

## **Letter from the Executive Board**

Greetings Members!

It gives us immense pleasure to welcome you to this simulation of LOK SABHA at DIMUN2020. We look forward to an enriching and rewarding experience. The agenda for the session being :-

### **“Discussing the formulation of law to curb communal violence in India”**

This study guide is by no means the end of research, we would very much appreciate if the Parliamentarians are able to find new realms in the agenda and bring it forth in the committee. Such research combined with good argumentation and a solid representation of facts is what makes an excellent performance. In the session, the executive board will encourage you to speak as much as possible, as fluency, diction or oratory skills have very little importance as opposed to the content you deliver. So just research and speak and you are bound to make a lot of sense. We are certain that we will be learning from you immensely and we also hope that you all will have an equally enriching experience. In case of any queries feel free to contact us. We will try our best to answer the questions to the best of our abilities.

We look forward to an exciting and interesting committee, which should certainly be helped by the all-pervasive nature of the issue. Hopefully we, as members of the Executive Board, do also have a chance to gain from being a part of this committee. Please do not hesitate to contact us regarding any doubts that you may have.

All the Best!

Naman Jain

(Speaker)

Kaushal Singh

(Deputy speaker)

## Introduction

Religious hatred is a violence between different religious groups. Like we have racism which implies hate against someone's race. Spreading religious hatred is very common these days. It can be through any mean like social media. In India, there have been many instances where religious hatred is turned into religious violence. Violence against Muslims in India or north-eastern is on rising. Social Media is a way to communicate a message to others. But some people make misuse of these social media by showing their hatred to other religion. In a world like this where groups are divided on the basis of religious makes hatred more for others.

In India, there are 9 religions in total. It is a land of different religions which are characterized by various religious practices.<sup>1</sup> People of India have a strong belief in religion as they believe that these religions add purpose to their lives. Indians are so much connected to religion that they can do anything for their religion. India is the 4th worst country for religious violence. Hurting someone's religion is a crime in India. The Government of India does understand the sentiments of people of India that is why rules and regulation are setups so that no-one hurts the sentiments of other religion. Punishment is also given for people who spread religious hatred either in public or on social media.

In 1984, Supreme Court decided to forfeit all the copies of book 'Vishwa Jtibas'. This book contained derogatory references to Prophet Mohammad which outraged the religious feelings of the Muslims. The Supreme Court ordered to forfeit all the copies of the book keeping in mind the interest of the people.

Recently, Supreme Court has warned about the religious sensibility in India. A bench of Justices Dipak Misra, A M Khanwilkar and M M Shantanagoudar stated that Insults to religion offered carelessly or without any intention to outrage the religious feelings of that class should not be charged with hurting religious.<sup>[2]</sup> The Bench was hearing a case against the cricketer in which he hurled the sentiments of Hindu religion. Dhoni was seen on the cover page of the magazine as Lord Vishnu, holding a shoe in one hand.

Telecom Minister Kapil Sibal said that India does not intend to censor all the online social networks but the rules and regulation should be followed. Since 19 internet social media including Google, Yahoo and Facebook have been targeted in criminal and civil cases lodged

in New Delhi Courts. Mostly, the cases are related to religious hatred. However, the court is holding the companies responsible for the derogatory words used by their users on their platforms.

The court has warned all the Social media to have a regular check or otherwise they have to pass an order for banning all such websites.

## **Position Of India**

On Religious Hostilities, India Ranked Just Slightly Better Than Syria. India ranked fourth in the world in 2015 after Syria, Nigeria and Iraq in social hostilities involving religion. Interference from government and government restrictions on religion in India is high and is increasing every year. Government restrictions on religious practice in India was largely directed towards minorities. <sup>[4]</sup> In India, people tend to follow more religion than any other country. People of India is so connected with religion that sometimes they can insult other religions. Insulting another religion and showing hatred to other religion is very common in India. For that government has to interfere in between. Government has provided punishment so as to stop religious hatred.

## **A Facebook post can get you arrested**

In our Constitution, a right to freedom of speech is given under Article 19(1)(a). It states that every citizen shall have the right to freedom of speech and expression. Protection of certain rights are given to every citizen but it does not mean that you misuse this right to hurt others religion. Article 19(2) defines all the exception when the freedom of speech and expression won't work. Article 19 (1)(a) gives right of freedom of speech and expression subject to 'reasonable restriction'. Reasonable restrictions can be for preserving public order, decency or morality.

Generally Speaking, article 19 gives right to freedom of speech but you can not speak against anyone religion as this can hurt our religion and can lead to indecency. And the government can make any law so as to preserve public order, decency, and morality.

There have been so many instances where people have shown hatred toward each other's religion especially on social media like Facebook, Tweeter, etc.

