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MOB LYNCHING : A CRIME OF PARTICULAR RELIGION GROUP

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Abstract

Article 21¹ of the Indian constitution guarantees to every person his life and liberty which can only be deprived according to procedure established by law. In our society, two of the worst crimes are rape and mob lynching. Here in this research paper, we are going to discuss about the mob lynching. India has been an observer to various phases of lynching. Lynching of Dalits and women has been done as an issue of option for option to address them or punish them for aberrance. Lynching of Muslim has been optimistic in the feeling of political philosophy. Presently we have moved to another phase of lynching as a propensity and as are flex of suspicion. This neurotic culture can lynch anybody irrespective of caste, creed, colour, and gender. In recent years, there have been numerous mob lynching cases occurrences in India, in this context, the Supreme Court in 2018 described lynching as a "Horrendous Act of Mobocracy" and laid down guidelines for the centre and state government to frame laws specifically to deal with the crime of lynching till the time it has directed to the police to register an FIR under section 153A of IPC² and other such provision of law against those who indulge in this kind of activities. Supreme Court has also directed the Centre and state government to take 'preventive, remedial and punitive measure" to curb it "with iron hands".

“We must unite to condemn lynching and refrain from politicizing them”- **PM Narendra Modi**

Keywords : Mob, Lynching, Crimes, Laws, punish, cases.

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¹ The Constitution of India, 1950, Article 21, (26 January, 1950).

² In case of Mob Lynching register FIR under Section 153A of IPC, 19 July 2018, <https://advocatetanmoy.com/2018/07/19/in-case-of-mob-lynching-register-fir-under-section-153a-of-ipc/>.

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INTRODUCTION

Mob is the English word which implies excessive or uncontrolled group. Lynching can be viewed as an American – Latin word, which means granting capital punishment with no legal proceeding. When an uncontrolled group slaughters a charged criminal individual or in any case executes him in some other way, at that point it is being called a crowd or mob lynching. According to the Merriam-Webster dictionary lynch mean: to put death (as by hanging) by mob action without legal approval or permission.⁴ According to Black law Dictionary Mob mean: an assemblage of many people, acting in a violent and disorderly manner, defying the law, and committing, or threatening to commit, depredation upon property or violence to the person.⁵ Mob Lynching can be kept under the term “collective violence”. Theoretically, Collective violence is a behaviour of mob which, compared with conventional and everyday behaviour, is less inhibited, more spontaneous, more open to change, less structured, less stable, and generally shorter-lived. One by-product of mass-action principle are often collective violence. The specific forms of collective violence are riots, gang violence, terrorism, war, coups, rebellions, and revolutions. Mob lynching is a new branch of this collective violence. A mob is an angry crowd of individuals who want to kill someone without an attempt, because they believe that person has committed a criminal offence. In another words it is a kind of violent act that involves “violence against individuals by mobs”, often on the pretext of racial discrimination, inter-faith relationships and at present more often on the pretext of cow protection. In simple words it means, "Killing someone for an alleged offence without a legal trial".⁶ Mob lynching is not only seen in India but also in countries and cities like South Africa, Israel, Afghanistan, Nigeria, Mexico, Europe, and the United States. Mob lynching takes place on the issues like black v. white, lower caste v. Upper caste, religious matters, Hindu v. Muslim, slaughtering, skinning, transporting and eating of beef, child lifting, rumours accusing a victim of killing someone or been involved.

⁴“Lynch.” Merriam-Webster.com Dictionary, Merriam-Webster, <https://www.merriam-webster.com/dictionary/lynch>. (22 July, 2020).

⁵ “Mob”, Blacklawdictionary.com Dictionary.

⁶ Radhey Shyam, Vipin Jain, Chanchal Chawla, THINK INDIA (Quarterly Journal) Hate Speech & Mob Lynching: A Study Of Its Relations, Impacts & Regulating Laws, September 2019
[https://www.researchgate.net/publication/336084406 THINK INDIA Quarterly Journal Hate Speech Mob Lynching A Study Of Its Relations Impacts Regulating Laws](https://www.researchgate.net/publication/336084406_THINK_INDIA_Quarterly_Journal_Hate_Speech_Mob_Lynching_A_Study_Of_Its_Relations_Impacts_Regulating_Laws).

