

MOB LYNCHING IN INDIA: DESPERATE NEED OF LAW AGAINST UNNECESSARY VIGILANTISM

Dr. Roshni Shrivastava

*Associate Professor, United University, Prayagraj, email: roshni@uniteduniversity.edu.in,
ORCID ID: 0009-0002-3407-6698*

Abstract

The present paper is an idea of the author put into expression examining the alarming issue of mob violence and cow vigilantism in India, focusing on the lynching of Mohammad Akhlaq in 2015 and analysing several other such prominent incidents. The study utilizes available data from reputable sources, as official government statistics on mob lynchings are not currently collected. The rise in hate crimes and cow-related violence since 2014 suggests a troubling escalation, although the reasons for this increase remain unclear. The analysis reveals that mob lynchings are often driven by suspicion of cow slaughter or beef consumption, with Muslims and other minorities being the primary targets. While religious prejudice may not be the sole motivator in every case, it frequently plays a significant role. Lynchings are often pre-planned, serving as a means to exert power over a community or send a message. Social media platforms have been used purposefully to propagate hostility and disseminate disinformation, exacerbating tensions and inciting violence. The paper highlights specific case studies, including the Dadri lynching, the Alwar lynching, the Nowhatta lynching, the Jharkhand lynching, and the Palghar lynching. Each incident exemplifies a unique set of circumstances, showcasing the diverse nature of mob violence in India. The analysis emphasizes the need to separate lynching from vigilantism, as purpose distinguishes between these acts. Furthermore, the paper explores the cultural and religious factors underlying cow vigilantism in India. Cows hold significant religious symbolism in Hinduism, and state legislation, as well as constitutional provisions, prohibit cow slaughter. The paper argues for the urgent need to address this issue through the nation-wide implementation of an “anti-lynching law” that specifically targets mob violence and acts as a deterrent. In conclusion, mob violence and cow vigilantism pose a grave threat to the rule of law, communal harmony, and the social fabric of India. A comprehensive understanding of the statistical trends, underlying motivations, and case studies is essential for policymakers and society at large to effectively combat and prevent these heinous crimes.

Keywords: Mob-Lynching, Post-2014 Era, Palghar Lynching, Vigilantism, Anti-Lynching Law

Introduction

Mohammad Akhlaq, a resident of Bisara village in Dadri in the Indian state of Uttar Pradesh, was lynched on September 28, 2015, and his 22-year-old son was seriously injured by an angry crowd who claimed he had butchered a cow and was in possession of meat. When individuals came to his house and claimed to have found beef, Akhlaq and his family tried to explain that it was mutton, but they refused to listen. Cow slaughter is illegal in Uttar Pradesh, but the question of “*was it actually cow meat*” is irrelevant when it comes to denouncing the lynching occurrence because it is a horrific crime regardless of who the victim is.¹ In one of its own kind judgments in the *Tehseen Poonawalla versus Union of India and Others* case,² (Writ Petition (Civil) No. 754 of 2016, Judgement dated 17 July 2018 and 24 September 2018), the Supreme Court of India stated:

*“No one has the authority to enter into the said field and harbour the feeling that he is the law and the punisher himself. A country where the rule of law prevails does not allow any such thought. It, in fact, commands for ostracisation of such thoughts with immediacy.”*³

Despite official condemnation of such a crime, many people, including politicians, defended the criminals or attempted to politicise the situation. Some Bisara village residents protested the arrest of the perpetrators of the lynching. Later, a district court case was filed against Mohammad Akhlaq for alleged cow slaughter, but a government investigation revealed that he was not storing beef for consumption.

The term “mob lynching” refers to a “extrajudicial killing” by a group, whereas “vigilantism” refers to the act of “taking the law into one’s own hands.” Unfortunately, lynchings like the one in Dadri have become all too regular in India.⁴ Many such occurrences, like as the lynchings in Alwar, Nowhatta, and Dhule, Palghar, have occurred since then. The most common reason was suspicion of cow slaughter or beef consumption. In certain cases, however, the victims were alleged perpetrators of horrible crimes, such as the Dhule lynching,

¹ Amil Bhatnagar, *Dadri lynching: Case picks up pace after seven years, Akhlaq’s daughter records testimony*, INDIAN EXPRESS (Jun. 15, 2022, 08:16 PM), <https://indianexpress.com/article/cities/delhi/dadri-lynching-case-pace-seven-years-akhlaq-daughter-records-testimony-7972061/>.

² *Tehseen S. Poonawalla v. Union of India*, (2018) 9 SCC 501.

³ *Id.* ¶ 17.

