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# Mob Lynching: Unpacking Historical Origins, Social Ramifications, and Legal Measures

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MAHIMA MAKKAR<sup>1</sup> AND HARMANPREET KAUR<sup>2</sup>

## ABSTRACT

*This paper will critically investigate mob lynching, considering its historical background, social implications, and the efficacy of legislative instruments in the fight against this grave problem. The paper begins with tracing the origin of mob violence and identifying how cultural, political, and economic factors have, historically fuelled such acts. It depicts how the social hierarchies, colonial legacy, and community tensions culminated in bringing the institution of lynching, an innovation of vigilante justice, into existence. The paper then proceeds to discuss the social implications, including the disruption of social harmony, the erosion of law and order, and the psycho-social impact on those affected communities. It critically examines the existing architecture of law in India about the suitability to redress mob lynching and deliver justice to the victims. A study through case studies and judgment, uncover systemic problems that allow and perpetuate non-enforcement. In that regard, author has proposed a number of reforms, such as fortifying legal provisions, improving the training level of the law enforcing officers, enhancing community engagement, and setting up arrangements for offering support to the victims. This paper hence allows historical context, sociological insights, and legal analysis that can add meaning to the discourse on mob lynching and facilitate a more just society where the rule of law prevails over mob violence.*

**Keywords:** Mob Lynching, Social Implications, Legislations, suggestive measures.

## I. INTRODUCTION

Rule of Law is a basic tenet forming part of democratic governance and justice dispensation systems worldwide. The rule of law is that which ensures consistency in the practice of law with regard to all, including the authorities—nobody is above the law. The rule of law clearly defines legal rights and responsibilities for people in terms of transparency, consistency, and predictability of legal processes.<sup>1</sup> It does not only make public officials accountable but also provides scope for judicial redress and thus protects individual liberty and serves as a deterrent

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<sup>1</sup> Author is a Research Scholar at Guru Nanak Dev University, Amritsar, India.

<sup>2</sup> Author is a Research Scholar at Guru Nanak Dev University, Amritsar, India.

to power abuse. The rule of law leads to a not only stable but also just society, in the sense that it protects human rights and guarantees that justice is dispensed without any bias.

Crime undermines the rule of law by violating legal norms and disrupting justice. It erodes trust in legal systems, harms victims, and weakens societal order by challenging the predictability and fairness of legal principles. Unlawful assembly is considered as a form of crime where people gather with the intent to commit some wrong or cause such a disturbance that is likely to lead to violations of law or breach of peace. This is dangerous to society and therefore it is regulated by legal regimes in pursuit of orderly human co-existence and protection of the rights of all citizens. There are laws defining and dealing with assemblies that are unlawful in order to avoid arbitrary enforcement and preserve individual rights.<sup>2</sup> The rule of law seeks to balance these concerns against the need for public order and respect for basic freedoms through insistence on justification, necessity, and proportionality of restrictions to assembly. Mob lynching is a modern variant of unlawful assembly wherein groups of persons congregate to commit acts of violence or threats of violence against another, which are contrary to legal norms. The assembly is unlawful because its purpose is to harm and circumvent the legal-judicial process, thus compromising public safety and constituting a breach of social order. This manner of collective violence presents grave perils to public security and threatens social order. Mob lynching is dissected as:

**Mob:** A large, unruly crowd of people doing some action together, usually violently. Such groups are usually driven by strong emotions or collective objectives, which more often than not cause lawless or aggressive behaviour.<sup>3</sup>

**Lynching:** When a group of people kills a person illegally without warrant or fair trial for an offense like accusation or some perceived wrongdoing.<sup>4</sup>

Mob lynching has an element of infringement on human rights and fundamental rights through extrajudicial killings within the menace, in clear violation of the basic right to life. It denies the accused a fair trial and due process. Additionally, violence used often incorporates torture and inhumane treatment. Lynching may further be impelled by principles of discrimination, attacking equality and principles against discrimination. Ex-President of India Pranab Mukherjee termed mob lynching as the direct threat to democracy and the rule of law in the country.<sup>5</sup> He said such acts of violence delegitimize the legal system and constitutional values. Stringent measures should be taken to prevent mob justice. People must be protected and brought to book through the due process of law only.