RISE IN MOB LYNCHING CASES IN INDIA

There are so many Mob lynching cases rise day by day in India, different part has been reported different types of lynching cases in the country.

Followings cases of lynching;

1. Palghar District, Maharashtra on 16 April 2020, a vigilante group lynched two Hindu Sadhus and their driver by stopped their car and attacked them with stones, logs and axes. The incident was fuelled by WhatsApp rumours of thieves, child-kidnappers and organ harvesters. Operating in the area during the countrywide Coronavirus lockdown. 110 people have been arrested out of which 9 are underage i.e. minor. In 2015 Bisara Village, near Dadri, Uttar Pradesh, India. A mob of villagers attacked the home of 52- year- old Muslim man Mohammed Akhlaq, killing him, for suspicion of slaughtering a cow.
2. On 17th June 2019, 24 years old Tabrez Ansari was attacked by a mob lynching in Jharkhand, India. he was tied to a tree, brutally beaten on suspicion of bike theft. Mob also forced Tabrez Ansari to chant Hindu sayings such as 'Jai Shree Ram' and 'Jai Hanuman'. He died several days later. The incident came to light after a video of the lynching went viral. 11 people were arrests under this case and 2 police officers were suspended for not reporting the seriousness of the issue to the higher authorities.
3. Another case of Jharkhand mob lynching was, four civilians have been lynched by villagers in Jharkhand on witchcraft suspicion, after panchayat decided that they are practising black magic.
4. Three men were beaten to death and lynched by mobs in Chhapra District of Bihar, on a minor case of theft of cattle.
5. Protest against the Citizenship Amendment Act (CAA) and the National Register of citizen (NRC), staged in the Muslim dominated Shah-E-Alam area in Ahmedabad, a group of protesters dominated and targeted a few police officers. At the minimum five Gujarat Police officers and others were left injured when they took cover in a small shop on the side of a road and hundreds of protesters started the attack by stones on them. A video of this incident has gone viral on social platforms and shows the policemen struggling to target themselves from the raining stones while some protesters of mob try to calm down the protesters and protect the police officers.
6. In 2016 in the same state i.e. Jharkhand two people were killed by a local "cow protection" group on information that cows are being transported for slaughtering by some people going.

7. In 2016 in New Delhi, a 40-year-old dentist was beaten to death by a group of people, including four juveniles. This mob was incited by a hate speech of a lady standing there.
8. In 2017 in Haryana, a man was killed when a message was spread related to seat dispute with the person of another community.
9. In 2017, a mentally ill woman was lynched in West Bengal after a 14-year old child went missing in the area. Here again was a hate message against Bangladeshi child abductors being active in the area.
10. In 2017 in Jharkhand a person was killed by the cow protection group where a person had sent a WhatsApp message to a group of vigilantes calling them to the scene is a recent case of mob lynching that happened through a hate speech through a toll of social media.
11. In 2018 in Bihar, a person was killed by the mob on a message that persons of a particular community had thrown stones at the procession of another community.
12. In 2018 multiple mob attacks in Andhra Pradesh of Hindi-speaking people as false hate messages spread that child abductor gangs from Bihar and Jharkhand were active in the state

There are so many cases related to mob lynching in different-different state across India. 113 people killed by Mob Lynching or Mob Violence since 2015 according to the 'Quint Records' data.⁷

⁷ Rupinder Kaur, Mob lynching or Mob violence cases, Lynchistan: Mob Lynching cases across India, (24 July, 2018), <https://www.thequint.com/quintlab/lynching-in-india/>.

