



PERSONALITY TEST PROGRAMME 2019

(Current Affairs Interview Issues)

MOB LYNCHING

- Mob lynching is a form of violence in which a mob, under the pretext of administering justice without trial, executes a presumed offender, often after inflicting torture.
- It is an illegally authorized way of punishing somebody by an informal group. It is most often also referred as informal public executions by a mob who wish to punish an alleged transgressor, or to intimidate a group.
- Such incidents are egregious manifestations of prejudice, intolerance, and contempt towards the rule of law. [SEP]

Reasons for cases of mob lynching in India

- **Mob Psychology:** People have less fear of being punished when they act in groups as it's harder to identify real culprits. Further, there is dispersion of responsibility and guilt unlike in individual action.
- **Political Patronage:** In the competitive electoral politics, the culture of political mobilization based on social faultlines for polarization of electorate into votebanks and use of violence for garnering support and intimidating opponents, has gained strength.
 - Few elected representatives also sometimes come out in open defence of the attackers.
- **Administrative Failure:** Given the state of the police and judiciary in the country, there is a wide-ranging perception that 'culprits' go unpunished, and that there is a chance that the accused in heinous crimes like rape, child lifting and cow-slaughter will go scot-free. Vigilantism is a consequence of this basic failure of the government in providing justice.
 - A recent report by Delhi-based NGO Common Cause and CSDS mentioned that, "35% of police personnel interviewed for the survey think it is natural for a mob to punish the "culprit" in cases of cow slaughter, and 43% think it is natural for a mob to punish someone accused of rape."
- **Rumours on social media: Misinformation and propagandas** spread through platforms like Facebook, WhatsApp. E.g. recent rumours regarding child lifters have incited many impulsive and unplanned acts of violence across the country.
- **Societal factors:** The idea of the so-called form of 'instant' justice is immensely popular. Further, the socio-political framework of the country involves people with deep fissures and mistrust, prejudices and biases based on caste, religion etc.
- **No database to analyse trends:** As per Ministry of Home Affairs there is no record keeping on public lynching. Thus, making it difficult to draw conclusions and possible solutions to the problem. Further, in the recently released NCRB report for the year 2017, the data collected under the sub-heads of mob lynching, killed ordered by Khap Panchayat and murder committed for religious reasons has been omitted.
- **Cattle Protection Laws:** In certain state laws, there is a shifting of burden of proof on victims and consequently a presumption of guilt, which leads to filing of cases against the victims only. It leads to **criminalization of certain professions** such as that of transporters, butchers, leather workers, and the **process itself ends up being the punishment** in most cases.

Impact of mob lynching

- **Fuel communalism and casteism:** As in most cases, victims are the most vulnerable people of society - nomadic tribes, religious minorities, lower castes etc. This is threat to secular fabric of the country as diverse as India.
- **Against human rights:** The lynching by mob create an atmosphere where human beings are dehumanised, freedom of speech, expression and personal choices are endangered and plurality and diversity is not accepted.
- **Subverts rule of law:** The process of adjudication takes place within the courts of justice, and not on the streets. A crime cannot be an answer to another crime. Mob lynching reflects the loss of trust in state capabilities in justice delivery.

- **Fear Psychosis:** Terrorism kills far fewer people than traffic accidents, but we have the most stringent laws against terrorism because it causes more than just deaths. It strikes fear in the daily lives of people, bringing cities to a standstill. Events of lynching mean to punish someone in a manner that others will see as a warning and a lesson. Many lynchings are actually hate crimes where identity of the victims seems to be the real cause behind the killing
 - A study, by IndiaSpend, says that of the lynching deaths reported between 2010 and 2017, 84% were Muslims. Every such case strikes fear in the hearts of minorities in India.
- **Economic Impact:** Tougher laws on cow slaughter, transportation of cattle, and mob attacks by cow protection groups have disrupted not just the cattle trade and the rural agricultural economy, but also leather and meat export industries linked to farming and dairy sectors.
 - Management of unproductive cattle puts huge financial strain on farmers. Thus, animal markets aggregators become an indispensable institution for disposal of unproductive animals. But, in wake of mob attacks by cow vigilantes, such businesses have been adversely impacted.
 - Mob vigilantism has seriously hurt the livelihood of nomadic herders (e.g. Banjara nomadic community in Rajasthan).

