

## **MOB LYNCHING – AN ALARMING ISSUE**

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“It may be true that the law cannot make a man love me, but it can stop him from lynching me, and I think that’s pretty important.”

**- Martin Luther King Jr.**

### **I INTRODUCTION**

One of the major concerns that gained popularity in recent times is the law relating to Mob Lynching. In India Mob Lynching has never been defined under any statute and nor are there any punishments regarding the same. Even though the Merriam Webster dictionary describes lynching as, “Putting to death by mob action without legal approval”. Vocabulary.com describes lynching as putting to death of a person through mob action without recourse to the law – “an unlawful murder by an angry mob of people”.

Lynching by mob is a punishment that was served in past. It basically started in United States against the blacks and this acquired violence in the 19<sup>th</sup> century. In India, such violence mostly takes place in matters like (eg. Love jihad), dalits, inter-faith couples, mentally challenges women accused of stealing or murdering children (Dayan) in order to provide “Instant Justice” or to safeguard their traditional and social norms. In India, cow has been given the status of a sacred animal and is worshipped at various places and to kill which is considered a sin. Most of the states have enacted laws to prohibit slaughter of cows. Many a times lynching is due to this issue also.

The first case of mob lynching in India was reported on 29th September, 2006 known as *Kherlanji Massacre*<sup>1</sup>. It occurred at Bhandara district in the state of Maharashtra. The lynching was due to a land dispute where a mob of at least 50 villagers barged into the house of the victim beating four members of the family and parading naked the wife and their daughter before they murdered them. This incident shocked the country. Thus, it is important for us to get into the depth of the topic in order to find the possible solutions especially in a country like India where there are no laws governing the same.

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<sup>1</sup> <https://www.firstpost.com/politics/khairlanji-massacre>

## **II RECENT MOB LYNCHING INCIDENTS**

**October 9, 2015 (Udhampur truck attack):** On basis of the rumors that slaughtered cows were being transported, Some Hindu extremists attacked a truck by throwing petrol bombs at it, leading to death of the truck driver.

**March 2016 (Latehar district, Jharkhand):** Two Muslim traders were taking their cattle to animal fair. Due to this reason mob lynched and hanged the traders.

**April 5, 2016:** Gau Rakshaks are a group of people who want to save cows. On April 5 Mustain Abbas was shot by Gau Rakshaks when he was returning back home after buying bulls.

**September 8, 2016:** In Jalpaiguri district, a man was lynched by mob on suspicion of stealing cattle.

**April 1, 2017 (Rajasthan):** On this day, mob attacked more than 15 people as they were transporting cows which resulted in the death of Pehlu Khan.

**May 1, 2017 (Guwahati):** Mob lynched 2 men in Assam after they suspected to be cattle thieves.

**May 21, 2017 (Barmer, Rajasthan):** One person was beaten to death in Loharwa village of Barmer district when two groups clashed over a land dispute.

**May 31, 2017 (Jamshedpur):** Mob beats 4 people to death on suspicion of kidnapping children. 3 more were lynched by the mob on the suspicion of being child lifters.

**June 18, 2017 (Rajasthan):** A CPI(ML) member-turned-activist was allegedly lynched to death in Rajasthan by government officials after he came to the rescue of women who were being photographed while defecating in the open.

**June 23, 2017 (Nowhatta, J&K):** Police officer Mohammed Ayub Pandith was lynched by an angry mob after he allegedly opened fire at a group of people who caught him clicking pictures near the mosque.

**June 26, 2017 (West Bengal, 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.<sup>2</sup>

### **III REASON FOR MOB LYNCHING**

For the past 18 years, India has been witnesses an unusual increase in crime related to mob violence, in the name of religion, kidnapping etc. Though, the epidemic spread in the form of vigilant against cow slaughter, later in spread to kidnapping and other sorts of crimes. The main reasons for mob lynching in India are as follows:

#### **1. Rise of cow vigilante**

Even since, Government imposed a ban on the sale and purchase of cattle for slaughter at animal markets across India, under Prevention of Cruelty to Animals statutes (26th May 2017), it sparked a new wave of cow vigilante in the country. Many Muslims were killed by the mob just under the suspicion that they were thought to be the beef consumers.

#### **2. With modernity, there is growth of individualism and an erosion of associational life**

Mob has no face. This impunity leads mob to take extreme steps. With the modernity, the growth of individualism has occupied a larger space than association. Associations encourage us to appreciate others culture and moderate our aggressive instincts.\

#### **3. Rise in penetration of Social media and its usage to spread rumors and hatred (Bangalore Exodus of North east people)**

There is growing prevalence of fake news and hate news (Dadri Lynching). There are instances of organized hate campaigns as well. According to 'India spend' 52% of attacks in last 8 years is based on rumors.

