



## LYNCHING : A SNICKERSNEE'S STAB TO HUMANITY AND ORDER

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### Abstract

In India lynching in the name of cow vigilantism and fake WhatsApp forward may seem new to us but unfortunately its scope is wider than these two areas. We as a society have a dark history of other types of lynching which includes lynching in the name of interfaith relationship/ love jihad, inter-caste relationship, oppression towards so-called lower castes, Witch hunting, political opposition etc.

These paper tries to focus on what is Lynching, it is the reasons and why today is a problem in the limelight.

### Introduction

Lynching is defined as a form of violence or crime that is being done by a mob, under the pretext of administering justice without trial, to a particular individual and/or group of individuals by executing the presumed offender, often that are inflicting torture and corporal mutilation.<sup>1</sup>

Mob is the English word which means unrestrained or uncontrolled crowd. Lynching can be considered an Americo - Latin word, which means awarding the death sentence without any legal proceeding. That is, when a crowd loses their control and kills either an accused , or criminal person or

convict or guilty, or otherwise kills him in some other way, then it is being called Mob Lynching. In recent years, there have been many such incidents in India, especially in Rajasthan, western Uttar Pradesh, Madhya Pradesh, Bihar etc.<sup>2</sup>

Incident of Mob Lynching first came in the lime light after Dadri Lynch case and cases of Lynching has been seen rising since last 5 years.

The objective of this paper will be to inform and analyse what and how deep has snickersnee of lynching has stabbed our society and what measure have been taken by the government and the judiciary for the same.

### History of Lynching

Lynching is defined as a form of violence or crime that is being done by a mob, under the pretext of administering justice without trial, to a particular individual and/or group of individuals. by executing the presumed offender, often that are inflicting torture and corporal mutilation.

Similar types of legal lynching were seen during Tenth century England, where if the wrongdoer was unable to pay the BOT i.e. compensation to the injured party, the legal system would declare them as outlaws. The injured party or any other person was allowed by the law to chase and kill these outlaws.<sup>3</sup> Here, the crime and law unlike in general cases were not decided by the mob but the

<sup>1</sup> Article by Britannica **Lynching** MOB VIOLENCE WRITTEN BY: Geoffrey Abbott

<https://www.britannica.com/topic/lynching>

<sup>2</sup> Article on "Mob Lynching: A New Crime Emerging In Indian Society" by Nitya Nand Pandey

<sup>3</sup> 3. Keen, Maurice, *The Outlaws of Medieval Legend*. London: Routledge and Kegan Paul, 1961 &quot;The Nut Brown Maid.&quot; *The Oxford Book of English Verse: 1250--1900*. Ed. Arthur Quiller-Couch. Oxford: Oarendon, 1919. 1084.



punishment in both cases to the victim (in these cases, the guilty) is more or less identical.

This type of punishment would be called something that could be considered as non-ethical as the objective of any punishment is to reform the criminal and not to make him a kind, that avenges his own society, for the wrong done to him or her. For this very reason, in the late Fourteenth Century, England witnessed rise of many infamous group of outlaws like Foliviles and many other such outlaws who were feared and challenged the society that was established by rule of law.<sup>4</sup>

Incidents of Mob Lynching's where the mob took law and order to their hands were first reported in southern states of the United States and western states of the United States before the civil war.

These states were known as the slave states of The United States of America as, agriculture was the staple occupation of most of the white inhabitants living in these states. From 1882 to 1963, 4743 lynching cases were reported in the United States. In these number of lynched people, out of 4743 people 3446 people were blacks. The rest 1297 people were whites, who were lynched because: Either they supported the blacks to get freedom from slavery, or; stood against

lynching or ; were victims of domestic violence.<sup>5</sup>

### **Lynching in India**

There has been many Mob Lynching in the past , but the first case of Mob Lynching case in India that came into limelight was that of 2015 Dadri Mob Lynching Case.<sup>6</sup>

Here, a 50 year old man named Mohammed Akhlaq was brutally beaten to death by the mob and also making his son 22 year old Danish Akhlaq heavily injured. Now the obvious question as to why they were assaulted in such a manner? Why a crime of such barbaric in nature was done to that 50 year old man? The reason was for the rumours that were spread by the locals Akhlaq and his family was killing cows and storing Cow beef in their residence.<sup>7</sup>

After this incident, the police officer Anurag Kumar , who was investing this case said , "The Incident is shocking ,The Hindu Mob felt that they had a license to kill."<sup>8</sup>

Now after this heinous crime one may ask, what happened to those Dadri Lynch accused ,they were arrested after a charge sheet was filed , based on the testimonies from Mohammed Akhlaq's son, Danish Akhlaq and her daughter . Although while filing the charge sheet , the charge of criminal conspiracy to murder , under *section 120 A of the Indian Penal Code 1860* – was not

<sup>4</sup> Ibid.

