

Lynching – An Ugly Attrition on Civilisation

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ABSTRACT

Lynching is a most dreadful act being committed by a so-called faceless vigilante who believe or are socially engineered to believe that they are delivering justice. It bares threads of the very disintegrating social structure which crumbles under the load of lawlessness. It has been a universal phenomenon which can't just be related to a single region, poverty and lack of education plays a crucial role. Various rules that have been made or Implemented fails to deter the mob from becoming aggressive. The phenomenon of lynching not only constitutes a gross violation of fundamental rights but also strikes at the heart of democratic values, undermining equality, liberty, and justice. In recent years, the spread of misinformation through digital platforms, especially social media, has further intensified instances of mob violence. The anonymity inherent in collective action complicates individual accountability, leading to a "culture of impunity". In this context, there is a need for robust policing mechanisms, and mass public sensitization to reestablish faith in constitutional governance. Addressing lynching thus requires a multidimensional approach involving legal, social, and institutional interventions.

Keywords: Mob lynching, Fundamental rights, vigilante, legal reforms,

INTRODUCTION

"A democracy cannot thrive where power remains unchecked, and justice is reserved for a select few. Ignoring these cries and failing to respond to this movement is simply not an option — for peace cannot exist where justice is not served."

– John Lewis.

Lynching, in layman's terms, is an isolated criminal act that is executed by the civilians in the name of justice. More Precisely, it is an extrajudicial killing a group of people. Lynching can also be seen as a form of racial or religiously influenced terrorism aimed at subjugating and intimidating the minorities within a particular state. It's a violent and deliberate tactic of the majority to put the minority in perpetual fear and insecurity.¹

Lynching and mob in India are defined under "The Prevention of Mob Lynching Bill, 2022"² as –

- section 2(b) lynching "means 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 or any other related grounds".

¹Mohd Mustafa, 'Mob Lynching and the Right to Life: A Human Rights Perspective in Light of the Constitutional Framework of India' (2023) at <https://ijcrt.org/papers/IJCRT2303239.pdf>.

²'The Prevention of Mob Lynching Bill, 2022', S.2(b) and S.2(c) at, (<https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/209%20OF%202022%20AS12122022115556AM.pdf?source=legislation>)

- section 2(c) mob “means a group of two or more individuals, assembled with an intention of causing violence or lynching.”

Lynching is not a new phenomenon in India. While initial instances shocked people to the core, over the time, societal attitudes towards lynching cases have shifted, as if one has become used to this news, the roughness and lawlessness associated with so-called justice have, in many ways, become a new normal. Interestingly, lynching is often committed by individual within mobs who believe they are delivering the justice and acting as a self-proclaimed hero under the guise of communal assertion, caste discrimination/dominance, religious justification (like cow protection), perceived criminality or sometimes very small reasons like envy, life's frustration etc. This phenomenon portrays issues which are more than just law and order.

The term “Lynching” is a sensitive term due to its history of violence that pushes the boundaries of human actions and intelligibility.³ Its origin is not just bounded to the boundaries of India, the concept of lynching originated in the late 18th century in the United States where the lynching of African American became frequent. One of the most common justifications was perceived sexual transgressions against white women⁴. In India, a major justification for mob violence has become the “protection of cows”. Given the symbolic importance of the cow in India, its consumption is widely considered taboo.

In numerous countries, periods of instability have witnessed the rise of vigilante justice, where loosely organized groups seek to substitute or bypass formal legal systems. The absence of established judicial mechanisms in such contexts often creates fertile ground for extreme acts of violence, including genocide.⁵

THE RULE OF LAW AND CONSTITUTIONAL PROVISIONS

The rule of law, a cornerstone of any democratic society, is fundamentally violated by mob lynching. It is essential to understand the rule of law to grasp the gravity of this violation. The rule of law implies that the law exercises supreme control over both governmental actions and individual behavior². The Indian Supreme Court has affirmed the rule of law as a basic feature of the Constitution in landmark cases such as *Kesavananda Bharti v. State of Kerala* (1975) and *Indira Nehru Gandhi v. Raj Narain* (1975). Albert V Dicey's “Introduction to the Study of the Law of the Constitution (1885)” “offers one of the earliest and most influential articulations of the rule of law within a liberal democracy.”⁶ In his theory, Dicey identified three foundational principles underpinning the concept, emphasizing that governance must be conducted according to established legal norms rather than the arbitrary will of individuals.