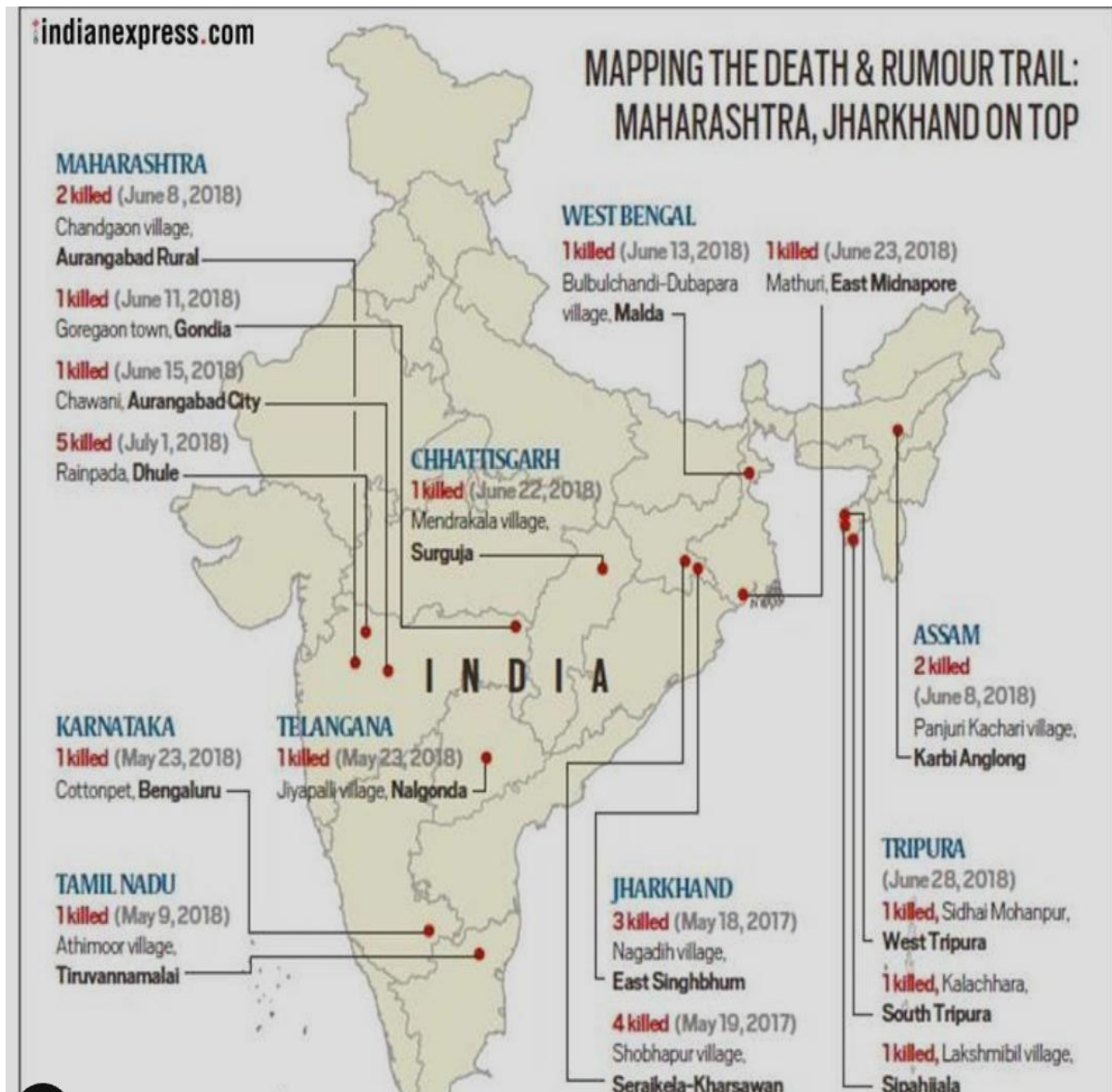


Fig 1.0 source: Indianexpress.com

Fig 1.0 shows that 27 mob killing done in 9 states in one year. The Indian Express investigates the circumstances of each death related to rumours, particular caste, migrant victim. In which Maharashtra on the top in mob lynching cases.