People have landed in jail before of a Facebook post. Recently, Rahat Khan was arrested by UP police for a posting a Facebook post against the new UP CM Adityanath. In March 2015, a class 12th student was arrested for posting objectionable comments on UP minister Azam Khan.

In 2014, a man from Kerala was arrested for posting abusive comments and photos on Facebook about Prime Minister Narendra Modi.

In November 2012, two girls were arrested for posting a question on her Facebook page questioning why this city was shut down for Shiv Sena leader Bal Thackeray's funeral. One of them commented that the shutdown was out of fear, not respect. The second girl was arrested for liking the post.

They were booked under section 295(a) of the IPC for "hurting religious sentiments" and Section 66a of the IT Act.

This raised a question on whether there is a right of freedom of speech or not in India.

## **Laws related to social media and religion**

### **Section 153A of IPC**

Section 153A of IPC states that whoever promotes enmity between different groups of religion and doing acts prejudicial to maintenance of harmony will face punishment. Whoever

1. By words, either spoken or written or by signs or by visible representations or otherwise promotes religion disharmony or feelings of enmity, hatred or ill-will between different religious or
2. Commits any act which is prejudicial to the maintenance of harmony between different religious and which disturbs or is likely to disturb the public tranquillity

shall be punished with imprisonment which may extend to three years or with fine or with both.

### **Section 295A of IPC**

Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

Whoever with deliberate and malicious intention of outraging the religious feelings of any class of citizen of India by words, or by signs or by visible representations insults to attempts to insult the religions or the religious belief of that class shall be punished with imprisonment of either description of a term which may extend to 3 years or with fine or with both.

This provision was introduced in 1927 as to protect the religious feeling which was hurt by a published a book called “Rangila Rasul”. The book contained the marriage and sex life of Prophet Muhammed. There was no provision against the insult of religion, so the publisher was released. But the published was killed later by Ilm-ud-din. The killer was honored and called Shaheed. The Indian Muslim demanded provision against the insult of religious feelings. Hence, section 295A was introduced by the government.

Also, this provision was declared constitutionally valid in *Ramji Lal Modi v State of UP*, a five-judge bench of the supreme court upheld its constitutionality under Article 19. That means that now for making it unconstitutional, a seven-judge bench is required. To make it unconstitutional means you should have a strong and compelling reason.

In the succeeding years, the court refined this test: it held that the connection between speech and disorder must resemble that of a ‘spark in a powder keg’; in 2011, it held that only speech that amounted to ‘incitement to imminent lawless action’ could be punished. This, as we can see, requires a very high threshold for the state to fulfil before invoking public disorder as a ground for restricting speech. In fact, in the case in question, the Supreme Court held that mere ‘passive’ membership in a terrorist organization was not a criminal offence, as long as the accused person had not resorted to inciting violence. And most recently, in the famous *Shreya Singhal* judgment, the Supreme Court distinguished

between ‘advocacy’ and ‘incitement’, and held that laws restricting free speech would have to be narrowly tailored so that they only caught the latter kinds of speech within their net.

Therefore, in fifty plus years since the decision in *Ram Manohar Lohia*, the basic foundation of *Ramji Lal Modi* – that there is no requirement of proximity between speech and disorder – has been consistently undermined and discarded by the Supreme Court.

If the correct test is one of incitement to lawless action, then it is very clear that the terms of Section 295A are far too broad. Under no interpretation can it be said that intentional insult to religion, or to religious feelings, is necessarily equivalent to ‘incitement’. In *Shreya Singhal’s Case*, the Supreme Court made it clear that ‘over-broad laws’, that captured within their scope even legal and legitimate speech, would have to be declared unconstitutional, because of their potential to chill core political and cultural speech.

### **Section 298 of the IPC**

Any person uttering words etc with deliberate intent to hurt the religious feelings of any person will be punished under this section. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person or makes any gesture in the sight of that person or places, any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

### **Section 66A of IT Act**

Section 66A of the IT Act states the punishment for sending offensive messages through communication services etc. Any person who sends any information which is offensive or any information which he knows to be false, but for the purpose of causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, enmity, hatred or ill will, persistently by making use of such computer resource or a communication device. This section is only through communication services like social media. This section provides punishment with imprisonment for a term which may extend to three years and with fine.

