



Mob lynching: An uprising offence needed to be strenuous under the Indian legal system

Arnold HT Sangma

Research Scholar, Department of Law, Saveetha School of Law, Saveetha University, Chennai, Tamil Nadu, India

Abstract

There is a high rise in Mob Lynching in India. Lynching is not defined under the Indian Legal System and there are no punishments in regards of lynching. The word lynch has been originated during the American Revolution by Charles Lynch. In India lynching was first reported in the Khairlanji Massacre, 2006. During the year 2017 we have been observing a total number of 8 cases where 5 cases happened recently in the month of June. Lynching is a serious crime and a punishable offence and it should be included under various offences given in the Indian Penal Code. Awareness programs should be created so that the people are aware that lynching is a serious offence and not to take part in it. It is the duty of the Government to punish a criminal; a layman should not take law into his own hands.

Keywords: lynch, offences, punishments, victims, legal authority, cow vigilantism

Introduction

Lynching has been a new trend in India. We have been observing a number of cases regarding lynching in India. Some of the reasons are fair yet some are valueless. Many innocent have been brutally tortured and some even lost their lives. The increase of Lynching in India shows a strange barbarous behaviour of Human during the 20th century. Lynching involved injury or murder of a person who is a criminal or accused of a crime against the community. One of the strangest reasons for lynching today is cow slaughter, cattle smuggling or beef consuming. Whoever has brought in such ideology that India belongs to Hindus as Hindus are majority in India and cow is our holy animal and any kind of ill treatment towards cow is a crime against Hindus, they should be considered as anti-nationals as they are the ones spreading hate speech against another caste or community. The concept of Hindutva within their Hindu community is acceptable but one cannot force Hindutva all over India it restricts a person's freedom to practise its own religion under Article 25 and also is a type of discrimination towards the minority on the grounds of religion, race, caste, etc. under Article 15 of the Indian Constitution. India is a diverse nation which is true that Hindu is the majority taking India as a whole, but we should also remember that all the states joined together forms India and not all states are Hindu majority. Forcing the ideology of Hindutva all over the states of India can bring in a Civil war. This paper will be dealing with a study on various cases relating to lynching all over India.

Origin & definition of lynching

The origin of the word 'lynch' is said to have originated during the American Revolution phrased as 'Lynch Law' which is a punishment without trial. The word 'lynch' or 'lynch law' has been derived from two Americans known as Charles Lynch and William Lynch who were from Virginia ^[1]. During 1782, Charles Lynch had wrote that the 'Loyalist' or 'Tories' who were supporters of British

side were provided Lynch Laws to deal with the 'Negroes' ^[2].

According to English dictionary, lynch means to put to death, especially by hanging, by mob action and without legal authority. In other words, lynching is an unlawful murder by an angry mob of people.

Rise of mob lynching in India

India is observing a high rise in cases relating to lynching. When the people take law into their own hands it can be dangerous for the victim who is in threat of their lives. We cannot particularly state the reason for a mob lynching, but we do know that the victim has committed a certain crime towards that community hurting their sentiments where there maybe lack of legal action taken by the government leading the people to take law into their own hands. Mostly the victims of Lynch in India are minorities of that particular area such as Dalits and Muslims. There are many cases where we observe a Muslim being lynched in India. Some of the uprising reasons for mob lynching are the simplest reasons which could have been solved in a manner without violence. We should remember that India is a diverse nation, even though Hindu is the majority the citizens of India does not restrict only to those who are Hindus. Muslims and Hindus as well have contributed equally and fought for the nations Independence. In a historical view we would also observe that as a whole amongst the population Hindu is a majority but if we calculate the majority within the states we would observe that Hindus are also minors in some states. And in those lands Hindus cannot claim the territory stating that it falls in India and it will belongs to Hindus. Muslims, Hindus, Jains, Sikhs, Parsis, Buddhists and Christians together as a whole combined create an Incredible India. Hence, all Indians should be considered as our brothers and sisters and we should not cause any hate crimes such as lynching against any minorities but instead protect each other. Hindus consider the Cow as a Holy animal while Muslims and Christian

consume cow as part of their meal. Some of the Muslims have been lynched in the name of cow slaughter.

