MOB LYNCHING – DO WE NEED A NEW LAW ON IT?

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ABSTRACT

There is a towering rise in Mob Lynching in India. Lynching is not defined under the Indian Legal System and there are no punishments in regards of lynching. The word lynch has been originated during the American Revolution by Charles Lynch. In India lynching was first reported in the Khairlanji Massacre, 2006. During the year 2017 we had observed a total number of 8 cases where 5 cases happened freshly in the month of June. Lynching is a severe crime and a punishable sin and it should be incorporated under a range of offences given in the Indian Penal Code. Awareness programs should be created so that the people are aware that lynching is a grave offence and not to take part in it. It is the duty of the Government to penalize a criminal; a layman should not take law in his own hands.

Keywords : Mob Lynching, political class, offence

RESEARCH METHODOLOGY :

The researchers utilized an exploratory research system based on past literature from annual reports, newspapers, magazines, interviews and publications covering wide gathering of scholastic writings.

OBJECTIVE OF THE STUDY :

To Research: Do we need a new law on mob lynching? What parliament is going to do on supreme court’s order on making a new law on mob lynching?

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“Our country’s national crime is lynching. It is not the creature of an hour, the sudden outburst of uncontrolled fury, or the unspeakable brutality of an insane mob”– Ida B. Wells

Lynching by mob is a punishment that was aided in past. It was usually associated in the United States towards Blacks. Lynching developed with violence against black in nineteenth century. Lynching began in 1880s and was common in the South America until the 1930s. Between these periods, an projected 2400 black men, women and children were killed by mob.³

But what can be the reasons for mob lynching? It can be anything like religion or racism. In 2017 most cases of mob lynching is related to cow terror attack. This is the main reason for mob lynching recently. A recent report by India spend, in the first six months of 2017, 20 cow terror attack has already happened. The attack included mob lynching, attacks by vigilantes, murder, harassment, assault, rape etc. In some attacks the victim was chained, beaten and stripped while in other the victim were hanged.⁴

India is experiencing too much of violence between different groups. The war between Muslim and Hindus can be a reason of this mob lynching. Even in Kashmir, mob lynching is common.

The common republic of India has been under the shadows of Mob lynching over centuries. Mob lynching is offering discipline to a man by a gathering with no legitimate expert for any offense. This should be possible by hanging or by beating. The gatherings are essentially from

The assault included Mob lynching, assaults by vigilantes, kill, provocation, ambush, assault and so forth. In a few assaults the casualty was affixed, beaten and stripped while in other the casualty were hanged.

❖ SOME CASES OF MOB LYNCHING IN INDIA

✓ March 2016 (Jharkhand): Two Muslim merchants were taking their cows to animal fair. Because of this reason crowd lynched and hanged the dealers.  

✓ April 5, 2016: Gau Rakshaks are a gathering of individuals who need to save cows. On April 5 Mustain Abbas was shot by Gau Rakshaks when he was returning back home purchasing bulls.

✓ September 8, 2016: In Jalpaiguri locale, a man was lynched by Mob on doubt of stealing cattle’s.

✓ May 31, 2017 (Jamshedpur): Mob pounds the life out of 4 individuals on doubt of hijacking kids. 3 more were lynched by the Mob on the doubt of being kid lifters.

✓ June 23, 2017 (Nowhatta, J&K): Police officer Mohammed Ayub Pandith was lynched by a furious crowd after he purportedly started shooting at a gathering of individuals who discovered him clicking pictures close to the mosque.

✓ April 19, 2018, (Mumbai): truck-driver-lynched in Mumbai for badgering lady.

✓ May 28, 2018 (Hyderabad): Transgender lynched to death over fake kidnapping rumours.

❖ REFERENCE TO AMERICAN AUTHORITIES--

It had also referred to rulings by the American Courts which have dealt with lynching, which at one point of time, was rampant in the American society. The Court noted that the American Courts had deplored this menace and had dealt it with iron hands so as to eradicate the same.