But this provision is scrapped by Supreme Court. As this section was unconstitutional. In 2015, Section 66A of IT Act was declared unconstitutional by the Supreme Court. The court struck down Section 66A of the IT Act for being “open ended, undefined, and vague”<sup>1</sup>

## **Mob violence in India - Lynching**

**A year after a landmark judgment to prevent mob lynching, the centre and states have found no moral obligation to implement the apex court’s guidelines**

**By Venkatasubramanian**

*“There cannot be an investigation, trial and punishment of any nature on the streets. The process of adjudication takes place within the hallowed precincts of the courts of justice and not on the streets. No one has the right to become the guardian of law claiming that he has to protect the law by any means.”*

—**The Supreme Court in *Tehseen S. Poonawalla vs Union of India and others*, July 17, 2018**

One year after its landmark judgment to prevent [mob lynching](#), the Supreme Court had to ask itself whether its observations in that ruling were just meant to be sanctimonious. On July 26, 2019, the bench comprising the Chief Justice of India, Ranjan Gogoi, and Justice Deepak Gupta sought responses from the centre and 10 states on a petition alleging that they had not implemented the slew of directions issued by the Court in that judgment. The petition filed by the Anti-Corruption Council of India Trust named the centre, Uttar Pradesh, Jammu and Kashmir, Jharkhand, Andhra Pradesh, Gujarat, Rajasthan, Bihar, Assam, Madhya Pradesh and Delhi as respondents.

Expressing its abhorrence over the rising incidents of lynching across the country, the 2018 Supreme Court bench comprising the then Chief Justice of India, Dipak Misra, Justice AM Khanwilkar and Justice DY Chandrachud issued several guidelines as preventive measures. Some key guidelines are:

(i) Designation by the state governments of a senior police officer, not below the rank of superintendent of police, as nodal officer (NO) in each district to function as the head of a special task force to procure intelligence reports about the people who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news.

(ii) Identification of districts/sub-divisions and/or villages, where instances of lynching and mob violence have been reported in the recent past.

(iii) The NO, through regular meetings, has to identify the existence of tendencies of vigilantism, mob violence or lynching in the district and take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means for inciting such tendencies. The NO has the responsibility to make efforts to eradicate hostile environment against any community or caste which is targeted in such incidents.

(iv) Every police officer has the duty to cause a mob to disperse, if it has a tendency to cause violence or wreak the havoc of lynching in the disguise of vigilantism.

(v) Central and state governments should broadcast on radio and television and other media platforms, including official websites of the home department and police of states that lynching and mob violence of any kind shall invite serious consequence under the law.

(vi) It is the duty of the central and state governments to take steps to curb and stop dissemination of irresponsible and explosive messages, videos and other material on various social media platforms which have a tendency to incite mob violence and lynching of any kind.

As remedial measures, the Court directed the jurisdictional police station to immediately lodge an FIR, without any undue delay, under the relevant provisions of the IPC and/or other provisions of law, whenever an incident of lynching or mob violence has been reported. The NO, in such cases, has to ensure that there is no further harassment of the family members of the victims. The NO is also dutybound to ensure that the investigation is carried out effectively, and a charge sheet is filed within the statutory period from the date of registration of the FIR or arrest of the accused.

More importantly, state governments were directed to prepare a lynching/ mob violence victim compensation scheme within one month from July 17, 2018. The scheme must have provision for interim relief to the victim(s) or to the next of kin of the deceased within a month of the incident, the Court had held.



The Supreme Court made it clear that cases of lynching and mob violence should be tried by designated courts/fast track courts earmarked for that purpose in each district on a day-to-day basis, and the trial concluded within six months from the date of taking cognisance. The Court made this direction applicable to even pending cases.

In a rather unusual sense, the Supreme Court even held that trial courts must ordinarily award maximum sentence as provided for various offences under the IPC upon conviction of the accused for mob violence and lynching.

Among the punitive measures, the Supreme Court had held that a police officer who neglects his duties, under this judgment has to face departmental action within six months, apart from “appropriate action” for misconduct.

The Court also recommended to Parliament to create a separate offence for lynching and provide adequate punishment for the same. A special law would instill a sense of fear for law amongst the people who involve themselves in such kinds of activities, the Court had observed.

Despite the Court’s preference for a special law, the centre, which initiates legislation in Parliament, found no moral obligation to implement the Court’s recommendation. The centre just constituted an Empowered Group of Ministers (GoM) for the purpose of considering the nature of legislation to be brought in.

This GoM is now headed by Home Minister Amit Shah and what it proposes to do to bring in a new law or strengthen the existing provisions remains unclear. This indifference, therefore, has had an impact on the remaining authorities, who also have binding responsibilities to fulfill under the judgment.

Among the states, only Manipur and Rajasthan have reportedly followed the Supreme Court guidelines. The Uttar Pradesh State Law Commission has, in a *suo motu* report, admitted that over 50 incidents of mob lynching have taken place in the state in the last seven years. The UP Law Commission also proposed a draft Bill to combat mob lynching. The Bill prescribes a minimum of seven years’ imprisonment to a maximum of life imprisonment for the offence.

As a deterrent measure, the Bill has prescribed imprisonment for a year for any policeman or district magistrate who fails to prevent incidents of lynching within their jurisdiction, and up to three years' imprisonment for dissemination of offensive material on social media.

