

MOB, ANARCHY,AND WEAK LAW ENFORCEMENT

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ABSTRACT

This research paper strives to deduce the reasons as to why mob justice flourishes due to weak law enforcement, and how that flourishing can create a state of ochlocracy, and thereby replacing democracy with anarchy. It also seeks to establish the duty of the State in checking such activities.

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Part I

INTRODUCTION

“Punishment gratifies the feeling of pleasure experienced by individuals at the thought that criminal has been brought to justice.”

- V.D. Mahajan

The Executive, is one of the four pillars on which democracy stands itself. If the Legislature has the onus of making laws for people, it is the executive that has the responsibility of implementing such laws which have been formed by the legislative body. Simultaneously, Executive can also issue orders that ensure the proper following of the laws of the land. A more specific segment in the Executive that deals with the carrying out of law, is the body of law enforcement. Classically law enforcement on a prima facie level has only meant the force that dispatches discipline, but in a deeper sense this body also contains the judiciary, prison system, rehabilitation bodies, et cetera.

The presence of a good law enforcing body in any State, is the significance of how healthy that society is. Please mind, the word used is ‘good’, in the sense that it incorporates attributes of strength, efficiency, and rightfulness. But in times when the law enforcing bodies of the State become weak, and the dispatching of justice gets crippled, people suffer. This sufferance endured by people soon turns them resilient to their own misery, and sparks a rage in them. Such rage pushes the citizens to take the law in their own hands, and they become an independent authoritative body, that delivers ‘justice’ by itself, to itself, purely by the application of raw, and brute force. We sum up such a group by one word: mob.

This research paper shall explore how the shambolic condition of any law enforcing body can create a state of ochlocracy, a period where justice is dispensed by mobs, and rule of law goes awry. Part II of this paper shall establish the links between poor law enforcement and mob rule. Part III shall discuss about how ochlocracy gives birth to anarchy, and Part IV examines the duty of the State in this regards.

Part II

CHAOTIC ENFORCEMENT OF LAW, AND PRESENCE OF MOBS

As reflected upon earlier, any society that is not pleased with its condition (one that can be rectified by proper application of law) seeks other measures of doing the same, if it is not provided for by the responsible authority. Inefficiencies by police officers, and delay in deliverance of timely justice or slow judicial process, are two reasons out of many that pertain to poor law enforcement, which in turn leads to a situation of ochlocracy. Police force in India come directly under the control of the government; they are either controlled by the state government, or by the Central government. The judiciary on the other hand, is absolutely independent from governmental control, neither is answerable to the legislatures (barring one condition, i.e. the process of impeaching a judge). The aforementioned reasons have been enunciated further below:

(a) Dearth of police officials in force.

Let us begin this with one egregious fact: Indian police forces are terribly undermanned. There is a serious dearth of police officers, and this is simply a major deterrent in provision of lawful force that protects the society. In fact, Maharashtra Police agrees that this fact cannot be dismissed as a myth. In one of their publications², they clearly state that in India there are about 125 police officers for every 100,000 people, instead of the appropriate number of 230 officers to every 100,000 people, as prescribed by the United Nations. It is a given that an undermanned organization is going to fare poorly when performing its duties. When duties are left pending by the police force, the people suffer. Just this year in the month of April, a Mumbai based local tabloid reported a story on how women of a particular area in suburbs of the city had collectively decided to perform vigilantism in order to protect their children (especially daughters) from the menace of the miscreants whose population had suddenly spiralled in the locality³. It isn't that these women did not approach the police station and sought redressal, but the latter cited staff shortage and washed their hands off. A week later, the same tabloid reported how people residing in another part of the city took precedent from the instance mentioned above, and threatened vigilantism if adequate police protection was

²101 Things you wanted to know about the Police, www.maharashtrapolice.gov.in available at <http://www.mahapolice.gov.in/mahapolice/jsp/temp/html/lo060111.pdf> (last visited on Jun. 29, 2017).