<sup>5</sup> 4. Article by NAACP, "History of Lynching's" last visited 20<sup>th</sup> May,2021.<https://www.naacp.org/history-of-lynchings/>

<sup>6</sup> Article by Reuters, 'Protests held across India after attacks against Muslim' written by Tommy Wilkes and Roli Srivastava<https://in.reuters.com/article/india-protests/protests-held-across-india-after-attacks-against-muslims-idINKBN19J2C3>

<sup>7</sup>Article by BBC on, "Why India man was lynched over beef rumours" available at <https://www.bbc.com/news/world-asia-india-34409354>, last visited on 20 May,2021

<sup>8</sup> Article on Huffington Post "Dadri Beef Rumour: Hindu Mob Lynches Muslim Man Suspected Of Killing and Eating A Cow" by Rituparna Chatterjee [https://www.huffingtonpost.in/2015/09/30/beef-killing-up\\_n\\_8219828.html](https://www.huffingtonpost.in/2015/09/30/beef-killing-up_n_8219828.html)



included in the charge sheet.[8] According to Huffington Post, its absence in the charge sheet weakened the murder charges filed under *section 302 of Indian Penal Code*. But, 10 of the accused were already out of jail.

While granting Vishal Singh (One of the mob lynch accused) bail, Justice Pratyush Kumar stated that co-accused of this lynching case, which are: Saurav, Shivam, Gaurav, Puneet, and Arun had similar roles to that of the applicant, and they were granted bail by Allahabad High Court.

Henceforth the applicant Vishal Rana was also entitled to be released on bail on the ground of parity.<sup>9</sup>

Justice Pratyush Kumar further stated, “Without commenting on the merits of the case, I find it a fit case for bail.”<sup>10</sup>

#### Dadri Case accused on recent scenario

One of the accused of Dadri case, Rupendra Rana is contesting for the General Election from Noida on an Uttar Pradesh Navnirman Sena Ticket.<sup>11</sup>

Vishal Singh and 16 other accused were reported being seen seated in the front row of an Election Campaign that was held by Mr. Yogi Adityanath campaigning for Union Minister and chanting the slogan “Bharat Mata ki Jai”[11]

<sup>9</sup> Article on DNA on “Dadri lynching: Chargesheet rules out conspiracy angle in murder of Akhlaq” <https://www.dnaindia.com/india/report-chargesheet-rules-out-conspiracy-angle-in-dadri-murder-2159011>

<sup>10</sup>Article on wire on, “Allahabad HC Grants Bail to BJP Leader's Son Accused in Dadri Lynching Case” <https://thewire.in/law/dadri-lynching-bjp-mohammad-akhlaq>

<sup>11</sup> Article on TOI on “Accused in Dadri lynching to contest LS polls from Noida” by Anuja Jaiswal [http://timesofindia.indiatimes.com/articleshow/65925317.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](http://timesofindia.indiatimes.com/articleshow/65925317.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

The record doesn't stop here, on June 29, 2017 just hours after Prime Minister Narendra Modi condemned lynching under the veil of cow protection. A 45 year old man was brutally murdered by a hundred man strong mob in Jharkhand. Alimuddin Ansari aka Asgar Ali was allegedly carrying 200 kg's of cow meat in his van, when he was stopped by the mob who dragged him out of his van and trashed him so bad that he breathed his last at Rajendra Institute of Medical, Ranchi because of his severity of his injuries.<sup>12</sup>

Later a fast track court found that 11 person were found guilty in this case and sentenced them to life in prison. Days later when 8 of them got bail they were being greeted by Hazirabagh MP, Jayant Sinha whose photos were circulated in social media, in which the Hazirabagh MP, was seen honouring and garlanding the 8 convicts of the killing of the coal trader in this case.

