

MOB LYNCHING IN INDIA:
THE MENACE, CURRENT LAW REGARDING IT AND SCOPE OF
IMPROVEMENT

The concept of Mob Lynching emerges as a breach of the doctrine of the Rule of Law. India upholds that none is above law and every person is subject to the ordinary court of law without any discrimination but lately people undertake certain spontaneous acts and rise in arms.

Mob Lynching is an aged crime pattern that has unclogged itself from communal riots by targeting individuals instead of the entire community. The term ‘Lynch’ was coined by Charles Lynch and Williams Lynch to indicate the assumption of extrajudicial authority.

Mob Lynching refers to any planned/ spontaneous act of violence undertaken by a group of two/ more individuals assembled with a common intention on grounds of religion, caste, language, political affiliations, etc.,

Lynching is defined as “any act/ series of acts of violence/ aiding, abetting/ attempting and the act of violence, whether spontaneous/ planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity.”¹

The Menace

As the term Mob Lynching remains undefined under Indian law, its causes are to be detected from dugout cases. The following are deemed to be major sources of Mob Lynching in India:

1. **Honour Killing:** Union minister Ajay Kumar Mishra claims that around 145 incidents of honour killings have taken place in the country between 2017 and 2019². It is one of the ancient criminal violence prevalent from tribal customs now under the purview of Mob Lynching. Here, individuals are murdered by relatives for dishonouring their family or community generally due to inter-caste marriage, virginity loss before marriage, being a rape victim, scandal/ gossip in the community.

¹ S. 2(d), The Protection of Lynching Act, 2017 (MASUKA Bill)

² 145 incidents of honour killing between 2017 and 2019: Govt, India Today, Aug 11, 2021/
<https://www.indiatoday.in/india/story/145-incidents-of-honour-killing-between-2017-and-2019-1839321-2021-08-11>

One of the most recent cases of Honour Killing that was articulated was of a 19-year-old Dalit youth and his 18-year-old lover were allegedly killed by the girl's family members by tying and stabbing them at Saladahalli village in Hipparagi taluk. Vijayapura SP Anupam Agarwal claimed prima facie honour killing and informed on further investigation.³

2. **Suspicion/ rumours:** social media has become a part and parcel of modern society. Apart from being instant communication it also contributes to certain crimes like cyberbullying, stalking, mob lynching in India. Fake news/ rumours get wide reach on social media provoking the anxiety of Indians on sensitive issues which encourages them to suspect every other person. India has witnessed many lynching cases based on such rumours/ suspicions spread on social media/ by persons carrying personal vengeance. Most of the rumours are on the following issues:
 - a) **Witch-hunting:** It refers to the search of people who are believed to be witches i.e., one possessing evil magical powers. Assam Witch Hunting (prohibition, prevention and protection) Act is in effect since 2018 yet rude lynching acts based on rumours have not met their ends.

Around 2,097 murders were committed between 2000 and 2012 in 12 states based on rumours of witch-hunting⁴. A mob of around 150 people cornered a 50-year-old man and lynched him on allegations of practising black magic and witchcraft in Tamulpur in Assam's Baksa district.⁵

- b) **Theft:** As per section 378 of IPC 1860, Theft implies taking any movable property out of others' possession without their consent with dishonest intention. Generally, rumours of theft of animals, cattle, jewellery, money, etc., shall apprehend people and evoke them to take immediate actions on the accused.

³ Honour killing? Inter-caste couple murdered in Karnataka's Vijayapura, Times of India, June 23, 2021/ <https://timesofindia.indiatimes.com/city/hubballi/honour-killing-inter-caste-couple-murdered-in-karnatakas-vijayapura/articleshow/83768074.cms>

⁴ Sandipan Baksi and Aravindan Nagarajan, Mob lynchings in India: A look at data and the story behind the numbers, News Laundry, July 4, 2017/ <https://www.newslaundry.com/2017/07/04/mob-lynchings-in-india-a-look-at-data-and-the-story-behind-the-numbers>

⁵ Abhishek Saha, Assam: Man lynched on suspicion of witch craft, five arrested, The Indian Express, May 26, 2021/ <https://indianexpress.com/article/north-east-india/assam/assam-man-lynched-on-suspicion-of-witchcraft-five-arrested-7329625/>

One such instance took place in Jharkhand, where Tabriz Ansari, a Muslim lost his life on 22 June, 2019 due to brutal mob lynching. The mob suspected him to have the intention of committing theft.⁶

- c) **Child lifting:** On average a child goes missing every 10 minutes in India. NCRB reports also record the highest number of child missing cases. In such situations, Messages/ posts on child lifters will have a great impact on people, especially the parents who are misused by one set of people.

