext of administration of justice without trial executes a presumed offender inflicting often torture and corporal mutilation. Both terms are derived from the name of Charles Lynch (1736–96), a Virginia planter and justice of the peace who, during the American Revolution, headed an irregular court, formed to punish loyalists. In these acts of violence, the mob holds the trial and imposes the punishment and sentence on a person based on the laws formed by mob which are inspired by religion, tradition and custom. In certain circumstances these trials does not happen and the mob starts the execution of punishments based on certain presumptions and stereotypes. Mob in this case may be religiously motivated or inspired by an extreme ideology and speech. The lynching is done with the intention, to inflict punishment for the benefit of the society at

¹ Author is a Research Scholar at University of Science and Technology, Meghalaya, India.

large. Mob-lynching is not a new phenomenon but it is a curse continuing in our society from early times.

The mob lynching incidents in India is on the rise and has become a new normal. As of now, NCRB has stopped collecting data of mob-lynching in the country, as lynching has nowhere been defined specifically in any laws. There is a question of awareness on this issue among people. No Laws specifically define lynching. In fact, "Lynching" is neither defined as crime in IPC, nor any procedure of trial of such cases is mentioned in Code of criminal procedure. There is a clear violation of rule of law and basic human right of 'right to life' in such incidents.

II. THE MEANING OF THE TERM "MOB LYNCHING"

A group of people who want to attack someone they think has committed a serious crime is mob lynch.² According to Merriam Webster, mob lynching is a crowd of people who kill or try to kill (someone) illegally as a punishment.³ It a term used to describe the acts of targeted violence by a large group of people. The violence is tantamount to offences against human body or property- both public as well as private. The mob believes that they are punishing the victim for doing something wrong (not necessarily illegal) and they take the law in their own hands to punish the purported accused without following any rules of law. Aptly referred to, by Hon'ble Supreme Court as 'horrendous act of mobocracy' mob lynching have a pattern and a motive. More often than not, innocent people are targeted on the basis of some rumor, misinformation or suspicion.⁴

Mob lynching is an act of targeted violence by a large group of people. The violence is a tantamount of offences against human body or property both public and private. The mob believes that they are punishing the victim for doing something wrong or illegal and takes the law in their hands to punish the purported accused without following any rule of law.⁵

Various renowned incidents of lynching in India:

Ayub Khan Lynching Case (June 23, 2017, J&K): Police officer Mohammed Ayub Pandith was lynched by an angry mob after he allegedly opened fire at a group of people who

² *Lynch mob* (no date) *Cambridge Dictionary*. Available at: <https://dictionary.cambridge.org/dictionary/english/lynch-mob> (Accessed: 15 October 2023).

³ *Lynch mob definition & meaning* (no date) *Merriam-Webster*. Available at: <https://www.merriam-webster.com/dictionary/lynch%20mob> (Accessed: 15 October 2023).

⁴ Deswal , V. (2020) *Mob lynching- a desecration of the 'rule of Law'*, *Times of India Blog*. Available at: <https://timesofindia.indiatimes.com/blogs/legally-speaking/mob-lynching-a-desecration-of-the-rule-of-law/> (Accessed: 15 October 2023).

⁵ India, legal S. (no date) *Lawyers - our offices in India, Lawyers in India - Advocates, Law Firms, Attorney directory, Lawyer, vakil*. Available at: <https://legalserviceindia.com/legal/article-9122-mob-lynching-horrendous-act-of-mobocracy> (Accessed: 15 October 2023).

caught him clicking pictures near the mosque.

West Bengal Lynching Case (June 26, 2017, Durgapur): On Saturday, barely two days before Eid, three Muslim youth were lynched in Durgapur village, West Bengal, by a mob of cow vigilantes over suspicion of cow theft.

Guwahati Lynching Case: A mob allegedly lynched two men in Nagaon district of Assam, after they were suspected to be cattle thieves. This was the first case of gau rakshaks going to such extremes in the state.

Harpur Lynching Case: Qasim (45) and Shamiuddin (65) were thrashed by a mob on rumours of their involvement into cow slaughter. The incident hogged headlines when a video showing both lying in a pool of blood and men from the mob shouting at them for facing the punishment for attempting cow slaughter.

