



MOB LYNCHING- A GROWING MENACE

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ABSTRACT

The word 'lynching' has been in the news for a while now in India. In simple words, it means killing of a person without legal approval. Past few years have seen a massive spate in the incidents of mob lynching in India. Recently, 49 famous personalities have written to Prime Minister Narendra Modi to take measures to curb the growing incidents of lynching in the country. First incident of lynching which drew widespread attention was killing of Mohammed Akhlaq by cow vigilantes in suspicion of cow slaughter. Number of such incidents has been soaring since then, with reasons ranging from suspicion of victim's indulgence in cow slaughter, or of being a child lifter to his denial of chanting slogans pertaining to a particular community. In the absence of enough penal provisions, there's a threat that the perpetrators may go unpunished in several cases, and more so in the cases of where perpetrators are a large group of people. Despite the Hon. Supreme Court's judgement in favour of enacting anti lynching law, the State has not yet done much in this regard. This paper discusses the causes of rise in such incidents and also whether there's a need for anti lynching laws in the

country. The paper also discusses anti lynching laws enacted by certain states like Manipur and Rajasthan and the extent to which they address the issue.

INTRODUCTION

DEFINITION & HISTORY OF MOB LYNCHING

Lynching, a form of violence in which a mob, under the pretext of administering justice without trial, executes a presumed offender, often after inflicting torture and corporal mutilation. In common parlance lynching occurs when a group of people has pre-conceived notion that the person has committed a crime and punishes such person without any judicial trial or conviction.

Although the origins of the word 'lynching' are not very clear, it's widely attributed to a late 18th century Virginia court judge named Charles Lynch, who was known to have regularly imprisoned British loyalists without a trial. Because they were never given a trial, and he didn't have the authority to imprison them, the practice became known as 'lynching'.¹

Lynching is sometimes justified by its supporters as the administration of justice can be done (in a social-moral sense, not in law) without the delays and inefficiencies inherent to the legal system. Victims of lynching have generally been members of groups marginalized, backward or vilified by society. Examples of lynching include public hangings, tarring and feathering, or other forms of extreme punishment or execution performed in public.

¹ "Lynching", New World Encyclopedia-

<
<https://www.newworldencyclopedia.org/entry/Lynching>
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2. ANALYSIS OF LYNCHING INCIDENTS IN OTHER COUNTRIES

USA

Before the American Civil War 1861-1865, people who used to oppose slavery were lynched commonly by white southerners. In the United States, lynching was often motivated by feelings of white supremacy, which is the belief that white people are superior to other races. It continued to happen even after the abolition of slavery system and end of the civil war. More than 4,743 people were lynched in United States between 1882 and 1968. Undoubtedly, there must be many unrecorded incidents of lynching occurred during this period. During Reconstruction Era, the Ku Klux Klan and other white supremacists used lynching as a means to curb what they viewed as excesses within the Radical Republican Reconstruction government.² Black people were lynched by these groups on false accusation which includes gambling, theft and even raping white women. With the end of Reconstruction in 1876, white southerners regained nearly exclusive control of the region's governments and courts. Lynching declined, but were by no means brought to an end. This type of racially motivated lynching continued in the Jim Crow laws (late 19th century)³. According to these laws, Blacks

couldn't use the same public facilities as whites, live in many of the same towns or go to the same schools. Interracial marriage was illegal, and most blacks couldn't vote because they were unable to pass voter literacy tests. These laws were brought as a way of enforcing subservience and preventing economic competition, and into the twentieth century as a method of resisting the civil rights movement (1950-1960).