One of the accused who died in jail was given the respect of a martyr and draped their corpse in tricolour. A respect of martyred soldier given to such convicts will not just act as a motivation for this criminals to do such crimes but also is a disrespect to the national flag.<sup>13</sup>

<sup>12</sup> Article on CJP on, “Victims of Gautankwad: Alimuddin Ansari” by Debroah Grey [https://cjp-org-in.cdn.ampproject.org/v/s/cjp.org.in/victims-of-gautankwad-alimuddin-ansari/amp/?usqp=mq331AQFKAGwASA%3D&amp\\_js\\_v=0.1#aoh=15891718987118&amp\\_ct=1589172087238&referrer=https%3A%2F%2Fwww.google.com&amp\\_tf=From%20%251%24s&ampshare=https%3A%2F%2Fcjp.org.in%2Fvictims-of-gautankwad-alimuddin-ansari%2F](https://cjp-org-in.cdn.ampproject.org/v/s/cjp.org.in/victims-of-gautankwad-alimuddin-ansari/amp/?usqp=mq331AQFKAGwASA%3D&amp_js_v=0.1#aoh=15891718987118&amp_ct=1589172087238&referrer=https%3A%2F%2Fwww.google.com&amp_tf=From%20%251%24s&ampshare=https%3A%2F%2Fcjp.org.in%2Fvictims-of-gautankwad-alimuddin-ansari%2F)

<sup>13</sup> Article on, “Draping Tricolour on Body of Dadri Lynching Accused an Insult to National Flag” by Gaurav Vivek Bhatnagar



Additionally, not just in democracy but in most forms of government a person associated with the government, is always seen by the people as their leader or as someone to be followed. Garlanding of such accused and convicts who are involved in mob lynching in the disguise of cattle protection can be rightfully designated as Gautankwad as Debroah Grey had rightfully stated in his article.

### **The Rising Numbers**

According to hate crime watch by factchecker, there has been 100 deaths reported due to lynching from 2009-2019, as on 3 August, 2019, which also excludes the 738 injured people which were being reported due to lynching crimes of the time period of 2009-2019.<sup>14</sup>

According to factchecker if the crimes victims were categorised on the basis of religion then it was recorded that, 59% of lynching were done to Muslims, 14% to Hindus and 14 % of Christians.

In terms of perpetration 59% of the share included Hindus, 12% as for Muslims and other 29% were unfortunately was unable to be traced. The crimes of Mob Lynching that occurred that occurred during the time period of 2009-2019(last data to be 3<sup>rd</sup> August, 2019): 27% of such crimes were due to Gau Raksha or Cow Vigilantism crime, 13% were due to interfaith relationship (talking about the infamous Love Jihad cases), 30% of the cases reported were unable to be traced for lack of prominent evidence, and remaining 9% were due to communal Clashes.

<https://thewire.in/law/draping-national-flag-on-body-of-dadri-lynching-accused-by-bisada-village-unconstitutional>

If we analyse the most number of cases on per year basis of last 10 years, in that case it was observed that out of the total 298 reported incidents of last 10 years about 270 plus cases (which is around 90% of the total cases) are being reported in the last 5 years (i.e.2014-2015) where: at 2015 - 30 cases were reported: at 2016 – 42 cases were reported; in 2017- 73 cases were reported; in 2018- 92 cases were reported.

Further adding to the analysis, if these hate crimes incidents are being classified according to the states in India run by different political parties, in that case: Bhartiya Janta Party (BJP) Government stands at top with 157 reported incident; followed by Indian National Congress (INC) Government with 40 reported cases; Janta Dal(United) + BJP stands at 18 ; Samajwadi party stands at 14 such reported incidents; Aam Admi Party run states have 11 such reported incidents ; All India Trinamool Congress stands with 10 such hate crime incidents; All India Anna Dravida Munnetra Kazhagam had 9 records; Peoples Democratic Party + BJP at 7 and rest 32 cases by other minor parties led states in India.