Cases Relating to Mob Lynching in India:

1. Kherlanji Massacre 2006:

On 29th September 2006, the first case reported in India relating to lynching. It occurred at Bhandara district in the state of Maharashtra. The lynching was due to a land dispute where a mob of at least 50 villagers barged into the house of the victim beating four members of the family and parading naked the wife and their daughter before they murdered them ^[3].

2. Dimapur Lynching 2015

On 5th March 2015, in Dimapur a district of Nagaland, a person named Syed Farid Khan was accused of rape. A group of angry mob broke into the Dimapur Central jail and lynched the accused ^[4].

3. Dadri Lynching 2015

On 28th September 2015, an incident of lynching occurred at Bisara village, Uttar Pradesh. A group of Hindu Mob had lynched Mohammad Akhlaq and his son Danish accusing them of stealing and slaughtering a cow calf and storing the meat for consuming. This was the first case of a Hindu Mob lynching a Muslim in the name of cow or beef ^[5].

4. Chatra District Lynching 2016

On 18th March 2016, Mazlum Ansari (32 years old) and Imteyaz Khan (15 years old) were brutally lynched by a mob known as 'Gau Rakshak' who is cow vigilantes at Chatra a district of Jharkhand. They were accused of cattle smuggling but in reality they had a cattle market and were on their way to sell eight oxens ^[6].

5. Alwar, Rajasthan Lynching 2017:

On 5th April 2017, Similar to the previous case, Pehlu Khan and 14 others were accused of cattle smuggling and were lynched by cow vigilantes. The disturbing part of the case was that the police had filed a case against Khan who had a Government permit to transport cows ^[7].

6. Jharkhand Lynching 2017

On 18th May 2017, in the districts of Jharkhand we had observe seven men being accused of child lifting and was lynched by the people. The violence occurred due to circulation of warning messages in WhatsApp regarding child lifters around the district. Four of the accused were Muslims while the other three were Hindus ^[8].

7. Delhi Lynching 2017

On 25th May 2017, an e-rickshaw driver was lynched by a mob of students from Delhi University. The incident occurred after the driver had stopped two drunken students from urinating in public which later they had returned with a group of students to lynch the driver ^[9].

8. Pratapgarh, Rajasthan Lynching 2017

On 17th June 2017, at the district of Pratapgarh, Zafar Khan, an activist found a Government civil official taking pictures of woman defecating in public and stopped him

from taking such photos. An argument arose where people say the activist was lynched but police state that his death was due to heart attack and post mortem shows no sign of murder ^[10].

9. Haryana Lynching 2017

On 22nd June 2017, three muslim brothers were travelling in an EMU train from Tughlakabad to Ballabhgarh. At times Public transport in India becomes over crowded making it difficult for people to travel and at times experiences bumps against co-passengers. While the brothers were travelling an argument arose over train seats. The brothers were also accused of being muslims, anti-nationals or terrorist or Pakisyanis and also that they were the ones consuming beef and they might be carrying it right now, by the argument where they were lynched by a mob of Hindus. Juniad was stabbed to death while his brother survived even after multiple stabs ^[11].

10. Srinagar, Jammu and Kashmir Lynching 2017

On the same day that is June 22, a group of angry mob outside Nowhatta's Jamaai Masjid had lynched a Deputy Superintendent of Police, Mohammad Ayub Pandith. Some reports say that he had opened fire on few people who caught him taking picture of the masjid while other report say he was on his duty while he got attacked by a mob which he used his pistol as self defence ^[12].

11. Jalwe, Jharkhand Lynching 2017

On 29th June 2017, Mithun Hansda who was an accused of rape and murder of an eight year old girl was allegedly trashed to death by an angry mob of villagers ^[13].

