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## Mob Lynching: An Alarming Hate Crime In India

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*Abstract:* The Indian Constitution ensures every citizen of India the right to a secure life. However, the spread of fake news and mis-information through social networks and media can lead to groups violently beating someone in public or killing suspects and defendants without comprehensive information or police or judicial action. This poses a threat to the credibility of the Constitution and our country's unified judicial system is a problem. Most mass lynchings appear to be instigated by mis-information, fake news, and local political, financial, and religious powers. For these reasons, anti-social mobs brutally murdered meat exporters, child thieves, animal dealers, etc. without knowing the actual reason. Lynching is a form of extra Judicial killing by a group or mob of people, carried out independently of civil authorities or law enforcement. India is also facing lynchings via WhatsApp and social media, following a spate of mob-related violence and killings due to the spread of rumours and fake news. These fall under the category of organized hate crimes. It is important to note that India does not have a comprehensive Act of Parliament against mob lynching. Strict legal regulations and prompt convictions in mass lynching cases act as a deterrent to society.

*Index Terms* - Mob Lynching, Lynching, Mob Violence, Hate crime

### Introduction

Lynching is the intentional extrajudicial killing of a group of people. Most commonly used to characterize an unofficial public execution by a mob to punish a suspected transgressor or intimidate a group. This is an extreme form of informal social group control such as charivari, skimming, rail riding, tarring and feathering, and is often carried out in public to maximize intimidation. It is an act of terrorism punishable by law. Lynchings and similar incidents of gang violence occur in every society. Mob lynching can be defined in simple terms as "an illegal act of murder by an uncontrollable, angry crowd." When vigilante groups take the law into their own hands and punish criminals and suspects who challenge the myths and ideas of the majority. Lynching is a form of extrajudicial execution by hanging by a mob and is carried out independently of local police or law enforcement agencies.

However, today the term has become a broader term, defined as an act or set of acts by a group of people who form unlawful assemblies, take the law into their own hands, and commit crimes against individuals or groups. People Individuals can impose their own non-judicial punishments. In India, lynching reflects internal tensions between ethnic communities. Communities may lynch accused or suspected criminals.

The term "mob lynching" refers to targeted violence committed by large crowds, whether public or private, including crimes against persons or property. Mobbers take the law into their own hands, ignoring legal guidelines and procedures because they feel they are punishing their victims for perceived violations, even if they are not necessarily criminal. The values of justice, human rights and the rule of law are being violated by the horrifying and illegal act of mass lynching. This is a form of vigilantism that violates the fundamental principle of civilized society that everyone should be presumed innocent until proven guilty and that the judiciary is responsible for dispensing justice. Mob lynchings occur around the world and are often motivated by deep-seated social issues, discrimination, and lack of trust in the legal system. These acts not only cause loss of life but also spread fear and instability in communities.

Mark Twain, in an unpublished response to a racial lynching in Missouri in 1901, provided a poignant warning about the perils of mob violence. He foresaw the potential transformation of America into "The United States of Lyncherdom" Fast forward more than a century later, the secular republic of India finds itself grappling with a similar apprehension. The ghost of mob violence looms over the nation, posing significant risks to its social fabric and values.

Mob is the English word which means unrestrained or uncontrolled crowd. Lynching can be considered an American - Latin word, which means awarding the death sentence without any legal proceeding. That is, when an uncontrolled crowd kills an accused criminal person or otherwise kills him in some other way, then it is being called Mob Lynching. In recent years, there have been many such incidents in India, especially in Rajasthan, western Uttar Pradesh, Madhya Pradesh, Bihar etc.

Lynchings took place in the United States both before and after the American Civil War, most commonly in Southern states and Western frontier settlements and most frequently in the late 19th century. It was performed without due process of law by self-appointed commissions, mobs, or vigilantes as a form of punishment for presumed criminal offences. At the first recorded lynching, in St. Louis in 1835, a black man named McIntosh who killed a deputy sheriff while being taken to jail was captured, chained to a tree, and burned to death on a corner lot downtown in front of a crowd of over 1,000 people.

