Mob Lynching: A New Crime Emerging In Indian Society

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Abstract:-

Mob Lynching, even though is a new glossary in Indian scenario, but has been coming from time to time through the world society for centuries. Lynch Law, which is believed to have been started in the American village Lynchburg (Virginia) by Charles Lynch, has been the focal point of discussion from time to time in most countries of the world, especially in Mexico, Guatemala, Europe, South Africa, Israel, Afghanistan etc. But it was always considered as a great enemy of the society and so tried to be controlled by the society from time to time. In these countries, mob lynching can be considered centered on white black and nationality issues. But the mob lynching in India has been on different issues which has been observed by the political parties of the country from their own point of view and whether the place is on the road or in the parliament, they use it to achieve their own personal political motives.

Lynching is a premeditated extrajudicial killing by a group. It is most often used to characterize informal public executions by a mob in order to punish an alleged transgressor, or to intimidate a group. It is an extreme form of informal group social control such as charivari, skimmington, riding the rail, and tarring and feathering, and often conducted with the display of a public spectacle for maximum intimidation. It is to be considered an act of terrorism and punishable by law. Instances of lynchings and similar mob violence can be found in every society1.

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 an uncontrolled crowd kills an accused criminal person 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.

1 https://en.wikipedia.org/wiki/Lynching
Lynchings took place in the United States both before and after the American Civil War, most commonly in Southern states and Western frontier settlements and most frequently in the late 19th century. It was performed without due process of law by self-appointed commissions, mobs, or vigilantes as a form of punishment for presumed criminal offences. At the first recorded lynching, in St. Louis in 1835, a black man named McIntosh who killed a deputy sheriff while being taken to jail was captured, chained to a tree, and burned to death on a corner lot downtown in front of a crowd of over 1,000 people².

In Britain, a series of race riots broke out in several cities in 1919 between whites and black sailors. In Liverpool, after a black sailor had been stabbed by two whites in a pub, his friends attacked the pub in revenge. In response, the police raided lodging houses with black occupants, accompanied by an "enraged lynch mob". Charles Wootton, a young black seaman who had not been involved in the attacks, was chased into the river Mersey and drowned after being pelted with missiles thrown by the mob, who chanted "Let him drown!"[61] The Charles Wootton College in Liverpool was named in his memory³.

Mob Lynching, even though is a new glossary in Indian scenario, but has been coming from time to time through the world society for centuries. Lynch Law, which is believed to have been started in the American village Lynchburg (Virginia) by Charles Lynch, has been the focal point of discussion from time to time in most countries of the world, especially in Mexico, Guatemala, Europe, South Africa, Israel, Afghanistan etc. But it was always considered as a great enemy of the society and so tried to be controlled by the society from time to time. In these countries, mob lynching can be considered centered on white black and nationality issues. But the mob lynching in India has been on different issues which has been observed by the political parties of the country from their own point of view and whether the place is on the road or in the parliament, they use it to achieve their own personal political motives.

The main reason for this special discussion came in the fact that the incidents of mobs lynching were carried out at a large scale in form of mass killing of so-called cattle killers by the crowd of so-called cow-guards popularly called as ‘go-rakshak’. But in Bihar, Jharkhand, it has also been emerged as declaring a woman as a witch resulting in her death by beating her brutally and in some states as beating by the crowd to the accused of love jihad. Whatever the reason, no person or group of persons has the right to take law into their own hands. The job of punishing a criminal has been done by the king in the monarchy system and by the courts in democracy and that too after the conviction of the person. If a person or group of persons allowed to punish a person who is or seems to be an accused without giving him the opportunity to be heard, then it is a social anarchy, which, if allowed then every person will consider himself as a judge and this will not

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only give birth to social disorder but will also hampered the law and order, which will neither be in the interest of a person nor in the interest of the society and not even in the interest of the nation. That is why in the case of Tahsin⁴, the Supreme Court issued an immediate stringent guideline against the persons or groups of people involved in the mob lynching, and directed to investigate the matter after filing an FIR under section 153B and other appropriate sections of Indian Penal Code.

