

CANCEL CULTURE DEFAMATION

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ABSTRACT

In recent terms “Cancel culture” is becoming one of the most loaded buzzwords in modern language due to the influence it has. Twitter users have been using this phenomenon as a hashtag in recent years due to conversations sparked by movements like #MeToo that demanded accountability from public personalities, there have been instances of celebrities facing backlash and calls for a boycott on social media due to their controversial statements or actions. For example, in recent years, there have been calls to boycott certain actors and films due to their political affiliations, support for hate speech, or insensitivity towards certain communities. This has led to heated debates and discussions on social media, with some arguing that it is important to hold public figures accountable for their actions, while others believe that cancel culture goes too far and stifles free speech. It is important to note that cancel culture can have real-world consequences, such as damaging a person's reputation, affecting their career, and potentially leading to financial losses. However, it can also serve as a way for marginalized communities to make their voices heard and hold people in positions of power accountable for their actions. This Article sheds light on the meaning of the buzz-worthy phrase “cancel culture” and its legal ramifications. It also explains how a lawyer may assist a victim of the culture, and it expands the boundaries of what is possible in terms of cancel culture.

Keywords: cancel culture, defamation, legal implications.

INTRODUCTION

The concept of boycotting or shaming individuals for their actions or beliefs is not new, but the term "cancel culture" has its roots in the early-2010s Tumblr posts, but gained collective consciousness in 2017, particularly during the #MeToo movement and as online activism and social justice movements grew.¹ Both its proponents and detractors have strong opinions about its occurrence. Whether in the context of Republican Conservatives or more recently during the #MeToo movement, “Cancel Culture’s” roots may be found in the West. Its fundamental tenet is to socially block significant individuals and institutions, especially the prominent ones,

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¹Rachel E Greenspan ‘How ‘cancel culture’ quickly became one of the buzziest and most controversial ideas on the internet’ (*Insider*, 6 August 2020) < <https://www.insider.com/cancel-culture-meaning-history-origin-phrase-used-negatively-2020-7> > accessed 4 February 2020

regardless of their actions or accomplishments in order to silence unprogressive viewpoints as part of the internet's "woke" culture. The term "cancel" comes from the act of canceling a person's support or patronage, typically through social media platforms. Cancel culture can involve public shaming, calls for boycotts or firing, or other consequences for those who are deemed to have violated social norms or values. Some have criticized cancel culture as being overly punitive, while others view it as a necessary tool for accountability and social justice. While cancel culture is often associated with social media and online activism, the term has been used in other contexts as well, such as in political and academic spheres. Overall, the term has become a topic of ongoing debate and discussion, with various interpretations and implications.

Tanishq ad controversy: TATA's jewelry line released an advertisement that only featured a Hindu bride and a Muslim groom getting married. Some people accused the company of supporting "Love Jihad" and boycotted the advertisement.²

Since calling and publicizing their Diwali collection "Jashn e Riwaaz," FabIndia has been shunned (Celebration of traditions).

Celebrities are frequently shunned in public because of something that is thought inappropriate; as an example, Munmun Dutta, a star of TMKOC, was shunned for using the word "bhangi" as a slur in one of her commercial videos.

Due to a 2012 joke that was both casteist and misogynistic, Randeep Hooda was removed as the UN ambassador³.

Calls to cancel events or performances: There have been instances in India where calls to cancel events or performances have been made because of worries about the event's themes or content. For instance, in 2021, a stand-up comedian named Agrima Joshua received requests to cancel his show because of a joke that some people found insulting.

Over the years, both viewers and filmmakers have typically shown intense interest in a film's first-day-first-show. Given the recent box office failures of certain high-profile Hindi films,

² Revathi Krishnan 'After severe backlash, Tanishq pulls down ad accused of promoting 'love jihad' (*The Print*, 13 October, 2020) <<https://theprint.in/india/after-severe-backlash-tanishq-pulls-down-ad-accused-of-promoting-love-jihad/522593/>> accessed 8 February 2023