Junaid Lynching Case: Naresh Rakh, the accused arrested for the murder of 16-year old Junaid Khan, told the police in his statement that he attacked Junaid and others with a knife after they had hit him with a belt and he had started bleeding. He further said that he had thrown the murder weapon into a pond in his village at Jataula, Haryana. Rakh works as a guard at the National Museum.

Alwar Lynching Case: Man lynched to death on suspicion of being cow smuggler. In a shocking incident, another lynching has been reported from Ramgarh in Alwar district of Rajasthan. The lynching was done on suspicion of cow smuggling and comes a year after Pehlu Khan was lynched by gau rakshaks in the district. Pehlu Khan died later and the incident caused massive stir nationwide.

Dhule Lynching Case: Mob violence fanned by child-abduction rumours on social media snuffed out five lives in Dhule district, adding to the new wave of lynchings across the country. The police have detained 15 people for their alleged role in the crime. A bustling weekly market at Reinpada, a cluster of tribal hamlets with a population of 2,500, turned into a killing field after angry locals chased seven people mistaking them for child-lifters. While two of them escaped, but the others were not so lucky, local journalist Rajendra Khairnar told DNA.

Akhlaq Lynching Case: The accused in Mohammed Akhlaq's murder case, who was dragged and killed by a mob on suspicion of eating beef in Dadri's Bishada village, may soon secure a job. Mohammad Akhlaq was dragged out of his home and stoned to death on a village street after a public announcement from the local temple that the family had slaughtered a calf and

eaten its meat, on September 29, 2015.⁶

III. CAUSES OF LYNCHING

1. **Intolerance:** People are intolerant in accepting the acts of law and go on to punish the alleged person assuming the act to be immoral.
2. **Biases:** Biases based on various identities like caste, class, religion, etc: mob lynching is a hate crime that is rising due to the biases or prejudices among various castes, classes of people, and religions.
3. **Rise of Cow Vigilante:** It is one of the crucial reasons that agitate the growing rise in mob lynching activities.
4. **Lack of Speedy Justice:** Inefficient working of justice rendering authorities is another primary reason why people take law into their own hands and have no fear of the consequences.
5. **The Inefficiency of investigation procedure:** Police officers play an important role in protecting the life of the people and maintaining harmony among the people but due to their ineffective investigation procedure, it becomes difficult to follow a specific procedure of this hate crime, which is rising day by day.

IV. LYNCHING LAW IN INDIA

There are legal consequences for such acts of animosity among people of different communities, harassing, killing and beating people, but there is no such specific law penalizing mob-lynching as an offence. Although provisions of Indian Penal Code 1860 (hereinafter IPC), are invoked in such lynching cases, but they appeared to be inadequate for the punishment or conviction in a specific way. Since there are no specialized legislations to prosecute cases of mob-lynching, they are generally charged under various provisions of IPC such as, for murder under section 302, attempt to murder under section 307, for voluntary causing hurt under section 323 and for rioting under section 146. However, the repercussion of which is that, the incidences of mob lynching are scrutinized only from a perspective of physical actions and the end results of physical harm or death of person. Though the issues of culpability of several persons in mob are dealt with in section 141 as unlawful assembly, and section 34 of the IPC as acts done by several persons in furtherance of common intention, yet the provisions fail to encompass the

⁶ *Mob lynching: 7 instances which Shook india* (no date) *DNA India*. Available at: <https://www.dnaindia.com/india/report-mob-lynching-7-instances-which-shook-india-2639925> (Accessed: 15 October 2023).

common sentiment that mob shares. Section 141 falls short as it fails to take into consideration the possibility that violence was instigated by a mob with a pre-determined end goal. Similarly, section 34 assigns vicarious liability on persons, for which however a prior meeting of minds needs to be established. It begs the question, that, whether ‘vicarious liability’ is a sufficient paradigm to prosecute mob lynching. Although the section prosecutes an offence as an act done alone by every individual member of a mob, it fails to take into consideration the shared sentiment or the common identity a mob possesses, which becomes equally important to be determined along with individual culpability. As a result of which the presence of a shared sentiment that drives the actions of a mob (mob lynching) is left unacknowledged, unaddressed, and often unprosecuted. The law only charges individuals for murder or hurt, which is nothing but physical end results of actions of a mob.

