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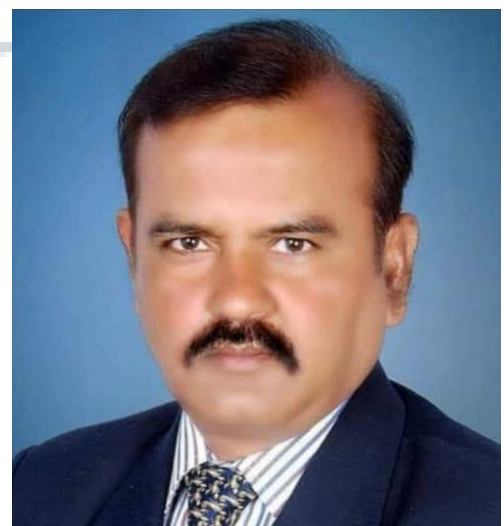
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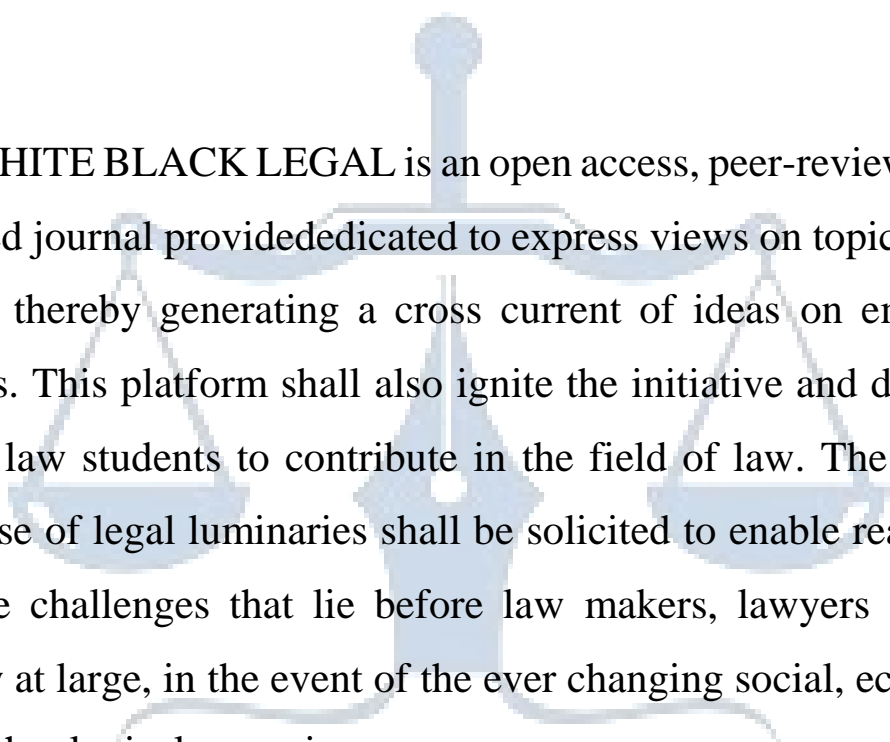


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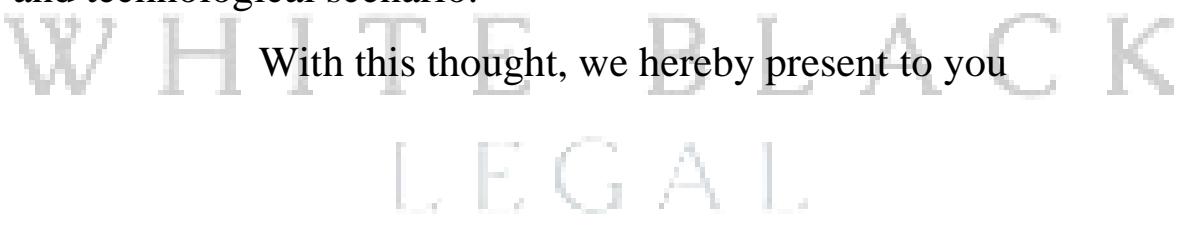
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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you



MOB LYNCHING AND HUMAN RIGHTS

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Abstract

Mob lynching is a form of violence and an extra judicial killing by a group. Mob is nothing but a group of angry crowd who attack on someone and kill someone without any trial or legal act because they believe that person has committed a crime. Mob lynching is a term used to describe the act of targeted violence by large group of people. Simply, it means a crowd of people who kill or try to kill someone illegally as a punishment. The term lynch law refers to a self-constituted court that imposes sentence on a person without due process of law.