⁴ Lauren Frayer, *‘This Is It. I’m Going To Die’: India’s Minorities Are Targeted In Lynchings*, NPR (Aug. 21, 2019, 09:35 AM), <https://www.npr.org/2019/08/21/751541321/this-is-it-im-going-to-die-indias-minorities-are-targeted-in-lynchings>.

in which the victims were said to be child-lifters. Although some lynchings may not have been motivated by religious prejudice, the majority targeted Muslims and other minorities, demonstrating the sometimes-premeditated character of these killings. While the lynchings appear to be spontaneous, this detailed study reveals that many were pre-planned crimes designed to punish not only an individual but also to exert power over a whole community or to “send a message.”

Aside from the presence of a mob and provocation, purpose distinguishes between lynching and murder. In India, social media has been widely and purposefully used to propagate hostility towards minority communities. The majority of lynchings are photographed or filmed, and the sensitive content is “forwarded” to thousands of individuals in a matter of hours, in order to instill feelings of hatred and suspicion. Many of the lynchings were the consequence of messages accusing people of being anti-social, child-lifters, cow slaughterers, or kidnappers.⁵ The spread of virtual disinformation is not limited to India, but the enormity of the problem is concerning given the country’s more than 487 million registered WhatsApp users,⁶ and more than 314.6 million registered Facebook users.⁷

Mahatma Gandhi once said, “*Nothing is so easy as to train mobs, for the simple reason that they have no mind, no premeditation. They act in frenzy. They repent quickly*”. Like political parties, vigilantes from cow protection groups or gaurakshaks are quick to distance themselves from hate crimes. While gaurakshaks are not always the “obvious perpetrators” of cow-related violence, they are occasionally the provocative power behind the scenes. Section 505 of the Indian Penal Code of 1860, which deals with comments inciting public mischief, applies in such cases.⁸ While some of those directly involved in the lynching are prosecuted, the crimes of others who wilfully propagate vile rumours in order to incite mobs are not always reported to authorities. Criminal laws not only codify the process of punishment or trial, but they also instill fear in individuals. The Supreme Court states in the *Tehseen Poonawalla* decision that “*in a civilised society, it is the fear of the law that prevents crimes.*”⁹ As a result, a law developed specifically to deal with mob lynching or a “anti-lynching law” would be beneficial

⁵ Ishan Gupta, *Mob Violence and Vigilantism In India*, WORLD AFFAIRS: THE J. OF INT. ISSUES, 23(4) (2019):152–72. <https://www.jstor.org/stable/48566204>.

⁶ Simon Sharwood, *India to send official whassup to WhatsApp after massive spamstorm*, THE REGISTER (May 12, 2023), https://www.theregister.com/2023/05/12/india_whatsapp_spam_privacy_demands/.

⁷ *Facebook Users by Country*, OBERLO, <https://www.oberlo.com/statistics/facebook-users-by-country> (last visited Jun. 12, 2023).

⁸ The Indian Penal Code, 1960, § 505.

⁹ *Supra* note 02, ¶ 39.

in deterring the crime.

Statistical Analysis of Mob Violence

A statistical examination of numbers is required to comprehend the gravity and escalation of mob violence. Because the National Crime Records Bureau does not collect data especially for mob lynchings or cow vigilantism, there is currently no official/government statistics. As a result, the most reputable sources accessible were utilised for the purposes of this research paper.

Hate Crimes

In this context, hate crimes are defined as “*incidents that are prima facie crimes committed either partly or entirely because of the victim(s)’ religious identity.*” According to a source, these incidents exhibit one or more of the following bias indicators:

*“cow or cattle protection, interfaith relationships, religious conversion, insult to religious symbols, insult to national symbols, affiliation of the alleged perpetrators to organisations with an extremist or violent agenda against certain religious groups, statements made by the alleged perpetrator(s), before, during, or after the incident, reflecting religious bias or prejudice, the incident be a religious bias or prejudice.”*¹⁰

While not all of these hate acts qualify as “mob lynchings,” Since 2014, the number of reported hate crimes has increased drastically.¹¹ It is unknown whether the police reporting system became efficient or the hate crimes have increased haphazardly.

Cow Related Violence

In this study, “cow related violence” refers to cases of mob attacks in the name of “cow protection” or gauraksha on anyone accused of consuming, storing, or trading meat, slaughtering livestock, or being involved with the slaughter of cows. Victims are typically Muslims, Dalits, or other minorities, while attackers may or may not be affiliated with cow vigilante groups. However, illegal activities done by cow traffickers operating across states and the India-Bangladesh border have also been documented. Their victims are typically cattle owners who have been assaulted by thieves who illegally trade in cow meat—violence is not always unilateral.