It then observed, “Thus, the decisions of this Court, as well as the authorities from other jurisdictions, clearly show that every citizen has to abide by the law and the law never confers the power on a citizen to

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6Ibid, pg12

become the law unto himself or take law into his hands. The idea is absolutely despicable, the thought is utterly detestable and the action is obnoxious and completely hellish. It is nauseatingly perverse.”

**PUNISHMENT FOR MOB LYNCHING**

Punishment for mob lynching is not specific. It all depends on the facts of the case. For example, if mob commits murder then it will fall under 302 of the IPC. Murder in any form whether by a lone killer or a seething mob will fall under section 302 of IPC.9

- **Section 302 of Indian Penal Code:** Section 302 of IPC defines punishment for murder. It states that whoever commits murder shall be punished with death, or imprisonment for life and shall also be liable to fine. This section can be applied to a mob if victim is dead…10

- **Section 304 of Indian Penal Code:** Culpable homicide not amounting to murder. Whoever commits culpable homicide not amounting to murder shall be punished with imprisonment for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine11.

- **Section 307 of Indian Penal Code:** Attempt to Murder. 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, shall be punished with imprisonment of either description for a term which may extend to ten 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 to such punishment as is hereinbefore mentioned. When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.12

- **Section 323 of IPC Punishment for voluntarily causing hurt.**—whoever voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.13

- **Section 325 of IPC Punishment for voluntarily causing grievous hurt.** Whoever, except in the case provided for by section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.14

These punishments which are provided above will only be applicable for a group of people in mob lynching. These punishments have to be read with the sections provided below.

10 Section 302 Indian Penal Code,1860
11 Section 304 Indian Penal Code,1860
12 Section 307 Indian Penal Code,1860
13 Section 323 Indian Penal Code,1860
14 Section 325 Indian Penal Code,1860
✓ **Section 34 of IPC.** This section defines common intention. When a criminal act is done by several persons in furtherance of the 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.  

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✓ If a mob committed murder, then this section will make all the person that was part of the mob will be committed with the section of murder with this section.

✓ **Section 141 of IPC:** This section deals with unlawful assembly. An assembly of five or more persons is designated an “unlawful assembly”. If an assembly commits any wrong to anyone, they all will come under this unlawful assembly and will be prosecuted with the punishment.  

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✓ **Section 149 of IPC:** Every member of unlawful assembly guilty of offence committed in prosecution of common object.—If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.  

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✓ If there is a common objective of a mob for example a mob with common object of punishing the cow traders will come under this section.

✓ **Section 147 and 148 of IPC:** In this section, rioting and its punishment is defined. 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.  

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✓ **Section 120B of IPC:** criminal conspiracy if a group of people conspire to commit an offence punishable with death or imprisonment will be liable under this section.  

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15 Section 34 Indian Penal Code,1860  
16 Section 141 Indian Penal Code,1860  
17 Section 149 Indian Penal Code,1860  
18 Section 147 and 148 Indian Penal Code,1860  
19 Section 120B Indian Penal Code,1860
CHAPTER-2

MAJOR ISSUES AND CONCERNS IN THIS MATTER:

1. COW SLAUGHTERING:

One of the main significant cases to be noticeably canvassed by the media as of late was the 2015 homicide of 52-year-old Mohammad Akhlaq. A furious swarm blaming Akhlaq for eating hamburger hauled him out of his home in Bishara, a town close to the city of Dadri in the territory of Uttar Pradesh, and beat him to death. The assault occurred after the nearby Hindu sanctuary reported on its open location framework that a cow had been butchered.

The slaughtering of Akhlaq pulled in media consideration and far reaching judgment from political gatherings aside from the decision Bharatiya Janata Party (BJP). For over seven days Prime Minister Narendra Modi kept quiet over the episode and even after he talked about it, he didn't censure it by and large. BJP authorities continued considering it a mishap and a consequence of the authentic resentment of the Hindus over the butchering of a dairy animals.

2. JUNAID KHAN’S LYNCHING

The casualty Junaid khan was squeezed on a prepare. Junaid with his two siblings was coming back from Delhi in a prepare in the wake of looking for Eid. They had a contention with a few people over the seat yet soon the activities transformed into calling them "mullahs" and "against national", someone was pulling their facial hair somebody was playing with their top. At that point all of a sudden a parcel in Junaid's pocket was named as hamburger and now being named as meat eater Junaid and his siblings were in a bad position, then a few men hauled out blades and wounded them. Junaid capitulated to the wounds.