Key-words- Mob, Lynching, Violence, Extra-judicial, Angry crowd, Attack, Trial, Crime, Illegal, Punishment, Due process of law.

Meaning of mob lynching-

According to Britannica “lynching, a form of violence in which a mob, under the pretext of administering justice without trial, executes a presumed offender, often after inflicting torture and corporal mutilation”. The term ‘lynch’ law refers to a self-constituted court that imposes sentence on a person without due process of law. Both terms are derived from the name of Charles Lynch (1736–96), a Virginia planter and justice of the peace who, during the American Revolution, headed an irregular court formed to punish loyalists.

According to Collins English Dictionary “A lynch mob is an angry crowd of people who want to kill someone without a trial, because they believe that person has committed a crime.”

According to Wikipedia “Lynching is an extrajudicial killing by a group. It is most often used to characterize informal public executions by a mob in order to punish an alleged transgressor, punish a convicted transgressor, or intimidate”. It can also be an extreme form of informal group social control, and it is often conducted with the display of a public spectacle (often in

the form of hanging) for maximum intimidation. Instances of lynchings and similar mob violence can be found in every society.

History of mob lynching in other countries- The Fehmic Courts of **Medieval Germany** imposed some punishments that involved lynching, as did the Halifax gibbet law (execution of those guilty of theft valued over a specific amount) and Cowper justice (trial after execution) in the border districts of England. Resembling these cases were the Sant Hermandad constabulary **in medieval Spain** and pogroms directed against Jews in Russia and Poland, although in these cases there was support from legally constituted authorities. Vigilante justice has been practiced in many countries under unsettled conditions whenever informally organized groups have attempted to supplement or replace legal procedure or to fill the void where institutional justice did not yet exist. Such conditions commonly give rise to acts of genocide. Statistics of reported lynching in the **United States** indicate that, between 1882 and 1951, 4,730 persons were lynched, of whom 1,293 were white and 3,437 were black. Lynching continued to be associated with U.S. racial unrest during the 1950s and 60s, when civil rights workers and advocates were threatened and in some cases killed by mobs.

Germany- In Liverpool, a series of race riots broke out in 1919 after the end of the First World War between White and Black sailors, many of whom were demobilized. After a Black sailor had been stabbed by two White sailors in a pub for refusing to give them a cigarette, his friends attacked them the next day in revenge, wounding a policeman in the process. The police responded by launching raids on lodging houses in primarily Black neighborhoods, with casualties on both sides. A White lynch mob gathered outside the houses during the raids and chased a Black sailor, Charles Wootton into the Mersey River where he drowned. The Charles Wootton College in Liverpool has been named in his memory. In 1944, Wolfgang Rosterg, a German prisoner of war known to be unsympathetic to the Nazi regime, was lynched by other German prisoners of war in Cultybraggan Camp, a prisoner-of-war camp in Comrie, Scotland. At the end of the Second World War, five of the perpetrators were hanged at Pentonville Prison – the largest multiple execution in 20th century Britain.

South Africa- The practice of whipping and necklacing offenders and political opponents evolved in the 1980s during the apartheid era in South Africa. Residents of Black townships formed "people's courts" and used whip lashings and deaths by necklacing in order to terrorize fellow Blacks who were seen as collaborators with the government. Necklacing is

the torture and execution of a victim by igniting a kerosene-filled rubber tire that has been forced around the victim's chest and arms. Necklacing was used to punish victims who were alleged to be traitors to the Black liberation movement along with their relatives and associates. Sometimes the "people's courts" made mistakes, or they used the system to punish those whom the anti-Apartheid movement's leaders opposed. A tremendous controversy arose when the practice was endorsed by Winnie Mandela, then the wife of the then-imprisoned Nelson Mandela and a senior member of the African National Congress. More recently, drug dealers and other gang members have been lynched by People Against Gangsterism and Drugs, a vigilante organization.

