
ASSESSING THE CONSTITUTIONAL VALIDITY OF DEATH PENALTY FOR MOB LYNCHING UNDER CRIMINAL LAW

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ABSTRACT

This research study critically evaluates the constitutional validity of the death sentence for mob lynching in the context of Indian criminal law. In the wake of the recent surge in cases of mob lynching, the legislative bodies of various states are attempting to enact legislation that would provide for more stringent punishment, including the death penalty. This research study evaluates the constitutional validity of such legislation, particularly in the context of the right to life and liberty under Article 21, the absence of arbitrariness under Article 14, and the prohibition of cruel and unusual punishment. By employing a doctrinal method of legal research, the relevant constitutional provisions, judicial precedents, and international perspectives are critically assessed. The principal finding is that while the state has a significant interest in preventing mob violence, the death penalty is constitutionally problematic. It is also found that a balanced, humane, and due process-based approach is required to effectively address the problem of mob lynching, and the indiscriminate imposition of the death penalty may be violative of the Constitution.

Keywords: Death punishment, Mob Lynching, Constitutional Validity, Criminal Law, Basic Rights.

Introduction

Background

Mob lynching or violence by groups, which purport to render justice is a significant danger to the India legal and social fabric. Indian subcontinent has experienced inter-group violence, but the recent wave of lynchings often instigated by rumours, sectarian hatred, or vigilante justice has demonstrated that the law enforcement as well as the criminal justice system have some serious issues. These attacks have been highly condemned by civil society, the courts and the international human rights monitors because they are so inhuman and the frequency of their occurrence is so high.

The constitution of India grants the right to life and individual freedom through Article 21.¹ This is the most significant section of the human rights protection in the country. However, the very occurrence of mob lynching is a concerning indicator that the rule of law is in a way being eroded with individuals substituting the state in monopolizing justifiable violence. This is not only rendering the people less trustful of the criminal justice system, but also jeopardizing the secular and multicultural nature of the country.

In response to popular agitation and judicial decree, several state legislatures have enacted or proposed particular legislation to end mob lynching. Part of these laws opine that the death sentence shall be applied in cases when a person is killed, which proves that law-makers want to prevent such sort of crimes by punishing them in a manner that will leave an example to the rest of the world.

Research Gap

Although the topic of mob lynching has received extensive research attention in media and academic literature, the legal research especially on the constitutional validity of the death penalty as a form of punishment to this crime is extremely scarce. The majority of the existing studies explores the social causes of lynching, the insufficiency of the police response, or the need to change the law. There is no substantive examination of the question of whether application of death penalty against mob lynching is in harmony with the substantive and

¹ INDIA CONST. art. 21.

procedural protective provisions of Indian Constitution.

Furthermore, the specific problems which are linked to the application of the death penalty to the collective offences like the problem of personal responsibility, proportionality and the danger of arbitrariness have not been adequately researched. Another point to make is that the Indian response should be put into the perspective of the worldwide movement to either abolish or reduce the death sentence particularly in cases where the crimes do not involve killing of another human being on purpose.

Research Objectives

The purpose of this paper is to fill the gaps by critically and thoroughly evaluating the constitutional validity of the death sentence of mob lynching as a part of the criminal law in India. The exact objectives of this study are:

- To question the constitutional framework that governs death penalty in India, particularly, Article 14, 19 and 21.
- To examine how the judicial interpretation and evolution of the theory of the rarest of the rare regarding the use of the death sentence.
- To determine whether the mob lynching death penalty is proportional, does not equal arbitrariness, and due process as required by the Constitution.
- To compare the legal and legislative systems of India to the international standards and best practices regarding the use of capital punishment.
- To provide recommendations on a constitutional and effective legal action towards the issue on mob lynching.

Techniques

In this paper, a doctrinal research method of legal study is used, which involves the analysis of both primary and secondary legal sources. The measures that were undertaken were as follows;

Constitutional Provisions: An in-depth study of the Indian Constitution and particularly Articles 14, 19 and 21 in order to understand the basic notions governing the criminal

punishment.

Survey of Court Decisions: The survey of court decisions of importance, including *Bachan Singh v. Machhi Singh v. State of Punjab*. The *Tehseen S. Poonawala v. UOI*,² to understand the judiciary on the concept of death penalty and mob violence.