As per India spend report on 9th July 2018, 69 cases of mob lynching on rumour/ suspicion of child lifting were recorded, which took the lives of 33 people and injured around 99 people between Jan 2017 and July 2018. One of the latest victims of such lynching is two 2 ascetics of Kandavali who were travelling to attend a funeral in Surat on April 16, 2020. A mob in the Palghar district of Maharashtra lynched 3 men including the driver in suspicion of child lifting and organ harvesting⁷. Within a year of this incident, 251 adults and 15 juveniles were held in the case among those 75 were convicted.

In another incident, a 32-year-old Azam Qatari of Hyderabad in 2018. He was lynched by 30 people due to fake messages spread on Facebook and WhatsApp that he was a child lifter.⁸

- d) **Rape:** This is one of the grave offences existing in India. It is an act of sexual assault generally involving sexual intercourse against the will of another person. One entire part of chapter XVI of IPC deals with rape, yet such brutal crime resumes its existence and threatens the safety of people extensively. Rumours on such offences receive immediate reactions from the public that may also result in lynching.

Dimapur lynching of 2015 is one major illustration of this fact. Around 8000 people dragged the rape suspect Farid Khan out of the jail and lynched him for intoxicating and committing multiple rapes on a girl.⁹

⁶ Jharkhand court grants bail to 6 arrested in Tabrez Ansari's killing, NDTV, Dec 11, 2019/

<https://www.ndtv.com/india-news/jharkhand-court-grants-bail-to-6-arrested-in-tabrez-ansaris-killing-2146744>

⁷ Zeeshan Shaik, Palghar lynching: A recap of what happened, April 24, 2020/

<https://indianexpress.com/article/explained/palghar-mob-lynching-mahant-kalpavruksha-giri-6370528/>

⁸ IANS, Google techie's lynching in Karnataka: how an act of kindness turns deadly, Business-standard, July 16, 2018/ https://www.business-standard.com/article/current-affairs/google-techie-s-lynching-in-karnataka-how-an-act-of-kindness-turned-deadly-118071500351_1.html

⁹ Sushanta Talukdar, 'Rapist' lynched in Dimapur, The Hindu, Mar 6, 2015/

<https://www.thehindu.com/news/national/dalit-rape-victim-ends-life/article6963922.ece>

3. **Political affiliations:** Rumours spread by politicians to mobilize the crowd runs parallel to social media rumours. Communal attitudes are presumed to have been increased due to political hate speeches that are capable of blowing up minor issues & misguiding youth with biased views on certain groups.

Many newspapers articulate that lynching on cow slaughter has increased after PM Modi's speech on the "Pink Revolution". Furthermore, in 2018, Union minister Jayanth Sinha found himself in controversy by garlanding 8 lynching convicts. Such support and influence encourage mob lynching that shapes courage in the accused to commit future offences fearlessly.

4. **Communal/ religious issues:** Communalism was the effect of 'The divide and rule policy of the British. The incited religious conflicts among Indians have kept pace with the development of the country. India is a secular state that protects all religions equally and doesn't uphold any religion as the state religion but, in most of the Mob Lynching cases targets are minorities or weaker sections of society, particularly, Muslims and Dalits.

The communal riots that began in 1714 in Gujarat have spread their wings far and wide and have lately promoted themselves to be one of the main menaces of Mob lynching in India. Likewise, among the victims of cow slaughter attacks between 2010 and 2017, 86% of them were Muslims.