ANTI LYNCHING LAWS IN USA

After centuries of failed attempts, US Senate finally passed a legislation on December 2018, to combat such despicable mob violence making it a federal crime. USA was first country who came up with an Anti-Lynching Laws. Similar bills have been introduced to congress for centuries, but always failed. Congress passed **The Justice for Victims of Lynching Act** unanimously.⁴ According to this Act Lynching is defined as "as an act that willfully cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person" - as a federal hate crime.⁵ The law also says that "if two or more people are convicted of killing someone because of their actual or perceived race, color, religion, or national origin, they can be sentenced to jail for their lifetime." And if the lynching leads to bodily harm then 10 years of imprisonment is to be imposed.⁶

² ibid

³ "Civil Rights Movement", History.com (oct 27, 2009)

<<https://www.history.com/topics/black-history/civil-rights-movement>>

⁴ "Senate Unanimously Passes Bill Making Lynching a Federal Crime", The New York Times (Dec. 20, 2018)

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<https://www.nytimes.com/2018/12/20/us/lynching-federal-hate-crime.html>>

⁵ "S.3178 -Justice for Victims of Lynching Act of 2018 115th Congress (2017-2018)"

<<https://www.congress.gov/bill/115th-congress/senate-bill/3178/text>>

⁶ Ibid



Under the bill, lynching could be punished by a sentence of up to life imprisonment.

NIGERIA

Mob Lynching in Nigeria is popularly referred to as Jungle justice. Though there are no official statistics on the prevalence of Mob Violence, it can be apparently seen in Media's regular reports. A 2014 survey revealed that 43% of Nigerians had personally witnessed a lynch mob attack. Despite some Nigerian vigilante groups holding the potential for success, this jungle justice clearly poses a threat to the rule of law and due process.⁷ The brutality of the methods used, and the fact that victims may be innocent and merely in the wrong place at the wrong time, has led to widespread condemnation. But the perpetrators are rarely arrested and prosecuted. In fact, security officials themselves are sometimes implicated in extrajudicial killings. Alleged offences that draw mob lynching in Nigeria range from serious crimes such as murder, armed robbery, rape and kidnapping to petty theft, homosexuality, blasphemy and even witchcraft.

Anti Lynching law in Nigeria

In 2017, a Bill was introduced in the Nigerian parliament which aimed to change the act of extra judicial killing. The anti-mob lynching act recently passed its second reading in the Senate. It now needs to clear a third reading before being signed off and passed into law. The nature of mob violence can make it difficult to charge offenders under the laws that cover murder and assault.

⁷ "Nigeria set to pass a law against mob lynching.", The Conversation.com (December 5, 2017)

< <http://theconversation.com/nigeria-set-to-pass-a-law-against-mob-lynching-will-it-make-a-difference-87890>>

The [new bill](#) seeks to change that. It defines lynching as: **Three or more persons acting in concert for the purpose of depriving any person of his life without authority of law as a punishment for or to prevent the commission of some actual or supposed public offence.**

Alongside lynching, the bill covers mob action that results in severe bodily harm, and riotous assembly causing destruction of property. A person found guilty of instigating any of these three criminal offences will be punished by imprisonment for life or not less than 25 years. The bill stipulates that a security officer who fails to make reasonable efforts to prevent an attack, or to apprehend a perpetrator, will be punished by up to five years imprisonment or face a fine of up to USD\$1400. A security officer who takes part in, or conspires to an extrajudicial attack, would be guilty of a capital offence. Those who have failed at prevention would be subject to dismissal and 15 years imprisonment. These punishments could act as an excellent deterrent. However, the success of the bill will depend on police and judicial implementation.⁸ A legal system unable to deal with crime resulting in jungle justice may be unable or unwilling to prosecute the latter. Nevertheless, the emphasis on security officer complicity is promising, and formal recognition will allow tracking and prevention.

3. MOB LYNCHING IN INDIA

OVERVIEW

⁸Ibid



In the recent past, India has witnessed a massive surge in the incidents of mob lynching, especially in northern states like Rajasthan, Uttar Pradesh, Madhya Pradesh, Bihar etc. In foreign countries, mob lynching is mostly centered on racial and nationality issues, but in India the incidents of Lynching have largely been attributed to religion, caste and rumor mongering. The anguish against this recent mob violence has been palpable among a large section of the citizenry.

The rising incidents of lynching in the country have largely been termed a result of rising right wing extremism mostly after the Bhartiya Janata Party (BJP) came into power in 2014. According to data collected from media reports by Factchecker.in, a website that is tracking crimes based on religious hatred in India, Tabrez Ansari's death in June 2019 takes the total number of such incidents in the country since the present government came into power to a staggering 266. In most cases, victims have been found to be Muslims and Dalits who are lynched by cow vigilantes in suspicion of storing and indulging in cow slaughter by them. Innumerable incidents of lynching have also happened as a result of victims being mistaken as child lifters, thieves, etc. Others being targeted include migrants, mentally challenged people, nomadic and denotified tribes, etc.