³ Unnati Sharma 'Randeep Hooda removed as UN ambassador for his 2012 Mayawati 'joke', #ArrestRandeepHooda trends' (*The Print*, 28 May 2021) <https://theprint.in/india/randeep-hooda-removed-as-un-ambassador-for-his-2012-mayawati-joke-arrestandeephoda-trends/667335/> accessed 8 February 2023

however, it is starting to cause more alarm than intrigued. Laal Singh Chaddha, starring Aamir Khan and Kareena Kapoor and released after four years of production, opened to almost empty theatres. A much-anticipated version of Tom Hanks' 1994 Hollywood success, Forest Gump, debuted on August 11 with around 10,000 performances, which were cut by approximately 1,300 performances on the following day due to low audience demand. Even Akshay Kumar's Rakshabandhan, the modern-day "Bharat Kumar" of Bollywood, failed. Experimentation and audacity on the part of Anurag Kashyap also failed to stop Dobaaraa from sinking. One of the main theories for why these three movies failed is the social media boycott movement against them. A number of other high-profile movies fell short of expectations. On the eighth day of its release, only 20 tickets for Kananga Renault's Dhaakad could be sold nationwide. The spate of failures in April and May suggests that the boycott call is not the only factor. The audience flatly rejected Shahid Kapoor's Jersey, Ajay Devgn's Runway 34, and Tiger Shroff's Heropanti 2, showing that Hindi movie moguls have lost the ability to engage with the public.⁴

Through social media, "cancel culture," which has the authority to reject an artist's whole body of work even on the basis of remarks made in a specific setting in the past, has given the audience so much power that it has changed the balance of power between film and the spectators. Over the years, stories, ways of telling them, and entertainment value have always dictated a film's success or failure, but the boycott campaign has undoubtedly revealed a shift in the societal outlook of the Hindi cinema industry.

While in the West, on one end of the spectrum are individuals who were shunned by the public prior to their sex crimes trials, such as Bill Cosby, Harvey Weinstein, and R. Kelly. On the other end of the spectrum are regular folks like David Shor, who came under fire on Twitter after tweeting a report from an academic publication that questioned the political repercussions of both violent and nonviolent protests. Shor, who posted the link on Twitter during the George Floyd demonstrations, was fired, however, the employer has insisted that it wasn't because of the tweet.⁵

People frequently criticize cancel culture as a negative movement, claiming that the repercussions of cancellation are too severe in many cases despite the apparent good intentions

⁴Swati Bakshi 'Grappling With Cancel Culture, Bollywood Needs To Introspect About Its Contents' (*Outlook*, 14 September 2022) <https://www.outlookindia.com/art-entertainment/grappling-with-cancel-culture-bollywood-needs-to-introspect-about-its-contents-news-222405>> accessed 9 February 2023

⁵ Jordan Williams, 'The Case for Cancelling "Cancel Culture"' (*centennial*, May 14, 2021) <<https://centennialbeauty.com/the-case-for-cancelling-cancel-culture/>> accessed 10 February 2023

of many cancellations, to “demand greater accountability from public figures,” as Merriam-Webster’s phrase notes.

Despite the apparent good intent behind many cancellations, to “demand greater accountability from public figures,” as Merriam-Webster’s term notes, people frequently criticize the cancel culture as a bad trend, claiming that the penalties for cancellations are excessively severe in trivial cases or signify hasty judgment in complex situations. Some people disagree with the critique, claiming that cancel culture doesn’t exist. It makes sense to wonder where the term originated from and how it got to be used frequently given the term’s various meanings and active debate.

Here are a few Pros and cons mentioned below:

Pros: Holds people accountable for their actions: Cancel culture provides a mechanism for holding individuals accountable for their behavior, particularly if it is harmful to others.

Encourages public discourse: Cancel culture can be a powerful tool for encouraging public discourse on sensitive topics and promoting social change.

Promotes social justice: Cancel culture can be a way of highlighting and rejecting oppressive behavior, helping to create a more equitable and just society.

Cons: Limits free speech: Cancel culture can be seen as an attack on free speech and can lead to a culture of self-censorship, where people are afraid to express their opinions for fear of being canceled.

Promotes groupthink: Cancel culture can create an environment where people are afraid to express dissenting opinions, leading to a homogenization of thought and the rejection of diversity.

Encourages vigilante justice: Cancel culture often operates outside of formal systems of justice and accountability, and can lead to people taking matters into their own hands and acting as judge, jury, and executioner.

Can be unjust: Cancel culture can result in individuals being punished for behavior that is considered unacceptable in one context, but not in another. It can also result in people being punished for behavior that they have already apologized for or made amends for.