24-year-old Tabrez Ansari, a Muslim was tied to a tree, brutally beaten by a dozen of people on suspicion of bike theft and was forced to chant Hindu slogans including Jai Shri Ram in Jharkhand on 17 June 2019⁶

India is a land with diverse cultures and traditions and hence along with religion, caste atrocities also contribute to lynching due to differences of opinion and discrimination of certain groups of people. Generally, these are under-reported.

Several lynching takes place due to casteism in India. One such is the Jagmael Singh lynching case. A 37-year-old Dalit man was tortured physically and mentally for 4 days upon an altercation with the upper caste person. Unfortunately, he died after 9 days due to injuries suffered¹⁰.

¹⁰ Punjab Dalit who was beaten up and forced to drink urine succumbs to injuries, The Hindu, Nov 16, 2019/
<https://www.thehindu.com/news/national/other-states/punjab-dalit-man-who-was-beaten-up-and-forced-to-drink-urine-succumbs-to-injuries/article29993928.ece>

5. **Cow slaughter:** Cow slaughter has been a vital basis for communal violence right from the 1714 Holi riot and paved the way for movements like Bombay Goarakshak Mandali (Anti cow slaughter militant), Cow slaughter protection movement by Sikhs. Similarly, has also become the root of Mob Lynching in India.

Maximum mob lynching cases in India declare rumours on Cow slaughtering as their root. The cases spiked massively after passing Anti- cow slaughter bills in 2017. Rumours and prejudices against the Muslim community are seeds of mob lynching based on cow slaughter.

Dadri lynching is one of the most popular mob lynching cases. In this case, 52-year-old Mohammad Akhlaq was attacked by a huge crowd on suspicion of slaughtering cow after an announcement was made in that regard in a temple. The victim and his son were dragged, thrashed and stabbed. Akhlaq died even before the police arrived at the spot while the son Danish sustained severe injuries.¹¹

The cases on this ground inflated after prohibiting the sale of cow meat under the Prevention of Cruelty to Animals Act in 2017 and Modi's speech on "Pink Revolution". India Spend in one of its reports revealed that in the first 6 months of 2017, 20 cow-terror attacks were reported in India. This index was 75% more than the figure of 2016.

55-year-old Pehlu Khan, a dairy farmer from Haryana was lynched by a mob on April 01, 2017, on suspicion of cow smuggling while returning from a cattle fare after purchasing cows. On investigation, the court ruled that the cows were purchased for dairy and not for slaughtering but acquitted 6 accused due to lack of credible evidence. The remaining 2 accused who were minors were convicted by Juvenile Justice Board in March 2020 and sent to a special home for 3 years.¹²

6. **Lack of legislation:** People are losing faith in law due to prolonged trials and are taking law into their own hands. Certain bills like Anti-conversion and Anti-cow slaughter have erupted chaos among people. Moreover, no particular Indian law deals with mob lynching and the absence of law/ impunity are escalating the crime rate.

The police claim it to be difficult to register cases against big crowds/ are rather ignorant. The Supreme court has also not embraced any initiative for implementation

¹¹ Poonam Agarwal, The Dadri Truth: A personal grudge twisted into Communal killing. The Quint, Sep 28, 2019/ <https://www.thequint.com/news/india/was-the-dadri-lynching-really-a-murder-based-on-a-personal-grudge>

¹² Pehlu Khan Lynching: All 6 accused walk free, India today, Aug 14, 2019/ <https://www.indiatoday.in/india/story/alwar-lynching-pehlu-khan-gau-rakshak-accused-acquitted-1580874-2019-08-14>

of its 2017 guidelines. All these aspects contribute greatly to the development of mob lynching as a crime per se.

Current measures to combat Mob Lynching

As aforesaid there is no codified law on Mob Lynching in India. Until now the cases of Mob Lynching are dealt with under the ambit of the following laws:

Uniform Criminal Codes

Code of Criminal Procedure, 1973	
Section 223(a)	persons accused of the same offence committed in the course of the same transaction may be charged and tried jointly.