Legal provisions on mob lynching in India

- **Section 223(a) of the Criminal Procedure Code, 1973** contains the provision for persons being charged for an offense jointly when they are accused of the same offence committed in the course of the same transaction which is applicable on two or more people.
- The **Indian Penal Code (IPC), 1860** also has some proximate sections related to hate speech and hate crimes under **Sections 153A** (promoting enmity between different groups and doing acts prejudicial to maintenance of harmony), **153B** (imputation, assertions prejudicial to national integration).
- **Section 34 of the Indian Penal Code** provides punishment for acts done by several persons in furtherance of common intention, where each person is equally liable for the act.
- **Section 120B (criminal conspiracy), 147 (rioting), 148 (rioting armed with deadly weapons) and 143/149 (unlawful assembly) of Indian Penal Code** are some other provisions related to offences against public tranquility.
- **Punishment for lynching** may come under Section 302 (murder), 304(culpable homicide not amounting to murder), 307 (attempt to murder) etc.

Government steps so far

- States such as **Manipur, West Bengal and Rajasthan** have passed laws against mob lynching.
- The **State Law Commission of UP** recommended jail terms ranging from seven years to life imprisonment for those convicted for mob lynching. In its draft legislation, the commission also recommended, “up to three-year term for dereliction of duty by a police officer or a district magistrate.”
- **Two high-level committees** have been constituted by the **Central government** to suggest ways and legal framework to effectively deal with incidents of mob violence and lynching. One of the committees is being headed by Union Home Minister and the other by Union Home Secretary.
- Central government on its part has asked states to appoint a **nodal officer in each district** to prevent the incidents of mob violence and lynching.

Do we need for a separate law?

The need of a separate law stems due to the following reasons:

- **Enforce Constitutional provisions:** Lynching based on identity discriminates against a whole community and violates Article 14 and Article 15 of the Constitution of India.
- **Deterrence:** A dedicated law would help create enough deterrence against such heinous crime.

However, some experts feel that the lynch mob is a law and order challenge and there are enough provisions in IPC related to murder, attempt to murder, acts done by several persons in furtherance of common intention etc. to tackle such menace if implemented strongly and effectively.

National Campaign Against Mob Lynching (NCAML) released a draft of a proposed law, **MASUKA**, or the **Manav Suraksha Kanon** (a law to protect human beings).

Manav Suraksha Kanoon

- Definitions of 'lynching', 'mob' and 'offensive material'.
- Lynching should be made non-bailable offence – with graded levels of punishment depending upon the injury caused to the victim.
- Dissemination of offensive material to be made a separate offence.
- Investigation of lynching incidents to be conducted by senior police officers.
- Special courts to fast track trials.
- Designated judges for trial and appeal at High Court.
- Special rights for witnesses and victims.
- Mandatory state government compensation within 30 days.

Supreme Court observations on mob lynching

In *Tehseen Poonawalla vs Union of India, 2018*, Supreme Court condemned recent incidents of lynching and mob violence against Dalits and minority community members as "horrendous acts of mobocracy", and asked Parliament to pass law establishing lynching as a separate offence with punishment. Such a law should be effective enough to instill a sense of fear in the perpetrators

- SC said that such incidents "threaten rule of law and the country's social fabric."
- The court said the growing numbness of the ordinary Indian to the frequent incidents of lynchings happening right before his eyes in a society based on rule of law is shocking.
- It is also the obligation of the Centre and the States to ensure that "nobody takes the law into his hands nor become a law into himself".

