

Vigilantism, Culpability and Moral Dilemmas

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Abstract ■ The recent resurgence of vigilantism in India connects both to the neo-liberal project of outsourcing security, as well as to a longer history of porous boundaries between states and powerful elements in society. When practiced by subaltern groups, it also reflects the failure of the judicial system. This article explores the moral plurality evoked by different forms of vigilantism and their relationship to the state, as well as the different types of culpability they imply.

Keywords ■ India ■ Hindu Right ■ justice ■ Maoists ■ outsourcing ■ security ■ state

Culpable: deserving censure; blameworthy, guilty, to be at fault

Vigilante n. one of an organised group of citizens who take upon themselves the protection of their district, properties etc.

Vigilantism n. the methods, conduct, attitudes etc. associated with vigilantes, esp. militancy, bigotry or suspiciousness. (*Collins English Dictionary*, 1986)

On 23 February 2008, the President of India and the Chief Justice of the Supreme Court debated the growing incidence of mob justice at a seminar on judicial reforms. While the President blamed it on the judiciary and the delay in delivering justice, the Chief Justice argued that the root of the problem lay in a deficit of governance (Mahapatra, 2008). Around the same time, however, as these two functionaries were voicing their concern over the growing phenomenon of vigilantism in 21st-century India, the Home Minister, who is responsible for law and order internally, declared that ‘people should take steps for self protection’. Not surprisingly, this was while inaugurating an exhibition on ‘Total safety, security and disaster management’ by companies marketing private security devices and systems (*Times of India*, 2008).

Worldwide, the growth in private security firms as well as vigilante justice has strong affinities with the neoliberal promotion of ‘public–private partnerships’ where law and order are outsourced (Duffield 2001; see also chapters in Comaroff and Comaroff, 2006). The phenomenon of gated communities which accompanies polarized inequalities not only reflects an overwhelming desire for security, but also a marked indifference to what goes on beyond the walls of the community, including a tacit support for extra-judicial ways of getting rid of the inconvenient. As Galeano wrote:

In a world that prefers security to justice, there is loud applause whenever justice is sacrificed on the altar of security. The rite takes place in the streets. Every time a criminal falls in a hail of bullets, society feels some relief from the disease that makes it tremble. The death of each lowlife has a pharmaceutical effect on those living a high life. The word 'pharmacy' comes from *pharmakos*, the Greek name for humans sacrificed to the gods in times of crises. (2000: 77)

The accompanying media rhetoric about insecurity makes even the poor, who are far more vulnerable to everyday crime than the rich, buy into the notion of security as the prime concern of society and the state, and the idea that it should be maintained at any cost, thus ironically pitting the rights of the poor who are denied everyday justice against the 'human rights' of criminals (Caldeira, 2006; on vigilantism see also Goldstein, 2003; Scheper-Hughes, 2006; Smith, 2004).

At the same time, to see vigilantism as a new phenomenon conceals the way in which states have long had porous boundaries with powerful elements in society. In addition, in postcolonial countries like India, with an inherited colonial tradition of divide and rule, governments often escape their own responsibility for conflict by externalizing it as a contradiction within civil society. This enables the state to claim the high ground of neutrality and universality as contending groups battle it out in civil spaces. The twin face of vigilantism, then, is a displacement of culpability, both by the state, which can blame people for taking law into their own hands, and by people, who can blame their own actions on state inaction.

Vigilantism in India

Vigilantism has taken several forms in India. Some of it has been 'localized' and 'spontaneous' involving ordinary people lynching suspected thieves or rapists. In February 2008 alone, four people were killed for suspected theft and rape in acts of mob justice in the state of Bihar; in another case, a crowd dragged a man out of a hospital and beat him severely, while the police looked on passively. Some of these acts have been directed by more powerful groups against vulnerable individuals,¹ while others, like the lynching of a known criminal, Akku Yadav, on the premises of the Court, by a group of women in 2004, reflect the powerlessness of the poor, the feeling that the police or the courts could not be trusted to ensure justice.²

The women, all residents of a Nagpur slum, who were interviewed after the incident felt it was fully justified:

Police is in cahoots with the criminals. Politicians use these very criminals and at times even police personnel in their elections and provide protection to them later on. . . . How are we in the wrong? Courts take ages to give justice. We may die before they give a decision. What is the point in going to courts? We gave 15 years to the courts. Now, the women of Kasturbanagar have given a clear message to the courts. You could not do it; we have done it. How are we in the wrong? (Mehta, 2005: 14)

The criminal justice system, designed to protect the rights of the accused, and his or her right to bail, worked here against the interests of justice.