In the recent past, from the road to the Parliament, from the Panchayat to the courts including the Supreme Court, the English phrase "Mob Lynching" remained a subject of discussion and the subject was so serious that on one hand the Supreme Court had issued the general guidelines for the police administration of the entire country as an interim order/direction in the case of Tehseen S. Poonawalla Vs. Union of India and others (2018), on July 17, 2018. And on the other hand, the Indian government also had to issue an advisory to the state and union territories of the whole country. However, the next hearing of the matter is still pending in the Supreme Court and it will not be proper to comment or make any final conclusion on the matter until the court makes a final decision. Yet the severity of Mob Lynching is horrific and so cruel to the society that it is necessary to do whatever can be done in order to control it. The recent guidelines of the Supreme Court are the result of this thought and should be welcomed.

Two dairy operators, Rakbar Khan in July 2018 and Pahlu Khan in April 2017 were killed by a mob of so called go-rakshaks of Rajasthan, in suspicion that they are animal smugglers and sell cow meat by killing cows. Same incidents occurred in May 2018 in Bhopal Madhya Pradesh and on September 28, 2015 in Uttar Pradesh and on March 18, 2016 in Latehar of Jharkhand. But the mob lynching incident took place on March 5, 2015 in Dimapur, Nagaland points to another picture of the society. In this incident thousands of people attacked the Dimapur Central Jail and killed Farid Khan (Bangladeshi intruders), an under-trial prisoner. It was alleged that he is a rapist and is a danger for society. And there has been an incident in Jharkhand in which the mob had beaten a woman and killed her with this understanding that she is a woman witch. Undoubtedly, the incidents of Mob Lynching are fatal to society and it should be controlled at all cost and should be done by making the appropriate law. But seeing the matter of mob lynching from the Hindu Muslim viewpoint by political parties is deadlier and more dangerous than mob lynching, and comments made by such parties or persons should also be declared a crime. Any crime is a crime and it is not a Hindu crime or a Muslim crime. As far as the pending case in the Supreme Court is concerned, it is not a case based on any incident of Mob Lynching. But this is a public interest litigation. The petition submitted under Article 32 of the Constitution before the full bench of the CJI, Justice Deepak Mishra and Dr. A.M. Khanvilkar and Dr. D.V. Chandrachud. This petition is about the violence done by the so called go-rakshaks on the name of protecting the cows in the states of Gujarat, Maharashtra, Karnataka and other states and killing the accused cow smuggler by this mob, which is termed as mob-lynching. To control this and

⁴ Tehsin S. Poonawala Vs. Union of India and other (2018)
accordingly to take necessary action, the government has been asked to issue necessary guidelines. At the same time, Section 12 of Gujarat Animal Protection Act, 1954, Section 13 of the Maharashtra Animal Protection Act, and Section 15 of the Karnataka Govadh Prevention & Protection Act, 1964, has been challenged to be declared as unconstitutional as these provisions are supportive of the incidents of mob-lynching.

The full bench, while issuing directions, has resorted to several supporting precedents and commented that the circumstances which has been created and that the problems which have arisen need to be completely curbed or stopped immediately. It is the duty of the states to see that no private person or any core group take the law into its own hands. In case of violation of law, every person has the right to give this information to the police. Any person who has registered for any crime reserves the right to take proper and prompt inquiry and trial under the constitutional and statutory law of the land. And only after that, the accused will be held guilty or innocent on the basis of the evidences produced during the trial and legal principles applicable on the matter. No investigation, trial or punishment can be done on the roads. It should be done only through the proper judicial system. No person has the right to be the guardian of the law. It is the responsibility of the state to stop the unwanted incident and crime. It is a joint responsibility of both central and state government to prevent the occurrence of community violence in any part of the state through their agency and administration. If the officer neglects to maintain the system or law and order, then legal action should be brought against him.

The full bench further re-communicated that the lynching means awarding death sentence to a person without any legal reasoning which is against the principles of rule of law and also a disrespect to the values of the Constitution. Present system of governance can neither allow lynching done by the uncontrolled mob nor could allow the abetment made by them to cause barbaric violence and not even can allow such adverse consequences of mob lynching. Mob vigilantism and mob violence should be curbed by the government by taking the strict action. Every citizen has the right to get the protection of the law in the country and the law has never empowered any citizen to become law himself. There is no dispute in this regard that the act of lynching is illegal.