The Congress government in Rajasthan has introduced the Rajasthan Protection from Lynching Bill to provide designated courts to ensure expeditious trial of cases related to lynching. The Bill provides a wide definition of lynching that includes “dietary practices” and “sexual orientation” as possible grounds for assault.

The lack of a precise definition of lynching in the Supreme Court's judgment, according to activists, led many police officials to treat “lynching” incidents as ordinary crimes, thus not meriting the application of guidelines laid down by the Court.

The Rajasthan Bill defines lynching as “any act or series of acts of violence or aiding, abetting, or attempting an act of violence whether spontaneous or planned, by a mob on the grounds of religion, race, caste, sex, place of birth, language, dietary practices, sexual orientation, political affiliation, ethnicity”.

The Bill provides for compensation to the victims or their legal heirs, apart from their entitlement for accommodation and rehabilitation, in case of their displacement from their residence. Although the Bill is timely, questions are bound to be asked whether it would help to change the mindset of the officials, who tend to consider cases of lynching as something else to avoid following the Supreme Court's guidelines.

The state government came under criticism after a charge sheet was filed against two sons of Pehlu Khan, who was lynched two years ago for alleged [cow smuggling](#).

The lack of compliance with the Supreme Court's guidelines must be seen in the context of the failure of the centre and state governments to follow the direction to broadcast on radio and television and other media platforms that lynching and mob violence of any kind would invite serious consequences under law.

On September 24 last year, the same bench which delivered the judgment on July 17 last year, directed compliance with the direction within a week. Despite assurance by the Attorney General, KK Venugopal, and Solicitor General Tushar Mehta, this directive has not been

complied with. Perhaps the centre and states assume that broadcasting against lynching would mean admission of the rise in such incidents, which the governments seek to deny. Compliance with just this direction could have helped to create a mindset among officials against lynching and create a public opinion against mob violence of all kinds.

The Supreme Court's judgment against mob lynching has an inherent flaw in that it declined the plea of the petitioners to declare the provisions of cow protection laws of various states, which empower vigilante groups to use force to prevent cow smuggling, as unconstitutional. The Court was naive to believe that its moral exhortations alone would be sufficient to answer the petitioners' prayers.

### **Studies on fringe groups**

Eight Hindutva outfits were taken for study. Four of them were organisationally part of the RSS-led Sangh parivar while the remaining ones were independent entities. These are the prominent but not the only Hindu militia groups. At present, the RSS has roughly three dozen affiliate groups across the country. Several groups – both big and small – exist outside the purview of the Sangh parivar. In some areas, as in Rajasthan, gau rakshaks operate as an independent group, but in other areas, even the militia groups double up as gau rakshaks from time to time.

Not all the Hindu militia groups are organisationally linked to each other. Some are part of the Sangh parivar while others are not, and yet all have their umbilical cord attached to the RSS and are ideologically on the same page. Portraying minorities, especially Muslims, as imaginary threats to Hindus and attacking them constantly, has remained the single most important tool of all the strands of Hindutva politics. On occasions, when it is inconvenient, the BJP and the RSS disown the outfit. Thus, when Maharashtra ATS started probing terror links of Abhinav Bharat, the BJP and the RSS got bewildered and declared the outfit as a fringe organisation that never enjoyed their patronage. But Abhinav Bharat's RSS roots could not be hidden.

Sameer Kulkarni, who had asked Himani Savarkar to head Abhinav Bharat and who had initiated the Madhya Pradesh branch of the organisation, was an RSS pracharak. Similarly, retired Major Ramesh Upadhyay, another prominent Abhinav Bharat leader, has strong

Sangh parivar connections. Before joining the outfit, he was the president of the Mumbai unit of the BJP's ex-servicemen cell. No less significant is the political track record of Sadhvi Pragya Singh, the first person to be arrested in the Malegaon 2008 blast case. She had been a leader of Akhil Bharatiya Vidyarthi Parishad, the student wing of the RSS, before taking up *sanyas*. There are many such instances.

Hindutva politics feeds on chaos. Its hydra-like structure is its strength and not a weakness. The BJP's electoral fortunes have remained largely dependent on reaping votes that grow out of seeds of communal propaganda and campaign sown not just by its pan-India associates but also by a large number of organisations working locally in various regions of the country. The tasks of brazen kind required to create polarisation in the society may not be carried out swiftly and easily if the Hindu militia outfits do not have multiple faces. This also makes it difficult for the state authorities to clamp down on them.

Though the BJP and the RSS have remained sympathetic to Sanatan Sanstha, no better has been the track record of the Congress. For some unexplained reasons, the Congress, when in power, did not deal firmly with this outfit despite gathering sufficient proof of the involvement of its members in acts of terror during 2008-2009. Perhaps, the Congress' fear that banning of the Sanstha might push the traditional Hindu voters of Maharashtra to the BJP led it go for appeasement towards the outfit.

