

Checking the new abnormal

Dismayed by the increasing number of cases of lynching across the country, the Supreme Court observed last month that “it is the responsibility of the States to prevent untoward incidents and to prevent crime.”

Towards this goal, in *Tehseen S. Poonawalla v. Union of India* (July 17, 2018), the court directed that certain guidelines be implemented. The court took note that what may have started out as isolated acts by fundamentalist right-wing groups has now become a widespread malaise. As the court noted, “When any core group with some kind of idea take the law into their own hands, it ushers in anarchy, chaos, disorder and, eventually, there is an emergence of a violent society. Vigilantism cannot, by any stretch of imagination, be given room to take shape, for it is absolutely a perverse notion.”

The preventive guidelines require every State to designate a senior police officer, not below the rank of Superintendent of Police, as the Nodal Officer in each district. This officer will constitute a special task force to collect intelligence on persons likely to commit such crimes or who are involved in spreading hate speech, provocative statements and fake news. Nodal Officers, upon being designated, have been directed to “take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other means.” Additionally, both the Central and State governments have been directed to broadcast public notifications on radio, television and other media platforms informing the public of the consequences of taking the law into their hands.

Amongst the remedial measures, the Supreme Court has directed that in case of an incident of lynching or mob violence, the jurisdictional police station shall immediately lodge a first information report (FIR). The Station House Officer, in whose police station such an FIR is registered, shall intimate the Nodal Officer whose duty it will be to ensure that the victim’s family members are not further harassed. Nodal Officers have been made duty-bound to ensure that investigation and prosecution of such cases is strictly carried out, the charge sheet filed within the prescribed time period, and the trial concluded through fast-track courts within six months. The court has also directed that, upon conviction, the maximum sentences provided for various offences be awarded, and this should hopefully act as a deterrent.

In the course of arguments, reference was made to the U.S. where lynching was, at one point, rampant, and several American judgments were cited to emphasise that every citizen must abide by the law. This, however, may be an oversimplification, for in the case of the U.S., it took almost a hundred years between the Civil War (1861-1865) and the Civil Rights Movement (1954-1968) for the repugnant practice of mob violence to be wiped out. Pertinently though, in the American context, between 1882 and 1968, nearly 200 anti-lynching bills were moved in the U.S. Congress, and seven Presidents, between 1890 and 1952, petitioned Congress to pass a federal law. However, no bill was approved by the Senate, due to the opposition by the conservative South. Eventually, in 2005, the U.S. Senate formally apologised for not passing an anti-lynching law when it was most needed.

As a nation, India cannot wait that long. The executive must immediately implement the directions of the Supreme Court. Unfortunately, barely a few days after the verdict, Rakbar Khan was lynched to death in Alwar. In this case, it is not just the attackers who must be brought to justice; the role of the police in Khan’s death must be investigated with reports stating that the cops on duty delayed getting him medical attention that may have saved his life. What this incident tells us

is that we need more than just laws to deal with the deep-rooted hate which appears to have set in below the surface, and is corroding our moral fibre. Most cases of lynching have the appearance of premeditated acts of violence. There appears to be an attempt to change the social and cultural fabric of India forever, deepening the divide between 'us' and 'them'. Deep-seated insecurities are being stoked, especially among young people frustrated by the lack of employment opportunities, to spread a fundamentalist agenda.

This agenda cannot be fought by court directives, legislation and police procedures alone. It must be fought politically.

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