It becomes pertinent to note that section 146 (rioting), acknowledges the use of force and violence by an unlawful assembly or mob while trying to achieve a common object, in a manner quite similar to as is envisioned in section 141 (unlawful assembly) which although broadens the frontiers of violence that a mob or an unlawful assembly may engage in, however, it does not acknowledge the common sentiment of a mob.

Mob lynching is a vigilante’s attack on the rule of law. The participation of people as a racialized group with extra-legal punitive power of death and how it catalyzes the rise of mobocracy, affecting the individual right of the person by their ostensible judgement, conclusively is an ambush on democracy. Mob lynching violates human dignity and basic fundamental rights under Article 21 of the Constitution i.e. ‘right to life’. In addition, article 14 and 15 of the Indian Constitution, which guarantees ‘equality’ and ‘prohibit discrimination’ also been violated in such cases. It is also a flagrant violation of the Universal Declaration of Human Rights.

V. JUDICIAL STANDPOINT ON LYNCHING

In the judgment of Landmark *Tehseen S Poonawala and others V. Union of India*⁷ on July 17, 2018, which includes a three-judge bench of Chief Justice Deepak Mishra and Justices A.M. Khanwilkar and D.Y. Chandrachud of the High Court suggested that the enactment of a special expulsion law by Parliament could take place as “fear of the law and respect for the rule of law constituted the basis of civilized society”. The current complaint is listed under Section 32 of the Constitution to take immediate and necessary action against violent animal protection groups. While explaining the importance of constitutional and legal security, of all the courts,

⁷Writ Petition (Civil) No. 754 of 2016.

he pointed to the case of Krishnamurthy.⁸

The *2015 Krishnamurthy case*⁹, Supreme Court held that "the law is the highest rule in a civilized society." The Court noted that "no person is allowed to take the law into his own hands in regard to his shallow judgmental spirit. Just as one has the right to fight for his legal rights, another has the right to be presumed innocent until proven guilty after a fair trial".

*Nandini Sundar and others v. The State of Chhattisgarh*¹⁰ Court ruled that it is "the duty of the country to strive, consistently and consistently, to promote the well-being of all citizens so that the dignity of all citizens is protected, nourished and encouraged. *In the Mohd. Haroon and others v. Union of India and another*¹¹ case, it is held to be "the responsibility of the Co-operative Governance Office and state intelligence agencies and the institution to prevent duplication of public violence in any part of the country. If any law enforcement officer is found to be negligent, it should be brought within the law". In the present case, the Supreme Court held that "mob violence is a violation of the law's constitutional and constitutional values, state, statutory bodies and the constitutional amendment."

In *St. Stephen's College v. University of Delhi*¹², while emphasizing the importance of diversity in diversity, the Court stated that "the purpose of our Constitution is to unite diversity and to curb any tendency to create unity among Indians in appreciating diversity. It is absolutely necessary to emphasize that India is representative of social, religious and cultural diversity.

The existing trial court has indicated that there is an urgent need for intervention by the Government in protecting the rights of citizens. While intolerance continued, the Supreme court held that "a strong contemporary democracy places the essential elements of the support of a place of thought and path in order to maintain unity and unity." The High Court noted that "more judgmental" acts such as "cow-watching or other cattle-raising awareness" and barking should be removed from the budget and passed guidelines to the Center and the provinces. The court also urged Parliament to enact special rules that would address problems caused by mainstream parties and said that until then the guidelines would regulate the law.

In the Poona Walla case, court recommended that "in relation to a number of incidents of abuse and mob violence that need not be specifically mentioned as we will issue specific directions

⁸Ankita Ramgopal, "Mob lynching in India: where does the buck stop?", Feb, 27, 2020, available at: <https://lawyerscollective.org/the-invisible-lawyer/articles/mob-lynching-in-india-where-does-the-buck-stop/>.(assessed on 29/03/22)

⁹ (2015) 3 SCC 467.