A number of army men seem to drift towards Hindutva organisations after retirement, possibly because the communalism at such places is garbed as nationalism. The Bhonsala Military School, with its curious combination of Hindutva ideology and military training, seems equipped to capture the imagination such military figures whose sense of nationalism can easily get mixed up with Hindu communalism.

### **Famous radical fringe groups in India:**

Far more belligerent than the Sangh Parivar, seldom caring if their words and actions cause grave embarrassment to the PM, these outfits, from the well-known VHP to the little-known Hindu Makkal Katchi, created their own peculiar and occasionally disturbing narrative.

#### **(1) Dharam Jagaran Samanvay Samiti**

Truth be told, reconversion is a long-running campaign led by this ‘conversion’ wing of RSS. But the Ghar Wapsi made it to headlines only after Modi Sarkar came to power. In a much publicised event in Agra, the outfit led by Rajeshwar Singh converted 300 Muslims to Hinduism in late 2104.

### **(2) Akhil Bharatiya Hindu Mahasabha**

One of the oldest Hindu organisations in the country, the group decided to honour its most famous member Nathuram Godse by insisting his statues be installed in different cities. Their statement backed by BJP MP Sakshi Maharaj that Godse was a patriot led to an outrage in Parliament.

The group also celebrated February 14 as “Prem Vivah Diwas” meant to encourage people in love with those from a different religion to marry on that day, and let their non-Hindu partners return to “the fold”.

### **(3) Vishwa Hindu Parishad**

The mothership of fringe outfits. Starting December last year, leaders of the group made statements that urged “minorities to return to their roots.” In February, it said it will implement in Goa its Ghar Wapsi programme to bring back into the Hindu fold “Christian brothers whose forefathers were forced to adopt Christianity 400 years ago in Goa.” The group openly declared film stars such as Kareena Kapoor, who had married a Muslim, were a bad influence on society.

National Hindu Movement The group held demonstrations in various places in Goa and Maharashtra, urging all Hindu parents not to “deprive” their children of Hindu culture by admitting them in convent schools.

### **(4) Rashtriya Hindu Andolan**

This Maharashtra-based umbrella organisation of many Hindu groups carried out protests across the country against the screening of Aamir Khan starrer PK as they found it offensive to Hindu sentiment. The group has been protesting for years for removal of ‘secular’ from the Indian constitution.

### **(5) Rashtrawadi Shiv Sena**

The group led the protest against ‘Alishan Pakistan’ expo in New Delhi, an attempt made by industry groups to normalise relations between the two countries. The group demands that India boycott all Pakistani products.

#### **(6) Shiv Sena Hindustan**

The group in May 2015 defaced and blackened signages of roads named after Muslim kings Akbar and Firoze Shah in New Delhi. Members of the group said they had a problem with roads being named after “unpatriotic” people.

#### **(7) Hindu Janajagruti Samiti**

The group considers itself a cultural custodian of Hindu culture and has protested against six Hindi movies this year, including PK, Singham 2 and many TV shows. The group offers crash courses on “how to protect Hindu girls from Muslims” and “how to perform Ghar Wapsi” and has also accused PM Modi of being soft on minorities.

#### **(8) Hindu Dharma Sena**

The group was accused of vandalising a church in Jabalpur in March 2015 and five of its members were arrested. The group had accused the church of converting close to 200 local tribal people into Christianity.

#### **(9) Hindu Makkal Katchi**

One of the extreme right groups in Tamil Nadu that came to light for opposing writer Perumal Murugan’s book, ‘Maathorubagan’, the group continued its protests even after the writer announced that he has given up writing, citing pressure from fundamentalists.

#### **(10) Hindu Rashtra Sena**

The group was accused of distributing provocative pamphlets in Pune last year which led to unrest in the city, also the murder of a 28-year-old techie.

### **Rising mob violence in India**

For the past 18 years, India has been witnesses an unusual increase in crime related to mob violence, in the name of religion, kidnapping etc. Though, the epidemic spread in the form of

vigilant against cow slaughter, later in spread to kidnapping and other sorts of crimes. According to unofficial estimates around 120 people have killed through the country.

### **What is mob violence?**

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.

### **What are the reasons?**

#### **Rise of cow vigilante**

Even since, Government imposed a ban on the sale and purchase of cattle for slaughter at animal markets across India, under Prevention of Cruelty to Animals statutes (26th May 2017), it sparked a new wave of cow vigilante in the country. Though the Supreme Court, suspended the ban on the sale of cattle in its judgment in July 2017, giving relief to the multi-billion dollar beef and leather industries and several states where beef is one among the primary foods there was a rise in attacks on Muslims accusing them as beef eaters. Several dozen innocent Muslims were killed in such mob attack. But human rights experts feel mob lynching is not a right and the apt term description of such violence, they seek to highlight the organisations or group of vicious individuals who are instigating such incidents. These incidents are usually appearing to be sporadic in nature and often a spontaneous response from the Hindus who are generally furious over the reports of cow smuggling and slaughter. But mostly it is not.