12. Thoubal, Manipur Lynching 2017

On 29th June 2017, Md Rakib Ali (19years) Md Anish (20years) by an angry mob in Thoubal district, Manipur. The very next day a video clip was posted on Facebook by the Chief Minister Nongthombam Biren Singh on his page ^[14].

According to the cases relating to mob lynching in India has observed a drastic increase during this year. Why have the people taken a law into their own hands towards punishing the accused? Is it because the Government has not done their part in taking action against these criminals or do the close relatives of the victims of these criminals want to take revenge by themselves? Is there no of rule of law in the nation today? The act of lynching is not the right way to deal with an accused because the accused may be an innocent person. If this trend keeps going on innocent lives are on threat as well for the behaviour of the wicked ones.

Indian laws against mob lynching

The Indian legal system processes in a systematic manner. A person accused of a crime cannot be punished immediately. The accused must first go through a trial at court where the judge will give a judgement whether the person is innocent or guilty of his crime. After he is found guilty, Offences and Punishments under the Indian Penal Code will be applied according to his crime. The people fail to understand the process of the judicial system in India as there are many who lack education on

law. The citizens should be taught of their rights and duties given by the nation which is a big failure today. Schools does not reach towards the subjects of law in depth while for higher education many parents send their children to study engineering, doctor, architecture where these courses do not reach towards subjects of law. Many people today are not aware of what rights and duties they are provided by the constitution. The people should also be aware that the Indian judicial system follows a systematic way to process its orders. Punishing of a criminal is one of their main functions which can take a long time to prove a criminal guilty as a criminal is also given his right to appeal against an order given by a lower court. A criminal can be punished under offences relating to rape, murder, illegal activities of cattle smuggling, animal cruelty, and those which affects the rights of another living being. The kinds of punishments given to these criminals may be given towards the crime they have committed starting from fine, imprisonment, fine with imprisonment and if a serious crime is committed the person will be given life imprisonment.

A criminal should be punished but the practise of mob lynching is not the way to punish a criminal. Lynching is a serious crime as it deals with a murder of a person by a group of angry mob without any legal authority. Any person acting against the legal authority is an illegal act and can be punishable by the court. The Indian Legal system has no definition and punishment regarding lynching. There is a need for a law based on lynching as it also falls under a crime committed to a person against the governments wish.

Why should mob lynching be stopped & some of the solutions to stop mob lynching

In India all people are given equal treatment as stated by our constitution, 'every person has the Right to equality'. A person has the right to prove innocent of his guilt at the court. If a lower court passes an order stating that he has been found guilty, he can appeal towards a higher court. Similarly, even criminals are given this right to equality towards proving their guilt is innocent. Sometimes the process of punishing a person can be a long process were years are being taken to give a proper judgement to prove a criminal guilt or to bail him out of prison. This system of slow process of final judgement by the judiciary is done as to make a careful statement towards judging a person. It is for the benefit of all people but some fail to understand the system. In some cases it leads to anger of the people enraging them to protest and take law into their own hands as we have observed in the Dimapur lynching case during the year 2015. It is not the duty of a layman to take law into their own hands and punish the criminal in the most brutal of ways. If the people are not satisfied with the functioning of the judiciary, they should approach the judiciary in another manner without violence. The nation is for the people and the people if they get together and mend the judicial system by giving in solutions and ideas of how to function well would be a more professional manner and state how educated and learned one is. But our people fail such sort of education and decency to think of solutions without violence.

1. Importance of Legal Studies to Be Included in Schools

A proper way of educating our citizens towards legal education should be the first step but to fulfil this, the education system in India should change by bringing in practical studies more than book worms. Many education systems have taught the children to memorize every solution without understanding the basic which is good in one way but without practical knowledge the child will not develop. And there are many educational institutes which are more money minded. The education system should include about legal studies during the school times and should be considered as an important subject as law is a profession which will be helpful for every citizen in the future and it extends to almost all kinds of subjects such as medical, engineering, trade and commerce and so on.