¹⁰ *Supra* note 05, ¶ 155.

¹¹ Shoaib Daniyal, *The Modi Years: What has fuelled rising mob violence in India?*, SCROLL (Feb. 23, 2019, 07:30 PM), <https://scroll.in/article/912533/the-modi-years-what-has-fuelled-rising-mob-violence-in-india>.

Incidents of Mob Lynching

The section that follows examines several incidents of mob lynching in order to identify a general pattern. The details of the Dadri lynching case have already been discussed:

Alwar Mob Lynching Case of 2017

Pehlu Khan, 55, a dairy farmer from Jaisinghpur hamlet in Nuh, Mewat, was the main victim of the Alwar lynching. He was on his way back to the village after purchasing cattle for milking in Jaipur. He was stopped on the Jaipur-Delhi route while carrying cows and calves by 200 cow vigilantes who suspected Pehlu of buying the cattle for slaughter. Pehlu Khan and six others were taken from the truck and thrashed with sticks and rods. Pehlu died as a result of his injuries. The others, despite being severely damaged, survived. The cops apprehended three people. While the majority of lawmakers and ministers condemned the incident and promised that justice would be served, a minority attempted to defend the vigilantes or just denied the incident occurred. Later, on their way to court, important witnesses to the incident were shot.¹²

Nowhatta Mob Lynching Case of 2017

The Nowhatta lynching case differs from others in the following ways:

1. The lynching victim was a police officer on duty for security reasons.
2. One of those involved in the lynching was a member of the terrorist outfit HizbulMujahidin.
3. The lynching occurred in the state of Jammu and Kashmir, where law and order remains a problem due to the actions of separatist and terrorist organisations.

Incident

Mohammed Ayub Pandith, a Deputy Superintendent of Police in Jammu and Kashmir, was posted in civilian clothing outside Jamia Masjid for security concerns on the holy night of Laylat al-Qadr. When he exited the mosque, he was questioned by a few people who suspected him and began crowding around him. Ayub attempted to flee the throng with his military weapon but was unable since his firing apparently hurt many people and the mob began assaulting him. Soon, suspicions arose that he was a non-Muslim, a RAW agent (the Research and Analysis Wing is the foreign intelligence agency of India) or belonged to a security agency.

¹² India Today Web Desk, *2017 Alwar mob lynching: Victim Pehlu Khan, sons charged for smuggling cattle*, INDIA TODAY (Jun. 29, 2019, 04:15 PM), <https://www.indiatoday.in/india/story/alwar-mob-lynching-2017-rajasthan-police-chargesheet-against-pehlu-khan-1558417-2019-06-29>.

A few felt that he was a Kashmiri Pandit (a Hindu) as his surname was Pandith. More people then came around him and began hitting him. The assailants stripped him nude and beat him with rods, stones, swords, and other objects. The next day, the disfigured body of Ayub was discovered.¹³

The lynching in Nowhatta is particularly disturbing because the victim was a police officer. The fact that a police officer on duty, responsible for maintaining peace and security, could be killed by a mob shows how widespread hate is in Kashmir. Furthermore, the episode demonstrates that the perpetrators are not limited to a specific community. While perpetrators of such lynchings are frequently affiliated with or influenced by Hindutva-supporting vigilantes, there are cases when their origin is unknown or non-Hindu. Although lynching may be the consequence of injured religious feelings in some circumstances, it is not a religion-specific crime; hence, lynching should not be connected with vigilantes of a single faith. Even ordinary folks, fuelled by hatred and fuelled by hearsay, might become members of a “mob” responsible for lynchings.¹⁴

Jharkhand Mob Lynching Case of 2016

The mob lynchings in Jharkhand must be addressed in the perspective of the following:

1. A 12-year-old kid was one among the casualties.
2. According to the authorities, the criminals (supposedly livestock protection vigilantes) intended to steal money and cattle.
3. The culprits murdered and then hung the two victims.

Incident

On the morning of March 18, 2016, the bodies of two Muslims were discovered hanging from a tree in Jharkhand’s Latehar district. The first victim was a 32-year-old cattle merchant called Mazlum Ansari, and the second was a 12-year-old Muslim child named Imtiyaz Khan. Both bodies bore evidence of having been beaten to death before being hanged. An inquiry by the Jharkhand police showed that the two were on their way to a livestock market in Chatra district with eight buffaloes to sell. Vigilantes who murdered and robbed them lynched them in

¹³ Express Web Desk, *Nowhatta mob lynching: DySP Mohammed Ayub Pandith beaten to death near Jamia Masjid*, INDIAN EXPRESS (Jun. 23, 2017, 04:51 PM), <https://indianexpress.com/article/india/nowhatta-mob-lynching-jammu-kashmir-dysp-mohammed-ayub-pandith-killed-jamia-masjid-srinagar-4717934/>.