Organized left-wing activity, associated with the Communist Party of India (Maoist) and various other Marxist-Leninist-Maoist armed groups (popularly known as Naxalites)³ forms another stream of vigilantism, through the holding of people's courts to provide instant justice to villagers for whom the long procedural delays and costs of the formal justice system are serious barriers (see Baxi, 1982 on the Indian legal system). The 'Gulabi Gang', a group of women who wear electric pink sarees and use sticks and cricket bats against abusive husbands and corrupt officials, is a localized and less ideologically driven variation on the same theme. Operating out of the extremely poor district of Banda in Uttar Pradesh, they have even hijacked trucks carrying food grain for distribution to the poor (Prasad, 2008).

Political parties, like the Bharatiya Janata Party (BJP) and the Congress, have also found it convenient to support vigilantism even when they have been in power, resulting in large-scale massacres of citizens, in so-called 'communal riots'.⁴ Indeed, for the BJP, as well as cadre-based parties on both the right and left like the Shiv Sena and the Communist Party of India (Marxist) which have been in power in the states of Maharashtra and West Bengal respectively, vigilantism is not a response to an exceptional situation, but a permanent condition of the way that the relation between party and state is organized, with the cadre and the ruling party relationship dividing up the space of civil society and the state between themselves.⁵

Recently, there has been an efflorescence of vigilante attacks on cultural, educational or artistic expression. In each case the attackers claimed that their 'sentiments were hurt', but in essence their argument has been directed against the very possibility of cultural or religious pluralism.⁶

Finally, there is a form of vigilantism that is promoted by the police or security departments of the state to counter left-wing groups or movements fighting for self-determination. Such tactics are never invoked against the vigilantism of the Hindu right. The Salwa Judum in the central Indian state of Chhattisgarh, in which indigenous youth have been recruited and armed as special police officers and encouraged to fight their fellow villagers who are actively or quiescently supporters of the Maoists, has resulted in thousands of houses being burnt, and large numbers of people killed and women raped (see Sundar, 2007: 265–89). Elsewhere, vigilantism is practised on a smaller scale, by gangs or individuals who engage in informal extra-judicial killings with police sanction. Many of the personnel in these organized vigilante gangs come from within the ranks of the insurgent movements and are used to identify their former comrades.⁷ As Baruah writes of north-east India, which has faced armed conflict between groups struggling for self-determination and the military for over 50 years:

Not all armed groups are rebels. For instance, many locals believe that some of them have come into being at the behest of security and intelligence agencies combating insurgency. Although it is hard to confirm such charges, warfare

between rival militias – especially following ceasefire agreements signed by a militia faction and the security forces – sometimes neatly serves official counterinsurgency ends of the moment. (2007: 9)

Between left and right: moral dilemmas

Both the phenomenon of vigilantism and its current spread are deeply fraught in terms of moral reasoning. Vigilantism by definition presupposes a state against whose monopoly over violence (cf. Weber) vigilante violence is measured. However, when practised by dominant groups in society or by agents of the government itself, it questions the very contours of the state, making it hazy as to where the power of a legitimately constituted state ends and that of powerful groups in society begins. The state no longer simply acts on *behalf of* or at the *behest of* the ruling class (in the classic Marxist senses); its agents are physically inseparable from those of the ruling party, which, in turn, acts for specific groups of people and does not even pretend to represent all citizens.

Insurgent vigilantism by subaltern groups recognizably challenges the legitimacy of the state, but when the very groups who control the state also resort to vigilantism, the purpose is clearly something else – to escape culpability, strike terror, create a sense of helplessness or foment civil war. As Gramsci argued:

A weakened state structure is like a flagging army; the commandos – i.e. the private armed organizations – enter the field, and they have two tasks: to make use of illegal means, while the State appears to remain within legality, and thus to reorganize the State itself. (1971: 232)

The use of civil defence patrols or gangs of renegade militants to counter subaltern insurgents not only has the convenience of distancing the government from direct responsibility for illegal acts, but also displaces culpability onto a section of the victims themselves. It destroys the moral certainties of ordinary citizens, who are no longer sure who stands for what, and what the ends of revolution or resistance are.⁸

By contrast, subaltern insurgencies or Robin Hood style vigilantism may be aimed less at reorganizing the state and more at making it live up to its promises. A long tradition of writing about peasant or working-class resistance addresses issues of morality, people's culpability for violence and notions of justice in situations where the protection of the law is unequally available to different classes of citizens. Banditry as well as insurgency were often justified by peasant groups as moral under the circumstances (Guha, 1983; Hobsbawm, 1959). While the breakdown of a 'moral economy' may have caused resistance, it often brought into relief the fact that this 'moral economy' was only seen as contingently moral, inviting countless acts of everyday resistance (Scott, 1985). Even as incidents of vigilantism from

below can be criticized for the absence of due process, they show the way in which the formal process and the rule of law are marked by hierarchies of gender, caste and class.

