

IS INSTANT JUSTICE A REMEDY FOR JUSTICE DELAYED

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“Throughout history, it has been the inaction of those who could have acted, the indifference of those who should have known better, the silence of the voice of justice when it mattered most, that has made it possible for evil to triumph.”

- Haile Selassie

As was argued by *Rediff.com* columnist Saisuresh Siva Swamy 'We may have the finest criminal laws, but of what use are they when it can ensure neither a quick, time-bound trial nor punishment?' 'The outcome, then, will be extra-judicial solutions'. The delay in bringing justice, even in some horrendous crimes where the guilt is profound, created an unusual demand for delivery of instant justice.

What should one do in the repercussion of rape and murder in a country that has continually unsuccessful to mete out justice to the victims? That the concept of retaliatory justice which inexorably leads to a malicious sequence has its tremendous faults is true, but one can't help but ask, what is to be done when the law has been amended, fast-track courts have been brought into the practice, but the convicted rapists and murderers remain free to commit more cruelties.

Neither the police nor the commoners should take the law into their own hands. But as Philip Zimbardo, professor emeritus of psychology, Stanford University, said: *“Situational variables can exert powerful influences over human behaviour, more so that we recognize or acknowledge.”*

Resorting to instant justice in some parts of the country is as supported by public support as it is provoked by the failure of our grievance redressal mechanism, for which our lawmakers must take part of the culpability. May be the accountability of extra-judicial killings lies with

the judiciary itself. It is the failure to befittingly punish rapists and murderers in the past that has led to the present boom of the situation. Furthermore, awe-inspiring presence of criminal elements among our legislators and executives is another reason for the public's embitterment with the justice delivery system, which fuels the desire for extra-judicial solutions and the security forces' go amiss to notice what the public wants.

Of course, it cannot be denied that we have the premium criminal laws, but of what use are they when it can guarantee neither a quick, time-bound trial nor punishment? One should remember the resolution of criminal laws is to not simply punish the offender but also ensure that the sentence serves as a warning for future crimes.

Unfortunately, our judicial system is a huge disappointment when it comes to crime and punishment. Though it punishes it does it at a very sluggish pace, thus neither satisfying the victim's quest for justice nor serving as a warning for potential violators. Many are shocked by the recent police's criminal act, and lament the violation of due process but need to remember that when justice fails, as in case after case after case, though unacceptable and illegitimate, instant justice will step in.

Though stricter laws are enacted to deal with the problem, they are not enough in controlling crimes and bringing justice in a timely manner, as higher rate of bringing crimes to the notice of lawmakers has not led to more rapid investigations and higher rate of conviction. So, should we find some alternatives to fix the problem? Is triumphing over 'encounter' killing, because the culprits 'deserved the punishment', the right way to ensure quick justice to victims. This raises the central enquiry: is police encounter an actual solution? What about the law and the Constitution which clearly states that a crime should be established under due process of law and the accused should be proved guilty by the justice system in a democratic process?

As was observed by Charles Darwin in *Voyage of the Beagle*, "*If the misery of the poor be caused not by the laws of nature, but by our institutions, great is our sin*". There is a need for immediate revival of the criminal justice system in order to halt the rising demand for malevolent killing of criminals, otherwise, the vacuum will be filled by unsolicited and inexplicable elements. Any further slackness will make the encounters an epitome of a parallel justice delivery system. When the suspects are killed in an encounter it leaves behind Many unanswered questions as in the name of instant justice the criminal chapter is closed even

before the investigation and judicial process come to a logical conclusion. There are many lapses in the system, which led to the crime. These lapses are accountable for upbringing such crimes despite laws made rigorous after every such outrage. Human Rights activists contend that the encounter is an attempt to cover up these failures and preventing them from becoming an agenda that causes discomfiture for the people in power.

Some authorities resort to the instant justice as it helps them from escaping public anger due to an inefficient criminal justice system and inordinate delay in justice delivery. As a replacement for of putting in place a all-inclusive and vigorous legal measures to prevent such crimes, instant justice is attempted to cover up failures and escape public anger over it. So long as this continues, the present trend of rising atrocities and low rates of conviction will also continue. As a civilian one should strongly believe Mobocracy cannot be allowed to replace democracy and jungle law cannot be allowed to take over the rule of law. But at the same time, we feel the need for deterrence of crime rather than retributive justice. Vengeance will help the dysfunctional system to legitimize its catastrophes. Thus, such a cure is worse than the disease.

To conclude, provisions made in the Constitution and those which were laid down as law by the Supreme Court to **facilitate fair** and full justice, have largely being misused to not just delay but also deny timely justice. That is the **root cause** of public anger, which at times gets reflected in calls for and acts of instant justice, or what is termed as ‘extra-judicial justice’.¹

¹ <https://www.pgurus.com/understanding-the-demand-for-instant-justice/>, accessed on 12.7.2020.