Cancel culture is a complex and controversial phenomenon with both potential benefits and drawbacks. It is important to strike a balance between holding people accountable for their actions and preserving the principles of free speech and due process.

CANCEL CULTURE VS DEFAMATION

“Cancel culture” refers to a phenomenon in which a person or group of people publicly calls out or boycotts someone or something for behavior or beliefs that are perceived as harmful, offensive, or wrong. The term is often used to describe the act of publicly shaming someone in a way that seeks to limit their opportunities, damage their reputation, or reduce their influence.

Defamation, on the other hand, is the act of making false statements about someone that harm their reputation or damage their good name. Defamation is a legal term and can refer to both libel (written false statements) and slander (spoken false statements). In Indian law, Defamation is defined under Section 499, and the punishment is outlined in Section 500⁶. In some cases, cancel culture may overlap with defamation if the statements made about someone are false and harm their reputation. However, not all cancel culture behavior constitutes defamation, as it often involves opinions, criticisms, and expressions of disapproval rather than false statements.

Examples of cancel culture in action:

Celebrity cancellations: For example, when a celebrity makes a controversial statement or engages in problematic behavior, fans and others may call for them to be canceled, resulting in a boycott of their work and a decline in their popularity.

Political cancellations: Political figures may be canceled for controversial statements or actions. For example, a politician who makes racist or sexist remarks may face calls for them to be canceled and may suffer political consequences as a result.

Corporate cancellations: Companies can also be canceled for their actions or policies. For example, a company that engages in environmentally damaging practices may face calls for a boycott, leading to a decline in its reputation and financial performance.

⁶ <<https://indiankanoon.org/search/?formInput=defamation>> accessed 9 February 2023

Historical cancellations: Cancel culture has also led to a re-evaluation of historical figures and the removal of monuments or other symbols that are considered offensive. For example, there has been a movement to remove statues of Confederate leaders in the United States.

Online cancel culture: The rise of social media has made it easier for individuals and groups to call for cancellations, leading to a phenomenon known as "online cancel culture." This can result in individuals or groups being subjected to widespread public criticism and boycotts for controversial statements or actions.

The phenomenon continues to evolve, and new examples emerge all the time as people use social media and other platforms to hold others accountable for their behavior.

WHY CANCEL CULTURE COULD BE DEFAMATORY?

Many times, to get the cancellation or boycott of the cancel culture victim the accused group tends to manipulate the victim's words or take it out of context in order to fit into the narrative of hate, discrimination, sexism, or racism or spread misleading or false information based on unverified. This can lead to reputational harm and defamation, which can have serious consequences for an individual's career or personal life. In recent years, Cancel culture has been transformed into a witch hunt against people who don't fit the utopian society's woke ideals.

LEGALITIES OF DEFAMATION UNDER CANCEL CULTURE

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The issue of whether cancel culture could give rise to tort liability is a complex and controversial one, and it would depend on the specific circumstances and the laws of the jurisdiction in question. In general, tort liability arises when a person or entity's actions or omissions cause harm to another person or entity, and the harm is recognized under the law as a legal wrong. Some examples of torts that could potentially arise in the context of cancel culture include defamation, intentional infliction of emotional distress, interference with contractual relationships, and invasion of privacy.

Defamation is a tort that arises when someone makes a false and harmful statement about another person, which is published or communicated to a third party, and which causes harm to the person's reputation. Cancel culture can involve accusations and public shaming that could potentially give rise to a claim of defamation.

Intentional infliction of emotional distress is another tort that could arise in the context of cancel culture. This tort involves conduct that is extreme and outrageous, and that causes severe emotional distress to the person affected.

Interference with contractual relationships and invasion of privacy are other torts that could potentially arise in the context of cancel culture. For example, if a person or group engages in concerted efforts to pressure a business to terminate a contract with someone due to their views or actions, this could potentially give rise to a claim for interference with contractual relationships.

In general, whether cancel culture could give rise to tort liability would depend on the specific facts and circumstances of each case, and would require a careful analysis of the relevant legal principles and precedents.

Currently, in Indian Law, there is no recognized legal claim (tort) for cancellation, but it is possible to bring civil claims under specific legal theories, such as defamation, tortious interference with contractual or economic relationships, or infliction of emotional distress. The evolution of this trend does bring us to a new era of society where there is also a need to recognize a new, independent tort of cancellation.

