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Moral Policing: A Patriarchal Theory

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Moral policing is an idea that is so deeply engraved into the minds of people in society who consider themselves warriors who are duty-bound to save the Indian culture from the influence of western culture. The article emphasizes how these cultural warriors have started taking control over society when it comes to defining 'obscenity' in their favour and will also focus on different nightmares these unapologetic goons have provided to the very citizens of their country. The saddest part is some of the laws, and actions of police forces and government are instances of moral policing. People often forget that the definition of morality is so wide and differs for every person and also for the person on whom such moral obligations are imposed. The 'knights of Indian culture' do not even blink before breaking any law or one's privacy or basic human rights when their cultural dignity is in question. A country that fought for two hundred years for freedom is still a slave to hypocrisy and patriarchy.

Keywords: *moral policing, patriarchal theory, police forces, culture, freedom, slavery.*

INTRODUCTION

A society needs a conducive environment to progress and prosper, the law and order ensure that it will provide this safe environment to its citizens where they can live without fear and the assurance that their country will protect their privacy and individual rights. Ironically all these assurances do not work in practical society as the very law made for the protection of citizens is used against them because of the wrong interpretation the society makes of it from time to time.

To be specific the backbone of all this unapologetic behaviour portrayed by the people can somewhere be connected to the fear of western influence and the desire to protect their own culture. Executing the same patriarchal mindset these vigilantes execute hooliganism in public places such as parks, clubs, and bars and even assault people.

PRESENT CANONS

Sections 292¹ to 294² of the Indian Penal Code, 1860 are provided to manage obscenity in India. Section 292 of the Indian Penal Code deals with the sale and distribution of obscene books and other material through which it is put into circulation. It also criminalizes materials such as books and sketches if it is esteemed to be “lascivious or appeals to the prurient interest” Section 292 was revised in 1969 to exclude materials that are for the public good (like condom advertisements, scientific material, art, and religious figures). The Police likewise use this Section 292 of the IPC to file cases against film posters and advertisement hoardings that are deemed to be “indecent”. Section 293³ deals with the “sale of obscene material to individuals under 20”. Section 294 of the Indian Penal Code deals with “obscene acts and songs” Whoever, to the annoyance of others “(a) Does any obscene act in any public place, or (b) Sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.”

PUBLIC DISPLAY OF AFFECTION AND THE LAW OF OBSCENITY

Public display of affection is not itself a crime in India. However, police often use section 294⁴ of the Indian Penal Code, which deals with obscene acts and songs to punish instances of public display of affection. The law says if one annoys others with an obscene act in a public place one is guilty under section 294, punishment for the same is imprisonment for up to 3 months and/or a fine. This obscenity is not defined in IPC, and the courts have the power to decide it from case

¹ Indian Penal Code 1860, s 292

² Indian Penal Code 1860, s 294

³ Indian Penal Code 1860, s 293

⁴ Indian Penal Code 1860, s 294

to case this again gives power to police to abuse the law and harass people. Until 2014 the judiciary used the 'Hicklin test' established in English Law after the case of *Regina v Hicklin*⁵. According to it, a work can be considered obscene if any portion of it is found to "deprave and corrupt those whose minds are open to such influences". In 2014 Supreme court propounded a new principle and held "while judging as to whether a particular photograph, an article or book is obscene, regard must be had to the contemporary mores and national standards and not the standard of a group of susceptible or sensitive persons" it added that the concept of obscenity would change with the time what is 'obscene' now may not be considered obscene again in future so one should apply community standard test⁶. Further taking into consideration public display of affection Delhi high court said 'how can the expression of love by a young married couple attract the offence of 'obscenity' and attract the coercive process of law?'

ROLE OF VIGILANTE GROUPS

Vigilante groups are groups of people who take upon themselves the mantle to protect the cultural and social heritage of the Indian civilisation against what they perceive as the moral degradation of the traditional dharmic order brought about by the impending wave of western thought. They act towards enforcing a supposed 'moral' code of righteous conduct. They enforce their diktat by harassing people for instance young couples in public spaces and those belonging to the martialized and deprived group of society are more prone to such harassment. Unfortunately, moral policing is not just done by these vigilante groups but also by the police, an organisation entrusted with great power to use force and the toxic mindset and patriarchy is drenched in them that it translates to moral policing, implementing the same egocentric mindset and considering themselves as cultural warriors they abuse the very power they hold in the name of maintaining law and order.