#### **Silence of political class**

Despite the rising mob violence, the political class and bureaucracy continued remain a silent spectator. The human rights observers, feel political class in behind the rise mob lynching since most of the people who are ruling the country retained or captured the power through political system which aggressive and violent. Besides, they have built their political career propagating violence against minorities, where the mobs feel empowered and strong. The political class,

apart from their customary condemnation, they avoid visiting the victims or their surviving families.

### **Rumours of child lifters**

Rumours of child kidnappers proved to an ignition point for mob violence, where WhatsApp posts were circulated Odisha, Tamil Nadu, Gujarat, Karnataka, Telangana, Tripura and West Bengal. This claimed several lives on domestic visitors, mentally deranged peoples and incited numerous mob attacks. According to various reports, at least 20 persons have been killed and several injured in incidents of mob violence sparked by rumours of child kidnapping in 10 states for the past three months.

### **Lack of proper policing**

The incidents of mob violence, sparked by rumours about child lifters are totally connected lack of public confidence in the police. Common man feels police lack the ability to track down the criminals and recover the kidnapped children. According to home ministry figures, 54,723 child kidnapping cases (2016), 41,893 cases (2015), 37,854 cases (2014). It was found that the police filed charges against the kidnappers in only 40 per cent cases in 2016 and around 23 per cent of the cases decided in 2016. Practically speaking around three out of four people put to trial for child kidnapping walked free. Besides, state governments should be vigilante and try to prevent mob violence triggered by rumours. One way could be to keep detect rumours circulating on social media in their respective areas well before the public vents its anger and frustration at the innocent individuals.

### **Is It an Administrative Failure?**

There is a recurring pattern in police action too. If present, even as the slaughter of innocents unfolds, they don't act, pleading later that they were outnumbered. In most cases, they come in too late to save lives, and very often they register crimes against the victims and drag their feet to charge and arrest the attackers

After the lynching, police often try to record the incident as *a crime of cow smuggling, animal cruelty, rash driving and road rage*.

In its investigations, the police never cordon off the site of the lynch attacks: Even hours after the crime, people walk over the ground still splattered with blood or burned flesh. This is not



a shoddy investigation. It is deliberate (and criminal) destruction of evidence which could have been used against the killers

The police in almost every case, instead, *registers crimes against the victims*.

In recent incidences reflect that, State home ministers, sometimes chief ministers, and senior police officials publicly denounce not the members of the lynch mobs but the victims and survivors.

### **Most discussed facet of mob violence – Mob Lynching**

As the grim threat of lynching casts a terrifying shadow over large swathes of the country, directions from India's Supreme Court to all governments to take steps to prevent what it described as "horrendous acts of mobocracy" can only be welcomed.

The court has asked Parliament to consider passing a special law on lynching. This, it maintains, is essential to protect citizens and ensure that the "pluralistic social fabric" of the country holds against mob violence.

Though, if this ruling will have any influence on actually stemming the hate violence sweeping through our land. A new law will work if gaps in existing law are what prevent state administrations from acting decisively and fairly against lynch mobs.

### **What is meant by Lynching**

Lynching is not just "mobocracy"; it is a collective hate crime

For Instance, Lynching may be sparked variously by disputes over allegations of cow smuggling or slaughter, or wild rumours of cattle theft or child kidnapping, or something even as trivial as a seat in an unreserved train compartment.

Whatever the ostensible trigger, murderous mobs gather to lynch people of hated identities with gratuitous cruelty. IndiaSpend found that *86 per cent of persons killed in cow-related lynching were Muslim, and 8 per cent Dalit*

The recent spate of mob killings on rumours of child kidnapping target strangers and mentally challenged persons.

### **Main Reasons of these Lynching in recent times:**

- These hate crimes flourish most of all because of the enabling climate for hate speech and violence which is fostered and legitimised from above, which frees people to act out their prejudices; and the impunity assured by state administrations to the perpetrators.
- Senior ministers and elected representatives frequently come out in open defence of the attackers, charging the victims with provoking the attacks.
- The messaging is unambiguous: Not the lynch mob, but the victim, and the community to which he belongs, are guilty.
- The current phenomenon of lynching to be what intellectuals describe as “command hate crime”.
- By this underline, first, that these are hate crimes, not ordinary mob violence, as these mostly target identified minority communities and disadvantaged castes. And second, that these crimes are tacitly or openly encouraged by senior leaders of the political establishment.
- The members of the lynch mob in most incidents of lynching video-tape the act, and upload the video-tapes. To record one’s crimes and display these on the social media reflects a brazen confidence that you will not be punished for your crime, and even if you are nabbed, you will be a hero for the ruling establishment.

