THE CYBER CRIMINOLOGICAL PERSPECTIVE OF PUBLIC VIGILANTISM CASES ON SOCIAL MEDIA CONCERNING THE RIGHT TO LIFE IN SOUTH AFRICA

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ABSTRACT: Vigilantism is one of the most life-threatening events faced by people who are accused or suspected of committing crimes and witchcraft. The victims of vigilantism are mostly killed before the police can arrive to rescue them, violating their Constitutional right to life. Communities in South Africa resort to taking the law into their own hands because they feel that the justice system is failing them, and this is the only way they can protect themselves against crime and witchcraft. This article looks at the cyber criminological perspective of public vigilantism cases on social media concerning the Constitutional right to life in South Africa. This study estimates that Vigilantism will continue to be a problem if it is not addressed and people will continue to lose their lives, even innocent ones. This study applied the qualitative approach to collect data and aims to help community members to understand their shortcomings and assist them in coming up with solutions to avoid taking the law into their own hands.

KEYWORDS: *Vigilantism; Victims; Constitutional rights; vigilante, social media*

1.0 INTRODUCTION

Social media has now become one of the contributing factors towards public vigilantism in South Africa. The study focused on vigilantism at large and how social media is used to spread ideas of public vigilantism and its *modus operandi* which results in the violation of the constitutional right to life. In South Africa, many communities seem to believe that vigilantism is the only way to prevent crime and deter other criminals from committing crimes without having an understanding that this is a violation of the Constitution and a violation of the victim's rights, suspects are deemed not to have rights and are not given an ear to tell their side of the story even previously (Jung et al, 2020).

Vigilantism is not a practice that has just recently been practiced, but it has however existed for years and years from the 1930s to 1990s when certain structures were introduced to reduce the occurrence of crime, such as (Mapogo a Mathamaga, People against gangsterism "PAGAD", and the Makgotla (Cupido, 2021). These structures were established because people did not have faith in the Western Justice system back then and even today, mob justice occurs because the public does not have faith in the Justice system. Mob justice is a problem that is experienced by provinces all over South Africa (Geldenhuys, 2020).

According to Hunter, 2021, people who are usually victims of this public vigilantism are young men and women who in most cases are always accused of witchcraft and crimes such as theft, murder, rape, and gang involvement, furthermore, most of them are "nyaope" addicts (Hunter, M., 2021). Incidents of public vigilantism continued to escalate after apartheid; this was argued by a researcher, Cupido, 2021. During the apartheid era, the police focused more on protecting the white families, and at the same time, they were enforcing the apartheid policies and rules while ignoring the safety of black people."

Due to the lack of proper policing, it has resulted in an increased rate of gang-related crimes, murder, and theft because the criminals knew that there were very low "chances of them being caught and prosecuted (Cupido, 2021). This contributed to the occurrence of vigilantism even more because communities needed to protect themselves from crime, as the police were failing them. The victims are hunted down by the community based on the suspicion they have about committing the crime, and then

they are attacked, whereas some are caught in the act, and they are attacked on the spot (Kucera & Mares, 2015).

South Africa is now known to be one of the most violent countries in Africa and in the World due to the figures of crime reported. In 2017-2018, South Africa reported 20 336 murders, of which 849 of them were a result of vigilantism (Republic of South Africa, 2018). An average of 2 lives is claimed daily because of vigilantism in South Africa, this was revealed by a report where the Institute for Security (IIS) conducted an in-depth analysis of SAPS crime statistics reports (Lancaster, 2019).

2.0 RESEARCH METHODS/ METHODOLOGY

This study applied the qualitative approach to get the cyber criminological perspective of public vigilantism cases on social media concerning the right to life in South Africa. This methodology further enabled the researchers to gain more information and understand to establish the effects of social media and public vigilantism on Constitutional rights in South Africa. According to Neuman (2011), qualitative research refers to inductive, systematic, analytical, and process-oriented approaches for understanding, analyzing, explaining, and creating a phenomenon or setting theory. A qualitative approach seeks to achieve a thorough understanding of the views of the respondents (Eyisi Daniel 2016). An exploratory research design was used in this research. Research design is done to gain new insights, discover new ideas, and increase knowledge of the phenomenon (Inaam Ikhtar,2016). Research design is a plan that guides the researcher through the research process. To obtain data for this study, case studies and different articles based on vigilantism were utilized together with research that had been previously conducted by other researchers.

