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Challenges and Issue before the Legislature Relating to Mob Lynching

¹ Meenu yadav, ²Dr. Rituja Sharma

¹Research Scholar law dept. Banasthali Vidyapith ,Rajasthan

² Associate professor Banasthali vidyapith Rajasthan

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ABSTRACT

Constitution of India provides fundamental rights to all citizens and freedom of speech is one of the most fundamental components of a healthy democracy. It gives opportunity to the people to participate in the social, legal and political happenings of their country. This freedom is a part of fundamental right that means the basic right, without which a person cannot live and develop in the society. With the use of free speeches, people could come together to achieve political, social and legal goals. Sound discussions not only enlighten the citizens but also give solution of a burning issue that is mob violence and mob lynching. Mob lynching is an extra judicial killing of human being without following the principles of law. I discussed in this paper about the issues and challenges before the legislature related to mob lynching and what are solution and suggestion to curb that situation.

1. Introduction

There are three organs of the government firstly, legislature, executive and judiciary. The organ of government that essentially takes care of the capacity of usage and organization is known as the executive and who uphold the law that is known as the judiciary .Legislation is the essential and fundamental organ of the administration. Governing body isn't simply a law making body. Lawmaking is nevertheless one of the elements of the council. It is the focal

point of all fair political procedure. Vote based system is nothing without an agent, proficient and viable assembly. The lawmaking body helps individuals in considering the agents responsible. The term parliament allude to the national lawmaking body. The governing body of the states is called as state legislature. The parliament in India has two houses. When there are two places of governing body, it is known as a bicameral legislature. The places of the parliament are the Council of States or the Rajya Sabha and the House of individuals or the Lok Sabha. The Constitution has given the states the choice of building up either a unicameral or bicameral assembly. Each state has capacity to make law identified with their particular state.

2. FUNCTIONS OF LEGISLATURE

Aside from the law making, the Parliament is occupied with numerous different capacities.

- As we realize governing body is law making body and standard bills can be presented by the individuals from parliament and by the clergymen while money bills are passed by the priests in the Lower House. The individuals from the parliament can acknowledge or dismiss the bills. Aside from that individuals parliament appreciate full right to speak freely and furthermore of analysis of the policies of the administration.
- The council has command over the financial plan of the administration and without the endorsement of the members from assembly executive can't spend even the single paisa.
- In a Parliamentary government the assembly or the parliament practice full command over the council members and executive.
- In certain nations like India council perform legal capacities likewise incorporate thinking about the proposition for evacuation of President, Vice President and judges of High Courts and Supreme Courts.
- The parliament performs discretionary capacities like chooses the President and Vice President of India.
- The parliament is the most elevated forum of discussion in the nation. There is no impediment on its capacity of conversation.

Right now mob lynching is intense offense in India and that is a pandemic. Mob lynching is slaughtering of individual by the mob with no fair treatment of law. The term mob lynching is beginning from American upset. In most recent couple of years mob lynching as an aggregate term which focuses on the particular character or outsiders under doubt. It is an offense against human body or property open just as private. The horde accept that they are rebuffing the casualty for fouling up and they take the law in their hand to rebuff the transgressor without observing the due methodology of law.

The nation is stunned by the unpleasant homicide of three individuals in Palghar Maharashtra where two priest and their driver murdered by mob. A 30 year old person passed on supposedly after 8-9 relatives of ladies assaulted him with sticks, iron streets and stones at a town in Rajasthan. Three individuals suspected to be cows hoodlums were slaughtered by mob in a tea domain in the fringe locale of karimganj in Assam and three man were assaulted with sticks and stone in Gujarat's Panchmahal region by residents on doubt that they were criminals and a RSS laborer has executed by crowd in M.P in collective conflict. When we are shackling under an emergency of Covid-19 and specialists are repeatedly focus on the social distancing, the inquiry why was such gigantic group equipped with tomahawks, sticks and stone permitted to amassed. It is the duty of the authority not just register the FIR after the commission of offense yet additionally guarantee that individuals don't take law in their own hand.