**Conclusion:**

For people in political authority, uniform and magistrates to take sides in hate battles is a profound crime against humanity. Yet this still is recognised at best as a moral failure, not a punishable crime.

If there is any new law we need to prevent the spread like an epidemic of this new scourge of targeted hate crime, of lynch mobs, it requires only one law, and this is the *creation of a crime of dereliction of duty and communal partisanship by public officials*.

The challenge, ultimately, is not of law, but of our collective morality and our collective humanity.

In the recent years, the cases of mob lynching have increased exponentially, which is an alarming signal for the social harmony of the nation.

In the land of Mahatma Gandhi, who was the worshipper of non-violence, it's very disconcerting and heart-breaking to see the innocent people being pray to the people with vested interests and a particular agenda claiming to be the protector of religion, custom, and society.

### **Way Forward:**

Off late, we have seen as to how the technology, which is considered to be the boon for mankind, is being used by some people to spread rumours and fake news leading to assault and death of innocent people.

In the recent times, several instances of misuse of social networking sites such as Facebook, Twitter, and WhatsApp have caused the loss of lives.

Though the service providers have come up with the modifications in the features to contain the increasing dissemination of fake news, yet it has not proven to be very effective. That means, there is a need for stronger regulation over the use of these apps.

### **Government initiatives**

#### **A)Creation of nodal officers**

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. In its advisory, the Home Ministry said, the nodal officer should be of superintendent of police-level officer. It has also asked to set up a special task force to procure intelligence reports about the people who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news. Home Ministry said, the process of identification should be done within a period of three weeks. The Ministry said, wherever it is found that a police officer or an officer of the district administration has failed to comply the directions to prevent such crime of mob violence and lynching, it should be considered as an act of deliberate negligence and misconduct and strong action must be taken against the official concerned. The advisory has been sent to the states and Union territories following a Supreme Court directive issued in this regard on 17th of this month.

Home Ministry asked state governments to implement the directions of the Supreme Court in letter and spirit. The Ministry said, police should register FIR against persons who disseminate irresponsible and explosive messages and videos having content which is likely to incite mob violence and lynching of any kind.

## **B) Creation of Two high level committees**

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 Rajnath Singh and the other by Union Home Secretary Rajiv Gauba. The move came a week after the Supreme Court asked the Central government to enact a law to deal with incidents of lynching and take action on mob violence. The government respects the recent directions of the Supreme Court on the issue of mob violence and has issued an advisory to State governments urging them to take effective measures to prevent incidents of mob violence and lynching, and take stringent action as per the law. In order to formulate appropriate measures to address the situation, the government has set up a high-level committee chaired by Union Home Secretary Gauba to deliberate upon the matter and make recommendations. The Secretaries of the justice, legal affairs, legislative, and social justice and empowerment departments are members of the committee. The committee will submit its recommendations to the government within four weeks. The government has also decided to constitute a Group of Ministers (GoM) headed by Home Minister Singh to consider the recommendations of the high-level committee of the Secretaries. External Affairs Minister Sushma Swaraj, Road Transport Minister Nitin Gadkari, Law Minister Ravi Shankar Prasad and Social Justice and Empowerment Minister Thawar Chand Gehlot are members of the GoM. The GoM will submit its recommendations to Prime Minister Narendra Modi

## **Delhi violence: A story of politics, police and riot-ready mob**

*The anti-CAA protests began in mid-December with the amended citizenship law being linked to update of the NPR and NRC. The narrative that troubled many was that the combination of CAA, NPR and NRC was aimed at one particular community.*

After more than 20 people died and over 150 got injured in communal clashes that broke out in North East Delhi, senior political leaders spoke out. In focus of their statements was blame-game rather than confidence-building measures.

Three days after communal violence first broke out in Delhi, Congress president Sonia Gandhi demanded resignation of Union Home Minister Amit Shah saying he is responsible for current situation in Delhi.

Addressing a press conference after holding an emergency sitting of the Congress Working Committee (CWC), Sonia Gandhi posed five questions to the Narendra Modi government of the Centre and the Arvind Kejriwal government of Delhi holding both responsible for the communal violence in Delhi.

### **POLITICS**

To a question about "deafening silence" of Prime Minister Narendra Modi, President Ram Nath Kovind and Vice President M Venkaiah Naidu, Sonia Gandhi said it was "shocking".

The Congress said it had sought time to meet President Kovind who expressed his unavailability. Now, the party would be undertaking a march to the President over Delhi violence. The Congress, however, did not announce that a similar march would be taken out in riot-affected areas a suggestion that Sonia Gandhi offered to Delhi Chief Minister Arvind Kejriwal and his 61 MLAs.