¹⁰(2011) 7 SCC 547

¹¹(2014) 5 SCC 252

¹²(1992) 1 SCC 558

including forums, remedial and punitive measures."

In *Raphel Cheenath v. Territory of Orissa (Archbishop Raphael Cheenath vs State Of Orissa, 2009)*, Court held that strengthening of police infrastructure is important which would curb the lynching in the form of communal unrest. It was said that minorities is as much as child of the soil as the majority and a feeling of security, equality and awareness to the issue are to be ensured by the state.¹³

(A) International perspective

While there is no specific international treaty or convention that addresses mob lynching, several international laws and human rights standards provide protection against this heinous crime. Some of them are as follows are as follows:

- **Universal Declaration of Human Rights:**

The Universal Declaration of Human Rights (UDHR) is a landmark international document that recognizes the inherent dignity and equal rights of all human beings. Article 3, of the Universal Declaration of Human Rights states that "everyone has the right to life, liberty and security of person." Mob lynching violates this fundamental right to life and security of person and is therefore a violation of international human rights law.

- **International Covenant on Civil and Political Rights:**

The International Covenant on Civil and Political Rights (ICCPR) is a legally binding treaty that sets out the civil and political rights that are protected under international law. Article 6 of the ICCPR provides that "every human being has the inherent right to life" and that this right shall be protected by law. Article 7 of the ICCPR prohibits torture and cruel, inhuman, or degrading treatment or punishment. Mob lynching, which involves the use of violence and intimidation to cause harm to an individual, violates both of these provisions of the ICCPR.

- **Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment:**

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) is an international treaty that prohibits the use of torture and other forms of cruel, inhuman or degrading treatment or punishment. The CAT defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person." Mob lynching, which involves the intentional infliction of pain and suffering, can be

¹³ Archbishop Raphael Cheenath vs State Of Orissa , Writ Petition (Civil) No.404 of 2008 (The Supreme Court of India, January 5, 2009).

considered a form of torture and is therefore prohibited under the CAT.

- **International Convention on the Elimination of All Forms of Racial Discrimination:**

The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) is an international treaty that prohibits all forms of discrimination based on race, ethnicity, or national origin. Article 5 of the ICERD requires states to prohibit and eliminate racial discrimination and to ensure that all individuals are protected from racial violence or incitement to racial violence. Mob lynching, which often targets individuals based on their race or religion, is a clear violation of the ICERD.

- **Rome Statute of the International Criminal Court:**

The Rome Statute of the International Criminal Court (ICC) is an international treaty that establishes the ICC, a permanent international criminal court that has jurisdiction over individuals who commit genocide, crimes against humanity, war crimes, and the crime of aggression. Mob lynching can constitute a crime against humanity, which is defined in the Rome Statute as a serious attack on a civilian population that involves widespread or systematic acts of violence. Individuals who are responsible for mob lynching can be held accountable under the ICC.¹⁴

VI. HATE SPEECH AND MOB VIOLENCE

Hate-speech means a public speech that expresses hate or encourages violence towards a person or group based on something such as race, religion, sex, or sexual orientation.¹⁵

Hate speech covers many forms of expressions which advocates, incite, promote or justify hatred, violence and discrimination against a person or group of persons for a variety of reasons. It poses grave dangers for the cohesion of a democratic society, the protection of human rights and the rule of law. If left unaddressed, **it can lead to acts of violence and conflict on a wider scale**. In this sense hate speech is an extreme form of intolerance which contributes to hate crime.

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¹⁴ [burning issue] mob lynching in India (2023) *Civildaily*. Available at: <https://www.civildaily.com/mob-lynching-india-civildaily/> (Accessed: 15 October 2023).

¹⁵ *Hate speech* (no date) *Cambridge Dictionary*. Available at: <https://dictionary.cambridge.org/dictionary/english/hate-speech> (Accessed: 15 October 2023).

crime.¹⁶

The meaning of hate speech, in contemporary times, has travelled beyond mere offensive speech; it encompasses speech that is insulting, derogatory, discriminatory, provocative or even such that it incites and encourages use of violence or results in violent backlashes.¹⁷ There is a thin line of difference between hate speech and free speech. When free speech transgresses its limitation, it becomes hate speech. Hate speech through public speech and social media is a dangerous thing.