The reason behind stating this figure is to understand the significant number of reported incidents that are being done in those states, where the Bharatiya Janata Party Government is present even though they only have 11 out of 28 states under their control (according to Jagran Josh list of CM 2019 not to mention the garlanding of lynch accused

<sup>14</sup> p.factchecker.in all the figures stated above and discussions are made basis on accordance with this website



by Jayant Sinha and their presence in first row at the campaign of Mr Yogi Adityanath. While analysing these facts of reported lynching under BJP Government blaming the BJP Government alone cannot be justified according to Human Rights watch report (titled Violent Cow protection in India, page no. 6 stated, “instead of promptly investigating into the matters of cow protection attacks and prosecuting perpetrators, the police in at least a third of the reported cases have filed complaints against the victim.”

In another incident in Alwar Rajasthan, Rakbar Khan, a lynch victim was taken to the hospital that was only six km away from the spot of incident, they took three hours to transport him via ambulance and even stopping for a tea break in between while taking him to the hospital.

Such an attitude of irresponsibility and negligence while they are on duty is not what can be expected from a personnel who has been put in charge to ensure law and order. At the time when circumstances are such which requires their immediate response and selfless attitude towards the duty, they failed to do so.

When the Government promotes and system supports, it is very well expected that people will follow be it good or bad, what is now being witnessed by us.

While we analyse these incidents and analyse the wrongful acts and omissions done by some political leaders and police officers, there are police personnel like Anurag Kumar

who cannot be left out for his service in Dadri Lynch case.

Another such brave police officer was Subodh Kumar Singh who was attacked by a mob of 400 to 500 people attacking at Chingravati Police Chowki in Bulandshahr, Uttar Pradesh after carcasses of cattle were discovered in a nearby forest.

Inspector Subodh was shot by one of the members in the mob and another striking him with an axe taking away the life of this martyr. At the moment in the case concerned 30 people are arrested who were found having connection with the lynching incident. More than 70 people were identified and they were included in the FIR.<sup>15</sup>

**Law’s words on lynching:**

“The rule of Law can prevail only if people and institutions respect and follow the Laws” Observation of the Honourable Supreme Court on National Human Rights Commission v. State of Gujarat and others (2009) 6 SCC 342

To curb mob lynching case, the Honourable Supreme Court has taken preventive remedial and punitive measures in Tehseen S Poonawala case<sup>16</sup> which has been discussed further.

In this case a congress activist Tehseen S Poonawala has filed a PIL on 2018 regarding mob lynching, where a three judge bench was appointed which included CJI Deepak Mishra, Justice A Y Chandrachud and Justice A M Khanwilkar who regulated certain rules and procedures for the same.

<sup>15</sup> Ibid.

<sup>16</sup> Tehseen S. Poonawalla vs Union Of India on 17 July, 2018



First preventive measures:

If any minute chance of such heinous crimes should not happen.

To do so,

- The State shall designate a senior police officer not below the rank of Police Superintendent as nodal officer in each district.
- The Supreme court further stated that, the designated officers will set up a task force that is to be assisted by one DSP-rank officer for taking necessary measures to prevent mob violence and mob lynching.
- The Honorable Supreme Court further added that, the task force will gather intelligence reports on those people who suspected to commit such crimes or who are involved in spreading fake news, hate speeches, and provocative statement.

This can help the police to simplify and catch hold of culprits quickly having a substance message beforehand. Also they should mark the sensitive areas where incidents in the past or incidents are vulnerable to break out and also to ensure such incidents do not occur, by continuous patrolling of these vulnerable areas.

- The Nodal officers shall conduct regular meetings, and the frequency of these meetings are set to be at least once in a month, at most it can go to as many as it may require, but it is mandatory to have at least one meeting a month with the local intelligence units in the district and station house officers to identify tendencies of vigilantism and mob violence.

Now, the question is to why this point comes under preventive measure is for the reason that, such incidents can only be prevented by

stating how well is the intelligence input are taken , understood, and applied.

- The supreme court stated that director-general of police or the home department secretary shall hold regular review meetings (at least once a quarter) with all the state police intelligence heads and nodal officers.
- All police officers will have to ensure the dispersal of mobs that have a tendency to cause violence or lynch in the veil of vigilantism or otherwise. The Union home department must work in coordination with the state governments as police departments are state subjects.
- The Director General of Police (DGP) shall issue a circular to the superintendent of police (SP) on police patrolling in sensitive areas.
- The Central government and the State Government should broadcast on radio, television and other media platforms, including the official websites of the home department and the state police, that lynching and mob violence will invite serious consequence.

