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"LYNCHING AS A CHALLENGE TO RULE OF LAW: A SOCIO-LEGAL INVESTIGATION OF MOB VIOLENCE"

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Abstract

It is disturbing to note that mobocracy in India is moving towards becoming the new “normal.” The paper seeks to lay emphasis on the mobocracy and human rights violations that are taking place in different parts of India. This paper examines the tension between mobocracy and the rule of law in the context of lynching, a pervasive form of extrajudicial violence that undermines democratic and legal systems. Lynching, as a manifestation of mob rule, is often rooted in social, political, and economic inequalities, where the collective action of a group overrides the formal legal process such as rule of law. The study explores the socio-legal dynamics that lead to lynching incidents and also judicial framework where the courts have discussed rule of law and mobocracy. The paper will critically assess how the rule of law is compromised when individuals take justice into their own hands, circumventing due process and legal protections. Through case studies, legal precedents, and theoretical frameworks, the paper will analyze how lynching challenges the fundamental principles of justice, equality, and the protection of rights. The paper aims to highlight the dangers of mobocracy, its impact on social order, and the erosion of legal norms, emphasizing the urgent need for robust legal reforms, public awareness, and law enforcement strategies to prevent lynching and restore the supremacy of the rule of law. Mobocracy problems are grave human rights violations and a strict Central legislation is the need of the hour.

Key words- Mobocracy, rule of law, lynching, Court.

Introduction

Mobocracy is a form of administration where the masses rule; a mob is the source of power. A democracy is characterized by the lower classes of a country controlling public affairs without regard to the law, precedents, or vested rights, according to the Webster Dictionary. Therefore, mobocracy, which translates to "rule by the mob," is a colloquial word for ochlocracy in which the will of the majority governs and conflicts are frequently resolved by the sheer weight of the populace. For obvious reasons, majoritarianism is another term. Since the 18th century, the word "mobocracy" has been used to derogatorily refer to democracy. Although it is sometimes used to refer to anarchism, it is questionable if mobocracy is anarchy as one group is ruling and not the rule of law. It is sometimes used to describe anarchism, but it's debatable whether mobocracy is a form of anarchy as one group is seen to legitimately rule over others by whim.

One has rightly said, "An angry mob has no brain." India is witnessing this trend in its worst forms. When communal threats arose, people have time and again taken law in their own hands to deal with any accused by resorting to inhuman acts without being rational and ethical. The outbreak of lynching incidents in India has taken its peak in the last 5-6 years. In maximum cases, the victims of mob violence have been the minority groups of Muslims, Dalits and few racially tortured African tourists. They are generally chained, stripped, beaten, harassed or hanged by the mobs. The lynching has been carried out in cases of witch-hunting, caste based atrocities and most commonly bovine slaughter especially cows.¹

Lynching is an extrajudicial act of violence where a group of people take the law into their own hands to punish an individual, usually without any legal authority or due process. It is frequently viewed as a type of mob justice. Deeply ingrained in social, cultural, and political dynamics, this type of violence acts outside the bounds of due process and the law, constituting a grave violation of both the rule of law and human rights. Understanding lynching's origins in cultural narratives, social injustice, and the ways the legal system fails to stop or deal with such acts are all part of a socio-legal view on the crime.

The rise of the rational masses, which was crucial in bolstering democracies around the world, has caused these same societies to suffer from a variety of misunderstandings and misfortunes

¹ Nitya Nand Pandey, Mob Lynching: A New Crime Emerging in Indian Society, 5 IJRAR (2018), accessed on 08 September 2019

as a result of false information and the proliferation of fake news, upending the fundamental basis of the right to free speech and expression. Intolerant behavior at the core of such instability leads to mob violence, where democratic principles and procedures are subjugated to the will of an ignorant mob that disobeys them at the direction of its leaders.