Acts of mob lynching can be prosecuted under the Indian Penal Code, even though it does not

contain a particular section on "mob lynching." Depending on the nature of the crime, such acts can be brought in under a number of provisions. Section 302 IPC could apply in cases of death resulting from lynching. In case the killing comes out to be less intentional but grave, Section 304 IPC can be invoked. When the acts are in the nature of violent group acts, the pertinent provisions would be Section 147 IPC and Section 148 IPC. While Section 149 IPC holds every member of an unlawful assembly liable for crimes committed in pursuit of the common object of that assembly, Section 34 IPC deals with acts done by several persons in furtherance of common intention.<sup>6</sup> In addition, Sections 323 IPC and 325 IPC may be relevant in cases where serious injury has occurred. In the light of this issue, certain Indian states like Karnataka have brought out specific legislation to effectively deal with and penalize mob lynching. Mob lynching is now penalised under a specific section in *Bhartiya Nyaya Sanhita*.<sup>7</sup> Section 103(2) of BNS provides criminal liability and punishment for killing in a mob. Section 103(2) of BNS provides that when a group of five or more persons acting in concert commits murder on the ground of race, caste or community, sex, place of birth, language, personal belief or any other ground each member of such group shall be punished with death or with imprisonment for life and shall also be liable to fine. Making specific provisions in the *Bharatiya Nyaya Sanhita* for mob lynching is essential, as a defined offense will lead to clear legal definitions and penalties, thereby enhancing deterrence and ensuring uniform justice across the country.<sup>8</sup> This shall improve the legal remedies available to the victim, forestall disparities in enforcement, and increase awareness about the consequences of such violence. Such specific inclusions only prove the adaptability of the legal system to new emerging issues in society and effectively answer the growing concern of mob lynching.

## **II. HISTORICAL CONTEXT**

The word "lynching" is borrowed from Charles Lynch, a Virginia justice of the peace who administered extrajudicial punishment during the American Revolutionary War. Generally, mob lynching has been in existence for quite a long in history, cutting across diverse cultures in forms where groups of people take law into their hands to inflict punishment without authority from the law. In the United States, it came to be associated in particular with the racial violence against African Americans in the post-Civil War South, where white mobs conducted extrajudicial killings for the sake of implementing racial segregation and intimidation. The practice has since been recognized as a grave violation of human rights and is condemned globally. One such notable incident was the lynching of Claude Neal in Florida in the 1930s, which was extremely brutal and turned into a public spectacle, drawing national attention to show just how cruel such acts were. Another pivotal case was the 1955 lynching of 14-year-old

Emmett Till in Mississippi; he had allegedly flirted with a white woman and was brutally murdered for it. In Latin America itself, there were the Guatemalan Civil War and Colombia's drug wars and guerrilla conflicts toward the end of the 20th century saw different incidents of lynching.<sup>9</sup> In Guatemala, lynching was part of the larger package of violence carried out against presumed insurgents and their supporters, while in Colombia, they became quite common in drug cartel- and guerrilla-controlled areas. These are violent practices rooted in deep racial, political, or social tensions and have therefore had a lasting impact on such societies. In ancient Rome and in the medieval period, people often executed individuals without the necessity of formal legal proceedings. Though it has been largely enfeebled as a phenomenon of history, mob violence continues to thrive in various forms across the world and frequently finds connections to communal or political conflict. Nowadays, mob lynching is condemned by all norms as a grave human rights violation, and efforts on the part of international bodies, together with governments, are preemptively taken to prevent such crises.

