



Need of Separate Law on Anti Mob Lynching

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KEYWORDS	ABSTRACT
Anti-Mob Lynching, Mob Lynching, Manav Suraksha Kanon,	Numerous articles and research papers have been published with the opinion that the inability of the Executives to execute relevant laws has resulted in the highest level of “mobocracy” In a broad sense, the word “mob lynching” refers to when a group of people circumvents legal systems in order to impose what they perceive to be justice. Somewhere, the Court has also been blamed. Even the judiciary has shown their inability to dispose of cases at the desired pace and within the desired time frame. However, what are the fundamental causes and grounds for this offence, and why is it becoming “the New Normal” in contemporary society? are important for comprehension. In a multitude of cases, the Supreme Court has expressed its concern and given a number of various directives to the government to pass legislation regarding mob lynching that includes provisions for the perpetrator’s punishment as well as compensation and rehabilitation for the victim and his family. In a recent ruling pertaining to Tehseen S. Poonawala, the Hon’ble Supreme Court has declared that it is the responsibility of the State government to prevent the occurrence and recurrence of mob lynching inside the State. In response, the Supreme Court has detailed preventative, corrective, and punitive methods to reduce the instances of Mob lynching.

Introduction

In India, there has been an increase in the frequency of mob lynching’s during the past few years. In some instances, innocent people have been mercilessly tortured, and some have even been executed for no cause related to their actions. Casteism, robbery, fanaticism, extortion, rape, anti-nationalist, witch-hunting, class warfare, and political rivalry are among the principal causes of mob lynching.

When lynching occurs, the rule of law is brought

into question when individuals assume the roles of investigator, prosecutor, and judge. Even though the reasons, premise, and circumstances surrounding a mob lynching can vary, what is consistent is the participation of a mob, as well as the fact that the manner and style of violence are similar in some way.¹ People commit crimes of this sort when they allow themselves to be aroused by anger and hatred and then behave unlawfully as a result. It is vital to take the time to comprehend why people would suddenly perceive a particular

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person as a threat to society as a whole and then make the extreme decision to have that person executed.

History of Mob Lynching

Throughout history, many innocent people have been executed by mob lynching, and recent tales of horrific lynchings in past years like palghar mob lynching have brought attention to the problem of mob lynching, the ideas of “secularism” and “sovereignty” are examined with the utmost attention after taking into consideration these types of events, because “fraternity” refers to brotherhood, it cannot be supported in the event of a mob lynching.²

Theft-related lynchings, honour killings, bovine-related lynchings, allegations of child abduction, and witchcraft-related lynchings are the five causes that can be used to classify mob lynchings.

The origin of the word “lynch” can be traced back to the middle of the 18th century, during the American Revolution, in the United States of America. According to historians, Charles Lynch and William Lynch were the first to use the term to denote the extra-judicial authority that private citizens like him wielded. In the latter half of the 19th century, African-Americans had the highest incidence. Prior to the American Civil War, multiple instances of lynching were reported in the United States. During this time period, lynching was most frequently committed against people of African descent.

Some Lynching Incidents Which Shook the Nation³

1. Khairlanji Lynching, 2006

The lynching of Khairlanji, which occurred in

2006, is recognised as the first lynching to be reported in India. In this instance, members of the dominant Kunbi caste society physically beat, undressed, and displayed a Dalit family across the hamlet. The sole survivor of this catastrophe had spent approximately ten years striving for justice.⁴

2. Dimapur lynching, 2015

On March 5, 2015, between 7,000 and 8,000 individuals broke into the Dimapur Central Jail, dragged the victim out, and beat him to death. As a result of his injuries, he passed away. The accusation against the victim was that he had participated in sexually violent behaviour with another woman. The information that the culprit was a Bangladeshi immigrant was widely publicized, and as a result, the mob lynched the victim to wreak revenge.⁵

3. Jharkhand (Chatra) lynching, 2016

In actuality, they were on their way to the Chatra market to sell the eight oxen they owned, despite the rumour that they were transporting animals illegally. Two Muslim livestock dealers were killed and hanged by cow vigilantes in the Chatra District of Jharkhand.⁶

4. Palghar Mob Lynching, 2020

During the countrywide lockdown caused by the COVID-19 pandemic on April 16, 2020, a vigilante gang murdered rumour that thieves were working in the area became widespread on WhatsApp and the internet. The mob believed that the two sadhus and the driver were robbers, so they killed all three of them and injured the police officers who attempted to intervene.⁷

Legislative Efforts to Control Mob Lynching

This is vital to ensure that antisocial elements

participating in these crimes are deterred and frightened away from even contemplating lawlessness. In line with Section 153A of the Indian Penal Code (IPC)⁸ a First Information Report must be filed with the police against individuals who attempt to stir a mob and spread potentially lynching-inciting words and films.