One of the major causes of mob lynching is hate speech. The Law Commission of India defines hate speech as an “incitement to hatred primarily against a group of persons defined in terms of race, ethnicity, gender, sexual orientation, religious belief and the like”. Nowadays, the tumbling cost of Smartphone together with cheap data plans has increased the number of internet users in India. The high internet connectivity has also strengthened the impact of online hate speech.²

The interlinking concept of Mobocracy, Democracy, Vigilantism and Rule of Law

Mobocracy: According to the Merriam-Webster dictionary, mobocracy denotes ‘rule by the mob’ or ‘the mob as a ruling class’, meaning thereby a type of political system at the behest of a handful of people, who govern the majority with an iron fist through their violent actions. In other words, the mob confers upon itself the right to take the law into their own hands for administration of their ‘perceived belief’ which is usually based on some prejudice or rumour or ideology. However, where the boisterous mob kills a person for allegedly violating the perceived belief is known as ‘mob lynching’. It amounts to extra-judicial punitive measures without following due process of law; such a situation of blatant human rights violation is an outburst of an existing contradiction in the faith of one community about an issue in contrast to the views of other communities. Consequently, such acts of terror make way for mobocracy in a democracy. **Definition:** Mobocracy is an act of illegal omission or commission, proscribed or punishable by law, committed at the behest of directed or undirected, misinformed or ill-informed, mob or group of people or vigilantes in furtherance of establishing their belief or ideology.

Vigilantism: ‘Vigilantism’ is the quintessential of mobocracy and mob violence as it refers to ‘the acts of resorting to violence by members of the society (vigilantes) against fellow citizens without any legal sanction or procedure established by law’. Vigilantism essentially contains

² Krishnadas Rajagopal, Redefining hate speech, The Hindu (15/12/2017) accessed on 11 February, 2025.

Six necessary features:

- i. Planning and premeditation by those engaging in it;
- ii. Its participants are private engagement is voluntary;
- iii. It is a form of ‘autonomous citizenship’ and, as such, social movement;
- iv. It uses or threatens the use of force;
- v. It arises when an established under threat from the transgression, the potential transgression, or the imputed institutionalized norms;
- vi. It aims to control crime or other social infractions assurances (or ‘guarantees’) of security both to participants and to others³.

A basic idea, the rule of law guarantees that all people, governments, organizations, and institutions are subject to the law and held responsible for their actions. It implies that laws must be transparent, well-known to the general public, stable, and administered consistently without partiality or bias. In a society governed by the rule of law, everyone is treated equally regardless of status and no one is above the law. In order to ensure that everyone has equal access to justice, it also ensures that laws are open, understandable, and properly enforced. The rule of law creates a just society by ensuring that both citizens and authority are held responsible for their acts. This encourages justice, order, and the defense of fundamental rights⁴.

Rule of law, mobocracy and vigilantism are interconnected with each other. The notions of mobocracy, democracy, vigilantism, and the rule of law are interrelated and describe how societies uphold justice, preserve order, and guarantee equity. Each has a significant impact on maintaining or jeopardizing the stability of a democracy.

In a democracy, the people themselves have the authority, typically through elected officials who answer to the voters. The foundation of this system is the belief that majority rule, discussion, and deliberation should be used to create laws and policies while respecting the rights of minorities. When choices are made inside well-organized legal frameworks that guarantee equality, fairness, and openness, democracy flourishes⁵.

³ Les Johnston, “What is Vigilantism?”, 36 Brit. J. Criminology 220, 5 (1996)

⁴ Ojha M. (2017). Mob violence and lynching in India: Threat to Democracy. International Research Journal of Commerce, Arts and Science, Vol-8 P. 70-74

⁵ Internet Desk. The Dadri lynching: How events unfolded. The Hindu, 2015. <http://www.thehindu.com/specials/in-depth/the-dadri-lynching-how-eventsunfolded/article7719414.ece>