Time after time, the police have launched various women's safety measures or operations that just worsened the situation and were condemned by the public. For instance 'Operation Majnu'

⁵ *Regina v Hicklin* (1868) LR 3 QB 360

⁶ *Aveek Sarkar & Anr v State of West Bengal* CrI App No 902/2004

was launched by the Ghaziabad police in 2011⁷, which would catch innocent couples in parks or other public places and would threaten the females by asking for their guardian's contact details, and would make men do sit-ups.

A similar initiative was launched under the Yogi Adityanath Government in UP, known as the 'Anti-Romeo Squad'⁸ which involves police personnel—both men and women in plain clothes, deployed at public places such as malls and parks to curb harassment against women, have been embroiled in controversies from day one as reports of police excesses poured in from all corners. A few instances were reported as A movie-going couple was dragged out of their auto rickshaw and dragged to the police station in Lucknow⁹ & also a young man was forced to do sit-ups in Jhansi and several young men were rounded up in Meerut for accompanying their sisters to the college. In the year 2016, The Delhi Cultural Minister, Mr. Kapil Mishra called out The Hindu College authorities on their regressive, discriminatory, and dictatorial rules and regulations for Girl's hostel, right from the difference in the amount of the hostel fee to its permissible Timings.¹⁰ The Minister rightly stated that it was outright discriminatory and would create a feeling of resentment among the students. In another incident, the officials of a Private educational institution in Uttar Pradesh pulled out two students sitting in the college cafeteria because they were found in a 'compromising position' and were then publicly humiliated by the college Chief Proctor whereas the witnesses later divulged that the position which was slapped 'compromising' by the authorities was nothing but the boy trying to console the sobbing girl by patting her back lightly, which is a natural human reaction to handle someone in grief.¹¹ These

⁷ 'Ghaziabad Police launches 'Operation Majnu', hound couples in parks' (*India Today*, 30 November 2011) <<https://www.indiatoday.in/india/north/story/operation-majnu-ghaziabad-police-young-lovers-147309-2011-11-29>> accessed 17 January 2023

⁸ 'Yogi Adityanath Orders Drive For Women Safety, Activate Anti-Romeo Squads' (*NDTV*, 01 April 2022) <<https://www.ndtv.com/india-news/yogi-adityanath-orders-drive-for-women-safety-activate-anti-romeo-squads-2856884>> accessed 17 January 2023

⁹ Rohit K Singh, 'What makes a good anti-Romeo cop? Take the UP Police quiz to test your skills' (*Hindustan Times*, 21 May 2017) <<https://www.hindustantimes.com/india-news/anti-romeo-squads-get-etiquette-lessons-to-improve-their-image-in-uttar-pradesh/story-4FNNTLjWNIdQkHgxD9ptEK.html>> accessed 17 January 2023

¹⁰ 'Hindu College rules for girls' hostel are regressive: Kapil Mishra' (*The Hindu*, 15 May 2016) <<https://www.thehindu.com/news/cities/Delhi/hindu-college-rules-for-girls-hostel-are-regressive-kapil-mishra/article8602434.ece>> accessed 17 January 2023

¹¹ Abhinav Jaiswal & Manvi Singh, 'Moral Policing in India' (*Amity*) <[https://amity.edu/UserFiles/aibs/59afArticle-V%20\(Page%2050-53\).pdf](https://amity.edu/UserFiles/aibs/59afArticle-V%20(Page%2050-53).pdf)> accessed 17 January 2023

are some cases among the thousands that take place every day. Does the question arise who gave them the right to be such dictators and depict such immodest behaviour? The pathetic conditions compel one to rethink the widened gap between the values and rights that society assures of providing through books and its practical implication on street.