3.0 LITERATURE REVIEW

3.1 social media

According to Manning (2014), social media is what people use to interact with each other from different parts of the world about different phenomena and it goes beyond the sharing of information compared to how media was in the past. Social media is about communicating and updating each other through statuses, texts, videography, photos, and blogs on applications such as Facebook, Twitter, and websites like LinkedIn to name one, this was said by Alejandro (2010). Gilboa (2009) further added that socials have created a way for what is called "unprecedented interactivity" which allows people to have many different sources of what is trending and some of these sources are just simple sources such as the posting of texts and videos.

It is because of social media that the geographical barrier which was there for the longest time has been broken and people are able to network easily despite the location of a person. We now have "citizen journalists" that make use of advanced electronics and popular apps to report on events taking place (Alejandro 2010; Gilboa, 2009).

The new media does not only bring revolution to the reporting of news globally, but it is also the speed it has on circulating information and how fast that information gets to a very big audience (Aslam, 2014). Due to this, Alejandro (2010) describes the new media as the "web" that has brought change to the world and revolutionized how information is saved, published, looked for, and how it is used. According to her, the resourcing of news has grown and evolved from the pre-satellite era when it was still dependent on print media to the electronic media era.

Vigilantism and social media both employ activities, actions, and inactions of people from different aspects of life and that is what they have in common. While the former is defined by the wrongdoers, the latter is defined by those who make use of it. In both, the active roles of the people who make things happen cannot be overestimated. Social media can spread any type of information, including that of vigilantism. It is easy for people to take part and it is increasing because of the simplicity of journalistic activities involved (Alejandro, 2010).

The news which social media brings about vigilantism is always up to date, and it is things which are occurring or have recently occurred. This corresponds with the explanations of the cognitive process model's accessibility principle. According to the in-depth interview and focused group discussion (2017), the users of media platforms such as WhatsApp and Facebook say their major source of information on public vigilantism attacks is social media. The users of social media can comment on their minds and give their judgements at any given time because it is easy to do so even from far.

The realisticness of the construct, as described by the cognitive process model, explains why social media has contributed to the spread of vigilantism on a larger scale. Busching, Allen and Johnie (2016) are of the opinion that posting and circulating violent content is more of the same as prevalent as the media itself. The sharing of recordings, pictures and videos which are expressed openly without altering opinions that may bring shock based on vigilantism makes the event to be more memorable to the viewers and this contributes to them recognizing the existence of such doings and they may also resort to vigilantism if faced with a similar situation. This reflects as the reality of how things are happening and should be done to those who are sharing and their followers. Because of this, Mengu and Mengu (2015) argue that social media is essential for learning social practices and what is deemed as reality out there. There is a possibility of people starting to behave aggressively and violently with little empathy for the victims of vigilantism due to the content which they have observed on the socials. As for those who are not able to be physically there when vigilantism takes place, social media has given them the platform to participate online by giving aggressive opinions and violent comments. This was described as "cyber aggression" by Busching Allen and Anderson (2016) and they emphasized that aggressive behaviour is not necessarily limited to being physical.

Vigilantism is now a global concern as the media has exposed it to be beyond South Africa, but also an international problem. Concerns have now shifted from the perspective that failure of the justice system is the one giving rise to the increasing of public vigilantism, and social media is now one of the aspects giving rise to mob justice, despite its positive functions. People are now able to be a group of vigilantes online and say they are trying to bring justice.

3.2 Right to life

Section 11 of the Constitution of the Republic of South Africa stipulates the right to life to every person "and it is an unqualified right which cannot be limited even in an emergency state. Ubuntu is not only undermined by the occurrence of vigilantism in the black townships of South Africa, but it has been a major concern amongst Africans. In Limpopo Mashishimale outside Phalaborwa, reported by an article titled 'Suspects killed in front of cops' whereby the vigilantes hunted down, severely beaten, and stoned to death two males who used to disguise themselves by wearing female clothes to rob people. The police were not able to stop the mob due to the anger they had. Two people who robbed many belongings and were suspects on the killing of an old man aged 57 were also killed by the mob (AENS 2014). A revelation of a traumatized nation is shown through its uncontrollable anger in which people are still cruel even in the presence of the police.