In addition, the court has directed in *Tehseen Poonawala*⁹ case that a First Information Report be made without delay, that the protection of the victim's family members be ensured by arranging security measures, and that the Nodal Officer investigate cases of mob lynching. State governments are obligated to design a victim compensation plan that includes the provision for interim relief described in section 357A of the Criminal Procedure Code, which was introduced in 1973. In cases involving mob lynching, the court and police are required by the Legal Services Authorities Act of 1987 to ensure the safety of witnesses. The support of an advocate must also be provided to victims.

The Manipur Protection from Mob Violence Ordinance, 2018¹⁰

The Manipur Protection from Mob Violence Ordinance of 2018 strictly adheres to the recommendations provided by the Indian state of Manipur was the first to abolish the practice of mob lynching through legislation. It contains provisions for punishments, the establishment of Special Courts, and the designation of a Nodal Officer for each district. It has completely covered another essential aspect of presenting new grounds on various crucial concerns connected to hate violence in India.¹¹

The West Bengal (Prevention of Lynching) Bill, 2019¹²

The West Bengal Assembly enacted the West Bengal (Prevention of Lynching) Bill, 2019, on August 30, 2019. Under this regulation, those convicted of assaulting and wounding another person would face a prison sentence ranging from three years to the rest of their lives. In addition, it defines a variety of concepts, including “lynching” and “mob.” To comply with the Supreme Court's directions, the West Bengal government has enacted 21 brief provisions of legislation and proposed the West Bengal Lynching Compensation Scheme. These measures were implemented simultaneously.

The Rajasthan Protection from Lynching Bill, 2019¹³

On Friday, August 9, 2019, the Rajasthan Assembly enacted the Rajasthan Protection from Lynching Bill, 2019, which mandates that anybody convicted of mob lynching resulting in the victim's murder shall be condemned to life in prison and fined between one lakh and five lakh rupees.

Prevention of Mob Violence and Mob Lynching Bill, 2021

The Prevention of Mob Violence and Mob Lynching Act of 2021 was passed by the Jharkhand Assembly on December 21, 2021 to prohibit mob violence and lynching. In addition to penalties and the seizure of property, the proposed law imposes sentences ranging from three years to life in prison.¹⁴ Those who contribute to an intimidating environment may also be subject to a monetary fine and up to three years in prison.¹⁵

Judicial Approach on Mob Lynching

In the case of *National Legal Services Authority vs. Union of India*¹⁶, The Honorable Supreme Court of India held, “The Indian democracy is not only based on the rule of the people as expressed via their representatives, but it also relies heavily on the 'rule of law.' In this instance, *Krishna Sradha v the State of Andhra Pradesh*¹⁷, The Supreme Court accords a great deal of significance and weight to the adage that “true justice can only be achieved if correct legal procedure is followed” (which states that “genuine justice can only be done if procedure established by law is complied with properly”). In the landmark case *National Human Rights Commission v. State of Gujarat*¹⁸, the Supreme Court of India issued a landmark ruling about those who, while hiding behind the appearance of religion, create mobs and attempt to take the law in their hands. The case was a turning point in Indian legal history, that we should approach them in a manner similar to how we approach terrorism. Many instances in which persons have been lynched because of their membership in a certain community have been documented, and there have been other lynching incidents. In the case titled *Mohd. Haroon et al. v. Union of India et al.*¹⁹, India's highest court acknowledged the enmity between several religious communities. It has been determined that all state administrations must collaborate with state and central intelligence services in order to limit the frequency with which local communities engage in violence.

The Supreme Court had issued stringent orders in relation to the *Arumugul Servai case*²⁰, Officers

who failed to initiate appropriate criminal proceedings against the accused should be held accountable for their acts and punished accordingly. The Supreme Court of India issued a notice in July 2019 mandating the formulation of new legislation regarding mob lynching. The court ruled in favour of the applicant while reviewing a plea submitted by the Anti-Corruption Council of India Trust. The plea was brought by Hon'ble Justice Ranjan Gogoi, India's Chief, the former India's Chief Justice at the time.²¹

In the landmark case *Tahseen Poonawalla vs. Union of India*²², the highest court in India, the Supreme Court, has specified specific protocols to be followed when addressing mob-lynching cases. In order to put an end to lynching's by mobs, these regulations required the hiring of senior police officers in every area. In addition, the federal government required state governments to establish compensation programmes for victims of mob lynching. The guidelines that were formulated as a direct result of this case gave district police departments a substantial amount of weight. In addition, the Bench, after considering a variety of factors, made a judgement that stipulated the following: if a police officer fails to fulfil any function for which he is accountable, it would be regarded purposeful negligence, and the officer will be liable to disciplinary action.