Unlike Hobsbawm's primitive rebels, however, vigilantism – whether mass vigilantism directed at broad classes or communities, or instant mob justice directed against particular individuals – today occurs in a vastly different context, where it is amplified and relayed by the media. While the varying social status and power of the victims vis-a-vis the vigilantes inevitably influences the media's reaction to them, this does not always work in a uniform manner. The media coverage of actions by right-wing vigilantes gives them and their views (their so-called 'hurt sentiments') a prominence they do not actually possess in society, as shown by the Hindu right-wing practice of inviting the media to film their acts of violence, and waiting till the cameras are rolling. They are clearly unafraid that media coverage will make it easier for the police to charge them.⁹ The media has also regularly published interviews with politicians who have incited vigilante movements, like Mahendra Karma, who has led the Salwa Judum. Left-wing organized vigilantes never get the same kind of approving media space. While the process of covering such activities does generate some distaste for the right, overall, by refusing to place vigilantism in the context of class and caste inequality, and by taking their cue from police handouts (see Hall et al., 1978), the media shapes the morality around such acts. However, as with everything else, audience reception varies by social location, including when it comes to cases of individual lynching. In the Akku Yadav case, as Mehta points out (2005: 14–15), while slum dwellers and women's groups instinctively sympathized with the women who killed him, intellectuals and the legal fraternity at a distance from the site argued that the women should not have taken law into their own hands, however grave the provocation.

In states which claim to be democracies (based on social contract), attributions of morality are intrinsically bound up with the degree to which an action fits with existing state law. But even here it is recognized that there are many instances when law does not exhaust either morality or necessity. In particular, when laws or the institutions implementing them fail the basic test of justice, the obligation to obey laws or the legal system is put under severe strain, and morality acquires new flag-bearers. When states abandon any idea of themselves and begin to outsource their fundamental obligations to non-state actors, it is small wonder that citizens in turn masquerade as the state.

The range of culpability

Just as vigilantism itself is a phenomenon that escapes any easy characterization in moral terms, the concept of culpability is particularly productive in helping us to think about it, in that it allows a range of moral dilemmas

that escape any easy resolution. It is emblematic of a pluralist moral theory: 'which refuses to reduce all judgement of (moral) preference to a quantitative form in a single dimension (so that we can calculate) and that allows for diversity of (moral) goods which are sometimes incommensurable' (Matilal, 2002: 68).

To begin with, the concept of culpability bridges both guilt and non-guilt. For example, as a soldier, one may engage in killing or some other morally problematic act under orders and therefore not be legally guilty, even if one may feel traumatized by one's own conscience.¹⁰ If the alternative to committing the act meant betraying one's group (as among soldiers or gangs who have their own codes of conduct), it is not clear where the axe of moral culpability would fall. Equally, there may be situations where one is held culpable but simultaneously absolved, both in one's own eyes and in the eyes of the law. For instance, under the Indian Penal Code (Sec. 300), culpable homicide does not amount to murder if done under grave provocation, in self-defence or if carried out by a public servant acting in good faith in exercise of his or her duties.

Culpability also bridges actors and 'passive' bystanders – people assume culpability for both acts they have done themselves as well as acts that are done in their name, even if without their consent (such as their government going to war). Individuals may also feel culpable for acts which they witness, but which they cannot or chose not to stop, as in instances of mob justice.¹¹ In situations of mass crime, people may be culpable for the same act in different degrees, which is why international humanitarian law makes a distinction between command responsibility vs the responsibility of foot soldiers. As Marc Osiel (2000) points out, in breakdowns of societal morality, there is an uncertain line between culpable and non-culpable actors. Paradoxically, one's culpability may in fact decrease the closer one is to the scene of crime.