3. ISSUES AND CHALLENGES BEFORE THE LEGISLATURE

Life is valuable and the cutting edge state is compelled by a solemn obligation to secure the life of its kind. The Constitution of India puts a risk on the state to ensure the lives of the considerable number of individuals under Article 21 of the Constitution. Be that as it may, the ongoing expanding episodes of horde lynching and the occurrences of slaughter are a test to the legislature. These violations should be checked to ensure the majority rule the government of the country. Through this exploration, we have resolved that the force with which the occurrences of man butcher are expanding we require uncommon laws to address the offense of crowd lynching and slaughter. Also, the customary law of the country is not adequate to control the offenses of this nature.

Legislature is the main organ of the government and its duty to make the law according to the situation of society and to solve the issue. There are so many laws related to different areas like Constitutional law, IPC, Crpc., Family law, taxation law, Labour law etc. In IPC and Crpc there are so many provision related with the mob lynching. But these laws are not sufficient to tackle the issue of mob lynching. Apart from that there are so many issues and challenges before the legislature to tackle with the incidents of mob violence.

1. Religious biasness : India is a secular state. Every citizens has a fundamental right to profess, faith and propagate any religion as they like because Article 25 of Constitution says "all persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion subject to public order, morality and health." But there are so many mob incidents occurred only on the bases of caste, class, religion, etc. Khelanj

Massacre in 2006 which was a communal violence shook the society. Women of the victim's family were paraded naked in front of people and were humiliated and murdered.

2. **Rise of cow vigilante:** Cow slaughter is the one of major reason of mob lynching. Dadri mob lynching in 2015, Jharkhand mob lynching in 2016, Alwer mob lynching in 2017 etc are some notable incidents related to cow slaughter. Society has become the self proclaimed vigilantes taking law in their hand and target continuously to the minority sections of society. After the ban of beef in some part of the country cow vigilantes have become more bold and conscious upon innocent people on mere suspicion or rumors.

3. **Illiteracy:** Illiteracy that makes people not to think about the right or wrong but act on a rumor (attacking on beggars thinking that they had come for kidnapping their children).

4. **Unemployment:** Unemployment is the main issue before the legislature. Due to this people become frustrated and lose their self control power that rise such incidents.

5. **Spread of rumors by social media:** Social media has played wide role in the growth of crimes rates. More than dozen people have lynched due to rumors spread by social media. Since 2010 to 2018 out of 60 attacks 35 were based on the rumors according to the data of media. That issue was discussed in parliament in 2019 and the BJP government held social media as a sole cause in the rise of mob lynching. How to stop the social media to spread the fake news and rumors that is the issue before the legislature because there is no proper law on fake news.

6. **No particular law or strong law:** Mob lynching is considered to be a heinous crime against the community. In majority of the cases accused were charged under section 302 punishment of murder, 307 attempt of murder, 323 punishment of causing simple hurt, 325 punishment of causing grievous hurt of IPC which does not look fair in case of mob lynching because it is an offence against the community not an offence against the individual. Provisions of IPC and Crpc. are not sufficient to deal with the incidents of mob lynching because mob has no face and it is very difficult to punish the real culprit of these incidents.

7. **Lengthy procedure:** Procedure in our judicial system is very lengthy and complicated to deal the incidents of mob violence. That is the biggest issue before the legislature how to simplify the procedure.

8. **Delayed Justice:** "Delayed Justice is Denied Justice" that is the legal maxim under law. Delayed justice is the biggest issue and Delhi Rape Case is the best example. Due to this reason people become judge and take the law in their hand and want instant justice.

9. Police Reforms: Police played a important role to stop the incidents of mob lynching and crime in the society. But sometimes police become negligent to fulfill their duties.

10. Hostile of Witnesses: Witness is a person who see something happen and play a very important role to punish the wrongdoer but due to the fear some witnesses become hostile and some are not coming in court. So the security of witness is the big issue before the legislature.

As history has shown us on endless events, chaos is a manifestation of the disappointment of the State to stay faithful to its obligation of the viable allotment of equity. Turning to mob lynching is an attack against the respect of people, the protected duties ensured under Article 21 of the Constitution and a genuine break of each International responsibility to Human Rights.