The pillar is –

1. Supremacy Of Law

It signifies that the law is supreme and above everyone, including the state itself. It establishes that no man is above the law, and everyone will be treated the same in the eyes of law. In the context of the Indian constitution, Article 32 and 226 states the higher judiciary is empowered to enforce legal rights even against the state.

³Vasudeva-Barkdull, F. Articulating Lynching in India. *Int J Polit Cult Soc* 38, 111–138 (2025).

(<https://doi.org/10.1007/s10767-024-09501-5>)

⁴ “HISTORY OF LYNCHING IN AMERICA” <https://naacp.org/find-resources/history-explained/history-lynching-america>

⁵Britanica “lynching” <https://www.britannica.com/topic/lynching>

⁶ Anthony Valcke, “The Rule of Law: Its Origins and Meanings (A Short Guide for Practitioners)” (March 1 2012), available at SSRN, <http://ssrn.com/abstract=2042336>

2. Equality Before the Law

This pillar mandates equality before law, that all individuals regardless of status, religion, caste, or even economic standing, are subject to the same law and are on equal footing. In the context of Indian constitution, Article 14 guarantees equality before the law "the State will not deny to any person equality before the law or the equal protection of the laws within the territory of India". As indicated by this Article, laws treat all people similarly, without segregation from the high-ranking officer to the common or low ranking official. All people are dealt with similarly in similar conditions"⁷.

3. Predominance Of Legal Spirit

This encapsulates the idea that the rights and liberties are not merely declared on paper but are secured through active judicial enforcement and a culture that respects the authority of law. In the Indian context, this pillar is protected through judicial review under the article 32 and 226 with the reference to the expansive interpretation of Article 13 and Article 21(Right to the protection of life and personal liberty), as evolved through landmark judgement specially, *Maneka Gandhi v. union of India*⁸, which emphasized the importance of due process and fairness in governance.

In contrast, Mob lynching, represent a total negation of this concept. In this act of lynching, it is the mob (Citizens) who takes the charge of law into their own hands, it supplants judicial authority, bypasses legal procedure, and denies the victim or person of interest any due process. The state failure to address these issues not only questions the lapse in procedure of the state but it also showcases the constitutional breakdown.

The rule of law, animated by the constitutional morality, demands not merely the punishment of the perpetrators but also the cultivation of a political and social culture where lynching find no legitimacy.

CONSTITUTIONAL PROVISIONS VIOLATED BY LYNCHING⁹

The fundamental articles under Indian constitution which are directly violated due to mob lynching:

Article 14- Right To Equality

Lynching violates this principle by subjecting victims to unlawful violence, which often results to unequal treatment of the victims, who are denied the protection from the law and a chance to defend oneself.

Article 15- Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

This principle is violated when the violence is motivated by religious, caste, or racial prejudices. Like many cases of mob lynching targeting individuals based on suspicion of cow slaughter, or caste-based violence, clearly contravene the constitutional prohibition against discrimination.

Article 19- Right To Freedom

Mob lynching directly violates this right as mob often act on unverified information or mob hysteria, shutting down rational expression and public discourse, and violating the peace who may have been wrongfully accused.

Article 21- protection of life and personal liberty

lynching violates the due process of law, which is the main crux of Article 21

Article 32- Right to Constitutional Remedies

Mob lynching interferes with an individual's right to access justice and remedies guaranteed by the Const-

⁷ "Dr. Rao SuryRega, Lectures on Constitutional Law", 1st Edition, (Hyderabad) 2002, p. 38,

⁸ MANU/SC/0133/1978, "*Maneka Gandhi vs. Union of India (UOI) and Ors.*" (25.01.1978 - SC)

⁹ Part III of the constitution, "fundamental rights", at; <https://www.mea.gov.in/images/pdf1/part3.pdf>

itution.

CASE STUDIES OF MOB LYNCHING INCIDENTS IN INDIA¹⁰

The Bhiwani Killings

In 2023, 2 Muslim men were lynched, they were abducted, tortured and burned alive by the cow vigilantes in Haryana.

Dadri lynching case¹¹

In 2015, Akhlaq a 52-year Muslim man, was lynched by a mob in his home on a rumor that claimed his family consumed beef. The lynching resulted in Akhlaq's death.

¹²Shankar Saikia lynching case:

In 2013, Dhipu, Assam, Jhankar Saikia and his father, Haren Saikia, were attacked by a mob after dispute over an auto-rickshaw fare. Despite the presence of police, no intervention was made, as a result Jhankar died from his injuries in the hospital.