Measures Taken to Respond the Issue of Mob Lynching

Citizens have a duty to report cases in which individuals take the law into their own hands, and governments have a duty to put a halt to violence perpetrated by mobs by meting out severe

punishment to lynchings. In the historic case *Tehseen S. Ponawalla v. Union of India et al.*²³, the Honorable Chief Justice of India at the time, Dipak Mishra, and the three-judge bench condemned mob lynching's and attacks in a resounding manner.

The Central Government has taken matters into its own hands and brought the issue of the regulations for the crime of mob violence to the Supreme Court. This relates to the enforcement of the regulations governing the crime of mob violence. In light of this, and in accordance with the interim ruling, the Supreme Court's Full Bench has decided to take certain steps in order to handle this particular case. The following are the examples of these steps:

Creation of Nodal Officers

The Central government has proposed that each district select a nodal officer and an assistant officer to reduce the number of incidences of mob violence and lynching in order to ensure that the Supreme Court's ruling is implemented. This will guarantee that the judgement is executed. According to the Home Ministry's proposal, the police officer who serves this position must be at least a Superintendent of Police and cannot have a lower rank. In addition, it has asked the construction of a specialized task force to collect information on individuals who are likely to commit such crimes or have been involved in such actions in the past, such as the dissemination of hate speech, inflammatory utterances, and fake and manufactured news. This data will be collected by intelligence agencies. Whether they are directed towards a specific community or caste in general, it

is the responsibility of the Nodal officer to eradicate or prevent situations that could result in a "hostile climate."

Creation of High-Level Committees

In accordance with the Supreme Court's directive, the Central Government has formed two high-level committees charged with examining alternative ways and a legislative framework for efficiently controlling cases of mob violence and lynching. The government has established two high-level committees to provide ideas and a legislative framework for addressing instances of mob violence successfully.

Duty of Police Officers

Using the authority entrusted to him under Section 129 of the Criminal Procedure Code, every police officer in the district is charged with dispersing any mob that, in the officer's opinion, is likely to commit the crime of mob lynching. This responsibility falls on the officer. If it is determined that a police officer or a district administration official fails to do his duty, it will be termed deliberate neglect. Whether or not the failure was deliberate, this rule applies. It is required for the police to conduct patrols in high-risk areas where numerous events have happened or where hazardous conditions exist. In addition, if it is established that a police officer or firefighter has been in high-risk zones where a number of incidents have occurred or where dangerous conditions prevail, police patrols are important. Regarding the same subject, the DGP must distribute a circular to SP. It is crucial for law enforcement officers to conduct patrols because dissuading antisocial individuals and instilling a

healthy respect for the law in those being patrolled are necessary for maintaining peace and order in the state.

Duty of Police Officers as provided by the Acts

A number of states, notably West Bengal, Manipur, and Rajasthan, have revised their law codes to add a number of articles that outline the responsibilities of police officials. This is to ensure that police officers are working in compliance with the Supreme Court's directions. These sections required police officers to maintain peace and order by preventing lynching's by taking the necessary safeguards. In addition, it says that the Police must make every effort to identify and stop individuals who incite or encourage lynching in order to carry out their duties.

Manav Suraksha Kanon

The National Campaign Against Mob Lynching drafted a bill in 2017 that would permit legal action to be taken against a group of individuals who participated in lynching and violence. This legislation would have authorized legal action against a group of individuals. Currently, this piece of legislation is known as the *Manav Suraksha Kanon (MASUKA) Bill*. The purpose of the legislation is to safeguard citizens from mob violence. According to this law, the Station House Officer for the area in question must remain on administrative leave until a time-limited court investigation exonerates him of all allegations. The approval of this piece of legislation would not only bring some solace to those who have been wounded, but it would also aid in the process of healing the victim's family members.