¹⁴ Kamaljit Kaur Sandhu, *Ayub Pandith lynching: Jammu and Kashmir cop was stripped, dragged and beaten with rod*, INDIA TODAY (Jul. 16, 2017, 03:16 AM), <https://www.indiatoday.in/india/story/ayub-pandith-lynching-jammu-and-kashmir-dsp-jama-masjid-1022935-2017-07-07>.

Balumath woodland. The story demonstrates the lengths to which offenders would go to satisfy their intentions and demonstrates how religion is frequently utilised to carry out criminal activities motivated by avarice.¹⁵

Palghar Lynching Case of 2020

On April 16, two Hindu sadhus were murdered to death by a frenzied crowd of more than 100 people in the satellite town of Palghar, close to 100 km from the country's financial nerve hub and Maharashtra's capital, Mumbai. This act jolted the consciences of countries and was unique in that the lynchers were Hindus.¹⁶

Incident

A mob killed two Sadhus of Juna Akhara, Chikne Maharaj Kalpavrukshagiri (aged 70) and Sushilgiri Maharaj (aged 35) on April 16, 2020, along with their 30-year-old chauffeur. The event occurred in the hamlet of Gadchinchale in the Palghar district of Maharashtra. They were in route to Surat, Gujarat. The cops were present at the incident, but they apparently did nothing to halt the crowd or save the sadhus.¹⁷

The police first stated that their squad, who had hurried to the scene to save the 70-year-old man, was also attacked by the hostile mob. However, further films emerged that entirely refuted the police story. Contrary to allegations, the police apparently handed over the Sadhus to a frenzied crowd, who then beat them to death in front of the officers.¹⁸

Several accounts that emerged in the aftermath of the bloodcurdling lynching suggested that the violent murder of the Hindu sadhus was part of a larger scheme to destroy the Hindu priests. An investigation into the lynching found an ultra-left link, with a CPI(M) gram panchayat member reportedly gathering a crowd armed with rods and stones to kill the sadhus.¹⁹

¹⁵ Vishal Sharma, *Eight sentenced to life imprisonment for lynching cattle herders in Jharkhand*, HINDUSTAN TIMES (Dec. 21, 2018, 11:59 PM), <https://www.hindustantimes.com/ranchi/eight-sentenced-to-life-imprisonment-for-lynching-cattle-herders-in-jharkhand/story-zmbZoHrI5QUOtEoogFBWKL.html>.

¹⁶ Express News Service, *3 years after Palghar sadhu lynching, local police avert similar incident*, INDIAN EXPRESS (Apr. 10, 2023, 02:23 PM), <https://indianexpress.com/article/cities/mumbai/3-years-after-palghar-sadhu-lynching-local-police-avert-similar-incident-8538672/>.

¹⁷ Debasish Panigrahi, *Everything you need to know about the Palghar attack where Sadhus were lynched by a mob*, MUMBAI MIRROR (Apr. 20, 2020, 02:48 PM), <https://mumbaimirror.indiatimes.com/mumbai/crime/everything-you-need-to-know-about-the-palghar-attack-where-sadhus-were-lynched-by-a-mob/articleshow/75248136.cms>.

¹⁸ OpIndia Staff, *Palghar lynching: Two years on, justice still eludes two Hindu sadhus who were handed over to a bloodthirsty mob by the police*, OPINDIA (Apr. 16, 2022), <https://www.opindia.com/2022/04/palghar-lynching-two-years-on-slain-two-hindu-sadhus-still-await-justice/>.

¹⁹ Alok Deshpande, *Cong., CPI(M) slam BJP for giving communal angle to Palghar lynching*, THE HINDU (Apr. 21, 2020, 02:21 AM), <https://www.thehindu.com/news/cities/mumbai/cong-cpim-slam-bjp-for-giving-communal-angle-to-palghar-lynching/article31392390.ece>

According to reports, the Sadhus' murder may have been premeditated and politically motivated. Christian missionary organisation, as well as certain local NCP officials and communists, were suspected of being involved.²⁰

The horrible lynching had rocked the country's collective consciousness, with cries rising from throughout the country to bring the perpetrators of the heinous act to justice. Several legislators from across the political spectrum banded together to urge heavy punishment for the perpetrators, ensuring that similar tragedies never happen again and establishing a solid precedent.²¹