In July 2017, the Supreme Court, while articulating its judgment on account of *Tahseen s. Poonawala v. UOI* (WP(C) No. 754/2016), had set out a few preventive, healing and reformatory measures to manage lynching and horde viciousness. States were coordinated to set up assigned quick track courts in each region to only arrangement with cases including mob lynching. The court had additionally mooted the setting up of an exceptional team with the goal of getting insight reports about the individuals associated with spreading detest addresses, provocative articulations and phony news which could prompt crowd lynching. Headings were likewise given to set up Victim remuneration plans for help and restoration of casualties. After a year in July 2019 the Supreme Court gave notification to the Center and a few states requesting that they present the means taken by them towards executing the measures and document consistence reports. The lukewarm reaction of states was amazingly frustrating. Starting at now just three states Manipur, West Bengal and Rajasthan have passed the counter lynching laws against the episodes of mob lynching.

4. Conclusion and Suggestions to prevent the incidents of mob lynching

Mob lynching is not an ordinary crime. Supreme Court of India has also stated, “Citizens cannot take the law into their hands or become law unto themselves,” and added that “horrendous acts of mobocracy” cannot become the new norm. Therefore there is an urgent need to bring a special law to prevent the menace of mob lynching. The special law dealing with

the mob lynching cases against scheduled caste and scheduled tribes like the SC/ST (Prevention of Atrocities) Act 1989 has acted as a great deterrent but for others so immediate laws are required to be passed as soon as possible.

Some of the suggestion are:

- There should be specific and strong law to tackle the mob lynching. Punishment should be strict.
- Mob lynching incidents occurred mostly due to some fake messages and hate speech. To stop these type of hate messages and rumors there should be some law . Government has a duty to fix the liability on broadcasting agencies if fake news and messages spread through the social media.
- Spread awareness messages and organize social awareness program on school or colleges level.
- Police play an important role to stop the crime. So there should be police reforms and fix the liability of police officers who are negligent to perform their duties.
- A nodal officer should be appointed in each area who investigate the incidents of mob lynching and prepare the reports.
- In our judicial system procedure is very complicated and lengthy. So procedure related to these incidents of mob lynching should be simple.
- A special court or fast track should be established to deal these incidents and trail should be completed within 6 months.
- Witness play the important role for the punishment of wrongdoer but due to the fear witness not come in court. So safety of witness is important before and after completing the procedure of court.
- There should be victim compensation scheme and compensation should be paid to victims and his family as soon as possible.
- Religious based education and their institution should be monitored regularly if they spread hatred messages against another religion.
- Perception that crowd has no face should be removed from the mind of the people.

Mob lynching is one of the heinous crime. No particular reason can only be held responsible for this crime. Religion and caste are dominant causes but other reasons too responsible for it, like personal grudges. Making of new law is may be not a great idea rather amendments in IPC and Crpc will serve the purpose and amendments in these two laws give the sense of higher culpability to the offenders. Severe punishments should be added with less stringent procedure. Apart from this, these type of offences are against humanity and question the very sense of being human....so somewhere stress should be given on imparting moral education to people of every age, not only to school goers.

No doubt, the incident of mob lynching is abnormal behavior of Indian society, that is totally sociological and political phenomenon. Such behavior of mob seen due to the influence or supremacy of the group's thought or ideas. The victim of mob lynching is always either from deprived community means Dalit or from religious minority. How many victim of mob lynching from upper caste Hindu that is so called sawarna? Very few or nothing. I think communal politics and Brahmanism is root cause of mob lynching in India. Nowadays in India we see many incidents related to lynching happening on the name of Gauraksha, child thief, desdrohi, naxal and jamat, jihadi. BJP led Government of India escalate incident of mob lynching and promote such behavior. There are many minister of Government of India including Prime minister of India continue delivered hate speech against a particular community and also award to accused of mob lynchings. So in my view only law never face and eliminate such evils. Social and political reform with ethical and moral values, spreads awareness among people and social harmony and brotherhood will help to beat mob lynching.

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