Junaid Lynching case:

In 2017, four young Muslim boys (Junaid, Hasim, Moin, and Mausim) were returning from Eid shopping when they were attacked by a mob in a Mathura-bound train. After being abused and asked to vacate their seats, they attempted to get off at Faridabad but were unable to due to the crowd. The situation escalated, and Junaid was fatally stabbed while intervening. At Asaoti Railway Station, he was thrown off the train and later declared dead at the hospital.

Tehseen S. Poonawalla Vs. Union of India (UOI) and Ors.¹³

In 2018, rising incident of lynching took place, often fueled by communal tensions and cow vigilantism. In this case, the court dealt with specific type of mob violence which resulted in restraints in freedom of speech and personal liberty. The court observed that no man can take law in their own hands, whether they are committing hate crimes, cow vigilantism or mob violence, which erodes the rule of law.

Tabrez Ansari lynching case

In June 2019, Tabrez Ansari, a young Muslim man from Jharkhand was attacked by a mob on the suspicion of theft. He brutally tortured, tied to a pole and forced to chanted religious mantras against his faith. Even after being in the custody of the police, he was not given medical attention on time, therefore resulting in his death.

Phelu khan lynching case:

In April 2017, Phelu khan a dairy farmer from Haryana, was transporting cattle and he was being accom-

¹⁰Sagar Durrani S and Hussain M, "Understanding and Addressing Mob Lynching: Historical Perspectives, Legal Challenges, and Pathways for Reform in India" (2023) 12 International Journal of Science and Research (IJSR) 932 at <https://www.ijsr.net/archive/v12i12/SR231208192941.pdf>

¹¹Dadri Lynching at https://en.wikipedia.org/wiki/2015_Dadri_lynching

¹² Akshita Tandon, "MOB LYNCHING-A RECURRING PHENOMENON IN INDIA" (2022)

<https://articles.manupatra.com/article-details/MOB-LYNCHING-A-RECURRING-PHENOMENON-IN-INDIA>

¹³ MANU/SC/0738/2018

panied by someone, when they stopped near Alwar, Rajasthan they were accused of cow smuggling by self-claimed cow vigilantes. Khan and his companion were brutally assaulted by the mob, even after having valid documentations. Later, it was found out later that Khan passed away while being in the hospital after the serious injuries.

1984 Anti-Sikh riot:

There is still a confusion where to take this riot under the umbrella of lynching as it was targeted and a planned riot. It was the action after the assassination of PM Indra Gandhi on October 31, 1984. During this period there was mob violence, communal hatred and brutal force targeting the Sikhs.

Palghar lynching.

On 2020, two Hindu sadhus and their driver were lynched by a mob in Gadchinchale Village, Palghar District, Maharashtra, after WhatsApp rumors of thieves spread during the COVID-19 lockdown. Mistaken as thieves, they were attacked and killed. Police officers who tried to intervene were also assaulted, leaving four injured, including a senior officer¹⁴

Jagmel Singh Lynching case-¹⁵

The victim, Jagmael Singh, was a Dalit construction worker, and the lynching appears to have been motivated by caste-based discrimination. The attackers, who were from an upper-caste Sikh background, targeted Singh following a dispute at a village panchayat, which was reportedly triggered by Singh's interaction with the upper-caste individuals. The brutal nature of the attack, including forcing him to drink urine and torturing him with pliers, further reflects the deep-rooted caste-based violence that Dalits often face. Later, after the assault he was left alone to die. After nine days of the medical care, the infection from the torture claimed his life.

These incidents highlight not only a societal collapse but also a systemic failure in upholding constitution promises of equality, liberty and the rule of law. Each case mention has a root cause of societal issue

Jurisprudential Critique

The concept of lynching in India raises grave jurisprudential challenges, fundamentally questioning the legal and governmental framework upon which States's legitimacy is predicted. These criminal acts expose the multifaceted systematic failures in safeguarding the fundamental rights of an individual and maintaining the social contract between the state and its citizenry.

Failure of the State

Lynching constitutes a fundamental dereliction of the state's primary responsibilities as the guarantor of its citizen's lives and liberties. The state's core responsibility is in maintaining the law and order, the administration of justice through established legal channels and the assurance of safety for all individual irrespective of their backgrounds/ social identities.