LAWS AND ENFORCEMENT

India does not have a specific law to deal with lynching. The Indian Penal Code (IPC) does not mention the word “lynching”. However, Section 223 (a)⁸ of the code of criminal procedure (CRPC), 1973 states that person or a mob involved in the same offence in the same act can be tried together.⁹

Prosecuting of mob lynching under the IPC:

Main offence;

- Punishment of Murder under section 302¹⁰ – whoever commits murder shall be punished with death, or imprisonment for life, and shall also be liable to fine.
- Punishment of Culpable Homicide not amounting to Murder under section 304¹¹ – whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life or imprisonment of either description for the term which may extend to 10 years and shall also be liable to fine. Act by which the death is caused done with the intention of causes death or body injury as is likely to cause death or in the imprisonment either description for the term 10 years or with the fine or with the both. If their activity is done with the knowledge that it may likely to cause death but without any intention to cause death or to cause such bodily injury as it was likely to cause death.
- Attempted To Murder under section 307¹²- 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 he shall be punished with imprisonment either description for a term which may extend to 10 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 such punishment as before mentioned. Attempts by life convicts when any person offending under this section is under sentence of imprisonment for life he may if hurt is caused be punished with the death.
- Punishment for Voluntarily Causing Hurt under section 323¹³ - whoever accept in the case provided for by section 323 voluntarily causing hurt shall be punished with imprisonment of either description

⁸ Code of Criminal Procedure, 1973, Act No. 2 of 1974, (25 January 1974).

⁹ Prabhash k Dutta, What is lynching and why killer mob goes unpunished, (17 July 2018), <https://www.indiatoday.in/india/story/lynchingindia128791120180717#:~:text=India%20does%20not%20have%20a%20specific%20law%20to%20deal%20with,act%20can%20be%20tried%20together>.

¹⁰ The Indian Penal Code, 1860, Act no. 45 of 1860, (6th October, 1860).

¹¹ *Id.* at 6.

¹² *Supra* note 9, at 6.

¹³ *Supra* note 9, at 6.

- for a term which may extend to 1 year or with the fine which may extend to 1000 rupees or with the both.
- Punishment for voluntarily causing Grievous Hurt under section 325¹⁴ – whoever accepts the case provided for by section 325 voluntarily causes grievous hurt shall be punished with the imprisonment of is a description for a term which may extend to 7 years and shall also be liable to fine.

Mob-Related provisions

- Common Intention under section 34¹⁵ – when a criminal act is done by several persons in furtherance of 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.
- Unlawful Assembly under section 141 and 149¹⁶ - an assembly of five or more persons is designated an ‘Unlawful Assembly’ when they used criminal force. Member of Unlawful Assembly section 149- says that every member who is a part of an unlawful assembly is blameworthy of the offence committed in prosecution of the common object. There was an unlawful get together involving at least five people. They all had a common object.
- Rioting under section 147 and 148¹⁷ – section 147 punishment for rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both. Under section 148 Rioting, armed with deadly weapon: 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.
- Criminal Conspiracy under section 120B¹⁸ – criminal conspiracy means when 2 or more person agree to do illegal activities. Punishment of Criminal Conspiracy is death, or imprisonment for a term of 10 years, or fine, or both.
- Hate Crimes under section 157A¹⁹ – promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, dietary practices, political affiliation, ethnicity, or any other related grounds. Punishment of Hate crimes under section 157A, if crime related to

¹⁴ *Supra* note 9, at 6.

¹⁵ *Supra* note 9, at 6.

¹⁶ *Supra* note 9, at 6.

¹⁷ *Supra* note 9, at 6.

¹⁸ *Supra* note 9, at 6.

¹⁹ *Supra* note 9, at 6.

- promoting enmity between classes is 3 years jail, or fine, or both. If crime related to promoting enmity between classes in place of worship, etc. punishment is up to 5 years with fine.