³ Lata Mishra, *Kandivali housewives turn vigilantes in Thakur Village*, Mumbai Mirror, Apr. 17, 2017, <http://mumbaimirror.indiatimes.com/mumbai/cover-story/kandivali-housewives-turn-vigilantes-in-thakur-village/articleshow/58214432.cms> (last visited on Jun. 29, 2017).

not delivered to them⁴. They also made it very clear that “lack of personnel” as a defence, shall not be accepted.

The amount of reliance people put on police officers is high, and it is not unreasonable since there is an underlying faith that they shall protect individuals of the State, as is their duty. In the light of this, let us analyse the suburban Mumbai incident that has been discussed above: people of that particular area were suffering from certain anti-social elements. A proper course of action involved going to the police officers, and seeking their intervention. People undertook the reasonable course of action, as they were expected to, but things did not pan out accordingly because the police force was not substantially strong. Hence, they were pushed in a circumstance where to provide protection to themselves, they were left with no other option but to take matters in their own hands. Though seemingly innocuous, this exercise did turn out to be detrimental, and that shall be discussed later in Part III.

A situation of people losing faith in force, and participating in ochlocracy is an imminent threat, especially when the faith is lost due a shortage of officials. Today, in certain African nations like Kenya, and Uganda, people have such dwindling faith in the police authorities there that it is considered reasonable to resort to lynching by the mob, rather than seeking help from the police!⁵

(b) Delayed justice, and slow judicial process

The other reason on which ochlocracy mounts itself arises from the second arm of law enforcement, the judiciary. Plainly comprising of justice that is shelved, this reason puts people in a state where they opine that participating in dispute resolution is like flogging a dead horse; a delayed procedure with no guarantee of a favourable outcome. The fact that our judicial system is very slow remotely needs any evidence. In the words of from Supreme Court Judge, Justice B.N. Agarwal: “Delay in disposal of cases, not only creates disillusionment amongst the litigants, but also undermines the capability of the system to impart justice in an efficient and effective manner.”⁶

⁴ Chaitanya Marpakwar, *After Kandivali Colaba to turn vigilante*, Mumbai Mirror, Apr. 25, 2017, <http://mumbaimirror.indiatimes.com/mumbai/other/after-kandivali-colaba-to-turn-vigilante/articleshow/58353185.cms> (last visited on Jun. 29, 2017).

⁵ Theresa Krinninger, *Mob justice in Africa: Why people take the law into their own hands*, Deutsche Welle, May 5, 2016, <http://www.dw.com/en/mob-justice-in-africa-why-people-take-the-law-into-their-own-hands/a-19238120> (last visited on Jun. 29, 2017).

⁶ Satya Prakash, Bhadra Sinha and Soibam Rocky Singh, *Waiting for justice: 27 million cases pending in courts, 4500 benches empty*, Hindustan Times, [http://www.hindustantimes.com/india-news/waiting-for-justice-27-](http://www.hindustantimes.com/india-news/waiting-for-justice-27-4500-benches-empty)

True it is that the slow judicial process is not an outcome that is borne out of incompetence of judges, and judiciary. They are fairly competent enough to perform their duties, neither does this paper seek to explore the reasons for such delay, but rather the implication such delay has on the litigants, and the society as a whole. As of July 2011, 55,000 cases in Supreme Court, 42 Lakhs in the High Courts, and 2.8 Crores in the Subordinate Courts, were pending and were yet to be settled⁷. On the other hand, if attention is brought to the most recent Prison Statistics of India that came out in 2016 (a document published annually by the National Crime Records Bureau) it is seen that 67.2% is the total population of under-trials out of the total population of inmates in prisons⁸. These oddly 67% people have not been held guilty of any offence, and are under the procedure of receiving a verdict. The verdict decides whether a person shall be convicted or acquitted. Is this enough to conclude the presence of the snail pace of the judiciary? The answer is in affirmative. It is a case where jails are being filled by people awaiting verdict, along with a fresh bunch of accused who continue to flow in. Though that does seem like a normal affair, the normalcy of it gets debunked the moment one lays eyes on the huge number of under-trial population in prison. Instead of quick deliverance of justice in a reasonable time, precious time is squandered by various practitioners of immorality. It was Theodore Roosevelt the 26th President of the United States of America who once rightly authored that:

[S]lowness in deciding cases, readiness to admit appeals, the subordination of justice to legal technicalities, the irritating delays in getting the machinery of the law in motion, and the utterly improper attention paid by the courts to the sharpness of lawyers in invoking technicalities—all of these result in frequent miscarriages of justice and in delays which, if long enough, amount, especially in their effect upon the public, to an absolute miscarriage of justice. When such is the case, the community is deliberately preparing itself for the violence of mob action if ever a crime is committed that arouses the utmost intensity of furious passion.⁹

million-cases-pending-in-courts-4500-benches-empty/story-H0EAsx4gW2EHPRtl1ddzIN.html (last visited on Jun. 29, 2017).

⁷ Rohit Kumar, Pendency of cases in Indian Courts, PRS Legislative Research (Jul. 06, 2011) <http://www.prsindia.org/administrator/uploads/general/1310014291~~Vital%20Stats%20-%20Pendency%20of%20Cases%20in%20Indian%20Courts%2004Jul11%20v5%20-%20Revised.pdf>.

⁸ National Crime Records Bureau, Prison Statistics of India 2015, at 33 (2016).

⁹ Theodore Roosevelt, *Lynching and Miscarriage of Justice*, the Outlook, Nov. 25, 1911 <http://www.unz.org/PERIODICAL/PDF/Outlook-1911nov25/14-16/> (last visited Jun. 29, 2017).

This quote by President Roosevelt brings to the memory, the case of Bharat Kalicharan alias Akku Yadav (referred ahead as Yadav) of Nagpur. Yadav a resident of Nagpur was allegedly a serial rapist, a murderer, and a man of raucous nature who had been wreaking havoc on the women of the slum where he resided, for over a decade. On numerous occasions women who suffered at his hands strived to seek legal recourse and have him punished, but were helpless because their plights fell on the deaf ears of the police authority. Allegedly, the police officers were benefiting from their connivance with Yadav. Fearing that the entire drill of having him arrested, and then watching him walk away scot-free, would once again pave way for him to return and trouble them, women decided to take matters in their own hands. A strong mob of 200 women, armed with whatever they knew would inflict pain on Yadav, surrounded him, and put him to rest in as brutal manner, as much as their powers permitted them to. Ironically, Yadav was lynched right outside a place where justice is delivered: Nagpur District Court¹⁰.

If the parts of the aforementioned instances that require to be ascertained (in a bid to remove the air of doubt) are treated as the truth, this example underpins the fact that no-trust in the judiciary can give birth to dangerous outcomes. Let us analyse Yadav's case: Yadav was a recidivist in the eyes of the people, and a beneficiary of the failure of the system, that failed to put him behind the bars. His story very loudly speaks in regards to the reasons that uphold mob rule; his threat outside in the world reflected how the judiciary supposed to protect the masses by punishing the wrong was failing, and this triggered a sense of denial of justice to the affected populace. Also his lynching was a proof enough that people had no surety in the fact that this legal machinery shall punish him, and not deny them of their justice. Here people took the law in their own hands, not only because he was cruel (that was the tertiary reason), but primarily because the law was failing in its duty to protect them from him. The anger of the mob that lynched him stemmed directly from the failure of the authorities. This example has been given, because it is the most quintessential one that brings out the truth. The truth of what happens when people feel that they are being deprived of their rights, their piece of justice.

A perception of deprivation of justice creates a belief in the society that longer the justice is delayed more the chances of the same being denied, and denial of justice gives impetus to the

¹⁰ Raekha Prasad, 'Arrest us all': the 200 women who killed a rapist, *The Guardian*, Sept. 16, 2005, <https://www.theguardian.com/world/2005/sep/16/india.gender> (last visited on Jun. 29, 2017).

wrongly held belief that the judiciary is incompetent. Impatience is a vice strongly ingrained in the human psyche, and when combined with the vindictiveness of people, it forms a deadly Molotov cocktail. Feelings like these can develop in any person of an average mind, when he is denied that what he opines he has a right to get. So when due to a plethora of reasons, the justice which a person is bound to receive is put up on a back-burner, these emotions burst inside of a person, creating an illusion that times have turned desperate, and taking the law in own hands is the only available course of action.