Culpability bridges both deontological and consequentialist divides, and is especially important to explore in a world where links between individual actions and global effects are concealed by the expanded chains that bridge people and things. For example, while people feel concerned about global warming, they do not necessarily see links between their own activities (e.g. driving instead of cycling) and global processes. It is also important to explore the distinction between responsibility and culpability. Faced with the structural violence of inequality (e.g. the deaths that could have been saved by a more equal distribution of resources), it is not clear whether better-off people have moral responsibility (without guilt, of the sort that makes us care for the elderly or physically challenged people) or active culpability for enjoying the fruits of an exploitative social order. In making a distinction between left- and right-wing vigilantism, organized violence versus spontaneous acts of mob justice, moral dilemmas regarding vigilantism will necessarily have to include moral dilemmas regarding the state (as well as the State of affairs more broadly) and one's own relation to it.

Notes

- 1 In September 2007, 10 men from the semi-nomadic dalit Kurariar community, had been beaten to death by a dominant group of Yadavs in Dhelapurwa village of Vaishali district, allegedly for thieving. A deeper investigation, however, revealed that the Kurariar men had previously beaten a Yadav man for raping a woman from their community. The Kurariar are largely agricultural labourers and unlikely to get justice, while the Yadavs have political connections and are landed. (Louis, 2007)
- 2 Mehta (2005: 25) notes that Nagpur city had seen a number of instances of killings of local 'dons' or criminal leaders by ordinary citizens.
- 3 The Naxalite movement began in India in the late 1960s as a peasant struggle. While the Indian state crushed the movement in the 1970s, causing it to splinter into various factions, in 2004, three of the parties united to form the Communist Party of India (Maoist). They currently represent a significant force, especially where state services have been inadequate or absent, and claim to have established 'parallel governments' in some areas. Their support comes from the poorest sections of India's population. They have also engaged in some major military actions – including jail-breaks, and attacks on ammunition depots.
- 4 The best-known examples are the massacres of Sikhs in Delhi and elsewhere in North India in 1984, and the genocide of Muslims in Gujarat in 2002. In both cases, the attacks were led by members of the ruling party, and justified as a natural 'reaction' – in 1984 to the killing of Prime Minister Indira Gandhi by her guards, and in 2002 to the burning of a train coach in which 58 Hindu pilgrims died.
- 5 While the 2007 armed attack by CPI (Marxist) cadres on villagers in Nandigram who were resisting land acquisition was well publicized, even in more 'normal' times, the CPI (Marxist) government in West Bengal uses party cadres to maintain 'law and order'. During the BJP regime at the Centre (1999–2004), organizations associated with it like the Bajrang Dal and Vishwa Hindu Parishad carried out numerous violent actions with impunity, including the Gujarat genocide mentioned above, as well as attacks on Christians and their churches.
- 6 On 18 February 2008, the student wing of the Bharatiya Janata Party, the Akhil Bharatiya Vidyarthi Parishad (ABVP) ransacked the history department of Delhi University for prescribing a text by well-known scholar, A.K. Ramanujam, which reproduced some of the hundreds of variants of the ancient Hindu epic, the Ramayana. Various fronts of the Hindu right, such as the Vishwa Hindu Parishad, Bajrang Dal and the Shiv Sena have also attacked exhibitions (by M.F. Hussain, and by Baroda University fine arts students), and film screenings (*Water, Jodhaa Akbar*). The National Congress Party (NCP)-supported Sambhaji Brigade attacked the Bhandarkar Oriental Research Institute in Pune, on the grounds that James Laine's book on Shivaji had used materials from the institute, and that the book insulted Maratha pride.
- 7 They go by the name of Cats in Punjab, Ikhwan in Kashmir, Tigers and Cobras in Andhra Pradesh, SULFA (Surrendered ULFA) in Assam and Salwa Judum in Chhattisgarh.
- 8 Many acts of violence and extortion attributed by the state to insurgent groups may in practice be carried out by state agents. However, over time, this inevitably reduces the credibility of the insurgents among their supporters, and reduces them to apathetic apolitical agents.

- 9 For example, in the attack on Delhi University's history department, the students ABVP refused to talk till the television crews arrived.
- 10 See for instance, the testimonies by American veterans of the Iraq War at the Winter Soldier hearings (at <http://ivaw.org>).
- 11 As Daniel Jordan Smith notes of incidents of vigilante justice in Nigeria where he happened to be on the scene: 'I had long since concluded that the crowds and the popularity of "instant justice" increased the incidence of these events. If I watched, I would be complicit. Yet I also felt culpable in leaving and doing nothing' (2004: 447).

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