However, the system may be susceptible to mobocracy, which occurs when a huge number of people's emotional reactions or impulsive acts influence decisions, frequently without respect for the law or due process. This poses a severe risk to a democracy since it can result in anarchy, the disintegration of social order, and the repression of minority viewpoints. The fundamental democratic tenets of rational government, the defense of individual rights, and deference to established procedures are all compromised when emotions or populist sentiments influence choices. Vigilantism frequently develops when people or organizations lose faith in the legal system because they think it is too unjust, corrupt, or slow to produce just results. In certain situations, people might choose to enforcing the law themselves rather than going via the official legal system. Vigilantism threatens the rule of law, which is essential to a healthy democracy, even though it occasionally stems from a desire for fairness. Vigilantes establish a parallel court system that can be capricious, unjust, and harmful by operating outside the established legal system. This undermines confidence in the judicial system and runs the risk of encouraging lawlessness.

The **rule of law** is what holds all these forces in balance. It ensures that laws are applied equally to everyone, protecting individual rights and maintaining societal stability. The rule of law prevents **mobocracy** from overriding democratic principles by requiring that laws, not popular sentiment, govern decision-making. It also curbs vigilantism by offering formal, regulated avenues for seeking justice. Without the rule of law, both **mobocracy** and **vigilantism** would flourish, undermining the foundations of democracy itself. Thus, the rule of law is essential to ensure that democracy functions smoothly, preventing the chaos of mob rule and the dangers of extra-legal actions.

Lynching and the Rule of Law: A Critical Analysis of Legal Impunity

While mobocracy is frequently blamed for undermining the legal system and individual liberties, the Rule of Law is usually reaffirmed as vital in these situations. Even in cases where public opinion is strongly held, the rule of law is upheld by the court, which serves as a bulwark against mob violence and mob-driven justice.

Here are the few case laws in which rule of law and mobocracy has been together discussed by the apex court of India and it has always shown its importance to Rule of Law rather than Mobocracy or Democracy. As the concept developed by AV Dicey is very clear and helps in providing justice to people where as other aspects such as democracy or mobocracy fails in

providing justice.

In the case of **KK Verma v. Union of India**, The Rule of Law was discussed in this case in relation to the Constitution and the legal system. The Supreme Court Underlined how crucial the judiciary is to defending the control of Law, which includes defending people from popular pressure or mob control. The Court emphasized in this case that everyone has the right to equal protection under the law and that no one is above it. The just application of the law may be compromised by mobocracy, especially if the legal system is influenced by people's personal beliefs⁶.

In the case of State of **Uttar Pradesh v. Raj Narain**, The court has dealt with The Rule of Law and its significance in defending individual rights against capricious behavior, such as mob violence, are the subjects of this historic case. The Court talked on how mobocracy might jeopardize democratic norms and individual freedom, particularly if the rule of law is undermined.⁷

The Kerala High Court addressed mob violence and its conflict with the rule of law in this case. The Court pointed out that any mob action that infringes on public order or individual rights is illegal, regardless of how passionately the public feels about a given topic. Since mobocracy aims to undermine the legal and constitutional framework, the Court reaffirmed that it is against the Rule of Law and that such acts are unlawful. In order to guarantee that laws are administered impartially and fearlessly, the Supreme Court emphasized that the Rule of Law should take precedence above any popular emotion or populist demands. It denounced populist or political pressures, which occasionally resulted in illegal mob behavior, in the case of **T.K Gopal v. State of Kerala**⁸ which was also one of the landmark judgement,

In the famous case of **Ramesh Yadav v. state of Uttar Pradesh**, the Supreme Court examined a situation in which social pressure or public opinion—often resulting from mob activity—can affect court decisions or even obstruct police investigations. The Court underlined that the state should shield its citizens from any kind of mob justice and that the Rule of Law must be upheld even in these situations. A hallmark of mobocracy, the Court cautioned against the

⁶ KK Verma v. Union of India, AIR 1952 SC 188

⁷ Uttar Pradesh v. Raj Narain, (1975) 4 SCC 428

⁸ T.K Gopal v. State of Kerala, (2006) 2 KLT 676

undermining of the judicial system by people or organizations that try to circumvent the law in order to impose their own brand of justice.