2. FRIGHTENING UNDERGROUND HATE CAMPAIGNS:
On the off chance that we discuss any swarm lynching act's sudden incitement inside a base timeframe it must be conceivable to get a sudden start by the underground loathe battles. These despise crusades work finely in their business to simply incite the general population to act in these unsafe and simply these unlawful demonstrations.

The little gathering of individuals endeavor to simply incite the Hindu and in addition Muslim populace against one another. In the event that we could state that the Britishers assumed an essential job in the arrangement of start against Hindu and Muslims by utilizing feelings and conventions, these individuals are no place not the same as the Britishers.

These gatherings empower different disdainful convictions about Muslims: that they are "dairy animals eaters", a danger to Hindu ladies, and individuals from dread sleeper cells. They spread outrageous feelings of dread that the Muslim populace is developing and will dwarf Hindus in India.

D.S.P. AYUB PANDITH'S LYNCHING

This occurrence of lynching was finished by a swarm outside Jama Masjid in Nowhatta, Srinagar. On June 22, a crowd raising expert al-qaeda and genius Pakistani trademarks lynched DSP Ayub outside Srinagar's Jama Masjid on the holiest night for Muslims amid Ramzan, Shab-e-Qadr. The multi year old DSP was conveyed to watch out for the aficionados who sought blessing night-long supplications, which were driven by Kashmiri Separatist Mirwaiz Umar Farooq, who was additionally the overseer of the Mosque. Around midnight a group began sloganeering for Pakistan and Al-Qaeda agent Zakir Musa. DSP Ayub who was in common attire, began making video of the general population sloganeering. The horde on observing this came to him with clenched hands. DSP Ayub got his administration pistol and shot 3 slugs beneath the waistline however was overwhelmed by the swarm. The swarm stripped him and hit him with sharp weapons and stones until death.

3. POLITICAL CLASS THE MUTE SPECTATORS
Rather than making a move against the culprits to stop the risk, the disguised help is helping them turn out to be simply more forceful over the Gangetic fields and past. There is no denying that the state apparatus like police and examination divisions have been express one-sided in giving equity to the casualties of lynching and abhor wrongdoings.

Prior this year a gathering of 67 noticeable resigned authorities having a place with the nation's world class common administration frameworks composed an open letter to Prime Minister Narendra Modi requesting that he take genuine measure against the expanding instances of swarm lynching. "We look for now and immediately an unmistakable reaction from the Honorable Prime Minister and his legislature on these issues", they said.

*AFRAZUL LYNCHING, 2017*

On sixth December, a video from Rajasamand, Rajasthan surfaced on the web in which Mohammed Afrazul was ruthlessly whipped and afterward set on fire in the wake of pouring oil on his body. He was executed due to love Jihad. The blamed Shambhulal Regar was totally unremorseful for the offense and expressed that he needs to murder Hafiz Saeed in a similar way. The video was taken by his 14-year old nephew.

<table>
<thead>
<tr>
<th>State</th>
<th>Mob Violence Related To Child Lifting Rumours</th>
<th>Deaths In Mob Lynchings Related To Child-Lifting Rumours</th>
<th>Ranked As Per Number Of Child Abductions Recorded In NCRB Data</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Bengal</td>
<td>4</td>
<td>3</td>
<td>5</td>
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<tr>
<td>Tripura</td>
<td>3</td>
<td>3</td>
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<td>Telangana</td>
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<td>Tamil Nadu</td>
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<td>Rajasthan</td>
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<td>10</td>
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<td>Odisha</td>
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<td>13</td>
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The victims were mistreated on mere suspicion and no proof of kid lifting was found later. Mob lynching was made an issue of pride that people punishing those who were suspected to be child lifter and shared taking videos on watsapp and their work were celebrated by common public.