INCIDENTS OF LYNCHING IN INDIA

The recent spate of lynchings in India has left the country shocked.⁹ Following are a few of

such incidents which shook the country's conscience :

Dadri mob lynching-First major incident was reported in the year 2015 on September 28 where a 52 year old man, Mohammed Akhlaq was lynched by a mob of local villagers who suspected him of stealing and slaughtering cows. Since then, number of such incidents has only grown, cow vigilantism being the most common reason for it.

Dhule lynching case-The incident took place on July 1, 2018 at Rainpada village, 25 kms from Pimpalner in Dhule district of Maharashtra where 5 men were lynched on suspicion of being child lifters.

Alwar lynching case-On April 5, 2017, Pehlu Khan, a dairy farmer in Nuh district of Haryana was lynched by a group of 200 cow vigilantes in suspicion of being a cow smuggler at Ramgarh in Alwar district of Rajasthan. Six others who were with Pehlu Khan were also beaten by the mob.

Junaid lynching case-On June 22, 2017, 16 year old Junaid Khan was stabbed to death on a Delhi – Mathura train after an argument between two groups over seats turned ugly.¹⁰ The Punjab and Haryana High Court in its order granting bail to one of the accused observed that the initial dispute between the victims and the accused was only regarding the seat sharing and abuses in the name of castes and nothing more. The court also observed that there is also no evidence of any preplanning to cause the incident deliberately or intentionally or to create disharmony.

⁹ Mob lynching : 7 instances which shook India (21-07-2018)

< <https://www.dnaindia.com/india/report-mob-lynching-7-instances-which-shook-india-2639925> >

¹⁰ Junaid Khan lynching: Fight started over seat, caste abuses, says Punjab and Haryana High Court

< <https://indianexpress.com/article/cities/delhi/junaid-khan-lynching-fight-started-over-seat-caste-abuses-says-punjab-and-haryana-high-court-5140058/> >



Hapur lynching case-Qasim (45) and Shamiuddin (65) were thrashed by a mob on rumours of their involvement into cow slaughtering. The incident hogged headlines when a video showing both lying in a pool of blood and men from the mob shouting at them for facing the punishment for attempting cow slaughter surfaced.

Guwahati lynching case -In June 2018, two men were lynched by a mob in Nagaon district of Assam after they were suspected of being cattle thieves. This was first incident of cow vigilante violence in the state of Assam.

West Bengal lynching case-On June 26, 2017, three youth belonging to the Muslim community were lynched in Durgapur village, West Bengal by a mob of cow vigilantes over suspicion of cow theft.

Ayub Khan lynching case-On June 23, 2017, Mohammed Ayub Pandith, a Deputy Superintendent of Police (DSP) of Jammu and Kashmir police was lynched by an angry mob after he allegedly opened fire at a group of people who caught him clicking pictures near the mosque.

Jharkhand lynching case-On June 2, 2019, a viral video did rounds on social media in which a young Muslim man was tied up, bleeding profusely all over his body, hand folded, was being lynched by a mob they forced him to chant 'Jai shri Ram' and 'Jai Hanuman'. The man was later identified as 24 year old Tabriz Ansari and was accused of stealing a motorcycle. The victim died as a result of injuries he suffered in the assault. The investigation revealed that negligence on the part of police and doctors' lapses lead to his death.

CAUSE ANALYSIS

COW VIGILANTISM : The present government has repeatedly been accused by the opposition of giving a free hand to right wing outfits and of the oppression of minorities and Dalits. Most lynchings have been found to be perpetrated by mobs affiliated to Right wing Hindutva organisations accusing the victims, who are Muslims in most cases, of indulging into cow slaughter. It is primarily due to the fact that cow is considered holy among the Hindu community. Though cow slaughter in India is banned in around 20 states (out of total 29), illegal cow slaughter is prevalent in most states.