¹⁴ Sagar Durrani S and Hussain M, "Understanding and Addressing Mob Lynching: Historical Perspectives, Legal Challenges, and Pathways for Reform in India" (2023) 12 International Journal of Science and Research (IJSR) 932 at <https://www.ijsr.net/archive/v12i12/SR231208192941.pdf> pg.4

¹⁵ Lynching of Jagmael Singh at https://en.wikipedia.org/wiki/Lynching_of_Jagmael_Singh

Instances such as Palghar lynching and the lynching of Jagmael Sign serve as stark illusion of the systematic failure. In these cases, the state's inability to effectively intervene during the unfolding events not only resulted tragic fatalities but also highlighted the broader issue of state inaction, particularly in the context of communal tensions and caste-based discrimination. This failure demonstrates the state's inability to exercise its authority to prevent lawlessness and deliver justice promptly.

Erosion of Due Process

A core of any legal system is the principle of due process. It ensures that no one is deprived of life, liberty, or property without a fair and impartial legal procedure. But mob lynching completely disregard the due process. The victim is denied the basic right to a fair trial (article 21), the opportunity to present a defense, and the presumption of innocence.

Instead, the mob functions as judge, jury, and executioner, conducting a form of immediate, extrajudicial punishment without any regard for the rule of law. This not only ignores the individual's human right but also challenges the legal system. Example in Akhlaq's case, where the mob forcefully entered his home based on a false narrative, which resulted in his death. Had been there an action taken by the authority to cross check this narrative the incident could have been prevented.

Social Contract Theory

Social contract theory posits an implicit agreement between the state and its citizens, where the citizens consent to abide by the law in exchange for the state's protection and the assurance of justice. Mob lynching represents a profound contract, signifying a breakdown in the social order that the state is entrusted to safeguard.

Divergence Between Constitutional and Societal Morality

Constitutional morality embodies the principles of justice, equality, and secularism enshrined within the constitution, guiding the legal system's operation and promoting the protection of fundamental rights for all citizens. In contrast, societal morality in many parts of India remains deeply entrenched in discriminatory practices such as casteism, religious intolerance, and social prejudice. Mob lynching often emerges as violent manifestation of this regressive societal morality, which prioritizes retribution and vigilante justice over the constitutional principle of fairness and equality

Impunity and Accountability

A significant concern is the pervasive issue of impunity surrounding acts of mob violence, where perpetrators often minimal or no legal consequence. This lacks accountability stems from a confluence of factors, including allegations of police inaction, the influence of political patronage, and the inherent complexities in prosecuting large groups of individuals. This erosion of accountability severely weakens the rule of law, fosters a climate of lawlessness, and perpetuates a cycle of violence.

The case Tehseen S. Poonawalla Vs. Union of India (UOI) and Ors, in brought detailed preventive, remedial and punitive measures but lack of enforcement done, the problem of lynching is not solved.

Rule of Law vs. Rule by the Mob

The rule of law constitutes a fundamental tenet of democratic societies, stipulating that all individual, including those in positions of power, are subject to and accountable under the law. Conversely, mob

lynching represents a stark manifestation of “rule by the mob”, wherein groups of individuals deliberately bypass the established legal framework and resort to extra-legal violence to enact their own for of “justice”.

This phenomenon stands as the antithesis of the rule of law and poses a grave threat to the foundations of democracy. The act of lynching undermines the authority of the state and the judiciary, as it circumvents established legal procedures and replaces them with violent, extra-legal actions. Mob lynching is a direct challenge to the idea that justice must be administered impartially and through due process, a cornerstone of any democratic society.

Conclusion

Mob lynching in India transcends the realm of isolated incidents, serving as stark indicator of deeper systematic issues within both society and governance. These acts of violence expose the state’s failure of the state to uphold its constitutional obligations and reveal the detrimental conflict between the rule of law and deeply ingrained societal prejudices. Addressing this crisis necessities demands not only the strengthening legal enforcement and the implementation of robust legislative reforms but also a concerted and sustained effort to cultivate constitutional morality and actively challenge the social dynamics that fuel mob violence.

Lynching, therefore, represents a severe violation of fundamental constitutional rights and a direct assault on the rule of law. It signifies a critical failure of the state in its duty to protect its citizen and an implicit endorsement of vigilantism as an alternative to established judicial process.

Despite the existence of legal frameworks and constitutional safeguards, the persistence of societal biases and political inaction allow such incidents to continue, undermining democracy and justice. For the restoration of justice and constitutional integrity, it is imperative that the state not only strengthens law enforcement but also ensures accountability, while cultivating a national ethos that unequivocally rejects lynching. Furthermore, enhancing public education and sensitizing society to these issues are crucial measures in preventing such incidents. Only by addressing these systemic issues can India hope to achieve true justice and peace.

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