Legislative Analysis: Review of existing anti-lynching legislations enacted by other Indian states, their definitions, procedural safeguards and punishment.

Comparative and International Analysis: An analysis of international treaties (e.g. International Covenant on civil and political rights), United Nations resolutions, and comparative legal practices so as to place the Indian experience in a global context.

Secondary Sources: To improve and critically evaluate source materials, the use of law commission reports, academic articles, books, and policy papers will be made.

Mob Lynching: Concept, Tendencies, and Law

Defining Mob Lynching

In Indian law, mob lynching is not defined; nevertheless, it is defined as a method of retribution committing itself to the law through violence or execution to administer justice to the perpetrator, which is usually administered by a group of people. The lack of an adequate judicial process characterizes the phenomena, with the mob assuming the roles of the judge, juror and executioner. Lynching does not mean the same thing as riots since in most cases it is impulsive, directed at individuals (mainly those who belong to oppressed minorities) and those who perpetrate it consider themselves to be doing it as a form of retaliation.

*Tehseen S. Poonawala v. Union of India*³, the Supreme Court of India described lynching as a horrendous act of mobocracy and suggested some tangible measures to prevent and repair the situation. The court emphasized that such type of violence poses a threat to the rule of law and constitutional democracy.¹ The Court indicated that legislators should act because the existing regulations are not very effective in addressing the specific nature of mob lynching.

² *Tehseen S. Poonawalla v. Union of India*, (2018) 9 S.C.C. 501 (India).

³ *Tehseen S. Poonawalla v. Union of India*, (2018) 9 S.C.C. 501 (India).

Trends and Statistics in the Recent Past

Mob lynching has become a very critical issue in India in the past decade. The causes of these attacks are based on the claims of killing animals, stealing and taking children to interpersonal battles. The government does not have much data on these crimes, but the independent research and news indicate that it has been growing since 2014.

An example is the India Spend database that identified over 100 reported cases of violence against cows during 2012 to 2019 that caused a minimum of 44 deaths. Even determining the number of the lynchings is more difficult since the official crime recording bureau (NCRB),⁴ the government of India, does not have a separate section on the lynching. The civil society organizations have been seeking to fill this gap by monitoring trends that demonstrate how the minorities and other vulnerable groups are victimized.

Mob lynching is a result of some of the things that include:

- The fast propagation of fake news and information via social networking platforms.
- Lack of strong action by the law enforcement which is at times intensified by political contacts or social collusion.
- Old prejudices on religion, caste, and race.
- The common sense of feeling superior to the law due to a low conviction rate on such cases.
- The impact of lynching is more than just about the killed. It instils fear in the minds of several individuals and makes them less resistant of the justice system.

Legislative Responses

Some Indian states have enacted or proposed specific anti-lynching laws to complement existing general criminal laws such as the Indian Penal Code, 1860 (IPC) and the Code of Criminal Procedure, 1973 (CrPC). This is an illustration of the severity of the issue. Such laws of the state tend to define mob lynching, impose more severe penalties, and necessitate

⁴ Nat'l Crime Recs. Bureau, Ministry of Home Affairs, *Crime in India 2022* (2022).

preventive, corrective, and punitive measures.

The Manipur Protection against Mob Violence Act, 2018,⁵ was the first legislation in India to outlaw lynching. It explains what lynching entails and that anyone who is killed as a result can receive life imprisonment or even death penalty. It was followed by the Rajasthan Protection against Lynching Act, 2019,⁶ according to which the offenders of lynching will spend rest of their lives behind the bars. The death penalty is also a choice in the more serious cases. Similar legislation has been passed in West Bengal and Jharkhand. This indicates a proponent trend in the legislature to have more severe punishments such as death sentence even though it is not popular.

- Overall, these laws consist of:
- Meaning of mob lynching and other similar terms.
- Conventions of selecting nodal police to prevent and investigate some types of offenses.
- The families and the victims will receive money and assistance to get well.
- Quick trial processes.
- Tougher penalties, including life in prison and in some jurisdictions, the death penalty.