Cow Vigilantism in India

Cows are revered and revered as mother symbols in Hinduism. Cow slaughter in India is governed by state legislation, which means that each state has its own law (if one exists). The Supreme Court of India has on occasion confirmed the constitutional legality of legislation prohibiting cow slaughter in several states while permitting the killing of a select breeds under specific circumstances.²²

In an October 2005 decision, the Supreme Court overturned an earlier finding and affirmed the legality of a Gujarat state legislation prohibiting the killing of bulls and bullocks.²³ Article 48 of the Constitution of India states:

*“The state shall endeavour to organise agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds and prohibiting the slaughter of cows and calves and other milch and draught cattle”.*²⁴

However, as stated in the Directive Principles of State Policy, this is not legally enforceable. The export of beef (meat of cow, oxen, and calf) is now forbidden in India, although the export of boneless meat of water buffalo (carabeef) is permitted.

Cultural Hegemony

Hindu Nationalism and Cow Vigilantism on the rise since 2014, the prominence of Hindu

²⁰ Kavitha Iyer, *Palghar lynching: Sarpanch says she watched attack for 2 hrs, NCP leader couldn't control mob either*, INDIAN EXPRESS (Apr. 23, 2020, 03:25 PM), <https://indianexpress.com/article/india/palghar-lynching-sarpanch-says-she-watched-attack-for-2-hrs-ncp-leader-couldnt-control-mob-either-6374896/>.

²¹ PTI, *Palghar lynching case: CBI to take over investigation, Maharashtra tells SC*, HINDUSTAN TIMES (Apr. 28, 2023, 04:02 PM), <https://www.hindustantimes.com/india-news/palghar-lynching-case-cbi-to-take-over-investigation-maharashtra-tells-sc-101682677084804.html>.

²² Mohd. Hanif Quareshi & Ors. v. The State of Bihar, 1958 AIR 731.

²³ TNN, *SC upholds cow slaughter ban*, TIMES of INDIA (Oct. 27, 2005, 00:22 AM), <https://timesofindia.indiatimes.com/india/sc-upholds-cow-slaughter-ban/articleshow/1276425.cms>.

²⁴ The Constitution of India, 1950, art. 48.

nationalist movements in India has steadily grown. The name “Hindutva” more accurately describes the present strain of Hindu nationalism. To comprehend its current usage, one must first study the philosophy that underpins it. Hindutva, as promoted by right-wing Hindu organisations like as the Rashtriya Swayamsevak Sangh and the Vishwa Hindu Parishad, is a type of religious or cultural nationalism that seeks to define the country in terms of its indigenous traditions and ethnicity. Hindu nationalist organisations regard Hindus as victims of discrimination. They claim that minorities in India are granted preferential, apparently unjustifiable treatment. Hindutva supporters believe that faiths not of Indian heritage endanger Hindu identity. Hindu nationalist organisations have been accused of being culturally dominant due to specific interpretations of Hindutva. They have also used force in the past to achieve their goals, which are driven by Hindu nationalism. Cow vigilantism refers to – “*extrajudicial acts of violence in the name of gauraksha, a phenomenon that has gained traction with the rise of Hindutva outfits that purportedly, and sometimes intentionally, support cow protection organisations.*”²⁵ The underlying presence of Islamic terrorism across the world, as well as terrorist activities done in India, such as the 2008 Mumbai Terror Attacks, the 2016 Pathankot and Uri Terrorist Attacks, and so on, by Muslims terrorists dispatched from or sponsored by Pakistan, are undoubtedly triggering factors. The environment of fear and anger has resulted in an increase in anti-Muslim attitudes among some segments of the public.

Circulation of Misinformation through Social Media Platforms

In recent years, there has been a significant increase in the use of social media in India.²⁶ Its effect on the population has risen along with it, as political parties have acknowledged. Political parties spent a considerable chunk of their advertising budget on social media marketing for the 2019 Lok Sabha elections, mostly to attract first-time voters.²⁷ Any media with widespread influence and reach is unlikely to be limited to positive applications. Social media platforms are no exception, and they quickly evolved into vehicles for disseminating misinformation with negative overtones. They have been routinely utilised to instill hatred in people, groups, and communities. This virtual animosity has manifested itself in the form of mob lynchings on several instances. The enormous population size, the affordability of smartphones, and the comparatively low cost of internet access are the key reasons that have driven the rise of social

²⁵ Tazeen Ahmed and Shabbir Ahmed, *Law, Morality, and Society: The Legal Stance of Vigilantism and Moral Policing in the Context of India*, INT. J. L. MAN. & H., Vol 5(2) 1968-1985, 1968 (2022).