In Khayelitsha another incident took place whereby the residents did not pity an alleged phone robber. The mob was not satisfied as the person managed to escape but they ran after him, caught him, and stabbed him till his demise (Lali 2014). This vigilantism is taking place in a country whose democratic constitution admires, views and endorse human life highly, which makes it shocking to believe that it is South Africa. Ncayiyana believes that until today, in South Africa, "termination of a person's life is unlawful, even if such is done to prevent the person from suffering and the person requests that their suffering should be put to an end where the suffering person has expressed a wish to die has even begged to be killed" (Ncayiyana 2012).

There is evidence which is sufficient e.g. (AENS 2014; Brodhead 2013; Golbaum 2014) to assist in proving the fact that mob justice system in this country resulted in the loss of many lives. People took the law into their own hands due to the poor justice system" of the country; "they've lost faith in the justice system. Crime rate in South Africa is increasing rapidly into a range in which victims fight for themselves because they think that they don't have any other choice. 'I am because we are' the element

of Ubuntu is being misused by some South Africans who plan or plot to commit crime and this is the bad side of Ubuntu's discourse and beliefs. In Port Elizabeth Angelina Maholwana felt that justice has been served after seeing the dead bodies of two young men who broke into her home, killed her son, and even tried to rape her (Jazzie 2014). 'I know that killing these boys will not bring back my son, but I sleep better knowing these boys will not hurt anyone again'. The lady was pleased with what the mob justice did as revenge for what they did to her son. All of this is not acceptable as it results in pitiful situations whereby innocent people may be killed, violating their Constitutional right to life. With that being said, the right to be presumed innocent until proven guilty is the next right to be discussed with is violated by vigilantism."

4.0 RESULTS AND DISCUSSIONS

4.1 Lack of trust in the justice system

The South African citizens are having insecurities that the justice system is not giving them justice against the criminals who steal, rape, rob, murder, and perpetrate other criminal activities. The justice system is responsible for the effectiveness of crime reduction and if it is failing, communities end up taking the law into their own hands (Mbiada & Sithuga, 2023). Some communities have taken the initiative of forming CPF'S (Community Policing Forums) which aim to deter crime by working hand in hand with the police. This is one of the best ways in which the community and the police can work together and build a good relationship which aims to fight crime. If every person is willing to assist and tell the police about any criminal activity, then it will be easier to fight crime.

4.2 Community beliefs on witchcraft

The practice of witchcraft is recognized as wicked, and it is against the Christian religion (Ally, 2015). In spite the fact that witchcraft has its roots in historical discussions, the practice still subsists, especially in rural communities globally (Gottschalk; Adnikrah, 2015). According to Ally (2015) the thought of zombies or "tokoloshe's" are trusted to have been created by witches and it is commonly a belief in South Africa. This is because witchcraft is assumed to portray tragedy. In this case the zombies are anticipated to be sent by witches to cause misery, such as sickness, collision, and loss of life (Ally, 2015). Grounded on substring literature, victims of witchcraft appear to have a gender element against women, mainly elderly who are constantly indicted based on their physical characteristics (Meel, 2009).

4.3 Rise in xenophobia

Masenya (2017), and Sebola (2017), and debated on occurrence of xenophobia. Due to the reason that attacks, and hatred are repeatedly directed to Africans than other racial groups, the researchers argued that the term Xenophobia must be changed to Afrophobia (Ndinda & Ndlovhu, 2016). However, Bangladeshis and Pakistanis were also being attacked as other Africans, this was argued by other researchers (Sebola, 2017). In South Africa there has been an outburst of violence against foreigners from countries such as Nigeria, Mozambique, and Zimbabwe. The killings of foreigners through vigilantism, harassment by the police and discrimination increased day by day (Wose Kinge, 2016). The misunderstanding about foreign nationals by the citizens in the townships and rural areas possess a recognition that foreigners are the main reason for the lack of job opportunities, the rise in crime, and the spread of AIDS (Hove, 2017). In this manner, xenophobia has brought a culture in which Africans recognize another black person as a threat Other South Africans have been attacked because of discrimination because of their dark skin color (Masenya, 2017). Corrective violence or hate crime can be referred to as attacks on foreigners by vigilantes, as it involves showing disapproval for other individuals' attributes by taking matters into their own hands (Munusamy, 2015).