HOW CAN LAWYERS ADVISE VICTIMS OF CANCEL CULTURE?

A decade-old phenomenon called “cancel culture” has seen a lot of people and brands suffer from the weight of scathing criticism that erupts online and spreads quickly. How can attorneys help those wishing to file a lawsuit after being cancelled given its relatively recent emergence in the public consciousness?

The Court of Public Opinion panel held via webinar, presented by Unisearch and UNSW Edge, focused on the legal ramifications of the cancel culture. Defamation law attorney Kieran Smark SC, First Impressions CEO Paul Blanket, and UNSW Business School Professor Valentyna Melnyk were on the panel.

The panel explored the positive and negative sides of this strategy, which frequently aims to publicly humiliate a person or organization in order to destroy their reputation. On the one hand, canceling someone can draw a great deal of attention to a particular social issue. For example, Professor Melnyk noted that the phenomenon of canceling individuals accused of sexual assault crimes has brought the topic into greater focus and added to the negative

consequences of committing such crimes. She claims that the negative effects of cancel culture occur when claims are unjustified or exaggerated.

“At its core, cancel culture is a simplification process,” Mr. Smark explained.

According to Mr. Blanket, “the majority of people participating in cancel culture have often been convinced of a position without knowing 95% of the facts,” saying that they make assumptions about the entirety of a story based on a title and an image and are unaware of the subtleties involved. The panelists concurred that cancel culture is pervasive and would continue to expand, as will the number of people seeking legal counsel for defamation claims.

Defamation is extremely prevalent and current due to the online dissemination of material, according to Mr. Smark. Lawyers need to be aware of the necessity of acting quickly, among other things. This is due to various factors.

“First of all, since there is a one-month window to start a defamation action if you choose to sue for it.

Get me the information immediately because we need to gather the necessary documents within 28 days to submit a notice so that, if necessary, we can appear in court, Mr. Smark advised lawyers who are giving legal advice to parties in a dispute.

In order to protect the brand or individual against the negative story, it’s crucial to be able to manage the narrative, according to Mr. Blanket.

The longer and more serious the issue will be if you let the nasty social media control that narrative, he continued.

“Lawyers must be contacted in sharing information online for clients deciding to reply publicly while still pursuing a court case,” Mr. Smark emphasized.

He continued: “Some information can harm relationships with potential witnesses, be in contempt of court, or interfere with a trial.”

Mr. Smark emphasized that before moving forward with a defamation case, attorneys must provide advice on the best course of action for the client, keeping the question of which course of action is most likely to remove the story from cyberspace in the forefront of their minds.

“My general rule of thumb is to tell people that filing a lawsuit will only help elevate it in the public’s eye when they Google this in two weeks if it isn’t already on the first page. You’re typically better off spending a small portion of what you would pay for a court fight, which may cost several hundred thousand dollars, on some SEO, which you might be able to do for \$20,000 by hiring some people to post positive reviews about you and boost your ranks. If you add a few hashtags, it quickly becomes something that, if someone were to search your name, would take the place of the awful, regrettable occurrence with a goat.”

Because it works, it is morally right and something lawyers should recommend, according to Mr. Smark.⁷

Internet users or internet trolls that hide behind a keyboard and use a pseudonym to conceal their genuine identity frequently start defamatory posts that harm the reputation and finances of the cancel culture victim. It’s possible that the same people are in charge of publishing or forwarding complaints about the canceled victim to the institution. In the majority of situations, it is possible to piece together who those people are and prosecute them with some effort. The most common way to accomplish this is with the aid of a specialized lawyer who would ask the courts to issue a disclosure order requiring social networking sites, internet service providers, and the receiving institution to turn over the defamed person’s personal information. Most of the time, this could be done promptly and legally on the grounds that the posts would subsequently be deemed to be defamatory should the case go all the way to court.

In general, attorneys can offer legal counsel to victims of cancel culture on how to safeguard their rights and reputation. In addition to offering guidance on how to safeguard their reputation moving forward, this assistance may include assisting victims in examining their perspective tort and defamation claims. Victims of cancel culture can defend themselves and seek redress for any wrongs they may have experienced with the assistance of an attorney.

CANCELLING CANCEL CULTURE: IS THERE A NEED? - IF SO HOW THE LEGISLATION SHOULD BE STRUCTURED?