²⁶ *Social Media in India - 2023 Stats & Platform Trends*, OOSGA (Apr. 01, 2023), <https://oosga.com/social-media/ind/>.

²⁷ M. Rushi Abheeshai, *Impact Of Social Media On Politics In India*, IJCRT Vol. 10(3), 944-958 (2022).

media and messaging services in India. It has been stated that persons between the ages of 15-20 and over 50 are the most susceptible to “fake news,” while younger internet users also more prone to trust “fake news.”²⁸

Misuse of Social Media

Misuse of Facebook: Rohingya case

The Myanmar Situation Rohingya Due to conflicts with the majority Buddhist population, Muslims in Myanmar’s Rakhine state endure persecution and violence on a daily basis. The Myanmar government has refused to accept the Rohingya as citizens, seeing them as Bengali immigrants. Many people have been slaughtered by the military in what some call “ethnic cleansing” and compare to apartheid in South Africa. Thousands of stateless Rohingya have fled to neighbouring countries, particularly Bangladesh. Some persons in Myanmar (supposedly military officers) used a new medium, Facebook, to preach hatred and encourage violence against the Rohingya. This truth has been accepted by the California-based social networking service.²⁹ Through posts that contained fake news and nasty remarks, Facebook was purposefully utilised to incite anti-Islam/anti-Rohingya sentiments among Burmese population.³⁰ The majority of the hate postings were written in Burmese script, which Facebook was first unable to read and act on. Because the matter was not effectively addressed in the early stages, the virtual animosity resulted in killing and violence, which is commonly referred to as “genocide incited on Facebook.” Facebook officials claim to have implemented technological upgrades to block nasty remarks on their site, including those written in Burmese.³¹ The slaughter incited by Facebook demonstrates the extent to which these platforms can be abused and underscores the necessity for rigorous controls, even if it means restricting free expression.

Misuse of WhatsApp

²⁸ Stefan Gaillard, Zoril A. Oláh, Stephan Venmans, and Michael Burke, *Countering the Cognitive, Linguistic, and Psychological Underpinnings Behind Susceptibility to Fake News: A Review of Current Literature With Special Focus on the Role of Age and Digital Literacy*, FRONT. COMMUN. Vol. 6, <https://doi.org/10.3389/fcomm.2021.661801> (2021).

²⁹ Barbara Ortutay, *Amnesty report finds Facebook amplified hate ahead of Rohingya massacre in Myanmar*, PBS NEWS HOUR (Sep. 29, 2022, 01:05 PM), <https://www.pbs.org/newshour/world/amnesty-report-finds-facebook-amplified-hate-ahead-of-rohingya-massacre-in-myanmar>.

³⁰ Dan Milma, *Rohingya sue Facebook for £150bn over Myanmar genocide*, THE GUARDIAN (Dec. 0, 2021, 05:03GMT), <https://www.theguardian.com/technology/2021/dec/06/rohingya-sue-facebook-myanmar-genocide-us-uk-legal-action-social-media-violence>.

³¹ Libby Hogan and Michael Safi, *Revealed: Facebook hate speech exploded in Myanmar during Rohingya crisis*, THE GUARDIAN (Apr. 03, 2018, 01:06 BST), <https://www.theguardian.com/world/2018/apr/03/revealed-facebook-hate-speech-exploded-in-myanmar-during-rohingya-crisis>.

Lynching WhatsApp, a messaging app owned by Facebook, has been used several times to transmit incorrect and misleading information, inciting mob violence. Lynching episodes caused by “WhatsApp forwards and messages” have become so widespread that the term “WhatsApp Lynching” is now used to refer to such instances collectively. The extraordinary speed with which even incorrect information travels on this platform is the reason it has been so frequently abused. A crowd attacked five persons, including a two-year-old kid, in the Malegaon region of the Indian state of Maharashtra because they were suspected of being child lifters.³² The mob was allegedly sparked by a WhatsApp video that “warned” families to keep their children safe.³³ Furthermore, such “warning” messages, images, and videos of lynching instances are widely shared on WhatsApp. The dangers of such a platform must be addressed right now. WhatsApp was instructed to investigate the situation, and as a result, it implemented a variety of actions, including sponsoring research, launching advertisements, and limiting the number of groups to whom a message may be shared at one time.