5.0 CONCLUSION AND RECOMMENDATIONS

Based on the findings, it seems that public vigilantism is a pandemic in South Africa. The police and communities fail to build a working relationship, leading to more cases of people taking the law into

their own hands, violating the Constitutional rights stipulated in the Constitution of the Republic of South Africa. Public Vigilantism is one of the factors that result in the high crime rates of murder and attempted murder, therefore it needs to be addressed before it can be normalized by citizens.

The following recommendations are given based on the above findings of the study:

5.1 More resources for South African Police Services(SAPS)

The South African Police Service has a challenge of not having enough resources and in most cases when vigilantism occurs, the police arrive late at the scene because they did not have a police van that they could use to come and attend the matter. If the government could ensure that the SAPS has enough resources, then vigilantism can also be prevented in time and the lives of the victims could be saved.

5.2 Establishment of awareness campaigns

Establishing awareness campaigns is one of the measures that can be taken to educate communities about vigilantism and how it affects constitutional rights. The platform can also be used to make awareness of the rights that people have which are stipulated in the Constitution of the Republic of South Africa. These campaigns will give people a chance to voice out their views and new ways of preventing vigilantism can be developed.

5.3 Motivating the youth to participate in crime prevention

The youth are very important people in the community as they are the future. Involving them in crime prevention will give them interest and knowledge of fighting crime. If the youth get equipped with enough knowledge about vigilantism and its negative impacts, public vigilantism can be prevented even in the coming generations and we will be raising a generation that does not believe in taking the law into their own hands and upholds the Constitution.

5.4 Educate children about the law from the high school level

Another way to prevent public vigilantism is through inventing a subject that educates children in high school about the law and the Constitution precisely. The same way children are taught life orientation can be the same way they are taught about the law or the law can be added to the scope of life orientation so that children can have basic education about the supreme law of the country.

5.5 The government must invest in the measures put in place to prevent vigilantism

All the measures that are established to prevent public vigilantism will need funding to carry them out. The government must be willing to fund these measures to stop public vigilantism and to send a strong message that it is against the acts of vigilantism.

5.6 Educate people about the damage social media can cause

Many people use social media and although it has some good benefits of building people and growing their businesses, it can also be used to cause vigilantism as people post and share incidents of vigilantism while promoting it. In a nutshell, people need to be educated about the damage they are doing by promoting public vigilantism on social media.

REFERENCES

AENS, 'Suspect killed in front of cops', Daily Sun, p. 4, 2014.

Alejandro, J. Journalism in the Age of social media. Oxford, England: Reuters Institute for the Study of Journalism, University of Oxford, 2010.

Ally, Y. "Burn the witch": The impact of fear of witchcraft on social cohesion in South Africa. Port Elizabeth Pins 49. Nelson Mandela Metropolitan University, 2015. doi: http://dx.doi.org/10.17159/2309-8708/2015/n49a3

Busching, R., Allen, J. J. & Anderson, C. A. Violent Media Content and Effects, 2016. DOI: 10.1093/acrefore/9780190228613.013.1

Cupido, A.C., The development of vigilantism in South Africa (Doctoral dissertation, Stellenbosch: Stellenbosch University), 2021.

Eyisi Daniel,. The usefulness of qualitative approach and methods in research problem solving ability in science and education curriculum. Journal of education and practice, vol7, no15, pp92, 2016.

Geldenhuys, K., Mob justice serves no justice at all. ServiceCommunity-based Safety and Security Magazine, 113(11), pp.10-15, 2020.