STEP TAKEN TO ENFORCE STRICT LAWS

The Supreme Court of India, pulled up state governments over mob lynching incidents, and it has asked the parliament to formulate a new anti-lynching law. Now the question arise is whether our existing laws are inefficient to prevent lynching? or Do we need a new law on mob lynching? A new law is not essential but it could be a good thing to stop Mob lynching, because there is a need to control and discourage the misleading and inflammatory content being spread on social media and other forms and action should also be necessary against the persons involved in such nuisance.

Suggestions;

- Inadequate hate crime: this is relevant for India, where our laws are very inadequate when it comes to punishing hate crimes, apart from the Schedule tribe/schedule caste atrocities act, we do not have any offence that deal with violence and harm caused to the victim because of their community. Religion or outsider caste is often at the heartbroken of a mob lynching.
- Role of Police in mob lynching: it shall be the duty of every police officer to cause a mob to spread, which, in his opinion, has a tends to cause violence in the disguise of vigilantism or otherwise. If it is found that a police officer has failed to perform his/her duty, it will be considered as an act of wilful negligence.
- Rumours over Social Media: social media and other media stake-holders should held liable like abettor of crime. All social media account should be suspended or deactivated immediately if found engaged in fake rumours and should be activated only after a recommendation of a panel, made specifically for investigation, enquiry and recommendation in these cases. Irresponsible and explosive messages, video and other material on varies social media platforms. Register FIR under relevant provisions of law against persons who disseminate such messages. Social media apps must remind it's users not forward unverified information or misinformation.²⁰

²⁰ Ashok Bagriya, To end mob lynching, Supreme Court gives an 11-point prescription, (17 July 2018), <https://www.hindustantimes.com/india-news/to-end-mob-lynching-supreme-court-gives-an-11-point-prescription/story-pdknxkMYd3Caz3R27nSniP.html>

- State Government role: every state government shall immediately identify district, sub-divisions and mob violence have been reported in the recent past years. State government should broadcast on radio and television and other media platforms including the official websites that mob lynching and mob violence shall invite serious consequences.²¹ State government also shall prepare a mob lynching victim compensation scheme and designate a senior police officer in each district for taking measures to prevent incidents of mob lynching, training should be given to help people to identify fake news and question the information people receive. Recording mob lynching incident should be punishable. Censorship on mass and social media required to be imposed strictly.

The Manipur government came up with its bill against lynching in 2018, incorporating some logical and relevant clauses. The bill specified that there would be noble officers in each district to control such lynching crimes. Police officers who fail to prevent the crime of lynching in their area, they are liable to be imprisoned for a term that may extend from 1 to 3 years, with a fine limit of 50,000.²²

Soon after Rajasthan government also passed a bill against lynching in August 2019 with guidelines issued by the apex court.

West Bengal also came up with a more stringent bill against lynching after the Supreme Court guidelines. Punishment for Mob lynching to death imprisonment and a fine ranging from Rs1lakh to Rs 5lakh.

²¹ The Economics Times, Inform people mob violence to invite serious consequences, Centre to states, (26 September 2018), https://economictimes.indiatimes.com/news/politicsandnation/informpeoplemobviolencetoinviteseriousconsequencescentretostates/articleshow/65966229.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst.

²² The Manipur Protection from Mob Violence Ordinance, 2018- Government of Manipur, Anti-Mob Violence Bill, (21 December, 2018), <https://manipur.gov.in/?p=14788>.

CONCLUSION

Study shows that “the law, as it stands, can do little about this. But a new law on mob lynching could”. Undoubtedly the need of new stringent laws against mob lynching, because the existing provision under IPC and CrPC is not sufficient to deal with such crime, because of lack of enforcement of the existing laws and accountability of the enforcement agencies. Slowly it raised a sense of fear in everyone mind, because we never know who became the next. According to the Supreme court guidelines state will take strict action against mob lynching, because mob lynching was made by us and this need to be ended by us.

"All within the state, nothing outside the state, nothing against the state- Benito Mussolini".