Way forward

Supreme Court issued **directions on the preventive, remedial and punitive measures** to be adopted by the central and the state governments. ^[1]_{SEP}

- The state governments shall **designate a senior police officer in each district** for taking measures to prevent incidents of mob violence and lynching.
- 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.
- The nodal officers shall **bring to the notice of the DGP any inter-district co-ordination issues** for devising a strategy to tackle lynching and mob violence 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
- 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 consequences.
- Curb and **stop dissemination of irresponsible and explosive messages**, videos and other material on various social media platforms. Register FIR under relevant provisions of law against persons who disseminate such messages.
- Ensure that there is **no further harassment of the family members of the victims**.
- State governments shall **prepare a lynching/mob violence victim compensation scheme**.
- Cases of lynching and mob violence shall be specifically **tried by designated court/fast track** courts earmarked for that purpose in each district. The trial shall preferably be concluded **within six months**.
- To set a stern example in cases of mob violence and lynching, the trial court must ordinarily **award maximum sentence upon conviction** of the accused person.
- If it is found that a police officer or an officer of the district administration has **failed to fulfill his duty**, it will be considered as an act of **deliberate negligence**.

Summary

Mob lynching is an illegally authorized way of punishing somebody by an informal group under the pretext of administering justice without trial.

Reasons:

- **Mob Psychology and political patronage.**
- **Administrative Failure** and Perception that 'culprits' go unpunished.
- **Rumours on social media:** E.g. recent rumours of child lifters on WhatsApp inciting violence.
- **Societal factors** such as Popularity of 'instant justice', prejudice, intolerance etc.
- **No database to analyse trends:** NCRB report- 2017, the data collected under the sub-heads of mob lynching has been omitted.
- In **Cattle Protection Laws** of some states, there is shifting of burden of proof on victims and consequent presumption of guilt.

Impact of mob lynching

- **Fuel communalism and casteism**
- **Freedom of speech and personal choices** are endangered and plurality is not accepted.
- **Subverts rule of law**
- **Fear Psychosis** as it creates fear in the daily lives of people, bringing cities to a standstill.
- **Economic Impact** on leather and meat export industries, livelihood of nomadic herders (Banjara of Rajasthan).

Legal provisions on mob lynching in India

- **CrPC Section 223(a):** Provision for persons being charged for an offense jointly accused of the same offence committed in the course of the same transaction which is applicable on two or more people.
- **IPC Section 153A:** Promoting enmity between different groups and doing acts prejudicial to maintenance of harmony.

Government steps so far

- **Manipur, West Bengal and Rajasthan** have passed laws against mob lynching.
- The **State Law Commission of UP** recommended jail terms ranging from seven years to life imprisonment for those convicted for mob lynching.
- **Two high-level committees** constituted by the **Central government** to effectively deal with mob violence and lynching.
- Central government asked states to appoint a **nodal officer in each district** to prevent the incidents of mob violence and lynching.

Need for a separate law

- **To enforce Constitutional provisions-** Article 14 and Article 15
- A dedicated law would help create **deterrence** against such heinous crime.
- National Campaign Against Mob Lynching (NCAML) released a draft of a proposed law, **MASUKA**, or the **Manav Suraksha Kanon** (a law to protect human beings), which has following suggestions:
 - Making lynching non-bailable offence, investigation by senior police officers, Special courts, designated judges, Special rights for witnesses and victims, mandatory compensation within 30 days.
- **Supreme Court observations:** In **Tehseen Poonawalla vs Union of India**, 2018 SC called mob violence "horrendous acts of mobocracy" and asked Parliament to pass law establishing lynching as a separate offence.

Way forward

- **Supreme Court** issued following directions
 - Designate a senior police officer in each district, identify districts, sub-divisions and villages mob violence have been reported, broadcast on radio and television against lynching and mob violence shall invite serious consequences, curb and stop dissemination of irresponsible and explosive messages etc.

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