

## MORAL POLICING' IN INDIA: NO LEGAL JUSTIFICATIONS

 VYA SINGH RATHOR

Aneesh (22 years of age) was found hanging from a tree behind his house. The reason behind was on Valentine's Day, the victim and his female friend were assaulted and harassed near a beach in Kollam by a group of five men, who were then arrested by the police.<sup>2</sup>

In yet another instance of moral policing in Karnataka, members of a 'Hindutva' outfit allegedly assaulted a student for talking to a girl from another religion near M. Krishna School for Blind in Hassan. They took the boy and the girl to a police station and demanded that a case be booked against the boy for "attempting to convert the Hindu girl into Christianity."<sup>3</sup>

A woman was assaulted in Kerala for riding scooter with a male colleague. A man was beaten to death as he was seen coming out of a woman's home whose husband lived in the Gulf.<sup>4</sup>

Every year on Valentine's Day, a guy and a girl going together become usual suspects for the self-appointed moral police.

Controversial "Anti-Romeo" squads to police and control young couples in public are spreading across India after they were introduced by the firebrand Hindu leader of the country's largest state, Uttar Pradesh. The squads of plain-clothed and uniformed police officers have been accused of "Taliban-like" moral policing by patrolling public spaces to prevent men from loitering near women. The authorities claim they are only trying to protect women from sexual harassment.

The beauty of living in a democracy is the freedom which comes with it. People should understand that everyone is different, especially when it comes to the moral aspect and nobody should be judged for that.<sup>5</sup>

'Moral Policing' is an attempt by certain individuals and groups to enforce self-proclaimed codes of morality and conduct. In many parts of India, self-proclaimed enforcers of personal codes of conduct commit crimes of intimidation, extortion, assault, hurt; murder, etc. violate the privacy of the citizenry and impinge on the personal freedom of individuals. Very often, it is directed against women. Such conduct is neither moral, nor is it policing having the sanction of law. In fact, such conduct is appropriately termed as intimidatory, compulsive, conformity enforcement. It is important for Police officers, engaged in the enforcement of law, to distinguish between enforcing a Code of Laws, and enforcing a Code of Morals. Police enforce either laws enacted by the legislature, or laws as interpreted by the judiciary.

In recent times, several incidents of moral policing have been brought before the government through Indian media. People nowadays are well aware of the wrongdoings going around them in the name of morality and have been very active in raising their voices against it. The 'Kiss of Love' campaign<sup>6</sup> which started in Kochi is a very good example of that. People took to the streets to raise their voices against the moral policing in India. Protestors hugged and kissed each other on the streets and this campaign slowly spread across various metropolitan cities like Delhi, Mumbai and Kolkata. Taking cognizance of these reports from media, Indian Judiciary has, from time to time, given several directions to the governmental authorities to regulate the behaviour of these self-proclaimed contractors of society and put them behind bars for showing vigilantism.

In recent years, courts have frowned on attempts at moral policing by the state as well as the police.

In *Vasudev Gupta v. State of Uttar Pradesh*<sup>7</sup>, the Apex Court said that "Moral Codes are ordinarily

founded on emotional instincts and intuitions that were selected in the past because they aided survival and reproduction. When we speak for morality or moral values, we become conscious to some unforeseen restriction likely to be imposed in the form of moral policing.”

In a progressive ruling that should serve as guidance to the hecklers and moral police the Bombay High Court on March 20, 2016 has said that activities, even if they are obscene, are not a crime, if done in private. The Court has said that any activity should not be deemed as a crime, if it does not cause any annoyance to people who are not involved in it. The ruling came while the court was hearing a plea against a complaint filed against 13 men who hosted a private party in a flat in Andheri West<sup>8</sup>.

The Times of India reported that the Court quashed the complaint filed against the men, saying that since the activity was being done in private and did not cause any trouble to anyone else, it should not be seen as a crime.

“You are simply doing moral policing” said Supreme Court in *Pramod Mutalik v. The State of Goa & Ors*<sup>9</sup>.as it upholds no entry order against Muthalik. On 19 August 2014, the District Magistrate, South Goa and District Magistrate, North Goa had banned the entry of Muthalik into Goa. Muthalik is the founder of ‘Shri Ram Sena’ and is infamous for his acts of moral policing.

In *Gobind v. State of Madhya Pradesh and another*,<sup>10</sup> Supreme Court held that -

“Popular morality or public disapproval of certain acts is not a valid justification for restriction of the fundamental rights under Article 21. Popular morality, as distinct from a constitutional morality derived from constitutional values, is based on shifting and subjecting notions of right and wrong. If there is any type of “morality” that can pass the test of compelling state interest, it must be “constitutional” morality and not public morality”.