#### **4. Rumors of child lifters**

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<sup>2</sup> [https://blog.ipleaders.in/punishment-participating-mob-lynching/#\\_ftn3](https://blog.ipleaders.in/punishment-participating-mob-lynching/#_ftn3)

Rumors of child kidnappers proved to an ignition point for mob violence, where Whats App posts were circulated Odisha, Tamilnadu, Gujarat, Karnataka, Telangana, Tripura and West Bengal. This claimed several lives on domestic visitors, mentally deranged peoples and incited numerous mob attacks. According to home ministry figures, 54,723 child kidnapping cases (2016), 41,893 cases (2015), 37,854 cases (2014).It was found that the police filed charges against the kidnappers in only 40 per cent cases in 2016 and around 23 per cent of the cases decided in 2016.<sup>3</sup>

5. The **silence of political class**. They are ineffective to create deterrence through strong law.

#### **IV CURRENT POSITION OF MOB LYNCHING LAWS IN INDIA**

Lynching is not a problem that is limited to some specific countries. Various UN reports refer to lynching cases from Sudan, Nigeria, Haiti and other countries. According to a 2013-UNPOL (UN Police) report, lynching is widespread in Haiti. The number of known cases of lynching increased from 90 in 2009 to 121 in 2012 in that country.<sup>4</sup>

Many countries have been trying to bring an anti lynching law and to curb this form of crime. Also many efforts are made to control the fake news in order to ensure the reduction in mob lynching cases. But the point is – do we have any law related to mob lynching?

India does not have any specific law that deals with mob lynching. There is no provision if IPC that defines the word mob lynching. However, Section 223(a) of the Code of Criminal Procedure (CrPC), 1973 states that persons or a mob involved in the same offence in the same act can be tried together. Even then, this provision has not helped to deliver justice in cases of lynching.

There are some other provisions related to such violence. The Indian Penal Code (IPC), 1860 also has some proximate sections related to hate speech and hate crimes under **Sections 153A** (promoting enmity between different groups on grounds of religion, race, place of birth, residence, language etc and doing acts prejudicial to maintenance of harmony), **153B** (imputation, assertions prejudicial to national integration), **Section 505**(statements conducing to public mischief) but as

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<sup>3</sup> <https://www.civilserviceindia.com/current-affairs/articles/rising-mob-violence-in-india.html>

<sup>4</sup> <https://www.indiatoday.in/india/story/lynching-india-1287911-2018-07-17>

seen in majority of the cases, these sections weren't imposed upon the perpetrators and only sections against individuals such as **Section 302**(punishment for murder), **S. 307**(attempt to murder), **S. 323**(punishment for causing hurt), **S. 325**(punishment for causing grievous hurt) etc. are applied because of which the crime is seen as an offence against individual and not the community.

As there has been a rise in the number of cases, the courts have started taking the cognizance and heinousness of the offence. In the case of *Nandini Sundar v. State of Chhattisgarh*<sup>5</sup> the Apex court held that:-

*"It is the responsibility of the state to prevent internal disturbance and to take steps to ensure public order. The same has been provided under Article 355 of the constitution which places the duty on the Union to protect states against any external aggression or internal disturbance."*

As the mob lynching is rising there is a concern within the society. The concern by every citizen of India. Concern of not having a specific law against mob lynching, due to which the accused gets away with the most heinous crimes. But the societies are coming together to make a new law against lynching. This law is called MUSUKA. The National Campaign Against mob lynching launched a draft law named MASUKA. Prakash Ambedkar, grandson of BR Ambedkar, and activist Tehseen Poonawalla drafted a law with Shehla Rashid, Shehzad Poonawalla and other members of National Campaign Against Mob Lynching (NCAML) in the presence of lawyer Sanjay Hegde, Professor Manoj Jha at the Constitutional Club today.

MASUKA is a law which is related to mob lynching only. It will define the word 'mob' and 'lynching'. Lynching will be made a non-bailable offence. Life imprisonment may be given to convicts under mob lynching. The provisions for a time bound judicial enquiry which should not take more than six months. Also, the victims will receive compensation.

The Sc in the year 2016 issued guidelines for putting a control over the incidents of mob lynching over the country. Guidelines issued by Supreme Court to put curb on the mob violence are as follows:

- Supreme Court has directed state to appoint officer of sp rank and other nodal officer in order to put curb on the mob lynching.