However there have been numerous criticisms of these legislative endeavours:

- The fact that there are chances that the new legislation can be misused or exploited to achieve political interest.
- There is the chance that more severe punishment like death sentence may not cut at the heart of the problem.
- Concerns over abiding by constitutional safeguards and international human rights standards.

⁵ The Manipur Protection from Mob Violence Act, No. 20 of 2018 (India).

⁶ Rajasthan Protection from Lynching Act, No. 14 of 2019 (India).

The Death Penalty: Constitutional View

The Constitution contains the following provisions:

The Constitution of India provides an effective system to protect life, freedom and equality. The literal meaning and application of major constitutional articles, such as Articles 14, 19, and 21, determine the constitutionality of the death sentence due to the mob lynching.

Article 21 states,⁷ no person will be denied his life or personal liberty without following a procedure required by the law. The Supreme Court has always upheld that the due process of law enacted by law must be fair, fair and reasonable and not arbitrary, capricious or oppressive in *Maneka Gandhi v. Union of India, (1978) 1 SCC 248*.⁸ Therefore, death penalty is only allowed to be administered when it satisfies the substantive as well as the procedural aspects of justice.

Article 14 guarantees that the law does not discriminate any person and the law does not discriminate anybody. It prohibits discrimination which is not fair and that all the legislative categorization must be founded on clearly distinguishable matters and must be related in a reasonable manner to the objective that is being sought to be achieved. There is a high potential of arbitrary or discriminatory enforcement, particularly in the instance of the death sentence, particularly of actions such as mob lynching which could have more significant effect on already oppressed populations.

Article 19 provides fundamental freedoms, but with the right restrictions subject to the sovereignty, internal peace, decency and others. Although Article 19 does not explicitly discuss the death sentence, whatever law proposing it, should be aligned to the overall scheme of fundamental rights, as well as the concept of proportionality.

Articles 72 and 161 also give the President and Governors the power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute sentences, including the death penalty. This is a significant protection guaranteed by the constitution which is intended to correct the error committed by the judges and mitigate the irreversible nature of the death penalty.

⁷ INDIA CONST. art. 21.

⁸ *Maneka Gandhi v. Union of India, (1978) 1 S.C.C. 248 (India)*.

Judicial Pronouncements

The Indian Supreme Court has scrutinized the constitutionality of a death sentence on numerous occasions. The Court has indicated that the death penalty can be used by the state but it has also administered severe restrictions on the use of the death penalty.

Jagmohan Singh v. State of Uttar Pradesh (1973)⁹ It was the first major challenge of the constitutionality of the death sentence in India. Indian penal code (IPC) of 1860 permits death sentence, and the Supreme Court indicated that it is at the discretion of the judge to make decisions on instances in which the death penalty shall be awarded. The Court ruled that the procedure was neither arbitrary nor irrational, and therefore, it did not violate Articles 14, 19 or 21.

Bachan Singh v. State of Punjab (1980)¹⁰ This decision introduced the rarest of rare concept in the world. The Court indicated that death penalty should be administered in the most infrequent cases when there is no alternative. The ruling emphasized that sentencing should be done person-centred by considering aggravating and mitigating factors. It also helped to understand that the life in prison becomes the convention and the death sentence is the exception.

Machhi Singh v. State of Punjab (1983)¹¹ The state of Punjab described the theory of rarest of rare in greater detail and provided guidelines on the usage of the theory. It seemed to concentrate on how the killing was done, the reason, anti-social or socially unacceptable character of the crime, size of the crime, and the personality of the victim.

Shatrughan Chauhan v. Union of India (2014)¹² This was a case concerning the regulations that secure the individuals where death penalty is executed. The Court established that Article 21 is violated when death sentence is not executed immediately or when the individual who is being sentenced fails to consider any extenuating factors. The court decision illustrated that death sentence could only be executed when the utmost procedures had been observed.

⁹ *Jagmohan Singh v. State of U.P.*, (1973) 1 S.C.C. 20 (India).

¹⁰ *Bachan Singh v. State of Punjab*, (1980) 2 S.C.C. 684 (India).

¹¹ *Machhi Singh v. State of Punjab*, (1983) 3 S.C.C. 470 (India).

¹² *Shatrughan Chauhan v. Union of India*, (2014) 3 S.C.C. 1 (India).