Social media has given us the means to share our ideas and views with virtually the whole world. Its increasing usage implies that a piece of information can be shared easily and instantly with the targeted people. However, this feature of these platforms is capable of manipulating people into believing false information and instilling negative ideas and feelings of hatred. This platform can also be used to incite violence. Hate speech is one of the tool to provoke violence through social media.¹⁸

In fact, hate speech and mob violence is directly related to each other in one way or the other. Hate speech has the potential to radicalize people and encourage them to undertake criminal and violent acts either individually or as a mob. In India, various examples are there which dates from pre-independence era where mob violence occurred due to prevailing rumours. The anti-Sikh riot(1984), Ram-Janambhoomi riot, recent anti-citizenship amendment act protest etc. are some of important cases.

VII. EFFECTS OF MOB LYNCHING

Mob lynching has an important role in the destruction of social fabric of the country. The consequences of it is not transitory rather transient. It puts question on every departments and and their working. Several consequences of mob violence are as follows-

- **Loss of Innocent Lives:** The most significant consequence of mob lynching in India is the loss of innocent lives. The victims of mob lynching are often individuals who have committed no crime but are targeted due to their religion, caste, or social status. The incidents have left families devastated and have created fear and insecurity among

¹⁶ *Hate speech and Violence - European Commission against racism and intolerance (ECRI) - www.coe.int* (no date) *European Commission against Racism and Intolerance (ECRI)*. Available at: <https://www.coe.int/en/web/european-commission-against-racism-and-intolerance/hate-speech-and-violence> (Accessed: 15 October 2023).

¹⁷ Yadav, A. (2018). Countering hate speech in India: Looking for answers beyond the Law. Winter Issue 2018, ILI Law Review, Vol. 2.

¹⁸ Nyayshastram (2020) *Curbing mob violence through censoring online hate speech*, Nyayshastram. Available at: <https://www.nyayshastram.com/post/curbing-mob-violence-through-censoring-online-hate-speech> (Accessed: 15 October 2023).

minority communities.

- **Damage to Social Fabric:** Mob lynching has also damaged the social fabric of India, which is known for its diversity and inclusivity. The incidents have heightened communal tensions and created an atmosphere of fear and distrust. The violence has also led to the stigmatization of certain communities and has contributed to their marginalization.
- **Erosion of Democratic Values:** Mob lynching is a direct attack on democratic values and the rule of law. The violence is carried out by mobs that take the law into their own hands, bypassing the legal system and the principles of justice. The incidents have raised questions about the state's ability to protect its citizens and uphold the Constitution.
- **Economic Impact:** Mob lynching incidents have also had an economic impact, with foreign investors expressing concerns about the safety and security of their employees in India. The incidents have damaged India's image as a tolerant and peaceful country and have affected its tourism industry.
- **Impact on migration patterns:** It directly hampers internal migration which in turn affects economy.
- **Damage of public property:** Large resources deployed to tackle such menaces induces extra burden on state-exchequer.
- **Possibility of backwardness:** A country can prosper if there is element of humanism, human spirit and friendliness between individuals. Human rights definitely be claimed unless such right is protected.

VIII. CONCLUSION

Mob Lynching can be categorized as a class of hate crimes, a clear violation of rule of law and basic human 'right to life.' The central reality in India is not the abuse of law, but persistent refusal to enforce it. The participation of people as a racialized group with extra-legal punitive power of death and how it catalyzes the rise of mobocracy, affecting the individual right of the person by their ostensible judgement, conclusively is an ambush on democracy. To efficiently tackle such incidences and to bring them to the knowledge of the authorities and people, it becomes utmost necessary that the true cause of the prevalence of such crime in the society is to be determined. The quick justice management, effective legislation, humanity and collective support of the public provide a helping hand to the problem. It is always important to prevent such happenings before calling for remedies. Prevention is better than cure.

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hate-speech.