## Causes of Mob Lynching-

The rise of problem of mob lynching or mob violence can be attributed to following reasons: -

- ❖ **Partial Social Stigma:** Mob Lynching can be said to be a result of partiality or biases and prejudices among various castes, classes, and religious groups. These prejudices foster a hostile climate that encourages acts of violence against certain people and communities. The idea of the so-called form of 'instant' justice is immensely popular. Further, the socio-political framework of the country involves people with deep fissures and mistrust, prejudices and biases based on caste, religion etc.
- ❖ **Futile Police Administration:** Another factor contributing to the increase in mob lynchings is the inefficiency of police investigations and the public's distrust of the police. People may resort to vigilantism to correct perceived wrongs if they believe that authorities are unable or unwilling to do so. One of the main causes of mob violence is a slow and inefficient legal system.
- ❖ **Lack of Speedy Justice through Court:** When people lose faith in the judicial system and believe that justice will not be served soon, they may take matters into their own hands and seek immediate retribution without worrying about repercussions.
- ❖ **Use of social media to spread rumours (Rumours on social media sites):** India is one of the biggest market of social media sites with more than 480 million users having in our country using Facebook Instagram, WhatsApp and Twitter etc with great passion. They forward more messages photos and videos than any other country in the world. WhatsApp group are being main platform of spreading rumours. WhatsApp groups having numerous participants and in one touch send the fake photos and videos related with violence or any mischievous act in society. Such fake news finally may result into a violent act of Mob Lynching.

These factors work together to create a potentially dangerous environment in which mass lynching can occur. To solve this problem, we must fight bias and prejudice, strengthen the judicial system to ensure speedy trials and fair judgments, improve the effectiveness and accountability of law enforcement, and improve tolerance and respect for the rule of law. A climate of respect needs to be promoted. However, one of the main reasons for the increase in mass lynching incidents is the increase in cow vigilante incidents. Cows are worshiped and highly valued in Hinduism. This attitude can also lead to "cow vigilantism," where certain individuals or organizations use the law to protect cows from imaginary dangers. This attitude often leads to violence against people suspected of killing cows or eating animal products. In such situations, the majority commits violence against the minority. In addition to cow vigilantism, religious vigilantism, in which extremists from intolerant religious groups target anyone who promotes or voices opposition to their religion, is also becoming increasingly common.

## Some major incidents of Mob Lynching in India-

### ❖ Dadri Lynching

- Held in 2015 at Bisara Village, Uttar Pradesh, the issue was that one Mohammed Akhlaq and his son Danish was accused of slaughtering and theft of cow calf and storing its meat for consumption. When knowledge of this fact came into the observance of Local resident, then a mob Lynched the father and the son for this fact.
- It is considered one of the first Mob lynching cases which was based on religious ground.

### ❖ Chatra District Lynching

- Held in 2016 at Chatra district, Jharkhand, a mob named as 'Gau Rakshak' brutally lynched 2 people naming Ansari and Imteyaz Khan who were accused of Smuggling as well as selling cows and oxen in the market.

### ❖ Alwar Lynching

- Held in 2017, April at Alwar, Rajasthan, some people of Muslim community of accused for cattle smuggling and slaughter. They were lynched by a mob. The police department of Alwar had filed a case against Khan for smuggling but he was permitted by the government as he had a valid license for transportation.

### ❖ Haryana Lynching

- Held in 2017, June in Tughlaqabad, Haryana where 3 Muslim brothers who were travelling on the train from Tughlaqabad to Ballabhgarh. The brothers were lynched by the members in the train because of suspicion of carrying beef along with them. One person named Junaid died and the other brothers survived with multiple stabs.

### ❖ Delhi Lynching

- Held in 2017, in National Capital Delhi, a rickshaw driver stopped some college students who were intoxicated at that point of time from urinating on a public wall, as it was restricted there. The intoxicated students got furious and burst in anger which led to Lynch. The rickshaw driver was killed.