Recent Developments

In new rulings, the Supreme Court has modified some of the death sentences to life sentences claiming that death penalty is not necessarily applied in a fair manner and there are no clear cut lines. The Court emphasized in *Navneet Kaur v. State of Punjab (2014)*¹³ that death sentence cannot be revoked but must be provided with highest justice and due process.

Principles Evolved

a) Proportionality and Individualized Sentencing: The punishment should be appropriate to the crime. The rarest of rare philosophy provides that death penalty must not be applied unless the crime committed is most horrible and the case is so terrible that there is no other form of penalty that will be sufficient. All the aggravating and mitigating factors, including the possibility of the criminal reform and improve, should be considered by the judges.

b) Non-Arbitrariness and Equality: The death penalty will not be applied in an arbitrary and discriminatory manner. Cases to be subjected to death penalty should have clear and consistent rules on the selection to ensure that the real threat of wrongful application arising is eliminated particularly where social biases may influence the way justice is delivered.

c) Due Process and Procedural Fairness: You should have the right to a fair trial, to good legal counsel, to have an opportunity to present any evidence that may be helpful to your case, and to have a meaningful review of your case by an appellate court. Failure to adhere to these guidelines renders death penalty illegal.

d) No brutal, inhuman or degrading punishment: The Constitution does not express that brutal and unusual punishment is unlawful but the Supreme Court has interpreted Article 21 to convey this. The death sentence is not supposed to be torture and the process is supposed to produce minimal pain and suffering.

e) Executive Clemency: The advantages of constitutional authority of pardoning and commutation are an added protection against mistaken convictions in death penalty cases.

¹³ Navneet Kaur v. State of Punjab, (2014) 7 S.C.C. 264 (India).

Implications for Mob Lynching

If we examine the laws that prescribe the death penalty for mob lynching, it is clear that these laws must be examined to ensure that they comply with the principles of proportionality, non-arbitrariness, and due process. Since mob crimes are committed by a group of people, issues of personal guilt and the possibility of arbitrary punishment become even more complex. The following section will examine whether the specific circumstances of mob lynching justify the imposition of the death penalty in the Indian constitutional setting.

Evaluation of the Constitutional Soundness of the Death Penalty of Mob Lynching

The Operations of the Rarest of Rare Doctrine: The theory of the rarest of the rare that was first applied by the Supreme Court in the case of *Bachan Singh v. State of Punjab* and then described in greater detail in *Machhi Singh v. The State of Punjab*,¹⁴ is the constitutional requirements of the death penalty in India. According to this philosophy, death penalty is only applicable to crimes that are too terrible or have a massive impact that leaving them is not an option. It is founded on the fact that courts should consider the aggravating factors and the mitigating factors of each member of the accused separately as a theory of proportionality.

Mob lynching has different issues with this philosophy. Lynchings are not the majority of murders since they are committed by a crowd of people who are generally acting under flash emotions or mischief rather than with premeditated, personal vengeance. When such cases occur, the rarity of rare test is not easy to apply due to:

Diffusion of responsibility: When a group of people is acting as a mob, it is difficult to find out what each one of them is doing or why. The definition of the idea described by the Supreme Court emphasizes the necessity of individual punishment, which is difficult to create in the case of group crimes.

Other anti-lynching laws of some states are so excessive that they entail that the death sentence becomes the sole or the default punishment to lynching resulting in death, which is a significant means of safeguarding against immoderate and unjust punishment. According to the Supreme Court, the existence of compulsory death sentences is unlawful as it goes against Articles 14

¹⁴ *Machhi Singh v. State of Punjab*, (1983) 3 S.C.C. 470 (India).

and 21. This is due to the fact that they cannot be compulsory.