In the case of **R v. Director of Public Prosecutions** The violent 2011 riots in England, in which mobs committed extensive acts of violence, gave rise to this lawsuit. The Court addressed the question of whether those who participated in mob violence ought to face consequences. The Court underlined that mob violence cannot be justified, regardless of the reason behind it, and upheld the rule of law. It made it clear that mobocracy—the practice of groups enforcing the law themselves—must not be accepted.⁹ **State of Gujarat v. Shri Ganga Saran & Ors.** The Indian Supreme Court addressed the problem of stopping disorderly rioting and mob violence. It reaffirmed how important it is to uphold the law despite mob activity. Regardless of the justifications offered for mob behavior, the Court stressed that the rule of law requires stringent enforcement of law and order and denounced the violence that mobs were committing.¹⁰

Reparations and Justice: Socio-Legal Approaches to Healing After Lynching

A socio-legal understanding of lynching highlights the necessity of a multifaceted response. Effective legislative structures that guarantee that those who commit lynching are held accountable through the appropriate legal channels must be established. Furthermore, in order to confront the fundamental social mechanisms that sustain mob justice, a more comprehensive change in society is required. To reduce the frequency of lynchings and protect the rule of law, it is imperative to improve law enforcement, educate the people, and maintain the independence of the court.

The occurrence of lynching is influenced by a number of socio-psychological factors. The mob mentality, a psychological condition in which people behave differently in groups than they would alone, is one important contributing element. Violence may increase as a result, and acts that would otherwise be viewed as unlawful or immoral may become justified. Because of the anonymity that group conduct affords, members of mobs frequently lose their sense of personal responsibility. A perilous sense of righteousness that justifies illegal violence is fostered by this collective worldview.

⁹ R v. Director of Public Prosecutions (2012) 1 WLR 1915 (UK)

¹⁰ State of Gujarat v. Shri Ganga Saran & Ors. (1998) 4 SCC 416

Social unrest or discontent with the judicial system is another important issue. People may turn to self-help tactics like lynching when they believe the state is unable or unwilling to provide justice. This is especially true in areas with weak or viewed as Unjust rule of law, frequently due to widespread corruption or inefficient judicial systems.

Lynchings are frequently the result of racial, ethnic, or religious disputes. Targeting historically marginalized or oppressed populations is common in many nations. In these situations, lynching turns into a means of upholding power systems, fostering prejudice, and bolstering societal hierarchies. For instance, lynching might act as a reminder of the power structures and the oppression of particular communities in racially divided countries¹¹.

1. Aspects of society and politics Taking part in the Lynching

Lynching frequently stems from larger sociopolitical forces. These dynamics may be influenced by things like:

a) Tensions between races and ethnicities

Lynching has frequently been employed as a social control tactic, particularly against racial or ethnic minorities. For instance, lynching was primarily employed to uphold white supremacy in the United States against African Americans, especially in the Southern states. Other areas with historical racial or ethnic hierarchies also exhibit this trend, which is not unique to the United States.

Historical Context: Lynching was employed as a kind of terror to uphold racial inequality and segregation during the Jim Crow era (late 19th to mid-20th century).

Present Context: Lynching still happens in some areas where mobs target social outcasts or minorities because they perceive them as "outsiders" or adversaries of the prevailing social order.

b) Marginalization and Social Exclusion

Lynching frequently occurs in areas where particular populations are disenfranchised and excluded from positions of authority. These groups might be singled out because of their social standing, religion, or other characteristics. Lynching can be a strategy used in these societies to establish dominance and authority, particularly in remote or rural areas where law enforcement may be lacking or ineffectual.