2. WOMEN HARRASMENT –

✓ ZAFAR KHAN VS. STATE ON 22 AUGUST, 2017

A 44-year-old man died in Rajasthan’s Pratapgarh Friday after being purportedly assaulted by the native civic body chief and three other municipal council employees engaged in the Swachh Bharat operation after he objected to them taking photographs of women defecating in the open, said police. “We have wedged an FIR under IPC section 302 (murder) against Nagar Parishad Commissioner Ashok Jain and municipal employees Kamal Harijan, Ritesh Harijan and Manish Harijan following a complaint by the family of Zafar Hussain, 44, who died on Friday morning after an purported assault by these government employees,” said Pratapgarh Station House Officer Mangi Lal Bishnoi. Jain has denied the charges.

The FIR was recorded on a complaint filed by Hussain’s brother Nur Mohammad. “Some women… were defecating in open today at around 6-6:30 am near our Kuttchi Basti Mehtab Shah colony, when the Nagar Parishad commissioner’s car reached the spot, along with Kamal, Ritesh and Manish and others. The men

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20 Ibid, 17
21 Ibid
started taking pictures of the women,” the complaint stated. “My brother Zafar… asked them not to click photographs but the men started assaulting him with lathis, and punched and kicked him. He fell and died on the spot. All the people present at the spot, including the women, can identify the men who killed my brother,” said.²²

It is the need of hour to stop mob lynching, though the person who has been lynched is accused than too we cannot violate his right to live and sometimes mob lynching occur as just an outcome of rumours. These type of acts of public is decreasing the degree of humanity in people because it is not really the accused but rumours.

³. RELIGION AND CASTE-

We see lynching cases stated above that show that caste and religion is one of the reason behind mob lynching as in case March 2016 (Jharkhand)Two Muslim traders were taking their cattle to animal fair. Due to this reason mob lynched and hanged the traders. ²³

Even political parties get benefit out of it they play with religion and pure feeling of people toward humanity. Dalit’s who were not allowed to visit temples can visit now but some head strong people with a feeling of upper caste and lower caste try get over them by just a reason of them being in majority at the moment and that mob mistreat them leading to mob lynching which is punishable in different provision of IPC but nowhere specifically stated. We can generally as common man can observe these things how these two weapons are played with. Mob lynching is indirectly dividing people on the basis of caste, religion etc.

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²³ Ibid 12
CHAPTER 3

COMPARATIVE ANALYSIS

✓ IN FAVOUR

1. A certain law

To put special control over the crime of mob lynching and massacre the need of hour is to have a separate category of crime under a special law, in form of mob lynching and mass execution. After a particular act comes in the legal world it would be better for the judicial body as well to give the proper judgment without any uncertainty.

2. Prescribe the role of police

A new specific law would also prescribe the duties and disciplinary work to the police as they would be liable for the offence they do after the breach of their duty which is to prevent the mob lynching at the right time. Also it would make easier for the police as well as they could act more quickly against any mob just by realising particular law for those acts and after which they could instantly arresting them.

3. Fast-Tracking and Monitoring

Under the Indian Penal Code we have various subjects of offences spread through the list of acts by a person such as offences against abetment, offences against murder offences relating to religion and so on, we should also include offences against lynching as it very well qualifies to be included in the Indian Penal Code along with the other offences. Not a doubt it is a new trend of offence but if the law itself ignore the offence the people would not be aware that such crime exist in the books of law. One day someone might as well claim that he is not aware that lynching is a crime and would plead for innocence. Therefore it would be better for the judiciary to track the law.

✓ IN OPPOSE

Even as things stand, lynching is hot, and anyone concerned in them has committed a criminal offence. The “reasons” behind the killings – child-lifting rumours, cattle-smuggling – that’s all moot. It doesn’t matter notwithstanding the mob was right – despite who the victims were, no one will take the law into their own hands.

And the law already has provisions to deal with mob killings.
The crime of murder (Section 302, Indian Penal Code), read with common intention (Section 34) or conspiracy (Section 120B), can be used to charge the entire mob, not just whoever lands the fatal blow.

If the victim doesn’t die, you could use charges of rioting, unlawful assembly or attempt to murder. All of these charges apply even if the mob didn’t originally intend to kill the victim.