2. Offences against lynching under the Indian Legal System

With the rising trend of lynching in India there is no objection in bringing in a law relating to lynching. The law makers should not stand idle and place ignorance towards the matter of lynching. Lynching is a serious crime it can lead to death or injury of a person, if it leads to death of a person it will be an act of murder. Under the Indian Penal Code we have various subjects of offences spread through the list of acts by a person such as offences against abetment, offences against murder, offences relating to religion and so on, we should also include offences against lynching as it very well qualifies to be included in the Indian Penal Code along with the other offences. Not a doubt it is a new trend of offence but if the law itself ignore the offence the people would not be aware that such crime exist in the books of law. One day someone might as well claim that he is not aware that lynching is a crime and would plead for innocence. A criminal should be punished without objection but it is not the duty of the public to take law into their own hands. If a person is not aware and taught that lynching is a crime they would be encouraged by the others to join in the crime. Under the Indian legal system they should define lynching as 'A murder or injury towards a person who may be a criminal or an accused, who is believed to have harmed an individual belonging to a community or a communities sentiment which leads to an angry mob of people attacking the person'. The punishment should be varied on the basis of injury and murder of the accused. The people participating in the act should be strictly punished as lynching is a serious crime which can lead a person to death as well.

3. Officials to be recruited provided latest equipments and trained in a professional manner to deal with cases lynching and improvement of infrastructures:

India is a developing nation hence we can take the excuse that infrastructure development of police stations and their equipments and jails need funds which is hard for the Government to accumulate. Lack of proper infrastructure and officials might have also been the reason to prevent the people to barge in prison cells and

kill the rape accused as we observe what had happened in the Dimapur lynching case. More officials or officers should be recruited and trained in a professional manner to deal with lynching cases. Building a strong and secured police station and jail would also benefit to fend from terror and other attacks.

4. Remind the people that the nation is secular and no one should be discriminated of his background:

We should remember that India does not belong to Hindus or Muslims alone. India consists of a diverse community including Hindus, Muslims, Buddhist, Sikhs, Christians and so many others. We have fought for our independence together and today live together as one, which is why other countries we are 'the Incredible India'. All Indians are my brothers and sisters is our motto, we should respect the other community as well learn how not to be effected by the others customs. India is secular nation Hindu is the majority in India but in some of the states Hindu lays a minor where Christians, Buddhists and Muslims are the majority. Hindus cannot say India belongs to the Hindus as they are majority. Hence, if Hindus force upon their laws on non-Hindu state majorities it can lead to a civil war. There are some of the politicians who I would like better not mentioning follow Hindutva which is an ideology seeking to establish the hegemony of Hindus and the Hindu way of life. If the leaders of our nation lead the people in the wrong way it can lead to certain violence which is obvious to bring in a civil war as India is filled with various religious communities. Ideology of Hindutva is also the reason of lynching and the ones responsible are also the ones who lead the people making them believe India belongs to Hindus. Hindus see cow as a holy animal while Muslims consume beef many lynching cases have occurred which we have observed earlier.

Conclusion

From the first case of lynching observed in the Kherlanji massacre we have observed a number of lynching cases today. It is becoming a normal trend for Indians to lynch someone whom they feel is wrong and have hurt the sentiments of the people. Are the people against the actions of the government where they feel taking law into their own hands is a better decision we cannot conclude what exactly the people have in mind. Encouraging a person to involve in lynching is also one of the main reasons for brutal lynching to take place. In the month of June 2017 we have observed 5 cases of lynching where it proves that there is a public disorder in the society today. People are enraged for a reason further turning them barbarous even the innocent will be encouraged to involve in the lynching. It is high time that the Indian legal system includes lynching as a serious crime and those involved in it to be punished severely. The people have to be made aware and educated that lynching is a serious crime. Awareness drive or campaigns such as the Not In My Name should be encouraged by the civilians. Infrastructures have to be improved in police stations and jails and it would be great to have a separate professionalized squad with all the proper equipments needed in cases of lynching all over the states of India.