¹¹ Saurabh kumar, Draft Law of Manav Suraksha Kanoon (MASUKA), IPLEADERS, <https://blog.ipleaders.in/draft-law-manav-suraksha-kanoon-masuka-national-campaign-mob-lynching>

c) **Weak Legal Systems and Impunity**

Lynching may go unpunished or even be accepted by authorities in places with weak or corrupt law enforcement. The cycle of violence is further sustained when mobs are encouraged to seek justice on their own by this impunity.\

2. **The Function of Law and Legal Structures**

Legally speaking, lynching is a serious transgression of the rule of law. It blatantly violates fundamental human rights, due process, and justice principles.

a) **Due process violations**

Lynching completely circumvents the legal system, depriving the accused of their right to a fair trial and defense against capricious violence. The public's confidence in legal institutions is damaged by this extrajudicial punishing act, which also calls into question the legitimacy of the legal system.

b) **Right to a Fair Trial:** Everyone has the right to a fair trial, the presumption of innocence, and immunity from unjust punishment in a just society.

Rule of Law: Because lynching is a violent, illegal act that is not excused by any legal framework, it inherently threatens the rule of law¹².

c) **Framework for International Human Rights**

According to international agreements like the **International Covenant on Civil and Political Rights (ICCPR)** and the **Universal Declaration of Human Rights (UDHR)**, lynching is a violation of fundamental human rights. Individuals' rights to life, liberty, and personal security are guaranteed by these documents, along with the right to be shielded from torture and senseless executions.

Right to Life (UDHR, Article 3): Because lynching entails the extrajudicial death of a person, it is a clear violation of the fundamental human right to life.

¹³**Prohibition Against Torture (ICCPR, Article 7):** Lynching victims frequently endure harsh, inhuman, or degrading treatment, including torture, particularly when they are beaten or humiliated before to their deaths¹⁴.

3. **Law Enforcement Reactions to Lynching**

Lynching is illegal in the majority of contemporary legal systems, and those who commit it

¹² Article 21, the constitution of India, 1950.

¹³ Universal Declaration of Human Rights, 1948.

¹⁴ The International Covenant on Civil and Political Rights (ICCPR), 1966.

face harsh penalties. The difficulty, though, is in effectively prosecuting These offenses.

Legal Accountability: In certain areas, lynching and mob violence are addressed by the law. For example, federal measures like the Emmett Till Anti lynching Act, which aims to make lynching a federal hate crime, have helped the United States make some headway in combating lynching. Laws have been put in place in several nations to deter and punish mob violence. It is frequently challenging to successfully implement these rules in places where social differences are deeply ingrained.

4. Lynching's Social Effects

Lynching has terrible societal repercussions for society as a whole as well as for the victim and their family.

- a) **Trauma and Being Victimized:** Significant emotional and psychological stress is experienced by the victim's immediate family and community. The public character of lynching frequently results in dread, humiliation, and a sense of powerlessness among the community, in addition to the loss of a loved one.
- b) **Generational Trauma:** When lynching occurs as a component of a larger pattern of systemic violence, communities may internalize fear and a sense of vulnerability, causing trauma that can last for generations.
- b) **Social Ostracization:** Witnesses or survivors of lynching may face stigmatization, social exclusion, or even reprisals from the gang that committed the crime.
- a) **The Continued Violence:** Acts of revenge and retaliatory violence may ensue from lynching, which can fuel a cycle of violence. This can intensify into more widespread social discontent and instability, especially in areas where racial, ethnic, or political conflicts are already present.
- b) **The Decline of Legal Systems' Trust:** Lynching undermines the idea that the law can deliver justice, which erodes public confidence in the judicial system. People may feel forced to take justice into their own hands, which would lead to more violence, if they think the law is unjust, corrupt, or biased. **Loss of Trust in Law Enforcement:** The public's trust in the state's ability to enforce justice is harmed when law enforcement is either involved in lynchings or fails to stop them. **Impact on Social Cohesion:** Because communities are split along racial, class, ethnic, or ideological lines, lynching has the potential to destroy social cohesion. By widening already- existing societal divides, the violence hinders the growth of a common sense of justice.

5. Legal Reforms and Prevention

A multifaceted strategy that incorporates both societal transformation and legislative reforms is needed to address lynching.