Dealing with the Issue

Following a lynching occurred in Tripura, the state authorities restricted internet and SMS services in the region for 48 hours, owing mostly to Internet claims regarding child lifters. Solutions like these may be useful in momentarily normalising the situation, but they are not sustainable in the long run.³⁴ In Kerala, 150 government schools have begun teaching kids how to identify false news and distinguish between legitimate and untrustworthy sources.³⁵ While numerous campaigns by governments, private organisations, and non-profit organisations aim to raise public awareness about misinformation on the internet, evidence from around the world shows that it is difficult for people with strong convictions to reject “information” that supports their position. Those who do not share their political viewpoint frequently regard governments as untrustworthy sources. In the United States and other countries, “conservatives” do not trust the information provided by “liberal” non-governmental groups that uncover fake news.³⁶ The

³² Aarefa Johari, ‘*The crowd was willing to kill a child*’: Malegaon residents stopped a lynching but are in despair, SCROLL (Jul. 0, 2018, 09:00 AM), <https://scroll.in/article/885345/the-crowd-was-willing-to-kill-a-child-malegaon-residents-stopped-a-lynching-but-are-in-despair>.

³³ *A timeline: Fake WhatsApp rumours trigger series of mob lynching across the country*, THE NEW INDIAN EXPRESS (Jul. 02, 2018, 02:37 PM), <https://www.newindianexpress.com/nation/2018/jul/02/a-timeline-fake-whatsapp-rumours-trigger-series-of-mob-lynching-across-the-country-1836934.html>.

³⁴ FP Staff, *Tripura lynching: Mobile internet, SMS services banned in state for 48 hours to check rumour-mongering*, FIRSTPOST (Jun. 29, 2018, 01:42 PM), <https://www.firstpost.com/india/tripura-lynching-mobile-internet-sms-services-banned-in-state-for-48-hours-to-check-rumour-mongering-4627811.html>.

³⁵ Shraddha Goled, *Kerala: 150 Govt Schools Are Teaching Kids How To Spot Fake News*, THE LOGICAL INDIAN (Aug 23, 2018, 11:45 AM), <https://thelogicalindian.com/exclusive/kannur-govt-school-fake-news>.

³⁶ Katherine Ognyanova, David Lazer, Ronald E. Robertson and Christo Wilson, *Misinformation in action: Fake news exposure is linked to lower trust in media, higher trust in government when your side is in power*,

Pradhan Mantri Digital Saksharta Abhiyan of the Indian government intends to make rural families digitally literate.³⁷ It should be expanded to teach individuals how to identify false information. However, in the legislative domain, rules banning the use of social networking sites are frequently believed to infringe an individual's right to free speech and expression and are attacked.

Legislative Provisions and Judicial Stance

Legal Provisions to Deal with Lynching in India

The Indian Penal Code of 1860 has the parens patriae jurisdiction to any criminal offence committed within and outside the jurisdictions of India however it fails to have any provision specifically dealing with mob lynching. Probably the concept surfaced post-2014 era. Frequently, in India, the primary suspects/accused of fatal lynchings are tried for murder.

For example, in the 2015 Dadri Lynching Case, the First Information Report contained charges against the primary suspects under the following sections of the Indian Penal Code enumerated below:

1. Section 147: Rioting,³⁸
2. Section 148: Rioting, Armed with a deadly weapon,³⁹
3. Section 149: Unlawful Assembly,⁴⁰
4. Section 302: Murder,⁴¹
5. Section 307: Attempt to Murder,⁴²
6. Section 458: Housebreaking,⁴³ and
7. Section 504: Intentional insult with intent to provoke breach of peace.⁴⁴

While Section 223 of the Code of Criminal Procedure of 1973 allows perpetrators to be tried

MISINFORMATION REVIEW, HARVARD KENNEDY SCHOOL (Jun. 02, 2020), <https://misinforeview.hks.harvard.edu/article/misinformation-in-action-fake-news-exposure-is-linked-to-lower-trust-in-media-higher-trust-in-government-when-your-side-is-in-power/>.

³⁷ *Overview of PMGDISHA*, <https://www.pmgdisha.in/about-pmgdisha/> (last visited Jun. 13, 2023).

³⁸ The Indian Penal Code, 1860, § 147.

³⁹ *Id.*

⁴⁰ The Indian Penal Code, 1860, § 149

⁴¹ *Id.*

⁴² *Id.*

⁴³ The Indian Penal Code, 1860, § 458.