There is no need to say more after discussing the above-mentioned observations and communications of the Supreme Court on the violence or mob lynching, and there is no other alternative except to implement the directions or guidelines given by the Supreme Court to control them. This is the reason that the Central Government itself has also approached the Supreme Court on this subject, and according to its interim order, the full bench has directed several measures, out of which the main steps are as follows:

1. State Government should appoint a senior police officer who is not below the rank of Superintendent of Police, as a Nodal Officer in every district. A Nodal Officer will be assisted by a police officer of the rank of Deputy Superintendent of Police to take steps to prevent violence and mob lynching in
the district. They will constitute a Special Task Force to prepare an intelligence report about those people who are going to commit such crimes or who are involved in spreading false stories or hate speech or provocative statements.

2. Each police officer will have the duty to disperse a mob which in his opinion have a tendency of violence or lynching by applying his powers provided under section 129 of the Criminal Procedure Code.

3. The Central Government and State Governments should broadcast on all the media platform, including the radio television and official website, that any kind of mob-lynching or mob-violence is a punishable offence under the law and will invite serious results or punishments.

4. Central Government and State Governments will also have the duty to take appropriate steps to prevent or eliminate such irresponsible and explosive messages, videos and other elements spread on many social media platforms, which can be used for any type of mob violence and mob lynching.

5. Police should register first information report against such persons under Section 153 A of Indian Penal Code and / or under any other relevant provisions of the law which broadcast such irresponsible and explosive messages and videos on social platforms which are having the element to inspire the mob violence or lynching.

6. Within one month from the date of this decision, the State Government should prepare a compensation plan for the victims of Lynching / Mob Violence in the light of the Section 357A of the Code of Criminal Procedure, and such compensation should be provided to the victim or to his family members within 1 month of such incident.

7. The cases of lynching and violence should be considered by the Fast Track Courts of the district. Such courts will conduct the trial on daily basis and and will complete the proceeding within 6 months from the date of taking the primary cognizance. This will also apply on pending cases. It will be the duty of the State Government and the Nodal Officer to see that the prosecution is effectively playing its role in the proceeding or not.

8. In order to set an example in the cases of mob lynching and mob violence, the courts should punish the guilty with the maximum punishment provided for various crimes under the provisions of Indian Penal Code.

9. Wherever it is found, that any officer of police or district administration has failed to comply with the above instructions either in preventing any crime of violence and lynching or in making any investigation or is facilitating the views, then it should be considered as an act of deliberate negligence for which appropriate action should be taken against him.
Undoubtedly there is no place for crowded mechanism in democracy, the sociology of the crowd is the result of personal thinking or can be considered as the general public's resentment towards any particular crime. But in any case, the law cannot be allowed to be taken in one’s hand. It will have to return to the age-old tribal punishment system. It is the individual’s social ethical and national responsibility in the society, that instead of blindly joining the mob without knowing the objectives of the crowd, it’s better to try to redress it. This is the demand of time and it is also needed.

Even though the Central Government has issued advisory without delay, to ensure the compliance of the directions of the court. In which states have been asked to ensure compliance with the directions of the Supreme Court, along with other directives. And the government is also legislating appropriate laws. Yet this is not the only responsibility of the central government or the state governments. It is also a constitutional duty for every person in the society to create a sense of harmony and fraternity among all the people of India, who should not discriminate on the basis of religion, language, class and state. And be compassionate for everyone. This feeling should also be in those people who are involved in the killing of cows at the highest level under the guise of slaughter house. If mob lynching through so called go-rakshaks is the only subject of the current debate, then this is only one aspect of the coin. The second aspect of this coin is a person or group of smugglers indulge in the business of smuggling the cows. How can a unilateral decision be taken against them, when a large section of the country has been adopted the cow as mother and worships it. Then how can he accept the killing of cows. Can this problem be resolved by keeping cow in the category of national animal? Can’t slaughter houses be conduct their business without cow? Apart from this issue, there are some other questions too related to mob violence and mob lynching happening in the country, over which national law is required and at the time of formulation of law, the government should adopt a balanced approach while considering it.