- a) **More robust legal systems:** Enacting strong anti-lynching legislation and strictly enforcing current legislation are both necessary. Mob violence should be punished as a serious crime with harsh punishments in all countries.
- b) **Anti-Lynching Laws:** These may include certain statutes that make lynching a crime and make sure that the punishments are harsh enough to discourage such conduct. **Accountability Mechanisms:** When law enforcement and other state actors fail to protect victims or facilitate lynch mobs, there should be procedures in place to hold them responsible.
- c) **Education and Public Awareness:** By raising awareness of the value of human rights and the rule of law, public education initiatives can significantly contribute to the decrease of mob violence. Societies must foster an atmosphere that values due process and amicable conflict resolution.
- d) **Fostering Integration with Others:** Reducing societal divisions based on race, ethnicity, or class and encouraging more social integration are key components of addressing the underlying causes of lynching. In order to prevent marginalized groups from being viewed as outsiders or scapegoats, efforts must be taken to close the gap between various communities.

Lynching is a social pathology that shows serious structural problems in society, in addition to being a legal infraction. Its effects are extensive, including not only the people directly affected but also the state and the larger community. To effectively combat lynching and guarantee that justice is respected for everyone, a comprehensive strategy that fortifies legal systems, advances social justice, and informs the public about the significance of human rights is required.¹⁵

Conclusion

Every citizen is entitled to the fundamental right to life. Murdering democracy is the act of taking lives through a mobocracy. It should be emphasized that a democratic government's primary concern should be its citizens' safety and security. But the current state apparatus has completely failed to do so. It can be inferred that mobocracy has peaked in recent years.

¹⁵ How Indian States Can Stop Rampaging Lynch Mobs, PRS INDIA: <https://www.prsindia.org/media/articles-by-prs-team/how-indian-states-can-stop-rampaging-lynch-mobs>

Provisions that only address mob lynching are desperately needed, but the problem has not received enough attention. The Apex Court, however, released a number of rules in 2018 to address mobocracy after reviewing the nation's circumstances and receiving a number of petitions. Nevertheless, notwithstanding the court's notice in the PIL to apply the previous ruling, those guidelines have not been adequately applied. The implementation of a suggested law such as MASUKA is necessary to promote social inclusivity. To counter such a threat in the future, administrative and societal reform is also required. Lynching goes beyond mobocracy. Hate speech and violence are the main causes of this collective hate crime. These days, as more people own smartphones with internet access, hate speech spreads online via social media. Lynchings are caused by these social networking platforms under the pretense of false information and simple suspicion.

Nonetheless, a few of these websites have launched a campaign to raise awareness of false news through newspaper ads. India is not the only nation dealing with this heinous crime. Developed nations like America and Britain have previously dealt with it and managed to contain the threat. The time has come for India to overcome its democratic slumber. Strict legislation can be introduced to achieve this. However, lynching cannot be eradicated without also eradicating violence and hate speech. Though laws already exist to prevent hate speech and violence, they must be implemented in that particular environment. Raising awareness and educating others is the best approach to lessen hatred.

Therefore, education and discussion should be promoted in order to address hate crimes like lynching in the future. Citizens should also raise awareness of campaigns like "not in my name." Democracies around the world have a long history of incarcerating critics, stifling dissent, enacting laws without discussion, prohibiting interfaith unions, employing majoritarian strategies, and using the religion card maliciously for political gain and appeasement. Nevertheless, under the guise of freedom of speech and expression, the government should not hesitate to use the criminal justice system and law enforcement agencies to take criminal action against Any kind of monocratic behavior that spreads false information and misleads the public. Furthermore, devising a Central legislation and its effective implementation is the need of the hour as the cases of mob violence are rising in India at an alarming pace. To sum up, lynching is a risky deterioration of the rule of law, driven by societal injustices and a decline in public confidence in the legal system. Preventing such acts of violence and upholding the values of justice and human rights require a comprehensive strategy that combines social transformation with legal reform.