Thus any statute that declares mob lynching to be punished by death penalty must ensure that:

- The punishment is not obligatory, but it is on the discretion of the judge.
- Rare of rare analysis is carried out individually to every defendant.
- The potential of reformation and the circumstances that mitigate the case are considered as it is required by the constitution law.
- There are issues regarding Fairness and Randomness.

a) Disproportionate Impact and Selective Enforcement

There are empirical studies and media stories showing that the victims of mob lynching are disproportionately recruited among the minority or marginalized groups.⁴ There is a proper reason to believe that the same prejudices could be applied to law enforcement and the judicial process, leading either to discrimination or ruthless use of the death sentence. When the most dreadful penalty is administered in an unequal manner or not administered equally, Article 14 on the equality before the law could be compromised.

b) Individual Responsibility Issues

According to the concept of individual culpability of criminal law, individuals who are proven beyond a reasonable doubt to have committed or plotted the most heinous offense, and who were in the right state of mind shall receive the most undesirable penalties. In the case of a crowd it might be difficult to distinguish between the levels of involvement and purpose. The death penalty of every member of a lynching mob would be counter-constitutional since the Constitution required individual justice and may not be merited to the less guilty parties.

Cruel and Unusual Punishment

The Indian Constitution has not explicitly stated that cruel and unusual punishment is wrong but the Supreme Court has indicated that this is what the clause, which safeguards life and personal liberty in Article 21, is referring to. The Court has indicated that death penalty can only be constitutional in the rarest cases and in the event it is applied after ensuring that the

procedure and the result are just. This is because article 21 states that, unfair and too harsh sentences that are likely to shock the conscience or that are too harsh in the crime would be unlawful.

Furthermore, India is a State Party to the International Covenant on Civil and Political Rights (ICCPR)¹⁵ that permits the death penalty in some cases but emphasizes that the death penalty must only be applied to the gravest crimes and must be abolished where a life has not been ended intentionally by someone.

In the specific case of mob lynching:

- The social aspect of the crime, the inability to establish the guilt of an individual beyond reasonable doubt, and the possibility of miscarriages of justice all make the death sentence extremely difficult.
- The finality of death penalty and the possibility of a false conviction in complex and emotive mob violence cases increases the concerns regarding harsh, inhuman or humiliating punishment.

Proportionality and the Purpose of the Law

The Indian constitutional system is based on the principle of proportionality. The approach to any punishment has to be proportional to the offense committed and the end result of this by the Legislature has to be achieved in a manner that does not interfere with the fundamental rights as minimally as possible. The Law Commission of India, in its 262nd Report,¹⁶ has expressed its doubts about the inability of the death sentence to deter crime especially when the crime is caused by hatred towards society or incitement by the mob.

International Standards and Practices: Comparative Perspective

Global Tendencies of Death Penalty

a) Nations which desire to abolish slavery and nations which desire to retain it

Abolitionist States: Over 110 countries have received the death sentence on all offenses. In

¹⁵ International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171.

¹⁶ Law Comm'n of India, Rep. No. 262, *The Death Penalty* (2015).

fact, the European Union states that nations should abolish the death penalty to join it. The European Convention on Human Rights (ECHR) also provides that death penalty is not permissible.

Retentionist States: The remaining 55 countries still retain the death penalty, but most of them no longer execute nor discuss it extensively.³ India, the United States, China, and some countries in the Middle East and Africa still have the death penalty but the rate and publicity given to it are varied.

b) Death Penalty and Crime Group

It is clear that the whole world is trending towards not giving the death sentence to a group of people or mobs who commit a crime. Most of the countries where the death penalty is still in use, are only allowed to be applied in premeditated murder, terrorism resulting in death or other crimes against the state. Individual responsibility is emphasized when group crimes or mob crimes are being penalized. The reason why this is true is that both the courts and legislators are aware of the fact that it may be difficult to determine who was to bear the responsibility and who was the one who intended to commit the crime.

For instance:

Group violence in the UK (which abolished the death penalty in 1965) is punishable by murder or manslaughter, and is punished according to the role and degree of involvement of each individual member.

In the case of *Enmund v. Florida*,¹⁷ and *Tison v. Arizona*¹⁸, the Court accomplices to murder cannot be condemned to death unless they were careless or deeply engaged in the act with low consideration to human lives.

The law on international human rights

There is also a list of international human rights treaties that India is a signatory to, which influences the discussion of death punishment and the interpretation of the Constitution.

¹⁷ *Enmund v. Florida*, 458 U.S. 782 (1982).