Delays like these mutually affect the person inside the prison, and also the population outside who seek his conviction; it is given that such people strongly desire to see the accused punished. Hence, in such cases of delay these people are lingered by a sense of curtailment of justice, and this becomes an addition on their already accumulated frustration.

Part III

OCHLOCRACY AND ANARCHY

Anarchy, has simply been laid down as a condition where lack of organization leads to a situation of no control in a society¹¹. Of course an anarchist would strongly refute this definition as being too superficial, but the aforementioned definition does form the essence of the spirit of anarchy because lack of organization in a democratic society means lack of the governmental order that maintains law enforcement and discipline. Ochlocracy, when steps in a society, it is always followed by anarchy. The former paves way for the latter. Ancient Greek philosophers held it quite often that democracy, aristocracy and monarchy are good forms of governance, whereas tyranny, oligarchy, and ochlocracy are the undesirable forms. The criterion of differentiating between good and bad was the impact it had on people in those days. Tyranny is absolute abuse of freedom; oligarchy is when power is vested in few strong people, who make the calls; ochlocracy is the rule established by the mob.

Over eons, the world has witnessed three ages of punishment. In primitive times, when the rule of the jungle existed uncontrolled vengeance prevailed, and it was quite common that the society then abided by the philosophy of life for any wrong. During these ages, the concept of a State was virtually unknown, and retributivism existed in its raw form. Quite often as it would happen, vengeance for a wrong was sought from the entire family of the sufferer, and

¹¹Anarchy definition, Cambridge Dictionary, <http://dictionary.cambridge.org/dictionary/english/anarchy> (last visited on Jun. 29, 2017).

this made such retributivism rogue. This age was followed by the age that saw the rise of political states, where private vengeance prevailed, but it was regulated by the runners of the State. So the raw and the rogue facets of retributivism were curbed because the same was practiced in an orderly manner, by the procedure established by the State. And the last age was one where political States were established. Here retributivism became almost negligible, and was heavily criticized. Liabilities were assessed first, and then punishments and penalties were imposed. So to sum up this entire passage, ochlocracy and raw retributivist punishment existed during times when a democratic society was unknown. As age after age passed, civilizations progressed and forms of punishment started becoming lesser coarse. The reason why this topic finds a mentioning here is because, the moment people participate in an act of punishing a person by themselves, and simultaneously the government fails to check that act by people, entire society is welcoming anarchy. The reader here is reminded of the earlier discussion that was in the regards of the vigilantism by residents of a residential area in suburbs of Mumbai, (mentioned earlier in Part II). It is known that there was a fear in the minds of the locals, negligible support from the police, and desperate need for protection. So, the ramifications of that act of self-policing was seen just a couple of days later, when a boy smoking his cigarette on a pavement was brutally beaten up a group of “good-Samaritans”¹². Locals, who indulged in using criminal force on him, reckoned him as an anti-social, and possible threat to their society. Quite sadly, the boy never received his share of justice, and had to face the wrath of the mob, unnecessarily.

Another instance that could be assessed and discussed is the Dimapur lynching case. This one was a strong display of ochlocracy. The power of the mob that seeks vengeance. Victim here was a man accused of rape, who at the time of his lynching was housed in Dimapur Central Jail, awaiting trial. In succinct wordings, the situation escalated as follows: a strong mob whose strength ran into thousands attacked the jail, forcefully brought the victim out, disrobed him, pelted him with stones, tied his body to a rope and attached the rope to a motorcycle, dragged him around the town. Eventually, the victim succumbed to his injuries, well past the time that was taken by the authorities to intervene.

¹²Satish Nandgaonkar, *19-Year old boy beaten up by Kandivali high-rise residents for smoking in front of the building*, Mumbai Mirror, Apr. 20, 2017, <http://mumbaimirror.indiatimes.com/mumbai/cover-story/19-year-old-beaten-up-by-kandivali-highrise-residents-for-smoking-in-front-of-the-building/articleshow/58270771.cms>, (last visited on Jun. 29 2017).

