
MOB-LYNCHING IN DEMOCRACY

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ABSTRACT

This paper affords one of the maximum demanding affairs of today's international i.e., Mob Lynching. Mob Lynching isn't a brand-new idea, it's far in lifestyles for centuries. Starting from America it's been extended to different international locations additionally like South Africa, Britain and so forth. In those international locations the motives for such incidents are essentially primarily based totally on white- black and nationality. But in India, the instances of mob lynching are in large part primarily based totally on non-secular and communal problems and caste problems. The time period Mob lynching means "unlawfully hanging or in any other case killing someone through mob motion" One of the most important reasons of mob lynching is hate speech. The growing wide variety of smart phones and access to internet has extended and has reinforced the impact of online hate speech. This in addition offers rise to rumours in which humans are instigated and turns into a part of mob lynching. Justice is the spine of any non-violent society. The involved authority should ensure the peaceful life lifestyles to its citizens. But the management is missing a long way in the back of in its approach. Even though the legal guidelines were made however they're now no longer well applied. Under Indian Penal provisions, lynching is neither described nor taken into consideration as a criminal offense. Hence, without right implementation of regulation the concept of nonviolent society cannot be achieved. There is a severe want of taking motion to uproot this problem from its root. A cautious assessment of mob lynching wants to be address through the authorities to offer a more potent legislation. Also, there's a want of understanding mob lynching from views apart from communal or caste problems.

MOBLYNCHING – AN UNMENTIONED CRIMINAL OFFENCE

One has rightly stated, “An angry mob has no brain.” India is witnessing this fashion in its worst forms. When communal threats arose, humans have over and over again taken regulations into their own hands to cope with any accused through resorting to inhuman acts without being rational and ethical. The outbreak of lynching incidents in India has taken its top in last 5-6 years. In most instances, the sufferers of mob violence were the minority groups of Muslims, Dalits and few racially tortured African tourists. They are typically chained, stripped, beaten, tortured or hanged by the mobs. The lynching has been performed in instances of witch-hunting, caste-based atrocities and maximum typically bovine slaughter specifically cows.¹

The term Mob lynching means “*unlawfully hanging or in any other case killing someone through mob motion*”. Lynching entails damage or homicide of someone who's crook or accused of a criminal offense in against a society.² The idea of taking regulation into one's hand to punish a accused has a records and stated to have originated throughout the American Revolution phrased as ‘Lynch Law’ that's a punishment without trial.³ During 1800's in America, lynching was once a kind of punishment for presumed criminal offences through self-appointed ‘mobs of justice’. It is demanding to note that mob lynching in India is shifting toward turning into the new “normal.” It has failed invoke unconditional condemnation from a huge segment of society.

One of the most important reasons of mob lynching is hate speech. The Law Commission of India defines hate speech as an “*incitement to hatred more often towards a set of humans described in terms of race, ethnicity, gender, sexual orientation, non-secular perception and the like*”.⁴ Nowadays, the tumbling value of Smartphone collectively with reasonably-priced data plans have extended the wide variety of net customers in India.

The growing wide variety of smartphones and global connectivity on internet has extended and has reinforced the impact of online hate speech. Nearly half a billion people are using internet

¹ Nitya Nand Pandey, Mob Lynching: A New Crime Emerging in Indian Society, 5 IJRAR (2018), <www.ijrar.org> accessed on 08 September 2019

² Seema Uikey & Nidhi Dubey, Mob Lynching in India: What's app as Social Media to Anti- Social Media [2018] 40

³ Michael Quinion, Lynch, World Wide Words <<http://www.worldwidewords.org/qa/qa-lyn1.htm>> accessed 08 September 2019.

⁴ Krishnadas Rajagopal, Redefining hate speech, *The Hindu* (15/12/2017) <<https://www.thehindu.com/todays-paper/tp-opinion/redefining-hate-speech/article21667235.ece>> accessed on 08 September 2019.

in India.⁵ Online hate speech is especially transmitted through social media like Facebook, Twitter and What's App. On Facebook we are able to see some of fake pages spreading fake propagandas and instigating hundreds for communal violence. Twitter is getting used as a platform for trolling humans. This danger from social media began out when a younger IT expert was murdered through a mob for derogatory posts on Facebook in 2014⁶ A new manner wherein mobs are erroneous and wearing out horrific violence is through random WhatsApp danger messages. Using social media for developing fake, disturbing and demanding information has turn out to be rampant during previous few years. Many humans were lynched through such rumours spread on social media. From Karnataka to Assam, each different person is turning into sufferer of mob lynching. The above declaration is backed up through an incident which occurred on fifteenth July, 2018 in Karnataka in which a software program engineer was beaten and murdered on suspicion of being a kidnapper by mob action. This is one incident however there are numerous extra incidents in which rumours have performed a crucial position in instigation humans which in the end result in mob lynching as it's far nicely stated that "rumours are carried through haters, spread through fools and accepted by idiots."

ANALYSING INDIAN LEGISLATIONS

A country plagued with mobs taking the law & regulations into their own hands, does not have a law against the crime in India is an irony. Although the Indian Penal Code (IPC) has no mention about the phrase lynching, but it punishes all of the criminalities perpetrated through lynch mobs. Such cases are covered under **Section 302 (murder), 307 (attempt to murder), 323 (causing voluntary hurt) 147 (rioting), 148 (rioting armed with deadly weapons) and 149 (unlawful assembly)**. Also, **Section 223(a) of Code of Criminal Procedure, 1973** contains the provision for persons being charged jointly for the identical offence committed in the course of the same transaction. Furthermore, **Section 144** of the code⁷ empowers the Executive Magistrate to restrict an assembly of more than 4 persons in an area. Nevertheless, the Indian Legal System neither defines lynching nor gives punishment for it. Hence, there's a need for making new legal guidelines primarily based totally on lynching.