¹⁸ *Tison v. Arizona*, 481 U.S. 137 (1987).

a) The International Covenant on Civil and Political Rights (ICCPR)

Article 6 of the ICCPR indicates that death penalty should be condemned to the gravest offenses only in case it is not prohibited. The United Nations Human Rights Committee has never ceased declaring that this is killing deliberately. The Committee has further directed the states to move towards eliminating the death penalty, ensure that the death sentences have no mandatory provisions, and ensure that there are strict procedural safeguards.

b) UN General Assembly Resolutions and norms that are Customary

The UN General Assembly¹⁹ has made several resolutions since the year 2007 requesting an international moratorium on the death penalty. Such resolutions emphasize the fact that the death penalty conflicts with the right to life as stipulated by the contemporary human rights legislation. Although these resolutions are probably not legally binding, they demonstrate that an increasing number of people believe that the death sentence as a last resort is only used in extremely exceptional circumstances.

c) No Sadistic, Inhuman, or Degrading Punishment

Article 7 of the ICCPR and the Convention against torture provide that no cruel, barbaric or humiliating punishment should be given. The United Nations Special Rapporteur on extrajudicial, summary or arbitrary killings has specifically criticized the death sentence being imposed on crimes like lynching or mob justice as individual culpability cannot be easily established.

Comparative legislative responses to Mob Violence

Mob cruelty is an issue everywhere in the world, yet the manner in which the law responds to it varies:

The history of lynching in the United States, particularly racial violence, is a convoluted one. In South Africa, where mob justice (necklacing) was popular during the apartheid period, the government has reacted by introducing intense policing and communal action instead of capital punishment, which was abolished in 1995, and the legislation does not specify capital

¹⁹ G.A. Res. 62/149, Moratorium on the Use of the Death Penalty (Dec. 18, 2007).

punishment. The Emmett Till Antilynching Act (2022) classifies lynching as a hate crime punishable by severe imprisonment but not by capital punishment.

Indian Responsibilities and impacts of Soft Law

Although the death penalty remains in the Indian laws, it must comply with its international commitments to limit its application and ensure that the utmost principles of justice and due process are applied. The international human rights standards have been very apparent in guiding the Supreme Court to interpret constitutional guarantees such as the right to life in Article 21. The Court cited the decision of ICCPR and UN General Assembly as the authority to limit and dehumanize the use of the death penalty in *Shatrughan Chauhan v. Union of India*.

Alternatives and Recommendations

Legislation Recommendations

a) Just and Individual-Based Sentencing

Regardless of the death sentence, the law needs to impose severe yet just punishments on criminal acts that are related to lynching. Sentencing must show:

- The extent of engagement and will of every defendant,
- The gravity and situation of the crime,
- Things that can make it better or worse.

b) Double Jurisdiction, Anti-Lynching Laws

We must have a national anti-lynching law to seal up the gaps in the law and ensure that other states react similarly. This law might include:

- The lynching and other related crimes should be defined clearly,
- Conspiracy and aiding and not to prevent lynching,
- Protection of whistleblowers and witnesses,

- Money reparation, rehabilitation, and assistance to the families of the victims,
- There should be special provisions on the quick investigations and trials and those police and other officials in the public who fail to perform their duties ought to be punished.
- The Bill must also compel the set-up of nodal officials in every district as recommended by the Supreme Court in *Tehseen S. Poonawalla v. Union of India*,²⁰ to organize the efforts to prevent and repair the issues.

c) Procedural Safeguards

In a bid to prevent wrongful prosecutions, anti-lynching laws must be procedurally safeguarded:

- The right of a fair trial and innocent presumption,
- The right to competent representation, protection against coerced confessions and maltreatment in custody and the effective appeal procedure and clemency.

d) Data collection and Openness

Mob lynching lacks reliable statistics which is a great setback to proper policy-making. Police departments should be required by law to maintain a separate record of lynchings, prosecutions, and convictions. People will become responsible and open with the help of public reporting and regular audits.

Policy Alternatives

a) Strengthening Law Enforcement and Community Policing

Mob lynching is always a common occurrence when the police are weak or do nothing about it. The changes in policies should include:

- Educating policemen on how to quickly and equally respond to rumours or provocation,

²⁰ Tehseen S. Poonawalla v. Union of India, (2018) 9 S.C.C. 501 (India).

