

# LYNCHING THROUGH WHATSAPP - IMPENDING TERROR

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**Abstract:** Dictionary meaning of Lynch says, "Kill someone for an alleged offence without a legal trial." India does not maintain a separate data for lynching cases. Reports of lynching have become more common in recent times in India. The Supreme Court has termed lynching as "horrendous acts of mobocracy". The Indian Whatsapp lynchings are a spate of mob-related violence and killings following the spread of fake news, primarily relating to child-abduction and organ harvesting, via the Whatsapp message service. Fake messages customized with locally specific details are circulated along with real videos attached to fake messages or claims. The chief targets of the lynchings have been manual laborers, outsiders and the mentally disabled, however it has included software engineers, academics, businessmen and middle-class families. Mob violence, vigilante justice and outbreaks of mass panics have a long history in India; however they have tended to be localized events. The incidents of mob lynching are as painful as stabbing a dagger in the heart of the country. The attacks to which several lives have succumbed are deeply condemned. In a country where exclusionary politics and violent wars form the core of many of its stories, ranging from ancient myths to modern political discourses, there may not be a magic bullet to solve this problem. Technology is feeding sectarian divides, posing real and immediate threats to the hinterlands, and local administrators are struggling. The extent to which they could contain conflicts is debatable, but some have realized that it is not a choice any longer to be inert. Media has been playing the blame game back and forth and waiting for the ball in the court to be colored by the accusations launched by one party against another. With no sufficient proof, with a severely deficient background check, and a largely biased lobby, how can one expect the truth to be delivered, the way it is. fake news in India travels extensively through Apps such as 'Whatsapp' and these become the fulcrum of mob violence.

The authors of the present paper have tried to depict the violence or the terror called lynching that is being seeded in the country in the most tech savvy way with the use of instant messaging applications like WhatsApp. In a country like ours wherein people have become highly dependent upon such applications and have started to believe anything and everything being shared through it, it is necessary to take active steps in monitoring, regulating and controlling the same. Therefore, in the present paper the authors have also tried to throw light upon the regulatory framework and legal sanctions in such cases.

**Keywords:** Lynching, Mob Violence, Vigilante Justice, Whatsapp.

**Introduction:** It was in early 2010 when instant messaging platform, WhatsApp, was launched. The world was taken by storm with the technology that connected friends, family and even strangers from every part of the world. Discussions, memes, photos and videos, do's and don'ts became common on the social media application, and in the recent past, has also become a place to circulate fake news. India is WhatsApp's biggest market worldwide, with more than 200 million users, and the company has been expanding its efforts to combat the spread of misinformation in the country. India has had a 4G revolution in the past 18 months and we've seen around 200 million new people start using the internet, mostly on phones. That means WhatsApp has suddenly ended up in the hands of a lot of first time internet users." When those messages and stories contain false information, WhatsApp's content-sharing function can have a more sinister effect.

Mob justice is not uncommon in India. At least 111 people were killed and 2,384 injured in 822 communal incidents last year, according to the federal home affairs ministry. Execution of a person by mob action without due process of law, especially hanging is termed as lynching. Any act of violence inflicted by a mob upon the body of another person. Any act of violence inflicted by a mob upon the body of another person and from which death does not result shall constitute the crime of lynching. Putting a person to death by mob action without due process of law is lynching.

Governments around the world are considering laws and controls against fake news in the wake of Russian interference in the 2016 U.S. presidential election and the rise of hate speech. Such reactions have raised free-speech concerns. A 2018 report from the Reuters Institute at the University of Oxford shows WhatsApp is becoming an increasingly dominant news-sharing platform across Latin America and Asia. That means the problem is only growing.

Mob lynchings triggered by false incendiary messages in India, WhatsApp's biggest market with more than 200 million users, led to authorities calling for steps to prevent the circulation of false texts and provocative content. It also caused a public relations nightmare. The spate of attacks is increasingly alarming and shows no sign of abating. India's telecom regulatory commission says there are more than one billion active mobile phone connections in India, and millions of Indians have started getting online in a very short space of time. For the vast majority of them, their first point of contact to the internet is through their mobile phone. Because it is primarily a personal messaging app, people are more inclined to believe information they receive through it, because it comes to them via family and friends. Therefore, the inclination to double check is very low. "Video is the easiest of platforms for fake news. It's so easy to misrepresent: just find any old video of a fight or a brutal killing on the internet, describe it as something recent and inflammatory, and send it out. In minutes, it goes viral, racing around on Facebook and WhatsApp. Facebook has suffered a string of security-related problems in the last year. The social media company last week disclosed it's worst-ever security breach affecting nearly 50 million accounts. Sanchit Vir Gogia, founder and CEO of Greyhound Research, calls the measures "good on intent but poor on ability to curb fake news."