INACTION OF GOVERNMENT AUTHORITIES : The government did not take immediate actions to tackle the issue and remained a mute spectator while the incidents of mob lynching across the country continued to soar. Even after the Supreme Court judgement of July 2018 in which the apex court asked the parliament to enact a separate law to tackle lynching, no central law has been enacted or even proposed regarding the same. Only few states like Manipur and Rajasthan have enacted anti lynching laws as of yet.

ROLE OF SOCIAL MEDIA : A large number of mob lynchings have been found to have resulted because of rumour mongers and fake messages spread through social media and messaging platforms like Facebook and WhatsApp. ¹¹Mental Health experts say that people tend to believe messages sent through platforms like WhatsApp as they usually are sent by a

¹¹ Death by Social Media (02-08-2018)

<
<https://www.livemint.com/Politics/jkSPTSf6IJZ5vGC1CFVyzI/Death-by-Social-Media.html> >



trusted source. “As a result, doubts regarding the credibility of the source of the messages tend to get diluted. And therefore we are inherently more likely to not think of rejecting the content of the message as being false or inauthentic,” says Sameer Parekh, Director of Department of Mental Health and Behavioural Sciences at Fortis Healthcare. Rumour mongering has increased exponentially because of easy accessibility of social media platforms nowadays.

4. NEED FOR ANTI LYNCHING LAW

The incidents mentioned above are only few of those occurred in the recent past. The National Campaign Against Mob Lynching (NCAML) had initiated a campaign for a law against mob lynching in 2017. Also known as ‘Masuka’, short for Manav Suraksha Kanon (law to protect humans), a draft of the proposed legislation is since then up on the Internet, awaiting suggestions from the public.

¹²The primary argument of the activists and lawyers advocating an anti-lynching law is that it fills a void in our criminal jurisprudence. It is true that at present there is no law that criminalises mob killings. The Indian Penal Code has provisions for unlawful assembly, rioting, and murder but nothing that takes cognisance of a group of people coming together to kill (a lynch mob).

It is possible, under Section 223 (a) of the Criminal Procedure Code (CrPC), to prosecute together two or more people accused of the same offence committed in the course of the “same transaction”. But the

provision falls far short of an adequate legal framework for prosecuting lynch mobs.

The NCAML’s draft Protection from Lynching Act, 2017 defines, for the first time in Indian legal history, the terms ‘lynching’, ‘mob’ and ‘victim’ of mob lynching. It makes lynching a non-bailable offence, criminalises dereliction of duty by a policeman, criminalises incitement on social media, and stipulates that adequate compensation be paid, within a definite time frame, to victims and survivors. It also guarantees a speedy trial and witness protection.

The Supreme Court too in its July 2018 order emphasised the need for an anti lynching legislation and observed “The law may not be able to make a man love him, but it can keep a man from lynching him.”

Thus, recognising this need, a few states have initiated the process of bring such a legislation. In December 2018, Manipur became first Indian state to pass a law against mob violence. Subsequently, Madhya Pradesh approved changes to its Anti cow vigilantism law to curb mob violence by cow vigilantes in June 2019 and Rajasthan Assembly passed anti mob lynching bill in August, 2019. The Uttar Pradesh Law Commission has also submitted a draft bill recommending punishment up to life imprisonment for persons accused of mob lynchings in July 2019.

5. SUPREME COURT JUDGEMENT

¹² Showing the way : on Manipur’s Anti lynching law – The Hindu (17-01-2019)

< <https://www.thehindu.com/opinion/lead/manipur-shows-the-way/article26007016.ece> >



The Supreme Court in July 2018, *Tehseen S. Poonawalla v. Union of India & others*¹³ judgement condemned the increasing number of incidents of mob lynching as “horrendous acts of mobocracy” and asked the Parliament to enact a law establishing lynching as a separate offence with punishment. The three judge bench led by the then Chief Justice of India Dipak Misra helps that it was the obligation of the state to protect citizens and ensure that the ‘pluralistic social fabric’ of the country holds against mob violence. The court also observed that the growing numbness of the ordinary Indian to the frequent incidents happening right before his eyes in a society based in rule of law is shocking. The government should see the judgement as a ‘clarion call’ in a time of exigency and work toward strengthening the social order.