Indian Penal Code, 1860			
Sections	Offence	Punishment	Classification
120B	Party to Criminal conspiracy	Imprisonment of either for a term not exceeding 6 months/ Fine/ Both	Non-cognizable, bailable triable by Magistrate of first-class
143	Member of unlawful assembly	Imprisonment of either description for a term which may extend to 6 months/ fine/ both	Cognizable, bailable, non-compoundable Triable by any magistrate
147	Guilty of Rioting	Imprisonment of either description for a term which may extend to 2 years/ fine/ both	Cognizable, bailable, non-compoundable Triable by any magistrate
148	Rioting armed with a deadly weapon	Imprisonment of either description for a term which may extend to 3 years/ fine/ both	Cognizable, bailable, non-compoundable Triable by the magistrate of first-class
302	murder	Death/ Imprisonment for life and fine	cognizable, non-bailable triable by Court of session
304	culpable homicide not amounting to murder with intention of causing death or bodily injury likely to cause death	Imprisonment for life/ imprisonment of either description for a term which may extend to 10 years and fine	Where death itself had not been caused, there is no occasion for convicting the accused

307	Attempt to murder	Death: Death imprisonment of either description for a term which may extend to 10 years and fine Hurt: imprisonment for life/ as above	Cognizable, non-bailable Non-compoundable Triable by a court session
323	Voluntarily causing hurt	Imprisonment for a term which may extend to 1 year/ fine which may extend to Rs. 1000/ with both	Non-cognizable, bailable, compoundable Triable by any magistrate
325	Voluntarily causing grievous hurt	Imprisonment of either description for a term which may extend to 7 years and fine	Cognizable, bailable, compoundable with the permission of the court Triable by any magistrate

The first case in India was recorded in India 2006, a group of people harassed and killed women and men belonging to the backward class over a property dispute in Khairlanji, Maharashtra. A charge sheet was filed against the accused of offences punishable under sections 147, 148, 120B, 302 of IPC. The 8 accused were found guilty of the offence of lynching of 4 members of the Bhotmange family. The honourable court awarded the death penalty for murder under section 302 of IPC for 6 criminals and life imprisonment for 2 criminals.

Alimuddin Ansari case

The victim died by wounds caused by lynching for transporting beef in his van which was declared illegal in Jharkhand. The police registered case under section 147, 148, 149, 427, 437, 302, 120, 435 of IPC. The court referred to the National Human Rights commission V. state of Gujarat & Ors. termed the mob terrorist for violating preamble. 11 accused were sentenced to life imprisonment and a fine of Rs. 1000.

Campaigns

Ek Bharath Shrestha Bharath

The government of India has launched this scheme to celebrate unity in the diversity of India and to activate brotherhood among diverse sets of communities and religions. Post Dadri Lynching Case Honourable Prime Minister Modi has emphasized the need to uphold law and order. He urges citizens to maintain peace and harmony. As a part of the programme, several activities like culture exchange festivals, youth festivals are conducted to understand and appreciate the diversity in India.

National Campaign against Mob Lynching

It was founded by Youth leaders Tehseen Poonawalla, Shehla Rashid, Kanhaiya Kumar, Jignesh Mewani with intention of voicing out a bill against Mob Lynching. The campaign proposed ‘The Protection of Lynching Act, 2017’ also known as Manav Suraksha Bill (MASUKA) drafted by the drafting committee headed by senior Supreme Court lawyer Sanjay Hegde along with Anas Tanwar and Pranjal Kishore.

It was introduced as a private member’s bill in the Rajya Sabha but remains passive until passed by the legislature. The terms ‘Mob’ and ‘Lynching’ were defined for the first time in Indian legal history under this Act. It made several provisions on the offence of Mob Lynching that have been reflected in acts passed thereafter.