⁴⁴ *Id.*

collectively i.e., joining of trial.⁴⁵ Section 505 (criminalises the statements conducing to public mischief) and 153A (criminalises fostering enmity) of the Indian Penal Code are usually applicable in cases of lynching.⁴⁶

The Supreme Court judgment on the *Tehseen Poonawalla case*, stated:

“Apart from the directions we have given hereinbefore and what we have expressed, we think it appropriate to recommend to the legislature, that is, the parliament, to create a separate offence for lynching and provide adequate punishment for the same. We have said so as a special law in this field would instil a sense of fear for law amongst the people who involve themselves in such kinds of activities”.

The need for an anti-lynching statute is so obvious that Dr. Shashi Tharoor, an Indian National Congress Member of Parliament from Thiruvananthapuram in Kerala, submitted a private anti-lynching bill in the Lok Sabha in August 2018 but was denied permission to table it.⁴⁷

Judicial Stance

The Supreme Court’s decision in the *Tehseen Poonawalla v. Union of India and Others* case⁴⁸ in 2018 is the most recent and contextually relevant example of the supreme court’s stance on lynching in India. The crimes were described as “*horrendous acts of mobocracy*” by a three-judge bench that included then-Chairman Dipak Misra, Justice AM Khanwilkar, and Justice DY Chandrachud. The court provided directions for the national and state governments to adopt preventative, corrective, and punitive measures to deal with the crime while urging that parliament pass an anti-lynching law in the country.

The bench stated, “*Vigilantism cannot, by any stretch of imagination, be given room to take shape, for it is absolutely a perverse notion*”.

Anti-Lynching Act in Manipur

In late 2018, the Manipur state assembly overwhelmingly passed an anti-lynching bill in order to implement legislation that tackles the region’s rising problem. The statute closely follows the Supreme Court’s directions in the *Tehseen Poonawalla case*⁴⁹ and seeks to outline the roles and obligations of the state government and police agencies in lynching cases. Although this

⁴⁵ The Code of Criminal Procedure, 1973, § 223.

⁴⁶ Id.

⁴⁷ The Protection From Lynching Bill, 2017, available at: https://shashitharoor.in/private_member_bills_details/22%22.

⁴⁸ *Supra* note 02.

⁴⁹ *Supra* note 02.

isan admirable project, it cannot serve as a model for other governments to follow. Lynchings in Manipur are not politically driven and have distinct origins, motives, and aims than in other states.⁵⁰

Conclusion

Ancient Greek political theorists accurately characterised mobocracy as one of the three “bad forms” of rule that resulted from anarchy. The rule of the crowd must not be permitted to prevail in a country that values the qualities of equality, fraternity, and justice. When the perpetrators of mob lynchings are not immediately brought to justice, it inspires and empowers others to take the law into their own hands, supporting mob rule or mobocracy. An accused has the right to be considered as innocent until he or she is fairly tried and found guilty by a court, but vigilantes who mistakenly perceive themselves as “principled” law enforcers taint the sanctity of the state’s law. It is the state’s obligation to defend the rights of all citizens, especially minorities. An anti-lynching statute is required to instill terror among vigilantes who believe in “justice without a trial.” Along with those accused with murder, housebreaking, and other crimes, those responsible for “hate speech” and “fake news” that incite the mob must also face trial. Although a lynching may appear to target only one person, the underlying purpose is generally to “send a warning” to a certain group. While there is a lack of data—official statistics are not reported by the National Crime Records Bureau—to claim that the political party in the state government directly affects the frequency of lynching incidents due to the inaction of law enforcement agencies would be statistically incorrect. According to a statistical analysis of mob lynchings, the BJP’s pro-Hindu image enables far-right Hindu nationalist organisations, cow protection organisations, and vigilantes to administer their illegal version of “justice.” Politicians should not be permitted to make communal comments in order to further their political objectives while going unpunished. Offensive words made to sway voters may have unintended consequences in the future. State governments must quickly evaluate and follow the guidelines made by the Supreme Court in the *Tehseen Poonawalla* case. The Indian lynchings show that a mob in any country has a similar barbaric nature during the lynching, and unless the issue is addressed early on, the frequency and intensity of the crime could continue to grow at a rapid rate. The recent spike in the distribution of incorrect information through social media platforms is cause for considerable worry, as seen by the atrocities against

⁵⁰ PTI, *Manipur assembly passes anti-mob violence bill*, TIMES OF INDIA (Dec. 22, 2018, 11:25 PM), <https://timesofindia.indiatimes.com/india/manipur-assembly-passes-anti-mob-violence-bill/articleshow/67211670.cms>.

the Rohingya in Myanmar. While punishment measures such as provisions in the Indian Penal Code are appropriate in dealing with incidents of intentional dissemination of disinformation to incite violence, preventative measures such as awareness campaigns and technology advancements are desperately needed.