**The Terror of Whatsapp Lynching:** In the past few months, India has witnessed several lynching cases triggered by fake messages circulated on WhatsApp. Instances of the lynching of innocent people have been noticed recently because of a large number of irresponsible and explosive messages filled with rumors and provocation is being circulated on WhatsApp. The unfortunate killing in many states such as Assam, Maharashtra, Karnataka, Tripura and West Bengals are deeply painful and regrettable, "said a statement issued by Indian Ministry of Electronics and Information Technology said. Some of the instances of WhatsApp Lynching are:

- Group chats on WhatsApp have circulated messages about shortage of salt and sugar, a fake picture of Prime Minister Narendra Modi sweeping the floor in his younger days, a fake video that led to the Muzaffarnagar riots, and even the new Rs 2000 note concealing a GPS chip.
- The company, owned by Facebook, said this week that it had studied the way that WhatsApp was used by a particular Indian political party - which it did not name - in a recent state election in Karnataka, saying that campaign operatives formed dozens of WhatsApp groups, added telephone numbers and used those groups to send thousands of politically oriented spam messages.
- In 2015, reports of the crash of an Indian Air Force plane hit the headlines. Police searched a 10-km forest area near Chitrakoot for a day before realizing that it was a fake report.
- More recently, mobs have attacked and killed people, following the spreading of a video clip warning about gangs kidnapping children.
- In the latest case of mob violence, five people were killed by villagers in Maharashtra's Dhule on Sunday, according to police. 23 people were arrested in connection with the case.
- A WhatsApp text circulating in some districts of Madhya Pradesh helped inflame a mob of 50-60 villagers into savagely beating up two innocent men last week on suspicion that they were going to murder people and sell their body parts.

**Legal Framework for Regulation:** India's move to take stern action in the form of new regulation comes after it was dissatisfied with the response of Facebook-owned WhatsApp, which has over 200 million users in the country, to react speedily to misuse of its platform by rumor mongers.

Article 21 of the Indian Constitution clearly states that no person shall be deprived of his life or personal liberty except according to procedure established by law. Under this, ideally, no governmental/public body can record, save or monitor a citizen's private conversations. The government of a democratic country cannot, without any legal circumstance, invade the privacy of its citizens. The recommendations of the B N Srikrishna Committee on data privacy and protection regime will also influence the thinking of policymakers.

From a legal standpoint, while a message like this from the government would worry WhatsApp, it is protected under the Indian IT Act's Intermediary Guidelines, which recognizes that such platforms are intermediaries and thus cannot be held accountable for content shared on them, with certain conditions. The intermediary guidelines under Section 79 of the IT Act, which was notified in 2011, mandates companies to follow "due diligence" and allowed time up to 36 hours for companies to remove objectionable content and name a grievance officer on its website for response. However, these guidelines were not stringently enforced.

The Instant Messaging platform is treated as an intermediary under Section 2(i)(w) of the Information Technology Act, 2000. The government also has the option to invoke Indian Penal Code Section 268 of causing public nuisance or under abetment of crime mentioned under Section 153A or S 295A of the Code.

The government is also in the process of framing a policy to protect the data imprints on WhatsApp, Facebook and other applications. Telecom Regulatory Authority of India (TRAI) was in the process of evolving the data protection framework.

#### **Regulatory Framework By Whatsapp:**

- Under pressure to clamp down on sinister messages, Whatsapp has appointed a grievance officer for India and detailed out the process for users to flag concerns and complaints, including those around fake news.
- In fact, in 2013, the Indian government rolled out a surveillance programme allowing security agencies and income tax officials to tap phone calls, and monitor social media accounts of selected targets without oversight by courts or parliaments, reported Reuters. According to 2016 Medianama report, the surveillance system is live in New Delhi, Delhi and Mumbai and would be operationalised in the rest of the country in a phased manner. But this has been limited to selected targets, it's not blanket surveillance.
- It also said that WhatsApp is end-to-end encrypted to protect user's privacy and security which creates an inability for WhatsApp to see problematic content spreading through private conversations on its app.
- WhatsApp is testing a 'Suspicious Link Detection', a feature that will alert users of spam by putting a red label on links that it knows lead to a fake or alternative website. Additionally if a message has been forwarded from a device more than 25 times, the message could be blocked. However, the feature is being tested and is not live yet. In addition, WhatsApp users can report these messages or users who send bulk spam.
- Instant messaging platform WhatsApp has informed Indian authorities that it is taking a number of steps to counter fake messages on its platform, including testing a new label in India that highlights when a message has been forwarded versus composed by the sender.
- It added new protections to prevent people from adding others back into groups which they had left - a form of misuse we think it is important to correct. And last week, we launched a new setting that enables administrators to decide who gets to send messages within individual groups. This will help reduce the spread of unwanted messages into important group conversations - as well as the forwarding of hoaxes and other content.