Mob lynching in India has been an outcome of historical as well as contemporary factors. Although traditional forms of communal and social violence were present in India, the ultra-modern concept of mob lynching began to find clear expression only from the late 20th and early 21st centuries. Initially, these were isolated incidents of mob violence based on communal riots and socio-political conflicts. However, this started changing when the political and communal atmosphere in the country started deteriorating, with frequent incidents of misinformation spread through social media leading to lynching cases on political grounds and exploitation of communal sentiments. High-profile incidents of allegations related to cow slaughter, child kidnapping, and other such issues received wide coverage. In the past couple of years, mob lynching has emerged as one of the grave human rights violations that infuriate the public at large and even call for the formulation of stricter legal provisions. This incident speaks to broader socio-political dynamics and requires multi-dimensional strategies aimed at addressing its root causes and establishing justice for the victims. The partition of India in 1947 was one of the most terrible events ever to occur, accompanied by almost countrywide communal violence, horrific mob attacks and lynching, as it saw the displacement of millions of people following readjustments in the border areas.<sup>10</sup> This upheaval primarily targeted the minority communities on both sides in India and Pakistan, resulting in an estimated two million deaths and deep-seated communal divisions that persist in the region. Similarly, the Anti-Sikh Riots of 1984 were carried out following the assassination of then Prime Minister Indira Gandhi by her Sikh bodyguards. Mobs all over India brutally attacked the Sikh communities, leading to several lynching and extra-judicial killings. One of the first high-profile cases in independent

India that generated a lot of media attention was the one in the state of Maharashtra in 1997. In this case, a young man named Kailash Kher was lynched by a group of people in the village of Bhivpur. The incident is reportedly sparked off by rumors and allegations against the individual regarding his involvement in illegal activities. This case came at an important moment to bring to light the rising issue of mob violence and the necessity of more stringent legal and social measures for tackling such incidents.

### **III. SOCIAL IMPLICATION**

Mob lynching has deep and marring effects on society, as it affects various modalities of communal and social life. This kind of violence aggravates already existing social and communal differences and widens them by creating an atmosphere of fear and mistrust between the groups. It makes people lose faith in legal and governmental institutions, thus becoming a breach of trust between them and the rule of law, paving the way for vigilantism. Lynching is bound to inflict acute psychological trauma on the victims, their families, and even those who have the misfortune of being eyewitnesses, which would result in long-term mental health problems among such victims. Furthermore, mob lynching suppresses freedom of speech and democratic participation by instilling an atmosphere of fear. The community life is disrupted, economic activities hampered, instability created, and the normalization of violence as a tool of conflict resolution perpetuates further cycles of violence and delegitimizes the norms based on law. The persistence of mob lynching can also lead to the international tarnishing of a country's reputation, attracting global condemnation and calls for reform. These effects can be duly tackled through holistic strategies involving legal reforms, effective enforcement, community engagement, and support for victims to restore social trust and uphold human rights. Contributory factors to this increase in mob lynching are rising communal tensions, circulation of misinformation through social media, ineffective law enforcement, and no accountability for those who carry out lynching. Socio-economic disparities and political exploitation also play a part in it. The solution to such evil lies in stronger legal action and effective policing, combined with attempts at the very roots of these social and economic evils. Above mentioned factors are discussed in detail:

#### **A. Disruption of Social Harmony:**

Mob lynching causes deep impacts on social cohesion, severely eroding the harmony and unity of communities. It is not merely an issue of violence that serves to inflict physical harm but also deepens communal and social divides. When a lynching occurs, it often targets people from certain communities or social groups, thereby increasing pre-existing tensions and making an

atmosphere full of distrust and hatred. This heightened hostility sets an environment where all groups increasingly view one another with suspicion. Long-term conflicts and social relationship fragmentations are major problems common in polarized societies. The decline of trust and rise of animosity between groups make it very hard to hold up the tools of collective problem-solving for solving common problems. It therefore leads to a retaliatory system of conflict that sets loose an environment of violence, hence destabilizing society and making it hard to reestablish social harmony. Further, the social divisions because of mob lynching may further deter the process of building an inclusive, resilient community. It is not at all easy to set up cooperative relations when groups are pushed far apart by a history of violence and distrust. This will impede community development and definitely render any effective social and economic initiative hard to implement. Thus, mob lynching does not only affect the immediate peace but has long-term effects whereby communities' abilities to function cohesively are maimed and their ability to address collective challenges affected.