Bills and ordinances

In pursuance of guidelines furnished by the Supreme Court of India, several states have accommodated laws on Mob Lynching. While tabling Jharkhand Bill, Minister-in-charge of Home Affairs, Alamgir Alam asserted that around 53 incidents of Mob Lynching have taken place in Jharkhand¹³

Manipur Protection from Mob violence ordinance, 2018
West Bengal (Prevention of Lynching) Bill, 2019
Rajasthan Protection from Lynching Bill, 2019
Jharkhand (Prevention of Mob Violence and Mob Lynching) Bill, 2021
Uttar Pradesh (Combating of Mob Lynching) Bill, 2019

These bills make provisions for:

- Creating a separate offence of lynching.
- Measures for preventing acts of Lynching.
- Creating new rights and duties for police.
- Providing adequate punishments for Mob Lynching.
- Punishment for conspiracy, aid or abetment in such cases and obstruction of the legal process. (UP Bill, 2019)
- Punishment of public officials for dereliction of duty.

¹³ Dhritiman Ray, Jharkhand, 3rd state to pass anti- lynching bill in country, Times of India, Dec 22, 2021/
<https://timesofindia.indiatimes.com/city/ranchi/jkhand-3rd-state-to-pass-anti-lynching-bill-in-country/articleshow/88419355.cms>

- Sets aside the requirement of state sanction for hate crimes opposed to section 153A of IPC (Manipur ordinance)
- Appointment of special judges for speedy trials.
- Rehabilitation of victims of lynching.
- Compensation for the victim and their families.
- Establishment of relief camps

Need and scope for improvement

Mob Lynching cases in India are growing enormously. Several aspects contribute to such extension one of the major aspects is the absence of proper legislation. No Indian law specifically deals with Mob Lynching. Although such crimes are covered under the purview of offences under the Indian Penal Code, none of these provisions recognises Mob Lynching is a crime per se.

The National Crime Records Bureau (NCRB) doesn't maintain any data concerning lynching incidents in India. Minister of State (home), Nityanand Rai cited that the data is unreliable as the term remains undefined.¹⁴ The absence of official data demonstrates that despite rising cases India doesn't consider mob lynching as one of the grave offences as a result many cases are unreported or underreported.

In addition to this, the conviction rate of the accused is low as the prosecution is unable to establish the case beyond reasonable doubt as there is no separate Act/ provisions that determine punishment or the essential elements necessary to prove the case of mob lynching. This gap in law establishes impunity and a lack of accountability that encourages criminals to commit such offences repeatedly.

The 8 convicts who were sentenced to life imprisonment in Alimuddin Ansari's case were not only released on bail but also garlanded by Union Minister Jayanth Sinha. In most cases like Tabriz Ansari, the accused are released on bail and are mostly not convicted. These are live illustrations of lack of impunity.

The enforcement of the law also demands changes. There are cases in the past exhibiting ignorance of the police in such cases. Their arrival in most of the cases is post-death of the victim. Although they are empowered to prohibit unlawful assembly under section 144

¹⁴ Ananya Bharadwaj, The Print, Dec 21, 2021, <https://theprint.in/india/governance/ncrb-stopped-collecting-data-on-lynching-hate-crime-as-it-was-unreliable-govt-tells-ls/785201/>

of IPC such implementation of such powers is not to be seen. The courts did not find a great contribution of a police investigation in trials of such cases.

In *Archbishop Raphael Cheenath V. State of Orissa & another* 2016, the court observed that state government must enquire into relevant causes of communal riots and also strengthen the police infrastructure to curb communal unrest.

Amidst this, the Indian government has not witnessed the need for a uniform code to prevent mob lynching so far. The government contends that there is sufficient provision to curb mob lynching under IPC. In contrast to that, neither the mob lynching rate nor the causes of mob lynching have ceased to exist for almost more than a decade now.

Moreover, the bills passed by state legislatures in compliance with the Supreme Court recommendations have also not received President assent. If the act of Mob Lynching is left untouched, such cases will multiply shortly, the minorities will lose faith in law which may lead to communal war.

If the situation persists in the country, it shall amount to a violation of principles enshrined in the preamble, Article 14, 15 and 21 of the constitution. Hence, there is an urgent need for change in laws and enforcing authorities. The passage of the law and the fact that mob lynching is being criminalised with stern punishments must be published far and wide to create awareness among people.

Improvements

Besides major Acts and Codes India has also adopted many special Acts to curb many evils in society. Example: POSH Act 2013, Child Marriage Restraint Act 1929, Dowry Prohibition Act, etc., The demand today is for such Special Act to define, prohibit, criminalise and prevent Mob Lynching.