We should also remind the people that India is not Hindus alone it belongs to all the citizens of India belonging to Muslims, Sikhs, Jains, Buddhists, Christians as well, we are a secular nation and "Unity in diversity is our nation's strength".

References

1. Michael Quinion. "Lynch". World Wide Words, 2008.
2. Waldrep, Christopher. Lynching and Mob Violence. In Finkleman, Paul. Encyclopedia of African American History 1619-1895. 2. New York City: Oxford University Press, 2006, 308.
3. First Post staffs. Khairlanji Massacre: On 10yr anniversary of brutal attack on Dalits, Maratha agitation gains momentum. First Post, 2016. <http://www.firstpost.com/politics/khairlanji-massacre-on-10-yr-anniversary-of-brutal-attack-on-dalits-maratha-agitation-gains-momentum-3023870.html>
4. Sandip Roy. Don't touch 'our' women; Dimapur lynching was never about justice. First Post, 2015. <http://www.firstpost.com/india/dont-touch-our-women-the-dimapur-lynching-was-never-about-justice-2143305.html>
5. Internet Desk. The Dadri lynching: How events unfolded. The Hindu, 2015. <http://www.thehindu.com/specials/in-depth/the-dadri-lynching-how-events-unfolded/article7719414.ece>
6. Manob Chowdhury. Cow Vigilantism: Families contest Jharkhand Government's claims on Latehar Lynching, 2016. Scroll.in. <https://scroll.in/article/805548/latehar-lynchings-good-step-to-stop-cow-slaughter>
7. Sachin Saini, Deep Mukherjee. Alwar lynching: Pehlu Khan, killed by cow vigilantes, was no cattle smuggler. Hindustan Times, 2017. <http://www.hindustantimes.com/india-news/alwar-lynching-pehlu-khan-killed-by-cow-vigilantes-was-no-cattle-smuggler/story-oHFwJT3e8R8kJn396KEGOO.html>
8. The Wire Staff. Two Arrests, Protests Follow After WhatsApp Rumours Lead to Lynching of Seven in Jharkhand. The Wire, 2017. <https://thewire.in/138667/whatsapp-message-turns-tribals-violent-leaves-seven-dead/>
9. Pallavi Rebbapragada. Delhi e-rickshaw driver killed: Rising mob rage incidents at DU's North campus are a worrying trend. First Post, 2017. <http://www.firstpost.com/india/delhi-e-rickshaw-driver-killed-rising-mob-rage-incidents-at-dus-north-campus-are-a-worrying-trend-3514707.html>
10. PTI. Activist Zafar Khan lynched to death in Rajasthan's Pratapgarh for objecting photography of women defecating in open. The Indian Express, 2017. <http://indianexpress.com/article/india/activist-zafar-khan-lynched-to-death-in-rajasthans-pratapgarh-for-objecting-photography-of-women-defecating-in-open-4707822/>
11. Bikram Vohra. Muslim teen lynched in Haryana: The barbarians are not at the gates, they're in your kitchens. FirstPost, 2017. <http://www.firstpost.com/india/muslim-teen-lynched-in-haryana-the->

barbarians-are-not-at-the-gates-theyre-in-your-kitchens-3743609.html

12. Sandipan Sharma. DSP Ayub Pandith lynched in Srinagar: Barbaric event shows Kashmiris have abandoned cultural, religious ethos. First Post, 2017. <http://www.firstpost.com/india/dsp-ayub-pandith-lynched-in-srinagar-barbaric-event-shows-kashmiris-are-stepping-away-from-their-cultural-religious-ethos-3738975.html>
13. Dev Goswami. Jharkhand: Man accused of raping, killing 8-year-old lynched by mob. 2017. indiatoday.in. <http://indiatoday.intoday.in/story/jharkhand-man-accused-of-raping-girl-lynched/1/990795.html>
14. Biren Singh N. facebook page. WATCH>>Manipur Mob Violence-a clear failure of police on duty. The Northeast Today, 2017. <https://thenortheasttoday.com/watchmanipur-mob-violence-a-clear-failure-of-police-on-duty/>