Gilboa, E. Media and Conflict Resolution: A Framework for Analysis. Marquette Law Review, 93(1), 86-110, 2001.

Gottschalk, K. Vigilantism v. the State: a case study of the rise and fall of PAGAD 1996-2005. Pretoria: Institute for Security Studies, 2005.

Hove, M. When tears become a language: frictions in a xenophobic national 'imaginary'. Journal of Transient Migration, 1(1):112-117. DOI: 10.1386/tjtm.1.1.117_1, 2017

Hunter, M. Intimate crimes: heroin and the rise of amaphara in South Africa. The Journal of Modern African Studies, 59(1), pp.59-79, 2021. DOI: https://doi.org/10.1017/S0022278X20000658[Opens in a new window]

Inaam Ikhtar, Research Design September 2016 in book: Research in Social Science: Interdisciplinary Perspectives (pp.17) Edition: 1stChapter: Research DesignPublisher: Social research foundation, Kanpur, India, 2016.

Jazzie, Is necklacing returning in South Africa? viewed 16 October 2014, from http://www.whatishappeninginsouthafrica.blogspot.co.za

Jung, Danielle F, and Dara Kay Cohen. Lynching and Local Justice: Legitimacy andAccountability in Weak States. Cambridge: Cambridge University Press, 2020.

Kucera, M., & Mares, M. Vigilantism during demographic transition. Policing and Society, 25(2), 170-187. doi:10.1080/104394463.2013.8117997, 2015

Lali, V., 'No mercy for cellphone robber', Daily Sun, 14 July, p. 4. 2014.

Lancaster, L. At the heart of discontent: measuring public violence in South Africa.Retrieved April 20, 2017, 2016. from https://issafrica.s3.amazonaws.com/site/uploads/Paper292.pdf.

Manning, J. Social Media, Definition and Classes of. In K. Harvey, (Ed.) Encyclopedia of social media and Politics (pp. 1158-1162). Thousands Oak, CA: Sage, 2014.

Masenya, M. J. Afrophobia in South Africa: a general perspective of xenophobia. Bangladesh Sociological Society, 14(1):81-88, 2017. https://doi.org/10.1177/09750878221079803

Mbiada, C.J.T. and Sithuga, N.P., Does mob justice fit the conceptual theory of justice? International Journal of Research in Business and Social Science (2147-4478), 12(5), pp.395-401, 2023. DOI: https://doi.org/10.20525/ijrbs.v12i5.2424

Meel, B. M. Witchcraft in Transkei Region of South Africa: Case Report 9 (1):61-64. African Health Sciences, Kampala: University of Walter Sisulu, 2009.

Mengu, M. & Mengu, S. Violence and social media. Athens Journal of Mass Media and Communication, 1(3), 211-228. DOI: 10.30958/ajmmc.1-3-4, 2015.

Munusamy, R. South Africa: the place of shame, violence and disconnect. Retrieved June 31, 2018, from 2015 https://www.dailymaverick.co.za/article/2015-04-17-south-africa-the-place-of-shame-violence-and-disconnect/

Ncayiyana, D.J., 'Euthanasia – No dignity in death in the absence of ethos of respect for human life', The South African Medical Journal 102(6), 334. PMID: 22668890. doi: 10.7196/samj.6001, 2012.

Ndinda, E., & Ndlovhu, T. P. Attitudes towards foreigners in informal settlements targeted for upgrading in South Africa: a gendered perspective. Agenda, 30(2):131-146, 2016 DOI: 10.1080/10130950.2016.1212598

Neuman, W.L. Social Research Methods: Qualitative and Quantitative Approaches. 7th Edition, Pearson, Boston, 2011. DOI: 10.2307/3211488

Sebola, M. P. Xenophobic attitudes against immigrants and cheap political talks: sitting time bombs and explosives in South Africa. Bangladesh Journal of Sociology, 14(1): 89-103, 2017.

South African Police Services. Annual crime report. Retrieved October 22, 2019, from 2018, https://saps.gov.za

Wose Kinge, G. T. International dimensions of xenophobic attacks on foreign nationals in South Africa. Dissertation in Social Science, Potchefstroom: University of North-West, 2016.