The hideous crime of Mob Lynching is not confined to one single state but has spread to different parts of the country. The parliament must consider passing a uniform law throughout the country. If it takes to stand that there are adequate provisions under IPC and the problems lie in enforcement, the appropriate government must take up measures to ensure proper enforcement of such existing laws to keep the graph of deaths on lynching low.

On 17 July 2018, the SC condemned recent mob lynching incidents and directed the parliament to pass a law considering lynching as a separate offence. As per the preventive,

remedial, punitive measures laid down by CJI Dipak Mishra, the following guidelines must be adopted:

1. **Preventive:** The duties of police officers at all levels must be bound by law and not by undue, political/ religious influences. He is obliged to be informed about the likelihood and pattern of lynching and take reasonable steps to prevent any kind of lynching/ incitements with powers conferred on him in a fair, impartial and non-discriminatory manner. Police officers in charge of any station may exercise powers under s.129, CrPC to disperse the mob. Proper FIR must be filed under relevant provisions of law covering all nature of the crime.

A team of 500 trained police officers headed by Rema Rajeshwari has initiated the awareness spread on social issues due to fake news and created WhatsApp groups to spot rumours causing violence and have succeeded to tackle it.¹⁵

2. **Punitive:** The SC prescribed several punishments based on injury caused to the victim.

Offence	Punishment
Hurt	Imprisonment for a term which may extend to 7 years, Fine extending to Rs.1,00,000
Grievous hurt	Imprisonment extending to 10 years Fine not less than Rs.25,000 to Rs.3,00,000.
Death	Rigorous life imprisonment Fine not less than Rs.1,00,000 to Rs.5,00,000
Conspiracy/ abetment/ aid	As if committed lynching
Obstructing legal process	Imprisonment extending to 5 years Fine which may extend to Rs.1,00,000
Threatening witness	imprisonment which may extend up to 5 years Fine which may extend to Rs.1,00,000.
Dissemination of offensive material	Imprisonment not less than 1 year to 3 years Fine which may extend to Rs.50,000

3. **Remedial:** It includes provision for free and immediate first-aid and medical treatment to victims in all the hospitals. In case of displacements, SG may decide for

¹⁵ Why India doesn't need an anti-lynching law, Hindustan Times, July 9, 2018/

<https://www.hindustantimes.com/editorials/india-doesn-t-need-an-anti-lynching-law/story-gXfQo1y6dgdgojaUJdupnkO.html>

accommodation and rehabilitation of victims also, set up relief camps in a safe location where necessary. The SG shall also compensate the victim.¹⁶

Apart from these certain reforms like fast and fair trial may assist largely in combatting Mob Lynching. The Judiciary must take up measures to ensure speedy justice to make sure people don't lose faith in the law. The Supreme Court initiate monitoring implementation of guidelines, demanding regular updates on adopted steps.

Criminalising may reduce the occurrences. Several state governments have taken the initiative of adopting the guidelines of the Supreme Court. The state bills pending to receive President's assent must become Acts. In addition to it, buried laws curbing the menace of mob lynching like Anti- Communal Violence Bill, 2011, must be revived. The government can't be blamed entirely, people must also acknowledge others' rights and live with equal dignity and harmony. They are aware and must confirm not to indulge themselves in such crimes.

Conclusion

There is a call for improvement in the overall administration of the criminal justice system. Crimes like are hiking day-by-day are emerging as a separate offence contributing to breach of the fulfilment of principles of the preamble of the Indian constitution. Due to the lack of stringent laws, such heinous crimes are gaining momentum among the diversity of India resulting in deaths and injuries. The most recent Amritsar Sacrilege case (Dec 18, 2021) illustrates this point.

India has unfortunately witnessed numerous mob lynching cases Coordination between police and public, speedy delivery of justice by the judiciary, awareness among civilised society and a stern law to protect the victim and punish the wrongdoers may help in resting the cases of mob lynching in India.

¹⁶ Tehseen S. Poonawalla vs Union of India/ Writ petition (civil) No. 754 of 2016

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