#### **B. Subversion of Legal Process:**

It disrupts the very tenet of the rule of law by allowing the individual or group, to take the law into their own hands. It simply bypasses the laid-down legal processes by which people take justice into their own hands. For a functional legal system, justice is dispensed in an orderly and coherent fashion. It affects law enforcement, legal representation, and judicial review, which basically ensures fairness and accountability. However, mob lynching ignores these processes, leading to actions as seen in extra-judicial killings devoid of trial or due process. It erodes the legal order, with serious consequences for the administration of justice. Mob justice acts outside the rule of law and denigrates formal judicial institutions, therefore leading to an erosion in public confidence in the institution's ability to deliver justice. A resultant mistrust can foster further acceptance of vigilant justice, whereby people feel taking the law into their own hands is justified, further weakening legal institutions. This kind of normalization can have a snowball effect on the governance and societal order of a country. The more the rule of law is compromised, the less effective the law enforcers and courts can be. This can lead to greater destabilization, allowing for further lawlessness and eventually sapping the government's strength in maintaining public order and dispensing justice. This will undermine the credibility of justice dispensed by courts of law and deepen the cycle of violence and vigilantism.

#### **C. Culture of Fear and intimidation:**

The most integral factor of mob lynching is its public and brutal nature, which acts as a strong tool of intimidation meant to instill wide-scale fear among communities. The open and very

often public spectacle of violent acts sends out an unequivocal signal to others and creates an atmosphere where the rein of fear is supreme. This fear is not contained within the immediate victims and their families, but rather it ripples from acts of such violence into the community who may fear becoming the next targets. Such a general atmosphere of fear can change the very foundation of free speech and democratic participation. Citizens may become reluctant to air their views or protest against injustice lest they invite violent retribution. The fear of mob violence makes people self-censor and shy away from controversy, opposition views, which might invite undesirable attention or retaliation. This suppression of free expression undermines basic democratic values of open dialogue and the exchange of ideas. Communities could become less active in dealing with social problems or in advocating change because the risk of violence will dissuade them from participating in public discourse or activism. One consequence of this suppression is the stifling of democratic processes, through which it becomes even harder for society to deal with and rectify injustices. This weakens the democratic fiber of society and erodes the freedom of expression essential to a healthily functioning democracy.

#### **D. Critical Human Rights and Fundamental Right Abuse:**

Mob lynching represents an extreme violation of fundamental and human rights and exposes the deep systemic flaws in the protection of these rights. Intrinsicly, mob lynching is an attack on the right to life since it involves extra-judicial killing that is carried out without any legal sanction or procedure. This most basic right, which forms the bedrock of human rights protections, is egregiously violated when people are subjected to mob violence. Mob lynching also infringes on protection against torture and cruelty, inhuman or degrading treatment, along with violation of the right to life. The brutal and public nature of lynching perpetrated against victims is very likely to cause serious physical harm and inflict psychological trauma on the individual. This brazen disregard for human dignity and humane treatment has been reflected time and again in so many such acts of violence, wherein the torture-like conditions add further to the violation of human rights. Moreover, mob lynching denies the person the right to a fair trial. One has the right that when the process of law is put into motion against someone, the individual is taken through a judicial process: the presentation of evidence, allowance of defense, and then judgment but in mob lynching, the process is totally circumvented, and the basic legal rights and due process are denied. These acts of violence do not stand as isolated incidents but reflect deeper issues of systemic human rights abuses. They provoke national and international condemnation, then point to failures in upholding human rights and ensuring justice. Mob lynching persists as a need that explicitly stands out for the application of more



effective measures on protection, accountability, and justice. This must be achieved through strengthened legal frameworks, improved enforcement, and respect for human dignity in order to check serious violations of basic principles of human rights.