In terms of India, passing legislation to end culture may be too far-fetched at the moment, but it is unavoidable that law is not static and immutable, but rather always evolving and expanding

⁷ Jess Feyder ‘How lawyers can advise victims of ‘cancel culture’ (*Lawyers weekly*, 30 October 2022) <https://www.lawyersweekly.com.au/biglaw/35923-how-lawyers-can-advise-victims-of-cancel-culture> accessed 10 February 2023

as time goes on. Since the world has already begun to unravel the intricate sociological nuances causing the phenomena of cancel culture impossible to act against, contemplating how the legislation should be is not nearly going overboard.

The Harry Potter series author J.K. Rowling expressed her worries about how the fight for transgender rights might ultimately jeopardize women's rights in 2019. Her detractors instantly branded her a "transphobe," organized a boycott of her books, and demanded that her publishers cease paying her royalties.⁸

Talk show presenter Ellen DeGeneres garnered immense criticism in 2020 over claims that she fostered a hazardous workplace for her staff. Boycotts and requests for its cancellation were made in response to her long-running show.⁹

A slew of tweets from Singapore influencer Xixue from 2010 tying Indian migrant workers to molest incidents surfaced online in 2020 as well. Social media users accused Xixue of being racist and launched the #PunishXixue movement. Social media users accused Xixue of being racist and launched the #PunishXixue movement, which put pressure on businesses to stop working with her. Social media users accused Xixue of being racist and launched the #PunishXixue movement, which put pressure on businesses to stop working with her.

Discussions surrounding the removal of section 377A of the Penal Code, at least in Singapore, served as the catalyst for this concern (a provision criminalizing sex between gay men). Concern arose amid the raging public debate over how activists on one side of the aisle might expel someone from the other side for expressing opposing viewpoints. Concerns that the average person might lose their job for speaking out seem fair given that section 377A is unlikely to be the first and last divisive topic to affect society and that individual engagement in open dialogue will only increase with the spread of social media. The government stated intends to pass legislation against the "cancel culture" as early as August 2022. A month after speaking with the Singapore newspaper, Mr. Shanmugam reaffirmed the government's commitment to combating cancel culture on a global scale, first to Haslinda Amin of Bloomberg TV and then to the BBC. Then, during legislative discussions on the repeal of

⁸Jennifer Graham 'Cancel culture is entering a dangerous new phase. But there is a key to getting out' (*Deseret News*, 23 August 2023) <<https://www.deseret.com/indepth/2020/8/22/21362516/cancel-culture-forgiveness-j-k-rowling-carson-king-apology-moral>> accessed 12 February 2023

⁹Los Angeles Time staff 'Timeline: The scandal that brought down Ellen DeGeneres' talk show'(Los Angeles Times, 12 May 2021) <<https://www.latimes.com/entertainment-arts/tv/story/2021-05-12/ellen-degeneres-show-controversy-timeline>>

section 377A, many MPs highlighted concerns about how the rising activity would muddy the distinction between civil speech and violent boycott efforts. The Ministry of Law was “working at steps to deal with the harm caused by cancel campaigns online,” the Law Minister, Mr. K Shanmugam, responded.

Not just Singapore but other nations are tackling this issue. Dominic Raab, who was Britain’s justice secretary at the time, revealed in December 2021 that plans were being made to detail significant changes to the country’s human rights laws that would combat “wokery and political correctness.” The Singaporean government follows suit and struggles to find the right tools and methods to tackle the rising worry-about-cancel culture. Eugene Tan, a former NMP and associate professor of law at Singapore Management University (SMU), claims that such a law has complexities and challenges.

“People who support cancel culture are natural opponents of inclusivity and diversity. To have an inclusive and diverse society means to have different views, and celebrate open discussion. Cancel culture is inconsistent with such ideals,” he says.

“Any proposed law will have to delicately balance the right to freedom of speech and expression and the right to freedom of religion. But neither fundamental right should trump the other,” says Dr. Tan.

He adds that the proposed law should also not “engender moral panic about speaking up and being silenced and of people and institutions policing or purifying themselves in the face of disapproving crowds for fear of the reprisal of being cancelled.”

Ultimately, any law in this regard must “aim to create the outcome of civility in public discourse and promotion of responsible speech”, says Dr. Tan.