This particular step in today's time is very much necessary as, according to a report by Quint, titled Lynchistan, people are being collected and organised via Whatsapp group or as a matter of facts hundreds of Whatsapp groups across India to come together to harass and lynch a certain people or certain group of people.

In their report they interviewed A Bajrang Dal District Convenor from Kaman, Rajasthan, who said, "I am active in around 200-250 Whatsapp groups, of them around



150-175 Whatsapp group are related to Gau Raksha and the sangh”

In such a vast network of Whatsapp groups, propaganda videos of gau raksha are circulated non-stop, and with faster internet and smartphones, these messages just take seconds to spread like wildfire, even if they are fake.

In this case, if the government takes action especially through social media then such crimes can be curbed to an extent.

- It will be the duty of the centre and the state to curb the dissemination of irresponsible and explosive messages, videos and other material on social media platform.
- The police shall register FIRs under section 153 A of the Indian Penal Code (IPC) 1860 (promoting enmity among people) and/or other relevant provisions against the perpetrators
- The centre shall issue appropriate direction to the state government on the gravity of the situations and the measure should be taken according to the direction laid out by central government.

Secondly, remedial measure:

These measure are concerned with providing remedy or helping when there is a incident of mob lynching even after the preventive measures are in place.

- Despite the preventive measures taken by the state police and the state government, if it comes to the notice of the local police that an incident of mob lynching or mob violence has occurred, the jurisdictional police station shall immediately lodge an FIR.

- It shall be the duty of the station house officer to immediately intimate the same to the nodal officer in the district who shall, in turn, ensure that there is no further harassment to the victims and to the family members of the victims.

- The investigation of such offences shall be personally monitored by the nodal officer.

- The states shall make scheme to compensate mob lynching and mob violence victims. While calculating the compensation to be given, the state governments shall give shall give due importance to concerns such as the nature of bodily injury and psychological injury suffered to the victim, loss of earnings that the victim may suffer and expenses incurred on account of legal and medical expenses by the victim.

- The cases of mob lynching and mob violence shall be specifically tried by the designated courts in each district.

- Such courts shall try cases on a day to day basis. The trial should preferably be concluded within a period of six months.

#### **Steps that were taken by various government, to curb Lynching**

Till date, only 3 state governments have taken steps to curb Mob Lynching. These states are Rajasthan, Manipur, West Bengal.

The Manipur Protection from Mob Violence Bill, 2018<sup>17</sup>

The Manipur assembly has passed a bill that includes recommendations of life imprisonment for those individuals who are involved in mob violence, like mob lynching. if this incident results in the death of a person.

<sup>17</sup> Article on wire Manipur Assembly Passes Anti-Mob Violence Bill by

PTI<https://m.thewire.in/article/government/manipur-assembly-anti-mob-violence-bill>.



The Manipuri Chief Minister N. Biren Singh, who also holds the position of the home department, moved the 'The Manipur Protection from Mob Violence Bill, 2018' in the state Assembly.

The bill was passed by the assembly unanimously.

The bill recommends that rigorous life imprisonment term should be ordered to the criminal if the crime results to death of the victim.

Rajasthan protection from Lynching Bill 2019<sup>18</sup>

In August 2019, the Rajasthan state assembly passed the Rajasthan Protection from Lynching Bill, 2019. This bill provides for life imprisonment and a fine of an amount between Rs 1 Lakh to 5 lakhs for those who are convicted in such cases where mob lynching led to the victim's death. In cases where the victim suffers grievous injuries, the Bill prescribes up to ten years of imprisonment and fine of an amount between Rs 25,000 and Rs 3,00,000.

West Bengal Anti Lynching Bill 2019<sup>19</sup>

The West Bengal Assembly passed an anti-lynching bill, to curb incidents of Mob Lynching, PTI reported. The legislation was introduced by West Bengal Chief Minister Mamata Banerjee and was supported by the Indian National Congress and the Communist Party of India (Marxist). However, the Bharatiya Janata Party neither

showed any support to the bill nor opposed the bill proposed by the government of West Bengal (Prevention of Lynching) Bill, 2019) as they felt that this legislation might be used for settling political scores.

### **Conclusion**

Hence, by a study of these arguments, it's left to decipher whether the amendment under Consideration fails the test of constitutionality or not. Whether or not it is constitutional, the

Anti-Mob Lynching step shall always remain as steps taken for the betterment of the public at large.

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