Nigeria- The practice of extrajudicial punishments, including lynching, is referred to as 'jungle justice' in Nigeria. The practice is widespread and "an established part of Nigerian society", predating the existence of the police. Exacted punishments vary between a "muddy treatment", that is, being made to roll in the mud for hours and severe beatings followed by necklacing. The case of the *Aluu four* sparked national outrage. The absence of a functioning judicial system and law enforcement, coupled with corruption are blamed for the continuing existence of the practice.

Kenya- There are frequent lynchings in Kenya, often as a mob executes a person they feel is guilty. McKee (2021) is written largely with reference to a Kenya Lynchings Database that includes reports of over 2,900 lynched persons for Kenya for the years ca. 1980-2021. That number, however, is just a fraction of the total for that period, which may well exceed 10,000.

Afganistan- On March 19, 2015 in Kabul, Afghanistan a large crowd beat a young woman, Farkhunda, after she was accused by a local mullah of burning a copy of the Quran, Islam's holy book. Shortly afterwards, a crowd attacked her and beat her to death. They set the young woman's body on fire on the shore of the Kabul River. Although it was unclear whether the woman had burned the Quran, police officials and the clerics in the city defended the lynching, saying that the crowd had a right to defend their faith at all costs. They warned the government against taking action against those who had participated in the lynching. The event was filmed and shared on social media. The day after the incident six men were arrested on accusations of lynching, and Afghanistan's government promised to continue the investigation. On March 22, 2015, Farkhunda's burial was attended by a large crowd of Kabul residents; many

demanded that she receive justice. A group of Afghan women carried her coffin, chanted slogans and demanded justice.

Mob lynching in India- Mob lynching is a term used to describe the acts of targeted violence by a large group of people. The violence is tantamount to offences against human body or property both public as well as private. The mob believes that they are punishing the victim for doing something wrong (not necessarily illegal) and they take the law in their own hands to punish the purported accused without following any rule of law.

Reasons behind mob lynching-

- a) **Intolerance**- People are intolerant in accepting the acts of law and go on to punish the alleged person assuming the act to be immoral.
- b) **Biases**- Biases based on various identities like caste, class, religion etc. Mob lynching is a hate crime that is rising due to the biases or prejudices among various castes, classes of people and religions.
- c) Rise of cow vigilante is one of the crucial reasons that agitate the growing rise in mob lynching activities.
- d) The inefficiency of police administration.
- e) **Propagandas**- In India people are very emotive on sensitive issues. It is very easy to flare them up. Some people are spreading wrong information on social media especially on Facebook and WhatsApp. Some people used this incident to settle their personal enmity.
- f) **Lack of Impunity**- One of the major reasons for the rise in mob lynching is impunity. Police find it difficult to register cases against big crowds, some people get advantage of it. There is no particular law to deal with lynching and it finds no mention in the Indian Penal Code. Hence often the perpetrators get away with it.
- g) **Misguided Youth**- With rise in unemployment, youth are being misguided ideologically by politicians or religious groups. Due to misguidance of youth, they act against certain sects to take revenge or are motivated by thrill and excitement.
- h) **Failure of State**- The failure of state in protecting Minorities from mob, lack of proper mechanism in place. People are losing their faith in law and order machinery therefore they are taking laws in their hand.

Types of Mob-lynching are-

- (a) communal based
- (b) witchcraft
- (c) honour killing
- (d) bovine-related mob lynching
- (e) suspicion of child lifting
- (f) theft cases
- (g) cow slaughter and beef eating.

Case laws and mob lynching in India- Mob lynching is a violation of human dignity under Article 21 of Constitution of India and a gross infringement of the Universal Declaration of Human Rights (UDHR, 1948). Such incidents violate the Right to Equality and Prohibition of Discrimination as provided under Article 14 and Article 15 of Constitution of India. However, it is nowhere mentioned in the law of the land and is hence simply put as murder under section 300 r/w section 302 since it has not been yet incorporated under the Indian Penal Code, 1860.

