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An analysis of mob justice in the light of legal system in Bangladesh

Introduction:

The phrase ‘mob justice’ describes a type of violent crime when a crowd murders a person who is believed to be the criminal under the guise of enforcing justice without a trial, frequently after subjecting the victim to torture and physical mutilation. Mob justice, often known as vigilantism, is an organized attempt by a group of regular individuals to enforce norms and uphold law and order on behalf of their community (Percy, 2023). It also describes a self-governing court that sentences someone without following the proper legal procedures. Many factors, such as insufficient institutional enforcement, a lack of faith in the legal system, societal injustices, and false information, are contributing to this tendency.

Social Disorganization Theory (The Daily Star, 2024) states that individuals feel forced to enforce the law on their own when institutions such as the court and law enforcement are incompetent, corrupt, or weak. Communities are motivated to impose their own brand of ‘justice’ through collective action due to a variety of other contributing variables, including socioeconomic injustice, disinformation, and deeply ingrained cultural norms.

Incidents:

Nearly two dozen persons have reportedly been lynched (We cannot let mobs be the judge, jury and executioner, 2024) by mobs in the previous forty days alone, according to media sources. But since the interim administration assumed office on August 8, there has been no visible response to these occurrences from the relevant authorities. The public's lack of faith in the nation's legal and justice system is evident from the savage lynching of former leaders of the Bangladesh Chhatra League (BCL) at Jahangirnagar and Rajshahi universities earlier this month and the brutal murder of a suspected thief at Dhaka University on September 18, 2024.

Regardless of their claimed misdeeds or crimes, these lynched people had a right to a fair trial, the most fundamental human right. Rather, the crowd seized power and started acting as the jury, judge, and executioner.

It is not only this interim administration; the previous government, which was in power for more than 15 years, did little to bring the perpetrators of mob killings to account. According to Ain o Salish Kendra (ASK), 32 persons died in mob beatings (Mob Beating Jan-Jun 2024, 2024) between January and June of this year. In 2023, 51 persons were killed (Mob Beating (Jan-Dec 2023), 2023) in mob lynching, with 36 dead in 2022 (Mob Beating (Jan-Dec 2022), 2022) and 28 in 2021 (Mob Beating (Jan-Dec 2021), 2021). Even when perpetrators of mob violence were discovered, imprisoned, and sentenced, the penalty was not carried out, as seen in Abrar Fahad's tragic lynching case. (Rahaman, The Daily Star, 2024)

What is most distressing about the recent mob violence is that the attackers are members of the same student community that only two months earlier risked their lives to overthrow the Ex Prime Minister Sheikh Hasina-led government, promising a better Bangladesh. Worryingly, the interim government's inaction has not only motivated these mobs, but also fostered a hazardous climate in which such acts of violence appear to be allowed. The absence of obvious judicial penalties for these horrible crimes sends a dangerous message: the rule of law has died, and mob violence is the new norm (Rahaman, 2024)



Legal analysis:

Domestic law perspectives: However, the question is what does Bangladesh's domestic law say about mob lynching or mob justice? Unfortunately, there is no unified law specifically addressing this issue. From a legal standpoint, mob justice adds to lawlessness and is a serious violation of human rights, notably the rights to life, liberty, and security of person as guaranteed by the Constitution, in theory, and international human rights agreements to which Bangladesh is a party. Article 31 of the Constitution (The Constitution of the People's Republic of Bangladesh) guarantees the right to legal protection, declaring that every citizen must be treated only in accordance with the law. Furthermore, Article 35 (The Constitution of the People's Republic of Bangladesh) guarantees the right to a fair trial, which includes protection against ex post facto legislation, double jeopardy, and self-incrimination. However, the frequency of mob lynching in Bangladesh contrasts sharply with these fundamental provisions.

Additionally, Section 34 of the Penal Code of 1860 (The Penal Code) states that if multiple people commit a criminal act with a common intention, each person is equally responsible for the act as if they had done it alone. This provision should, in theory, hold every member of a mob accountable for their actions.

Apart from that, the Penal Code of 1860 deals with offences like murder, unlawful assembly, causing hurt, and so on, are frequently the outcomes of mob violence. Again, the Code of Criminal Procedure 1898 gives police personnel the authority to interfere in cases of unlawful assembly (The Code of Criminal Procedure) disperses mobs, and prevents bloodshed. Furthermore, the Special Powers of 1974 (The Special Powers Act) allows the government to intervene against acts that endanger public order, while the Cyber Security Act of 2023 (The Cyber Security Act) targets the transmission of disinformation that might encourage mob violence.

International law perspectives:

Furthermore, according to Article 10 & 11 of the Universal Declaration of Human Rights (UDHR) and the Article 14(2) of the International Covenant on Civil and Political Rights (ICCPR) expressly guarantee the right to a fair trial and the presumption of innocent. The state's inability to prevent or prosecute acts of mob justice might be interpreted as a breach of its commitments under such treaties, which oblige Bangladesh to ensure that all persons within its jurisdiction enjoy the rights guaranteed by these international agreements.

Challenges:

Due to the numerous instances of indiscipline, the judicial system of Bangladesh is no longer trustworthy (Islam, 2019). The audience can be heard saying in one of the videos of the mob lynching event, “let's beat him up as much as possible until the Police arrives, Police shall take bribes and release the culprit” (BBC NEWS Bangla, 2019). This urgency explains the distrust to its fullest.

The slow investigation and trial process, failure to identify and punish the guilty in a number of cases, police refusal to register cases, and overall indiscipline made justice appear so uncertain in the eyes of the masses that distrust and frustration grew to the point where the state could not deny liability for incidents of inhuman mob lynching. The Tanu event might be remembered when there is no progress in the inquiry (The Daily Star). And the list is endless.

Concluding remarks & Recommendations:

We cannot afford to let our nation be defined by its sink into anarchy. Bangladesh fought hard for democracy, and only a month ago, a thousand people sacrificed their lives to restore it (Rahaman, 2024). The dream of justice looks to be slipping away, as blood is shed in the name of mob vengeance.

Addressing the emergence of mob justice in Bangladesh necessitates a diversified strategy. First, the judiciary's competency and independence must be strengthened in order to ensure speedy and unbiased adjudication of cases. Second, law enforcement agencies must be modified to be more successful in preventing and responding to mob violence. Third, a strong effort must be made to educate the public about the hazards of mob justice and the significance of following legal procedures through public awareness campaigns and community participation. Finally, reforms to law must address the underlying social and economic disparities that fuel the emergence of mob justice likewise the codification of mob lynching provisions in the criminal justice system of Bangladesh.

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