### ❖ Dimapur Lynching

- Held in 2015 at Dimapur, Nagaland, a person was accused of raping a girl from different religion, a group of angry mob entered into the jail where he was kept and lynched him. This could also be included in Religious and communal reasoning of lynching.

### ❖ Kherlanji Massacre

- Held in 2006, September at village Kherlanji in Bhandara district of Maharashtra. Due to land disputes, where around 50 villagers entered forcefully into the house and lynched the family comprising 4 daughters. The act was so gruesome that females of the family i.e. wife and daughter were paraded naked in the whole village. Later on murdered them. It is considered as one of the first cases of Lynching filed in India.

The brutal thrashing or killing of people through mob lynching continues till date. Recently mob lynching incidents can be traced from the state of Jharkhand, Madhya Pradesh, Maharashtra, Karnataka etc. There seems to be no end to the path of Mob lynching.

## Legal Provisions Relating to Lynching

**Section 302 of INDIAN PENAL CODE, 1860: 'Punishment for Murder'**. It states that whoever commits murder shall be punished with death, or imprisonment for life and shall also be liable to fine.

**Section 304 of INDIAN PENAL CODE, 1860: 'Culpable Homicide not amounting to murder'**. Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

**Section 307 INDIAN PENAL CODE, 1860: 'Attempt to Murder'**. Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine and if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned. When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

**Section 323 of INDIAN PENAL CODE, 1860: 'Punishment for voluntarily causing hurt'**. Whoever voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

**Section 325 of INDIAN PENAL CODE, 1860: 'Punishment for voluntarily causing grievous hurt'**. Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

**Section 34 of INDIAN PENAL CODE, 1860: 'Common Intention'**. When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

If a mob commits murder, then this section will make all the person that was part of the mob will be committed with the section of murder with this section.

**Section 141 of INDIAN PENAL CODE, 1860: ‘Unlawful Assembly’.** An assembly of five or more persons is designated an “unlawful assembly”. If an assembly commits any wrong to anyone, they all will come under this unlawful assembly and will be prosecuted with the punishment.

**Section 149 of INDIAN PENAL CODE, 1860: ‘Every member of unlawful assembly guilty of offence committed in prosecution of common object’.** If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

If there is a common purpose of a mob for example a mob with common object of punishing the cow traders will come under this section.

**Section 147 and 148 of INDIAN PENAL CODE, 1860:** In this section, **rioting and its punishment** are defined. Whoever is guilty of rioting, being armed with a deadly weapon or with anything which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

**Section 120B of INDIAN PENAL CODE, 1860: ‘Criminal Conspiracy’.** If a group of people conspire to commit an offence punishable with death or imprisonment will be liable under this section.

**Section 223(a) of the Criminal Procedure Code, 1973:** This section contains the provision for persons being charged for an offence jointly when they are accused of the same offence committed in the course of the same transaction which is applicable on two or more people.

### **Manav Suraksha Kanoon**

National Campaign Against Mob Lynching drafted a bill known as the Manav Suraksha Kanoon (MASUKA) to curb the growing menace of Mob Lynching. Prakash Ambedkar, grandson of BR Ambedkar, and activist and politician Tahseen Poonawalla drafted a law in order to check, punish mob violence and rehabilitate or provide aid to their victims. It also mandates that the concerned SHO (Station House Officer) of the area would be suspended until a time-bound judicial probe absolves him of charges. This will also work to provide relief to the affected people and rehabilitate them and their families.

### **Need of MASUKA**

The current laws for mob lynching which were expressed above aren't sufficient to make a strict obligation. The current laws don't characterize lynching as a sort of offence. There is a need of particular definition under the Indian Penal Code. Cases are recorded with respect to mob lynching however absence of speed in preliminaries proceedings, prompt long postponements in judgment. The lawful support and enactment of this bill will repay the casualties and help in recovery of groups of the casualty. Such a law will characterize lynching as an offence and furthermore manage the purpose for start of aim of the mob to lynch.

### **Merits of MASUKA:**

- Rehabilitation of victim's family
- Compensation provided to victim's family
- Speedy justice by setting up of special courts
- Protection of witness- Protection of Identity of witnesses to the lynching incident
- Responsibility of mob lynching incidents allotted to SHO of the area- This will create extra awareness and care among police about the mob lynching incidents.