The apex court also gave a slew of directions including preventive, remedial and punitive measures to deal with the crime.

- The state governments shall designate a **senior police officer** in each district for taking **measures to prevent incidents** of mob violence and lynching.
- The state governments shall **immediately identify districts**, sub-divisions and villages where instances of lynching and mob violence have been reported in the recent past.
- The **nodal officers** shall bring to the notice of the DGP **any inter-district co-ordination issues** for devising a strategy to tackle lynching and mob violence related issues.
- It shall be the **duty of every police officer** to cause a mob to disperse, which, in

his opinion, has a tendency to **cause violence** in the disguise of vigilantism or otherwise.

- Central and the state governments **should broadcast** on radio and television and other media platforms including the official websites that lynching and mob violence shall **invite serious consequence**.
- **Curb and stop dissemination** of irresponsible and explosive messages, videos and other material on various social media platforms.
- **Register FIR** under relevant provisions of law against persons who disseminate such messages.
- Ensure that there is **no further harassment of the family members** of the victims.
- State governments shall prepare a **lynching/mob violence victim compensation scheme**.
- Cases of lynching and mob violence shall be specifically tried by **designated court/fast track courts** earmarked for that purpose **in each district**. The trial shall preferably be concluded **within six months**.
- To set a stern example in cases of mob violence and lynching, the trial court must **ordinarily award maximum sentence** upon conviction of the accused person.
- If it is found that a **police officer or an officer** of the district administration has **failed to fulfill his duty**, it will be considered as an **act of deliberate negligence**.

MANIPUR ANTI LYNCHING LAW

¹³ Tehseen S. Poonawaala v Union of India and others, Writ Petition(CIVIL) No. 754 of 2016, S.C.C (India)

<<http://www.indiaenvironmentportal.org.in/files/mob%20lynching%20Supreme%20Court%20Judgement.pdf>>



Soon After the supreme court judgement , Manipur became the first state to pass a remarkable law against lynching. It did this after an incident which stirred the whole state wherein a Muslim youth with an MBA degree was lynched and brutally beaten to death on mere suspicion of vehicle theft¹⁴. Soon after the horrific incident The Manipur Assembly has passed **The Manipur Protection from Mob Violence Bill, 2018**¹⁵ against the so called ‘Mob Justice’ to counter and punish such people who take law in their hands. The bill recommends life imprisonment for those involved in mob violence, if it results in the death of a person. The Manipur law closely follows the Supreme Court’s prescriptions and introduced the anti- lynching law as per the guidance of Supreme Court. Some of the striking features of the bill are :

- It defines mob lynching as **“any act or series of acts of violence or aiding, abetting such act/acts thereof, whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity or any other related grounds.**
- The law makes offences of mob violence cognizable, non-bailable and non-compoundable
- The law states that if an act of mob violence leads to death of the victims, the offenders would be punished with rigorous life imprisonment and fine which may extend up to 5 lakhs.
- Anyone who creates hostile environment against people of the community who have been lynched will be punished with imprisonment of 6 months.
- It lays down the duty and responsibility of the State government to make arrangements for the protection of victims and witnesses against any kind of intimidation, coercion, inducement, violence or threats of violence.
- It calls for creating a nodal officer to control such crimes in every districts.
- The nodal officer has been mandated to form a special task force to procure intelligence reports about people likely to commit such crimes or have been previously engaged in such crimes
- The law provides for special courts and speedy justice.
- The law makes provisions to hold police officers accountable for failing to prevent lynching and make them guilty of dereliction of duty. Such officer (s) will be liable to punishment of imprisonment of one year, which may extend to three years, and with fine that may extend to Rs. 50000.
- The law mandates the state to formulate a scheme for relief camps and rehabilitation in case of displacement of victims, and death compensation.