#### **IV. JUDICIAL PRONOUNCEMENTS AND LEGAL MEASURES**

Several legal measures have been suggested and introduced in different jurisdictions for combating and controlling mob lynching. These normally include strict anti-lynching laws, improvement in law enforcement procedures, and the fortification of the legal framework for delivering justice to victims. For example, in countries like India where mob lynching has been acquiring grave dimensions, there have been demands for a specific anti-lynching law to deal directly with this form of violence. Such laws tend to spell out the act of lynching itself, prescribe stringent punishment for offenders, and provide for speedy trials. A second important requirement is reforms in policing: imparting training to police forces to deal with communal tension effectively and setting up dedicated units to investigate and prosecute cases of lynching. Moreover, victim protection mechanisms and witness support programs must be institutionalized for reporting these crimes and for the safety of all persons in the legal process. Another urgent need to change societal attitudes and avert lynching is through public awareness campaigns and community outreach programs that help address the issues of intolerance and prejudice. These collectively go on to establish wide-ranging legal and social framework to prevent mob violence and ensure accountability.

The **Palghar lynching case** refers to the tragic incident in which two Hindu sadhus, Sushil Giri Maharaj and Laxman Giri Maharaj, along with their driver, Nilesh Telgade, were brutally murdered by a mob on 16th April 2020, at Palghar, Maharashtra. The violence was fanned out by some baseless rumors that went viral on social media, accusing these men of being child traffickers and COVID-19 spreaders. Acting upon the unfounded fears, the mob attacked the victims when they were on their way from Mumbai to Gujarat. The horrifying incident was video-recorded, drew widespread outrage, and multiple arrests were made with a thorough investigation into the matter by the Maharashtra Police. It became one more case in the long list of dangers of misinformation and how effective law enforcement is urgently needed to deter such violent incidents. It also cautioned that particular attention needs to be placed on the contribution of social media in spreading false rumors, likely to incite violence.<sup>10</sup>

The Supreme Court of India picked up the much-needed concern on mob lynching, through the landmark case of **Tehseen Poonawalla vs. Union of India**, filed in 2018. Activist Tehseen Poonawalla had filed a petition in the Court to ensure stern and effective measures by the

government to prevent such violence. The SC came up with a landmark judgment demanding that both the Centre and the state governments to take comprehensive measures, including the enactment of specific anti-lynching laws, improving preventive measures by the police, launching awareness drives, setting up fast-track courts for speedy justice, and adequate compensation. This case proved to have far-reaching implications for legal and policy mechanisms in India, highlighting the role of the judiciary to protect human rights and make the government accountable regarding taking actions to stop and prevent mob violence.<sup>12</sup> The Supreme Court of India, has laid down detailed guidelines to make the measures for prevention and control of such incidents more effective. According to the guidelines, each state government will have to nominate a senior police officer, not below the rank of Superintendent of Police, as a nodal officer in every district. This nodal officer, assisted by a DSP, will undertake preventive measures on mob violence and lynching. They are mandated to constitute a special task force for gathering intelligence on potential perpetrators, persons involved in hate speech, and spreading of fake news. These guidelines further direct the state governments to identify districts, sub-divisions, and villages where recent instances of mob lynching have occurred.<sup>11</sup> Directions to the effect that the police officers remain vigilant and proactive in their jurisdictions shall be issued by the Secretary of the Home Department in each state. The nodal officer shall hold regular meetings with local intelligence units and station house officers to preemptively deal with any incitement to violence. Under Section 129 of the Criminal Procedure Code, it shall be the duty of the police officer, not below the rank of a sub-inspector, to disperse assemblies that are unlawful and have the potential to disturb public peace or are likely to provoke some person to commit an offence against another.<sup>13</sup> The Director General of Police has also to issue directions to the Superintendents of Police to provide for adequate police patrolling in areas where there have been instances of lynching. Public awareness campaigns in all forms of media shall have to be carried out to make the citizens aware of the consequences of lynching and implementation of the rule of law. The law enforcing agencies are directed to monitor the social media and take action against the contents which can incite violence, according to the provisions contained in the Information Technology Act, 2000, and other provisions in this regard. In the event of any lynching, the concerned jurisdictional police station shall immediately register an FIR and inform the nodal officer to take steps to ensure protection of the family of the victim from further harassment. States shall also develop victim compensation schemes in terms of Section 357A of the CrPC. Further, failure to comply with the guidelines issued is deliberate negligence and misconduct entailing appropriate action against the responsible officials.<sup>14</sup> An effective control and prevention of mob lynching would

require a multi-faceted strategy incorporating a change in legislation and enhancing law enforcement, proactive community engagement, and the like. This, therefore, shall consist of the following major steps:

**(A) Legal Framework and Policy Reforms:**

Specific anti-lynching laws should be enacted first and foremost. The laws themselves should define mob lynching itself and render severe punishment to the persons involved in planning, instigating, or participating in such forms of violence. Strengthen the existing laws to address comprehensively all aspects of mob violence and hate crimes and make stringent provisions with fast track trials for those convicted of lynching. This system of law enforcement needs an effective strategy for prevention and handling of cases of mob lynching. Special units ought to focus on intelligence and early intervention to contain threats of violence. Police personnel must be given specific training in handling mob violence and de-escalation techniques. Awareness programs amongst citizens through public awareness campaigns should also be carried out with regard to legal consequences of mob violence and reporting suspicious activities in a timely manner.

**(B) Preventive Strategies:**

This is a critical strategy for combating mob lynching. The district nodal officers may be senior police officers assisted by DSPs, who shall be in charge of the implementation and compliance of these preventive measures. Such officers shall work with local intelligence units and station house officers in close monitoring of signs of instigation of violence. Strong community policing will create that bond between the law enforcement apparatus and the local communities, hence inducing cooperation in preventing and responding to hate crimes. There is also a need to control social media in terms of false information and hate speech that could incite others to commit violence. Collaborations with tech companies will help free the platform of detrimental content in no time.

**(C) Legal and Judicial Measures:**

An effective legal response against the scourge of lynching is important. Fast-track courts shall be set up for expeditious trial of lynching-related cases, and that adequate arrangements shall be made to ensure concurred cases so as to get timely justice to the victims. The protection of victims and witnesses from intimidation or retaliatory actions and measures for their safety and support during a judicial process are also necessary. States must also work out a scheme of victim compensation, with a view to extending financial support to victims and their families in terms of relevant legal provisions.

**(D) Public Awareness and Education Initiatives:**

This consists of spreading awareness on the outcomes of mob lynching and the importance of social harmony. Steps to inculcate tolerance, respect for diversity, and understanding the rule of law should be part of school curricula for elementary students. The informative role of the media should also enlighten the masses on the consequences of lynching and the tenets necessary to maintain social peace.

All these measures range from legislative reforms on different fronts with concurrent enhanced law enforcement to preventive measures and further legal and judicial improvements, public education, effective government policies, and effective community engagement. Collectively, these measures provide that much-needed comprehensive framework within which the canker of mob lynching can be fought and, in due course, eradicated.

**V. CONCLUSION**

Effectively, a multi-dimensional approach to mob lynching would entail strict legislative reform measures, backed by effective enforcement, proactive prevention strategies at various levels, and education of the public at large. Anti-lynching laws with stringent penalties must be embedded in legislation and specify and deter such crimes. Strengthening statutory provisions is also called for to ensure timely justice in accordance with prevailing laws against such crimes. There is a need for special units focusing on intelligence gathering and early intervention by the law enforcement agencies themselves. This will be suitably complemented by focused training in the management of mob violence and miscommunication. Preventive measures through nodal officers and strengthening community policing are very important for creating trust to avoid violence. This shall be followed by regular public awareness campaigns after monitoring of social media to prevent incitement, which will teach citizens what mob violence can do and the need to report anything suspicious. On the other side, robust government and administrative measures should be taken to see that policies are effectively implemented and victims compensated while the process is transparent. If these strategies are combined together, it would be easy for the society to strive towards a world free from mob lynching, cultivate tolerance, and ensure a rule of law.

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