Recently, on March 30, 2017, the Lucknow bench of the Allahabad High Court on Thursday upheld the Uttar Pradesh government’s move to set up ‘anti-romeo’ squads to check eve-teasing. The court was hearing a PIL filed by Advocate Gaurav Gupta, who had raised concerns over the way the Uttar Pradesh Police was tackling eve-teasing in the state. The bench stated that this should be considered as “preventive policing” rather than moral policing.

The High Court, however, cautioned the Uttar Pradesh police against overzealous attempts to curb eve-teasing. The police must only act as per the provisions of the Police Act and as per the directions of the DGP and not resort to doing anything outside its purview, the court added.

Likewise, in the past there were several incidents of moral policing reported in India, on which courts in India has directed the governments to control the activities of vigilant groups. Some of the incidents were-

- A group of Hindu activists in Mangalore attacked an innocent party and manhandled the people accusing them of ‘indecent and violating culture’ in 2012.
- August 8, Madh Island Raid: Mumbai Police raided hotels and dragged couples out of their private space in public, accusing them of ‘public indecency’
- In September 2005, a fatwa was issued against Sania Mirza because her attire on the tennis court and billboard advertisements was “un-Islamic”.
- In 2013, a fatwa was issued against 3 girls from Jammu and Kashmir who had a rock band called Pragaash. The fatwa asked them to stop such immoral activities.

- Operation Majnu: Ghaziabad and Meerut Police raided public parks with media crew and attacked couples sitting in the park in 2011 and 2005, respectively.
- In 2008, 22 customs officers were arrested from a party in Lonavla. They were allegedly “watching porn on a laptop and were undressed”.
- The Mumbai High Court dropped the case stating that watching porn in a private residence is not an offence.
- In 2005, Tamil actress Kushboo said that it was fine for girls to indulge in pre-marital sex on which various political parties took offence and protestors hurled eggs, rotten tomatoes and slippers at her car.
- In April 2010, the Supreme Court of India dropped all 23 defamation cases against her.
- On March 2015, local authorities in the Malda district of West Bengal cancelled a women’s football match because the local Muslim residents and maulvis objected to women playing sports.
- On 24 January 2009, members of the Sri Ram Sena barged into the pub “Amnesia - The Lounge” in Mangalore and beat up a group of young women and men, because “women should not be drinking in a public place “
- After an extensive discussion on various aspects of the acts relating to moral policing, several suggestions to curb the menace of vigilantism in the name of moral policing can be highlighted in the following modus:
  - Civil society has to stand up against moral policing.
  - Media and others not to use the word “moral policing” and instead call it “immoral rowdyism”. Using the word “moral policing” only encourages anti-social elements or those who take law into their hands to continue their “rowdyism” as the word gives them “moral strength”.
  - Establishment of Legal cell to provide free legal assistance to the victims of moral policing.
  - Those taking the law into their hands in the name of moral policing should be isolated and put behind bars.
  - Police should interact with the people in the society, for whom they are working, to ensure their safety and security without infringing on their privacy and their constitutional rights.
  - Morality had to be determined by law, and not by individuals, who would have different viewpoints on the same issue. The trend of moral policing had at times affected mainstream policing as well.

Thus, times had changed, and with it, interactions and relationships in society. It is important that friends, couples, and brothers and sisters have the freedom to go out together. After all, what is morality? Today’s morals are not tomorrow’s.

To bring change, education, campaigning and awareness for all strata of society are a must. Whether it is the police themselves, or those who are victims of moral policing, these issues must be discussed in order for us to understand that they are not being done for our ‘well-being’ in the way that it is projected. The media has an important role too. Acts of moral policing against anybody must be reported, and reasons why these acts are being legitimised should also be brought into focus.

‘Moral Policing’ cannot be tolerated in a country such as India. People must have the freedom to observe any occasion they are interested in and must not be afraid of threats. We cannot call ourselves a free country if such elements can run riot at will.

**(Endnotes)**

- 1 \* Assistant Professor (Law), IMS Unison University, Dehradun
- 2 .HT Correspondent, “Moral Policing Victim Kills Self, was under Severe Mental Stress”, *Hindustan Times*, Feb. 25, 2017.
- 3 .Akhilesh Sharma, “Moral policing in Hassan” *The Hindu*, Sep. 21, 2013.
- 4 .Prabhash K Dutta, “Kerala moral police: Why Valentine’s Day turned tragic for Aneesh in Kollam”, *IndiaToday*, Feb. 25, 2017.
- 5 .ShraddhaVerma , “16 Times India’s Moral Police Went Too Far”, *The Times of India*, Aug.14, 2016.
- 6 .Vinod Saxena, “The Kiss of Love campaign, *The Times of India*, Nov. 11, 2014,.
- 7 . 2011 SCC Online All 798.
- 8 .Jaspreet, “*Mumbai Hotel Raid: Bombay HC Slams Mumbai Police for Playing Moral Police*, PTI, Sep. 3, 2015.
- 9 . Special Leave Petition (Crl.) No. 23 of 2015.
- 10 . (1975) 2 SCC 148.