MADHYA PRADESH LAW AGAINST COW VIGILANTISM

¹⁶The Madhya Pradesh assembly on July 17, 2019 passed the Anti Cow Slaughter Amendment Act, 2019 that ensures a jail

¹⁴ “Manipur: 26-year-old MBA student lynched over suspicion of being bike thief, 5 arrested”, India Today (September 15, 2018)< <https://www.indiatoday.in/india/story/manipur-26-year-old-mba-student-lynched-over-suspicion-of-being-bike-thief-5-arrested-1340851-2018-09-15> >

¹⁵ The Manipur Protection from MOB Violence Ordinance, 2018 < <https://manipur.gov.in/?p=14788> >

¹⁶ Madhya Pradesh passes law against cow vigilantism – India News (17-07-2019)



term of six months to three years and a fine of Rs 25,000-50,000 for those who are convicted for committing violence in the name of the cow.

According to the Anti-Cow Slaughter Act 2004, no one was allowed to transport cattle through Madhya Pradesh and a special permission from a competent authority was required by those who passed through the state while transporting their cattle. This created problems and many cases of cow vigilantism were reported.

The new Act has amended this provision and now it would be possible to transport cattle from Madhya Pradesh to outside the state with the permission from a competent authority.

INITIATIVE TAKEN BY UTTAR PRADESH LAW COMMISSION

¹⁷The Uttar Pradesh Law Commission has submitted a draft Bill recommending punishment up to life imprisonment for committing mob lynching. The chairman of the Commission, Justice (retd) AN Mittal, submitted the report on mob lynching, along with the draft Bill to Chief Minister Yogi Adityanath. The 128-page report has cited various cases of lynching in the state and recommended the immediate enactment of a law as per the recommendations made by the Supreme Court in 2018. The Commission said the existing laws were not sufficient to combat lynching and asserted that there

< <https://www.indiatoday.in/india/story/madhya-pradesh-passes-law-against-cow-vigilantism-1570569-2019-07-17> >

¹⁷ Lucknow : UP Law panel recommends life term for mob lynching crimes – India News (12-07-2019)

should be a separate law to tackle them. It suggested a punishment ranging from seven years in jail to life imprisonment for the offence.

The Commission suggested that the law could be called the '**Uttar Pradesh Combating of Mob Lynching Act**' and specified the responsibilities of police officers and District Magistrates, besides spelling out the punishment for failing in their duty. The panel said the law should also provide for compensation to the family of the victim for grievous injury or loss of life and property. There should also be provisions for the rehabilitation of the victims and their families, it said.

As per the available data from 2012 to 2019, 50 incidents of mob violence have taken place in Uttar Pradesh. Of around 50 victims, 11 have died. Twenty-five of these were cases of major assault, including those by cow vigilantes. The panel studied laws of different countries and states, and decisions of the Supreme Court while preparing the draft legislation. It suggested punishment for conspiracy, aid or abetment in such cases, as well as for obstructing the legal process.

LYNCHING LAW IN RAJASTHAN

There has been a spate in the number of cases of mob lynching in Rajasthan. The Rajasthan Protection from Lynching Bill, 2019 was introduced in the Rajasthan Assembly on July 30, 2019 and was passed on August 05,

< <https://www.indiatoday.in/india/story/lucknow-up-law-panel-recommends-life-term-for-mob-lynching-crimes-1567286-2019-07-12> >



2019. The bill has put forth a wide definition of lynching that includes “dietary practices” and “sexual orientation” as grounds for assault. Lynching has been defined as “any act or series of acts of violence or aiding, abetting or attempting an act of violence whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity.” It proposes setting up fast track courts, providing relief and rehabilitation measures, including free-of-cost treatment for victims, compensation, and establishment of relief camps. The bill also proposes the same level of punishment for conspiracy, abetment, aides or attempts to lynch.

¹⁸Under the new law, lynching offences will be tried by a sessions court and be cognizable, non-bailable and non-compoundable. A person who commits an act of lynching which causes the death of the victim will face rigorous life imprisonment and a fine of Rs1 lakh to Rs 5 lakh. In case of grievous hurt, the punishment will be jail up to 10 years and a fine of Rs 25,000 to Rs 1 lakh and for other injuries, the punishment is a jail term of up to seven years and a fine of Rs one lakh.

Obstructing arrest of the accused, creating hurdles in legal proceedings or threatening witnesses will attract a jail term of up to five years and penalty of Rs one lakh.

The law prescribes a procedure for the appointment of a coordinator at the state and

district levels as directed by the Supreme Court and witness protection. Mob lynching cases will not be investigated by an officer below the rank of a police inspector.