⁵Subhangi Agarwal, *Internet Users in India expected to reach 500 million*, Economics Times (20/02/2018) <<https://economictimes.indiatimes.com/tech/internet/internet-users-in-india-expected-to-reach-500-million-by-june-iamai/articleshow/63000198.cms?src=ilaw>> accessed 09 September 2019.

⁶*Muslim techie killed by right wing mob over morphed fb post*, Firstpost (4/06/2018) <<https://www.firstpost.com/india/pune-muslim-techie-killed-by-rightwing-mob-over-morphed-fb-posts-1555709.html>> accessed 09 September 2019.

⁷ Code of Criminal Procedure, 1973

When we talk about Indian Constitution, the **Rule of Law** is the cornerstone of Indian Democracy and every person is bound to observe it.⁸ According to this Rule of Law, a person shall not be subjected to punishment without the authority of law. In addition to it, **Article 21** provides for right to life and personal liberty which shall not be infringed. But right here the question placed forth is notwithstanding all of the safeguards to be had why the incidents of mob lynching are growing day through day? Why there's no proper legal guidelines made against mob lynching?

There were numerous incidents of mob lynching which proves that now no longer the Central Government but also the State Government likewise missing a long way back in making new legal guidelines against mob lynching and also additionally enforcing present legal guidelines. One of the well-known instances was Dadri Mob Lynching (2015) in which a Muslim male was beaten and murdered by mob action as he fed on cow and in Hinduism cows are considered to be holy and sacred. This case shows out that despite the fact that the duty is given to the involved State authority they lacked of their approach. It is their high responsibility to preserve law, peace and order in a State in order that any vigilantism does not take place.⁹ The present legal guidelines are insufficient and inefficient in providing legal framework for prosecution or perpetrators. However, numerous lawyers, civil activists and so on came forth united and demanded for separate regulation which can cope with the times and mob lynching and render justice to the sufferers'. A draft of a proposed legal regulation, **Manav Suraksha Kanoon (MASUKA)**¹⁰ by **National Campaign Against Mob Lynching** has been made with an intention for combating such issues by protecting the constitutional rights of people and to punish the perpetrators, however it is still suffering to implemented as a law.¹¹ There is a failure from the part of Government in maintaining law, peace and order and protecting the rights of its people. There is a want of effective and speedy criminal justice administration for peaceful governance of society.

Taking into consideration the other countries, USA witnessed lynching in both pre and post American civil war. The lynching carried out against 41 people in Great Hanging at Gainesville

⁸ *National Human Rights Commission V. State of Gujarat & Ors* [2009] 6 SCC 342

⁹ *Mohd. Haroon & Ors V. Union of India & Anrs* [2014] 5 SCC 252

¹⁰ Also called The Protection from Lynching Act, 2017

¹¹ *iPleaders, MASUKA – A draft bill by the collective National Campaign Against Mob Lynching to curb the menace of mob-lynching, (August 3, 2017) <<https://blog.ipleaders.in/masuka-draft-bill/>> accessed 15 September 2019*

has been one and all the largest lynching does so far.¹² History indicates that lynching was often used as a device by white people to preserve their social dominance over black. Anti-lynching law like Dyer bill was introduced in the United States Congress by C. Dyer in the year 1918. The bill was favourably conceded by both the US House of Representatives and US Senate Committee. It states assurance to every person for equal protection of the laws and to punish the crime of lynching.¹³

CONCLUSION

Right to life is a fundamental right guaranteed to every person. The act of taking life through the action of mob-lynching is murder of democracy. It is to be noted that the paramount priority of a democratic authorities have to be the protection and safety of its citizen. However, the existing state machinery has totally failed to do so. It may be deciphered that from previous few years, mobocracy is on its top. There is an urgent need of provisions which exclusively and completely curb mob lynching however the issue has not been taken seriously. But after receiving a batch of petitions and looking at the situation of the nation, the Supreme Court in 2018 had issued several guidelines to address mobocracy. However, those guidelines have not been applied properly in spite of court's notice in the PIL to implement the earlier order. A proposed legal framework like MASUKA required to be implemented for promoting social inclusiveness. Also, social and administrative reform is essential to fight such problems in future.

Lynching is not simply mobocracy. It is collective hate crime which proliferate due to hate speech and violence. Nowadays, the boom in number of Smart phones with access to internet has led to online hate speech through social media platforms. These social networking sites under the guise of false and fake information and mere suspicion results to lynching. However, several numbers of these sites have come out with an awareness campaign against fake news through newspaper advertisements.

India is not the only country which is experiencing this brutal crime. Developed countries like America and Britain have already experienced and confronted it and have successfully curbed the threat. Now, it's time for India to do away with this democratic slump. It can be achieved

¹²McCaslin, *Richard B. Tainted Breeze: The Great Hanging at Gainesville Texas* 1862 81 (1994)

¹³*Excerpt from Dyer Bill as it appeared in 1922,*

<www.amistadresource.org/documents/document_07_06_040_dyer.pdf> accessed 12 September 2019.

through introducing strict laws. But lynching cannot be eliminated without curbing hate speech and violence. However, there already exists laws to prevent hate speech and violence but their application is essential in that context. The most perfect way to reduce hatred is through awareness and education. So, with a view to cope up with hate crime like lynching in future, education and debate should be encouraged. Also, awareness campaigns like “not in my name” should come into light by citizens.