Two things must be noticed here: the number of people who were active as participants in that mob, and the rage for revenge in people. As already mentioned earlier, the mob consisted of people running in thousands. But what strikes more fear, is the fact that the victim was dragged outside a jail. Please mind that jail is a place which is always under heavy security. To my mind, it clearly proves the existence of power of the mob to topple an entire force, by purely using brute power, and this cannot be undermined. People march inside a jail, drag the victim out, and lynch him, while the authorities get trivialized like a bunch of toy soldiers. Is it not formidable? What creates the presence of toxic retributivism here is the existence of anger coupled with strong desire for revenge. A retributive punishment given by the state is different because it follows the law, so only the punishment is retributive in nature, and not the procedure by which one comes down to it. Punishment by mob is vengeful from the very first stage itself, because the mob does not give the accused even a chance to be heard. The mob opines that such a person does not deserve to be heard.

At that moment, in that time, in Dimapur, anarchism replaced democracy. It was a complete annihilation of law and order. True it is that progress in any civilized society has always been proportional to the amount of liberty it offers. But like anything, that is in excess turns out to be detrimental, same applies to liberty. If the state fails to put a bridle on the desires of the populace to act as the police, the judge, and the punisher, it hands them excessive freedom, the liberty to control things. A population like that shall turn rogue, and that would be the outcome of disorder in government. It was Plato who said: “[A]n excessive desire for liberty at the expense of everything else is what undermines democracy and leads to the demand for tyranny.”¹³

Part IV

DUTY OF THE STATE

A society that claims to be democratic, cannot achieve that status by only providing political democracy to the individual. Social democracy is as important as its political counterpart, and without its presence democracy is incomplete. In the words of Dr B.R. Ambedkar “[Social

¹³PLATO AND DESMOND LEE, THE REPUBLIC 299 (Desmond Lee Trans., Reissued 2d ed. 2007) (Fourth Century BC).

democracy] means a way of life which recognizes liberty, equality and fraternity which are not to be treated as separate items in a trinity...”¹⁴

The State in India, has two duties in this regards. Firstly, abstaining people from taking the law in their own hands. Secondly, protecting any individual who has been accused, from being subjected to ochlocracy by society. The first instance, can only be rectified by fixation of the lacunae in the law enforcing bodies. That is to say, adequate police protection should be provided to people so that they do not indulge in wrong proactive measures of seeking justice. The ratio of police personnel to people, must be made better. Alongside that, the pendency of cases must be reduced substantially, if there is an impossibility of bringing down the numbers in a frame of time completely.

Secondly, it is upon the same law enforcement to provide protection to the accused, and bar them from becoming victims of ochlocracy. As an individual such an accused has given his fundamental rights to the State, and it is up to the State to protect him. Though classically fundamental rights have only been against the State, here he does have a right even against private actors under the philosophy of indirect horizontal protection of the State. A good example would be the Vishaka Case. Here though the victim was raped by private actors, the Supreme Court did apply Article 21 of the Constitution, with the logic that it was the duty of the State to provide every woman the right to work in a safe environment. Such a right cannot be abrogated from her. Similarly every accused has a right to be heard, and cannot be condemned without a fair trial. It is an onus on the State, to ensure that such a person does not become a victim of condemnation without a hearing. Under Article 14 of the Constitution, the State is not supposed to deny any person protection provided by the law. But the moment the State fails to regulate those private parties who snatch the rightful opportunity which an accused deserves, it is failing in safe guarding the rights of the accused which it is supposed to take care of.

CONCLUSION

It is the control, the order, the discipline that curbs down crime. It is the presence of a good law enforcement that prevails peace. It is the implementation of law that establishes civilization. It is democracy that confirms safety. A society can never flourish if laws are enforced poorly. The enforcement that brings the stability in a society, depicts the position of

¹⁴Dr B.R. Ambedkar, Speech in the Constituent Assembly of India, (Nov. 25, 1949).

it in the world. Because when law enforcements lose their focus, anarchy in the society ends up waiting right outside the door.