Under the ambit of MASUKA we cannot define what all will be covered but according to the proposed bill it will cover following aspects such as:

- Victims of a specific community- majorly backward classes of people
- Suspicions of Cow slaughter
- People representing political interest from the campaign.

### **Guidelines by Supreme Court-**

Now days, from the street to Parliament, from panchayat courts to courts including the Supreme Court, the English expression "mob lynching" remains a subject of debate, and the issue is so serious that on the one hand The Supreme Court handed down its judgment. On July 17, 2018, the government issued general guidelines for police administration across the country as an interim order/direction in *Tehseen S.Poonawalla v .Union of India* and Others (2018). The Government of India also had to issue advisories to states and union territories across the country. Nevertheless, the seriousness of mass lynching is horrifying and extremely cruel to society, so all measures must be taken to control it. The three-judge bench of Chief Justice Dipak Misra and Justices A.M. Khanwilkar and D.Y. Chandrachud also urged Parliament to frame a special legislation to tackle the problems posed by vigilante squads or mob and said that until then the guidelines would stand the force of law.

### ***The guidelines:***

❖ The states shall designate a senior police officer not below the rank of police superintendent as nodal officer in each district. These officers will set up a task force to be assisted by one DSP-rank officer for taking measures to prevent mob violence and lynching. The taskforce will gather intelligence reports of people likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news.

❖ The state governments shall immediately identify districts, sub-divisions and villages where instances of lynching and mob violence have been reported in the recent past. The process of identification should be done within a period of three weeks from the date of the judgment.

❖ The nodal officer shall hold regular meetings (at least once a month) with the local intelligence units in the districts and station house officers to identify tendencies of vigilantism and mob violence.

- ❖ The director-general of police or the home department secretary shall hold regular review meetings (at least once a quarter) with all the nodal officers and state police intelligence heads.
- ❖ All police officers will have to ensure the dispersal of mobs that have a tendency to cause violence or lynch in the garb of vigilantism or otherwise.
- ❖ The DGP shall issue a circular to the SPs on police patrolling in sensitive areas.
- ❖ The central and state governments should broadcast on radio, television and other media platforms, including the official websites of the home department and the state police, that lynching and mob violence will invite serious consequence.
- ❖ The police shall register FIRs under Section 153A of the IPC, 1860 (promoting enmity among people) and/or other relevant provisions against the accused person.

## Conclusion

Now what should be the way forward to this, firstly, we need dedicated fast track courts in this matter which can dispose these cases in short time setting precedents and fear in the mind of others who can fulfil their secret vendetta against a person with this act. Secondly, there should be proper victim compensation scheme implemented to support the victim's family and free treatment should be provided to injured. Lastly, there should be a special task force established in each district to be the first response force to such act and where they can protect the victim thus not causing any casualty.

Lynchings are not appropriate in an Indian democracy. It is critical that mob violence which ought to be eliminated in a nation that takes pleasure in being democratic. Unsettlingly, the police's inactivity in times of mob violence is frequently met with popular approval of the officers' extrajudicial penalties. Consequently, it's crucial to increase public confidence in legal processes. States like Manipur, West Bengal, and Rajasthan have proposed comprehensive laws on the subject, and all states and the federal government should follow suit. It is necessary to take action to stop the spread of false information and hate speech. India has recently seen a number of lynchings and mob attacks across the country, most of them in response to the government's beef ban. There is no doubt that identity-based lynching activities discriminate against entire communities and violate Articles 14 and 15 of the Constitution of India. Given the current state of mob attacks in the country, special laws and strict enforcement procedures are needed to curb attacks and punish perpetrators.

Henceforth, the ultimate goal will be kept in mind to uphold the fundamental ideals of life as enshrined in Article 21 of the Constitution of India while maintaining the important standards of the Constitution as stated in the Preamble. Laws should be enacted to repel lynch mobs. Finally, no one has the privilege of taking the law into their hands.



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