According to Dr. Tan, the proposed law should act as a “shield to protect a person from being silenced and subject to public opprobrium,” adding that people must have the freedom to “express deeply-held beliefs and convictions, whether faith-inspired or secular in origin, so long as such views are also respectfully expressed.” Creating such a law presents a challenge in trying to “get the balance right”.¹⁰

¹⁰ James Yau ‘A law to “cancel” the cancel culture’ (*Thehomeground*, 19 October 2022) <<https://thehomeground.asia/destinations/singapore/a-law-to-cancel-the-cancel-culture/>> accessed 12 February 2023

Any useful legislation must offer benefits above and above those of already-in-place laws. Campaigns to cancel have characteristics in common with other internet evils including doxing, cyberbullying, trolling, harassment, and even slander. Laws that deal specifically with this behavior already exist, including the Protection from Harassment Act, the Defamation Act, defamation under common law, etc. Effective legislation should include clear-cut definitions of what is and is not legal, but it can be difficult to establish those boundaries in the mucky social sands. Any legislation must specify who can be held accountable in addition to considering what should be done. Cancel campaigns are group efforts, as the word “culture” implies. A cancel campaign needs the backing of the majority to succeed, even if it is only launched by one individual. When free speech is added on top of cancel culture, a profound dilemma arises. Its supporters regard it as a way to make people, particularly powerful people, answerable for their actions and words. In this regard, cancel culture has been defended as a type of free expression that enables users to denounce social miscreants.

Legislating against cancel culture is a difficult task because of the aforementioned difficulties. According to Mr. Shanmugam, dealing with the cancel culture issue is “not a simple topic to deal with,” thus any legislation must “attempt and find the proper balance.” Since there are currently no laws in other nations expressly addressing cancel culture, we have no precedent from which to learn and be inspired. Legislation must also specify who may bring a lawsuit and who may be sued. Would only natural persons be protected by the law, or will body corporations also be able to seek recourse under it? Given that social media, today gives businesses and organizations a personality of sorts and gives them the ability to take positions and express thoughts on problems, the latter option seems more logical. Damages ought to be a distinct feature of the law. Campaigns that are canceled aim to hurt their targets financially. This occurs when a mob organizes to cause the loss of a celebrity’s endorsements, patrons at a restaurant, or an ordinary person’s job. Therefore, it is essential that legislation on cancel culture grants successful complainants the right to financial recompense. Comparing cancel culture to other unwelcome online behaviors like harassment, stalking, cyberbullying, and trolling, the risks of financial harm are more pronounced. What will set cancel culture legislation apart from current laws against other Internet wrongdoing is the express right of complainants to damages as compensation for monetary loss so. Therefore, Parliament must give careful consideration to creating a just, strong, and well-articulated system of damages. Due to the novelty and controversy of cancel culture, many legal problems remain unsolved, but establishing tort liability may be the answer to the rise in online dialogue and arguments.

In order to strike a balance between the protection of human rights and freedoms and the control of public speech, courts must address this issue.

CONCLUSION

The drafting of anti-cancel culture laws has not yet begun. However, it is challenging to pass legislation to combat cancel culture because of the intricate socioeconomic complexities that underlie it. We look at certain issues and potential legislative provisions that legislators should take into account if they want a hard-law approach to cancel culture to be successful. There has been a lot of discussion about the possibility of controlling cancel culture, thus legislation seems imminent. Whatever the case, any problem that is primarily influenced by social factors and group behavior “must be primarily addressed by culture, not law.” Legislation is unavoidable, but it must be rigorously supplemented by softer strategies like public education that encourage responsible, sensitive, and courteous conversation. Hard law shouldn’t be seen as the only solution to an unresolved societal problem that will continue to develop as technology and social views change. But if severe legislation is to be applied, it must be written with consideration for the complexities, peculiarities, and difficulties of every culture. Protecting the right to free speech while also upholding just punishments for wrongdoers is one possible answer to this problem. Instead of using mob justice or making hasty conclusions, there should be an attempt to promote public conversation, constructive criticism, and education. Furthermore, it is crucial to prevent discrimination and prejudice from spreading, as well as the victimization of people for their views and viewpoints. We can ensure that cancel culture continues to be an effective instrument in the fight for justice by striking a balance between criticism and accountability.