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<sup>5</sup> (2011)7 SCC 547

- Directions have been issued to center and state to broadcast on television, radio and online a warning the mob violence and mob lynching may end up calling serious consequences.
- First information report should be filed against the person who spreads fake videos and fake message.
- Police administration and district administration who fails to comply with the Supreme Court guidelines will be deemed negligence and an action will be taken against them
- State to draw up compensation scheme to provide interim relief to the victim of lynching/next to kin within 30 days.
- Cases of lynching to be tried by the fast track court and shall be concluded within 6 months
- The secretary home department of the states shall issued directives to the nodal officer of the concerned district for ensuring that the officer in-charge of the police station of the identified Areas are extra caution if any instance of mob violation within their jurisdiction comes to their notice.
- The central government shall also issue appropriate direction to the state governments which should reflect the gravity and seriousness of the situation and the measures to be taken.<sup>6</sup>

Thus, we can say that the courts have become serious pertaining the much important that needs to be addressed at the moment.

Also, in the year 2018, a Supreme Court bench, headed by Chief Justice Dipak Misra, termed incidents of mob lynching in India as 'horrendous acts of mobocracy' and observed that individual citizens cannot take law into their hands. The bench, while directing the parliament to enact a new legislation for the same has told center and the state governments to take preventive measures to control the spread of messages on social media platforms which instigates a mob to lynch someone.

Moreover, the Supreme Court directed the police to register an FIR under Section 153A of IPC and other such provisions of law against those who indulge in these kinds of activities. In an attempt to make the trial process quicker, the Supreme Court has proposed day-to-day trial in fast track courts and additionally, maximum punishment to the accused in mob lynching cases.

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<sup>6</sup> <https://www.telegraphindia.com/india/sc-lays-down-guidelines-to-curb-lynching/cid/1351483>

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Cases of mob lynching have not just increased, they are evolving and now, the character of the crime is diversified. From going after Muslims who eat cow-meat, mobs are attacking those who are alleged 'child abductors.'<sup>7</sup>

When we talk about states, Chief Minister of Rajasthan, Ashok Gehlot has shown his willingness to enact a law tackling instances of mob lynching and honour killing in the state of Rajasthan. Rajasthan is not the first state in India to mull over laws concerning incidents of mob lynching. The Madhya Pradesh cabinet has also asserted its will to introduce a provision in the state Assembly, making stringent laws against those convicted in cases of mob lynching. A proposal to amend the Madhya Pradesh Cow Progeny Slaughter Prevention Regulation will be introduced in the state Assembly to achieve the objective in the near future.

Taking suo moto cognizance of the rising instances of mob lynching in various parts of Uttar Pradesh, the Uttar Pradesh Law Commission has also submitted a report to Chief Minister Yogi Aditya nath asking him to immediately implement a law awarding stricter punishment in cases of mob violence. The Commission also came up with a draft Bill titled 'Uttar Pradesh Combating of Mob Lynching Act' to be enacted for this purpose including punishments ranging from seven years in jail to life imprisonment for the offenders.

In fact, the only Indian state to have already brought legislation to tackle the menace of mobocracy is Manipur. In a notification dated November 19, 2018, the government in Imphal introduced The Manipur Protection from Mob Violence Ordinance, 2018 promulgated by the then Governor Najma Heptulla. The state described it as "an ordinance for the public to create a separate offence for lynching and providing adequate punishment for mob violence so as a special law in the field would instil a sense of fear against the people who involved themselves in such kind of actions and for the rehabilitation of victims of lynching and their families and for matters connected therewith or incidental thereto".

Hence, we can make it from the above instances that the law relating to mob lynching are not that clear and there is much ambiguity in defining its scope. The parliament of the country needs to enact strict and proper laws to curb mob lynching because in the end you cannot just leave law in the hand of a mob.

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<sup>7</sup> <https://www.firstpost.com/india/supreme-courts-order-on-mob-lynching-is-strong-but-new-law-will-be-useless-as-long-as-existing-rules-arent-implemented-4759151.html>

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**V CONCLUSION**

Mob lynching is a crime not recognized and no provisions as to it have been laid in any statute until now. Thus the need of the hour is that stricter laws need to be framed in the parliament in order to stop this nuisance because in the end human life is at cost. Mob Lynching should be stopped as it promotes violence, hatred, war etc. Lynching is not at all healthy for a country and its society. People should understand that every life is important. Killing someone on just a suspicion is not justified. Also, people should not take law in their own hands as there are courts and police in the country preserving the same. Using violence is not the option that must be exercised. More than that government should pass the new law, MASUKA which will bring legal and political minds together to try and find a solution. And by doing this, many lives can be saved in coming years.