Under the law, the state government in consultation with the chief justice of the high court will also set up designated courts to hear mob lynching cases. Victims will get compensation as per the Rajasthan Victim Compensation Scheme and will be rehabilitated in case they get displaced because of a mob lynching incident.

CRITICAL APPRAISAL

Laws enacted by states like Rajasthan, Manipur etc. to combat mob violence closely follow the guidelines of the Supreme Court judgement on the issue. The legislations provide a comprehensive definition of lynching in addition to creating new offence against the police officials for dereliction of duty.¹⁹ This would prevent cases where police officials arrive late deliberately, watch crimes being under way without restraining the mobs, delay in taking injured to the hospital or collude with the accused to defend him. If police officials know that they could be prosecuted and punished for these crimes (which would also put them at a risk of losing their jobs), it is very unlikely that they would act in this manner. They would then prevent, or stop in their tracks, these hate crimes, and protect the victims. Earlier, no court could take cognisance of such offence except with previous sanction of the government but now

¹⁸ Rajasthan passes anti-mob lynching Bill, convicts to get life term | India news | Hindustan Times (05-08-2019)

< <https://www.hindustantimes.com/india-news/rajasthan-passes-anti-mob-lynching-bill->

[convicts-to-get-life-term/story-hKL0nK8CL5Iudh9hgOFszK.html](https://www.hindustantimes.com/india-news/rajasthan-passes-anti-mob-lynching-bill-convicts-to-get-life-term/story-hKL0nK8CL5Iudh9hgOFszK.html) >

¹⁹ ibid



no prior sanction is required to register crimes against public officials who fail in their duties to prevent hate crimes such as lynching. Moreover there are certain provisions for the compensation and rehabilitation for the victims and their families.

There are though, some shortcomings in these legislations. For instance solitary hate crimes have not been taken into consideration and these laws are only constricted to crimes committed by mob. Although there are provisions for solitary hate crimes like murder but most of them require intention to commit the offence as an essential ingredient which is difficult to prove in most cases of lynching. Secondly, these legislations also fall short of specific provisions to curb incitement and fake news on social media platforms which is one of the major contributors to mob violence. Also, though there are provisions for compensation and rehabilitation but they are not clearly defined in any of the legislations.

CONCLUSION

The Supreme Court on July 26 this year on hearing a Public Interest Litigation filed by Anti – Corruption Council of India issued notices to the Centre, National Human Rights Commission (NHRC) and the states seeking response on the allegation that directions in its July 2018 judgement have not been implemented. The government had formed a Group of Ministers (GoM) last year to deliberate on the incidents of lynching and make recommendations which was headed by then Home Minister Rajnath Singh and

would now continue functioning under present Home Minister Amit Shah.²⁰ A high level committee headed by Union Home Secretary Rajiv Garba submitted its report to GoM in September 2018, suggesting measures such as tightening of the law by inserting clauses in the Indian Penal Code and the Code of Criminal Procedure through parliamentary approval. After the Home Secretary's report, the Centre held a series of meetings with social media platforms and asked them to take concrete steps to take down content that fuelled rumours and contributed to lynching. In May and June of 2018, more than 20 people were lynched based on fake posts or rumours of child lifting floating on social media platforms. The National Crime Records Bureau (NCRB) does not maintain data with respect to lynching incidents in the country and it is counted among crimes like murder.

There's no doubt that the growing menace of mob lynching in the country needs to be curbed as soon as possible by bringing a central law against the same. The Supreme Court judgement provides good insights regarding the same and needs to be kept in consideration while framing such a law. The present laws existing in the IPC like murder require 'intention' as an important ingredient of the crime and thus fall short of adequacy for conviction in lynchings in many cases. This is because most cases of mob lynching are not premeditated or preplanned. The lynching of Junaid, for example was an originally seat sharing dispute and the victim and the perpetrators didn't even know each other before the incident. It is therefore

²⁰ Amit Shah to head group to combat lynching – The Hindu (29-07-2019)

< <https://www.thehindu.com/news/national/amit-shah-to-head-group-to-combat-lynching/article28750835.ece> >



essential that a separate law on mob lynching exists.

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