- (1) **Ayub khan lynching case (23 June, 2017 Jammu and Kashmir)**- In this case a police officer Mohammad Ayub Pandith was lynched by an angry mob after he allegedly opened fire at a group of people who caught him clicking picture near the mosque.
- (2) **West Bengal lynching case (26 June, 2017 Durgapur)**- barely two days before Eid, three muslim youth were lynched in Durgapur village, West Bengal, by a mob of cow vigilantes over suspicion of cow theft.
- (3) **Guwahati lynching case-** a mob allegedly lynched two men in Nagaon district of Aasam, after they were suspected to be cattle thieves. This was the first case of cow protector (gau rakshaks) going to such extremes in the state.
- (4) **Harpur lynching case** –Qasim and Shamiudding were thrashed by a mob on rumours of their involvement into cow slaughter. The incident hogged headlines when a video showing both lying in a pool of blood and men from the mob shouting at them for facing the punishment for attempting cow slaughter.
- (5) **Junaid lynching case-** Naresh Rakh, the accused for the murder of 16 year old Junaid Khan, told the police in his statement that he attacked Junaid and others with a knife

after they had hit him with a belt and he had started bleeding. He further said that he had thrown the murder weapon into a pond in his village at Jataula, Haryana. Rakh works as a guard at the National Museum.

- (6) **Alwar lynching case**- Man lynched to death on suspicion of being cow smuggler. In a shocking incident, another lynching has been reported from Ramgarh in Alwar district of Rajasthan. The lynching was done on suspicion of cow smuggling and comes a year after Pehlu Khan was lynched by gau in the district. Pehlu Khan died later and the incident caused massive stir nationwide.
- (7) **Dhule lynching case**- Mob violence fanned by child-abduction rumours on social media snuffed out five lives in Dhule district, adding to the new wave of lynchings across the country. The police have detained 15 people for their alleged role in the crime. A bustling weekly market at Reinpada, a cluster of tribal hamlets with a population of 2,500, turned into a killing field after angry locals chased seven people mistaking them for child-lifters. While two of them escaped, but others were trapped by mob.
- (8) **Akhlaq lynching case**- The accused in Mohammad Akhlaq's murder case, who was dragged and killed by a mob on suspicion of eating beef in Dadri's Bishada village, may soon secure a job. Mohammad Akhlaq was dragged out of his home and stoned to death on a village street after a public announcement from the local temple that the family had slaughtered a calf and eaten its meat, on September 29, 2015.

Measures to prevent mob-lynching-

- (a) **Legislation**- A national law is required in response to the spate of lynching incidents happening in the country. The proposed law should define the terms lynching, mob and victim. It should make lynching a non-bailable offence, criminalize failure of duty by police officers, designate judges for trial, define compensation and rehabilitation for victims and witnesses within a definite time frame.
- (b) **Fast-track Courts**- The lynching cases should be tried by fast-track courts with day-to-day hearings. It is important to punish the culprit with stringent punishment and conclusion of the cases within 6 months.
- (c) **Sensitization**- Indian community should be sensitized towards the rights of other citizens and danger of mob crimes for social cohesion. Awareness campaigns are needed to sensitize people about the plight of others.

- (d) **Community Policing**- By fostering partnerships with the community state can enable communities and law enforcement to work together to prevent and respond to hate crimes. Community involvement can prevent serious mob crimes. Helpline should be established for reporting of mob lynching crimes in society.
- (e) **Youth Involvement and Counselling**- The majority of act of lynching are committed by persons who are 29 years old and younger. Youth are also often more vulnerable to violent attacks, bullying, and other forms of harassment. To combat this teachers and school administrators should educate their students and staff on the nature of such incidents and crimes and how to prevent them.
- (f) **Training for Officers and Deputies**- Police should train new recruits and existing officers and deputies on mob lynching and other related issues. It shall be the duty of every police officer to cause a mob to disperse, which, in his opinion, has a tendency to cause violence in the disguise of vigilantism or otherwise. The state governments shall designate a senior police officer in each district for taking measures to prevent incidents of mob violence and lynching.
- (g) **State Efforts**- The state governments shall immediately identify districts, sub-divisions and villages where instances of lynching and mob violence have been reported in the recent past. Central and the state governments should broadcast on radio and television and other media platforms including the official websites that lynching and mob violence shall invite serious consequence.
- Rajasthan and West Bengal have passed state specific laws which criminalizes mob lynching. It's high time that democracy has to be saved from mobocracy by those in power. The Central and state government must leave aside the political blame game. Government need to come up with some concrete steps to protect the citizens from the recurrent violence which cannot be allowed to become the new normal.

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