Bringing into the picture the uglier implications of this orthodox mentality one can refer to as 'Love Jihad'. The 'UP Vidhi Virudh Dharma Samparivartan Pratishedh kanoon 2020' (Prohibition of Unlawful Religious Conversion) states among other things that a marriage will be declared null and void if the "sole intention" of the same is to "change a girl's religion" The law cleared by the Uttar Pradesh Cabinet defines punishment and fine under three different heads. Under the new anti-conversion law, interfaith couples must now give two months' notice to a district official before getting married. Currently, under the Special Marriage Act, of 1954, couples must give a notice of 30 days. Ironically days before this law was passed, the Allahabad High Court pronounced that the "right to live with a person of his/her choice, irrespective of religion professed by them, is intrinsic to right to life and personal liberty." While overturning an earlier ruling in a case filed against a Muslim man by the parents of his Hindu wife. In 2018, the Supreme Court similarly set aside an order annulling an interfaith wedding.¹² In the case of **Lata Singh v State of U.P**¹³, the Supreme Court has very clearly laid down the law regarding inter-faith and inter-religious marriages, and has held thus-

"This is a free and democratic country, and once a person becomes a major, he or she can marry whosoever he/she likes. If the parents of the boy or girl do not approve of such inter-caste or inter-religious marriage the maximum, they can do is that they can cut-off social relations with the son or the daughter, but they cannot give threats or commit or instigate acts of violence and cannot harass the person who undergoes such inter-caste or inter-religious marriage."

¹² *Shafin Jahan v Asokan K.M. & Ors* AIR (2018) SC 1933

¹³ *Lata Singh v State of UP* Writ Petition (Crl) 208/2004

CONCLUSION

The solution to this grave issue is multi-fold. It needs to be addressed from sociological, ethical, legal, and administrative perspectives. Notable ones are:

1. Sensitization of Police: The present Indian police system is essentially based on the 160 years old Police Act of 1861. 'The working of police has been analysed twice at an all-India level first was Indian Commission of 1902-03 during the British regime and the second was in 1977 by the National Police Commission in both the reports they found police far from efficient, defective in training and organization, lacks in public relations, welfare, welfare measures, machinery for efficient redressal of grievances, etc. and that it was generally regarded as corrupt and oppressive.'¹⁴ The role of the police has evolved continuously and still needs change. Besides in a free society, people have a right to know how they are being protected by society the cooperation of the public is important for the proper and efficient working of the police which is the fruit of the degree of trust and respect enjoyed by them. the police need to understand that with time society has gone through a sea of changes and as the duty is changed so police should change their conduct to garner the lost faith and cooperation of citizens for whom they stand determined to be protecting.

2. Judicial Ambivalence: Rule of law must be strengthened to deter vigilante groups from taking law into their own hands. The judiciary should shed its ambivalence and proactively uphold the personal liberty of suppressed. In light of the observation made by Justice Chandrachud, "The right to privacy is intrinsic to liberty, central to human dignity and the core of autonomy"

3. Educating the Masses: As the facts have made it quite clear that educationally disadvantaged groups are more prone to exploitation and harassment by these so-called cultural warriors, it becomes important that these people are educated about their rights and privileges. One should be made aware of rising judicial pronouncements in favour of individual liberty.

¹⁴ Aditya Singh, 'Police and policing in India - a historical perspective' (*iPleaders*, 23 October 2020) <<https://blog.iplayers.in/police-policing-india-historical-perspective/>> accessed 17 January 2023

4. Empowering Women: The orthodox and patriarchal mindset which considers it easy to mould the free will of a woman, which is the root cause of the menace of moral policing needs to be reformed. A girl should be taught self-reliance whilst teaching its male members that they can no longer take control over women's life. At the same time schemes launched by the government should be effectively implemented with a robust control mechanism.

5. Role of Community Elders: Khap and caste panchayat should sanction rather than legitimise these groups. In a family, the boy and girl child should be given equal opportunity for education and should have their say. In this way, she can make informed choices and won't be subjected to exploitation.