Sonia Gandhi's somewhat delayed press conference had an impact. Minutes after her outbursts against the government, Prime Minister Narendra Modi took to Twitter and appealed for peace and brotherhood in Delhi.

Putting out two posts on Twitter, PM Modi said, "Had an extensive review on the situation prevailing in various parts of Delhi. Police and other agencies are working on the ground to ensure peace and normalcy."

"Peace and harmony are central to our ethos. I appeal to my sisters and brothers of Delhi to maintain peace and brotherhood at all times. It is important that there is calm and normalcy is restored at the earliest," PM Modi wrote further.

Soon after Union Law Minister Ravi Shankar Prasad said, "It is shameful for a party like the Congress to have made these comments. I condemn it."

His cabinet colleague Prakash Javadekar said, "At such times all parties should ensure that peace is maintained. Blaming the government instead is dirty politics. Politicising this violence is wrong."

They were responding to Sonia Gandhi's charge in which she said, "There is a well-planned conspiracy behind the continuous traumatic accidents that have been happening since last Sunday. The country saw this conspiracy during the Delhi elections as well."

### **GENESIS, AS SONIA READ IT**

"Many BJP leaders have been spreading an atmosphere of fear and hate by making inflammatory speeches. A similar statement was given by a BJP leader last Sunday too," said Sonia Gandhi without taking names of BJP leaders Kapil Mishra, Parvesh Verma and Anuragh Thakur.

Kapil Mishra had on Sunday threatened to "come out on the roads" and "will not listen to you [the police]" if the Delhi Police failed to remove anti-Citizenship Amendment Act (CAA) protesters from Jafraabad and Chand Bagh in North East Delhi. Clashes broke out on Sunday evening, intensified through Monday and Tuesday.

Earlier during Delhi Assembly election campaign, BJP leaders Parvesh Verma and Anurag Thakur made statements that were provocative and the Election Commission punished them with periodic ban on electioneering by the two leaders.

The anti-CAA protests began in mid-December with the amended citizenship law being linked to update of the National Population Register (NPR) and preparation of the National Register of Citizens (NRC). The narrative that troubled many was that the combination of the three CAA, NPR and NRC was aimed at one particular community.

The government came out with clarification and even made visible climbdown from its earlier position on both the NPR and the NRC. But it did not have much impact on the protesters, who continued with their demand that the CAA should be withdrawn.

The government refused. The deadlock continued with no active and effective channel of communication between the protesters and the government. The Opposition parties either played "safe" or declared support to the protesters without making efforts to defuse the situation through back-channel parliamentary processes.

### **POLICE**

The central government limited its role to policing, in which the Delhi Police proved ineffective due to lack of adequate experience and necessary guidance. Police either launched a crackdown in overreaction or preferred to keep its hands clean.

In the process, the police suffered loss not only of personnel in death and injuries but also of credibility. Reports quoting both sides of rioters in the North East Delhi say people have less trust in Delhi Police's ability to deal with the current communal situation.

Rioters including those brandishing gun in front of Delhi Police personnel reflected how the city's police force has taken a hit on its credibility and authority. In a number of videos, doing rounds on social media, rioters can be seen pelting the other group with stones from the side where police are present. Rioters of any kind and police cannot be or appear to be on the same side.

### **RIOT-READY MOB**

The common refrain in Delhi violence has been that provocative statements made by some politicians incited people for violence. This assertion gives a clean chit at least relatively -- to rioters pinning the blame on the leaders who allegedly made hate speeches.

This may not paint the full picture of communal violence. The same lot of people takes all decisions of their lives, for their families and also elects governments every five years for the overall progress of the country.

The same lot also knows how to evade taxes and take advantage of rules and laws. The rioters come from the same society of people who evade tax, break rules and elect governments. They cannot be so gullible as to respond to calls made by some politicians who might have won or lost an election.

A sizeable number of people are already communal and riot-ready. This mob is like a bomb waiting to be set off. In Delhi, the protest against the CAA was primarily led by people of one particular religious community.

To protest is a fundamental right which also includes the right to be heard. With protest against the CAA going unheard at the government's end, protesters were getting increasingly frustrated.

The other side was equally frustrated with the anti-CAA protest for causing whatever inconvenience to their daily lives, over controversial and objectionable suggestions made by some of the participants and believing the government that the new law was not against Indian citizens.

Simply put, the riot-ready mobs were ready on both sides. When both kinds of rioters hit the roads, police appeared a loser and politics the winner.

**Few topics that can be taken into consideration**

- 1. Anti-Sikh riots**
- 2. The Gujarat riots**
- 3. CAA NRC riots**
- 4. The Tablighi jamaat case happened in Delhi**