Adding a new offence of mob killing or mob lynching to the IPC, as the government is apparently planning, doesn’t therefore change very much.

Coming up with a law could also very easily just become a quick-fix solution that confuses everyone from the root causes behind the killings, and why the killers are able to act with liberty. One also has to be careful with the drafting, to avoid any ambiguities or nebulousness.

Now, one might say that it is definitely because there is something more to these lynching’s, that a new law is needed. One of the most horrifying aspects of the lynching in India has been the way in which the mob proudly records the killings, shares them online, and boasts of its achievements, just like Shambhulal Regar did when he killed and burnt Mohd Afrazul.\(^{24}\)

The offence of mob lynching needs steady control; otherwise the cost can be very serious. The present provisions in different laws seem compatible on paper to control these heinous crimes, but practically these laws have disastrous on many aspects. So, we need to have a special law which deals with the different aspects related to the offence of mob lynching specifically.

ORDER OF SUPREME COURT-

The Supreme Court on Tuesday asked the Parliament to contemplate making a replacement penal provision to influence incidents of law enforcement, oral communication that mobocracy can't be allowed in society. The bench headed by jurist of Republic of India Dipak Misra decried cases of murder and cow law enforcement. “No subject will take law into his hands nor become law unto himself,” the bench aforesaid. The court additionally planned a collection of preventive, remedial and correctional measures to curb instances of murder. These embody special courts to conduct the trial in such cases, a compensative theme with provision for interim relief for victims and their kin, and tight disciplinary action on the far side what's counselled in commission rules for officers who don't influence murder incidents properly.

The circumstance has got so bad that the Supreme Court has had to pass a judgment on it, in which it noted:

The horrendous acts of mobocracy cannot be permitted. Earnest action and concrete steps have to be taken to protect the citizens from the recurrent pattern of violence which cannot be allowed to become “the new normal”. Chief Justice Dipak Misra’s judgment in Tehseen Poona Wallavs. Union of India. Now the Supreme Court believes that Parliament needs to make a new law to deal with lynching, to instil a “fear of the law” in would-be Lynchers.

25 (2018) 6 SCC 72
26 Ibid, 20
CONCLUSION

Life is a very precious thing and it is the duty of the government and the nation itself to provide the safe life to each and every individual within the country. The Constitution of India puts a liability on the state to protect the lives of all the people under Article 21 of the Constitution. But, the recent increasing incidents of mob lynching and the incidents of massacre are a challenge to the government. These crimes need to be curbed to protect the democracy of the nation.

Therefore, in this research paper we have discussed about the concerns and legislation which is required for the prevention of mob lynching. So basically mob lynching is a serious crime which is growing at an alarming rate and thus we require special laws to address the offence of mob lynching and massacre. And the ordinary law of the nation are not practically sufficient to control the offences of this nature.

From the initial case of lynching observed in the Kherlanji massacre we have observed a number of lynching cases today. It is becoming a normal trend for Indians to lynch somebody whom they feel is wrong and have hurt the sentiments of the populace. Are the people against the actions of the administration where they feel taking law into their own hands is a better decision; we cannot wrap up what exactly the people have in mind. Encouraging a person to involve in lynching is also one of the main reasons for brutal lynching to take place. In the month of June 2017 we have observed 5 cases of lynching where it proves that there is a public disorder in the society today.

People are furious for a reason further turning them barbarous even the innocent will be encouraged to involve in the lynching. It is high time that the Indian legal system includes lynching as a grave crime and those involved in it to be punished severely. The people have to be made aware and educated that lynching is a serious crime. Awareness drive or campaigns such as the ‘Not in My Name’ should be encouraged by the civilians. Infrastructures have to be improved in police stations and jails and it would be great to have a separate professionalized team with all the proper equipment’s needed in events of lynching all over the states of India.

We should also remind the people that India is not Hindus alone it belongs to all the citizens of India belonging to Muslims, Sikhs, Jains, Buddhists, Christians as well, we are a secular nation and “Unity in diversity is our nation’s strength”.


Indian Penal Code 1860