Need of Effective Laws

One of the societal tasks undertaken with the aid of the judicial system is the pursuit of justice. The States are unable to dodge their legal obligations since the law compels them to do so, regardless of whether they agree with it or not. Citizens who commit a crime against the State are therefore guilty of a crime it is appropriate for the State to make plans for the punishment. Since the State is the principal guardian of people' rights, persons who commit a crime against state must take stringent action against those persons. The following disturbances to social order could occur if the state fails to pass situation-appropriate legislation. Injustice will cause individuals to feel dissatisfied and concerned, which will lead to an escalation of their rage and will undoubtedly disrupt the social order. Individuals who have been wronged will no longer believe the State owes them respect and decency, and as a result, they will no longer view the state with respect and decency. Both the victim and society may be pleased with the outcome if the accused is punished. States are responsible, through legislation, for determining the proper sentence to discourage and minimize crime; if the accused is punished, the victim and society may be satisfied.²⁴

In response to an order from the Supreme Court that the Central Government brought a statute to combat mob violence and murder, the Central Government convened two high-level committees to provide recommendations on how to successfully deal such situations. These committees were charged with identifying ways to successfully respond to instances of mob violence

and murder. Several organizations have been tasked with developing methods for addressing mob violence and murder effectively. The Central Government has issued a directive to the State Governments, urging them to take proactive measures to prevent mob violence and murder, as well as to pursue stern legal action. In addition, the decree encourages State Governments to take stern legal action. This is a result of the Central Government's compliance with the Supreme Court's rulings regarding the increase in the number of instances of mob violence. The Union Secretary of State for the Department of the Interior will fill the role of group leader. In order to address the issue of mob lynching, the Central Government has organized a high-level group to investigate the issue. The committee will have the opportunity to propose its recommendations to the government at each meeting. The Central Government has already condemned such atrocities and made its commitment to preserving the rule of law and enacting rigorous steps to prevent lynching's. Additionally, the Central Government has declared its commitment to upholding the rule of law. By implementing these steps²⁵, the Government has demonstrated its commitment to upholding the rule of law. Between 2014 and 2018, the Indian Union Ministry of Home Affairs reported forty instances of mob lynching in nine different states, resulting in the deaths of forty-five individuals. On the other hand, the authorities were unaware of the reasons for these instances. The government does not know the location of the incident or the identity of the attacker and the victim.

Solutions and Recommendations

When drafting and approving a new law governing mob lynching's, Parliament must comply with the Supreme Court's directives. This is due to the fact that postponing the implementation of new regulations will lead to an increase in attacks and anxiety in society. This is due to the fact that delaying the adoption of a new law would also delay the passing of new laws, putting us in the current scenario. The word "Mob Lynching" must be defined in the new legislation, and all remedial, preventative, and punitive measures must be described in great detail. This is required in order to decide the proper amount of sentence for the offender and put a halt to the commission of such crimes. In addition, the criminal must receive a sentence proportional to the gravity of the offence. No matter what other factors may be in play, it is essential that justice be served and safeguarded under all circumstances. To ensure a fast and effective legal system, the First Information Report (FIR) must be filed immediately. In addition, bail should not be routinely granted to suspects who pose a major threat to victims and their families.²⁶

The nature of the trial should be one that advances fast, and officials who conduct their duties negligently should face severe punishments. The government should be aware of its responsibilities regarding the issue of mob lynching, and it should take the necessary actions as soon as possible to comply with all of the Supreme Court of India's orders. The Civil Society has requested that the government move on with the passage of the Manav Suraksha Kanoon law, and the government should do everything possible to ensure that this

occurs (MaSuka). According to this rule, rigorous controls must be enforced for mob violence, laws relating to mob lynching must be non-bailable, cognizable, and non-compoundable, and those convicted must be sentenced to life in prison with a time limit on their trial.²⁷

The current state of mob violence in the country is extremely disturbing, and as a result, there is an immediate need for the enactment of separate legislation to protect those who have been victims of mob violence, as well as the implementation of stringent procedures to stop the attacks and punish those who have participated in mob violence. This is due to the fact that the current situation of mob violence in the nation is exceedingly alarming. The present increase in reports of lynching and other types of mob violence is the issue that requires immediate attention and the formulation of a solution, regardless of the circumstances.

The Preamble of our Constitution, which founded India as a democratic secular, republic, encapsulates our identity. In India, no one is above the rule of law, and no one has the authority to kill another person since no one has been given that authority. No one has been authorized to commit murder. In our country, the court system is responsible for determining whether or not an offence merits the right level of punishment. As outlined in the Constitution, it is the obligation of every member of a community to foster a spirit of brotherhood and peace among their fellow citizens.

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