- WhatsApp has also announced a new project to work with leading academic experts in India to learn more about the spread of misinformation, which will help inform additional product improvements going forward.
- WhatsApp will be conducting around 40 training sessions in areas that are sensitive to the spread of fake forwards and messages including a few zones where state polls are scheduled to happen before the end of this year. The sessions will be held across 10 Indian states. The training sessions will attempt to explain the differences between fact and opinions.
- WhatsApp has told India's government it needs support from law enforcement and civil society to fight fake news and misinformation on its platform in India, after the company was accused of helping to spread hoaxes that led to a string of violent deaths. Facebook Inc's WhatsApp messenger has told India that curbing the spread of false messages through its platform is a challenge that required a partnership between the tech firm, civil society and the government.
- It will also test a lower limit of five chats - individual or group chats - at a time and remove the quick forward button next to media messages. The move is likely to be a deterrent to mass forwarding of messages. Indians forward more messages, photos and videos than any other country in the world, according to WhatsApp.
- WhatsApp is almost completely encrypted from end-to-end, which makes it almost impossible to track the movement of messages, making it fairly simple for someone to start a trail of fake news messages without ever being able to go back to the original sender. Additionally, if this news were true, it would have been covered by the media, even if not by the government.
- The messaging platform also presented a 10-step guide to avoid false information. Here are the tips suggested by WhatsApp:
  - Understand when a message is forwarded.
  - Question information that upsets you
  - Check information that seems unbelievable
  - Look out for messages that look different
  - Check photos in messages carefully
  - And check links too
  - Use other sources
  - Be thoughtful about what you share
  - You can control what you see
  - Fake news often goes viral

**Conclusion:** Privacy is an important issue for users, and this partly explains the growth in use of messaging apps, as opposed to more open social networks. “Data privacy is an intrinsic risk to the usage of any of the social media applications,” says Ms Kannan. “User data including perhaps the phone number could be compromised for commercial marketing, advertising. For enterprises, while social media is a great means of customer service, this is a double-edged sword and must be designed to prevent leakage of business sensitive information.”

“While the law and order machinery is taking steps to apprehend the culprits, the abuse of platforms like WhatsApp for repeated circulation of such provocative content are equally a matter of deep concern,” the ministry said. Internet policy experts say WhatsApp isn’t legally accountable for the way people use its service.

Legal experts agree that the government is well within its sovereign rights to ask any IM platform to comply with the law of the land or any such regulation which is necessary to maintain law and order. But, several experts disagree over whether it is a good idea to ask a communication platform to monitor, report and filter any misuse; this may well go against the grain of the data privacy and protection regime currently in the works.

The government has held internet companies accountable for the spread of fake news and had put the onus of making big changes on these internet giants. According to a report by IANS, WhatsApp is taking help from a New Delhi-based non-profit Digital Empowerment Foundation (DEF) to create awareness in

special pockets of the Indian population. The company is not doing enough to combat the "rampant circulation of irresponsible messages in large volumes," India's technology ministry said in a statement.

**Suggestions:** The primary responsibility to fix this lies with law enforcement agencies. A mob takes the law into its hands if it believes that either law enforcement agencies are incapable/ unwilling to help or that its crimes will go unpunished. A lynching is a lynching, whether or not it was precipitated by a WhatsApp forward. Mob violence is not an act of nature: someone leads the mob and there is often politics behind such acts, perhaps even protection. State governments need to build law enforcement capacity and ensure prosecution in case of mob violence. A new law covering lynchings will be ineffective if our criminal justice system is incapable of enforcing the law.

WhatsApp needs to change its platform to enable messages to be either public or private. Messages between individuals should remain private and not be those that can be forwarded. However, if a message creator wants to enable the forward ability of that message, the chat should be treated as public, and attributed with a unique ID linked to the original creator. This will allow WhatsApp to shut down such a message across its network once it is reported, and identify the creator when a court-directed request is made by law enforcement agencies. This will ensure accountability, allow the platform to remain neutral, and ensure that illegal speech is addressed. It's important to remember that incorrect or false information is not illegal and people could be mistaken. It is messages with incitement of violence that need to be addressed. However, given the apathy from the government, law enforcement agencies, and WhatsApp, there is likely to be more mob violence and lynchings.

Solutions to overcome the terror of WhatsApp Lynching include counter speech, user education and debunking of misinformation from both the government administration and media. We need strong law enforcement to prevent mobs, as well as speedy justice for the victims. The only message that should be circulated is to inform everyone about the lack of authenticity of these messages. "There is a need for bringing in traceability and accountability when a provocative or inflammatory message is detected and a request is made by law enforcement agencies.

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