- Revolting individuals that fail to fulfil their duties, applying community-based policing strategies to make the police and the marginalized communities build trust towards one another,
- Establishing rapid response units in areas where much friction exists in communities.

b) Educating Individuals and Enlightening

In order to achieve a permanent solution we must address the socio-cultural origins of mob violence prejudice, rumours and vigilantism. The government and the civil society should invest in:

- Campaigns in the press and posters, propaganda to the people, espousing constitutional maxims and love of peace, and love of due process; school education fostering critical thought and sympathy;
- Training on how people can utilize social media properly to counter hate speech and fake news.

c) Safety of the Victims and Witnesses

A lot of the victims or witnesses of lynching incidences fear, are harassed, or estranged by others. In order to ensure that their safety and participation in the court process are guaranteed, they should be provided with proper protection that is similar to the one in the situation of a witness in an organized crime.

d) Community Dialogue and Restorative Justice

Other methods of restorative justice can be used to repair damaged communities along with punishment. Procedures of apology, reparations, truth telling and facilitated discussion have proven to be effective in collective violence situations (e.g., the Truth and Reconciliation Commission of South Africa). Such acts cannot substitute criminal justice, but they might contribute to official justice and restore individuals to a unified state.

e) Establishing Hate Speech and Social Media Rules

Mob violence is largely caused by hate speech and fake information in the internet media. To

alter policies, it should be the case that:

- Anything that foment violence should be done away with in good time through social media sites.
- Individuals that spread fake news must be taken responsible, and internet companies, law enforcement, and civil society must collaborate to monitor and counter viral fake news.

Dealing with the Root Causes

Finally, long-term remedy has to address the social, economic and political factors of mob lynching, including:

- Discrimination and distrust of the police, political hyperbole and fragmentation of a community,
- Financial turmoil and the accusation of minorities
- The policies that can prevent the circumstances that may result in mob violence include the need to promote social inclusion, legal literacy, responsive government, as well as economic opportunity.

Conclusion

Being a manifestation of the mob violence and violation of the rule of law, mob lynching is a serious threat to the constitutional democracy in India. The painful frequency and brutality of the lynching events in recent years have provoked the outrage of the people and compelled legislators to act. Indeed, some Indian governments have responded by enacting certain anti-lynching laws, which in the most extreme scenarios, presuppose the death penalty as the method of preventing its repeated occurrence.

The analysis of Indian constitutional framework, as conceived and refined in the judicial wisdom of the Supreme Court shows that there was a collective of stringent protections that envelop the deprivation of life and liberty. Article 21 and 14 grant the right to life and equality respectively. Over the years, these rights have expanded through the interpretation of these

courts to forbid arbitrariness, demand proportionality and demand individualized justice. The so-called theory of the rarest of rare, first determined in *Bachan Singh v. In State of Punjab* and other related cases, it states that death penalty must be resorted to only under exceptional situations where other sanctions have been finally proved inadequate. In the case of mob lynching, which is a crime typified by group collaboration, social prejudice, and the complexity of evidence, this theory is extremely challenging to meet without the risk of either overindulgence or arbitrariness.

This movement in legislation to subject lynching to either the death penalty or forfeiture is in direct opposition to the constitutional demands. Courts have also decided that mandatory death penalty laws are against the constitution. It has also stated that judges should be left to make their own judgments and personalized sentencing is significant in achieving justice. And the danger of discriminatory application of the death penalty- considering that lynching is usually aimed at marginalized communities- makes the death penalty specifically susceptible to the challenge by Article 14.

The requirement of the international law supports a conservative and restrictive approach. The obligations of India in the International Covenant on Civil and Political Rights (ICCPR) and global trend in the removal of death penalty or severe limiting of it to the worst, clearly defined offenses, which are usually intentional, individualized murders, outline the necessity to restrict the death penalty to the most aggravated, explicitly defined crimes. Integrating capital penalty with mob lynching that has its issues with evidence and procedure may cause errors within the legal system that would be irreparable and not be in line with both local and international norms.

According to these facts, the current research justifies a complex and legally sound strategy to mob lynching which is not based on capital punishment. The legislature ought to instead come up with encompassing anti-lynching laws that should target:

- Equitable and case specific sentencing,
- Stringent regulations and protections on evidence,
- Assistance and protection of the victims,
- Police officers must face responsibility,

References

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