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Analysing the Legal and Political aspect of Building Demolitions in India

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ABSTRACT

The entire issue is regarding the Politics in demolition of buildings or Bulldozer Justice. We are going to analyse the controversial aspect of this issue. We will understand what is Bulldozer Politics. What are the consequences? How does it affect the law and order in the country? And how does it affect the lives of common people? And why do some people love bulldozer politics? And what are the possible solutions to this?

This entire controversy came in news recently when house of Javed Mohammed was demolished in Prayagraj, U.P. We will analyse the positive and negative aspect of this demolition and will try to find constitutionality of this act of UP Government.

We will also see the legal aspect of this entire issue and what are the Supreme Court guidelines regarding this. We will analyse various discrepancies in how authorities in Uttar Pradesh have demolished the house of student activist Afrin Fatima and welfare party leader Javed Muhammad in Prayagraj. And at the end we will see what are the possible solutions to it.

I. INTRODUCTION

The governments should follow rule of law and with evidence, the people who instigated violent protests should have been arrested. But what did the government do?

Houses of accused families were demolished in Prayagraj and Kanpur. The government wanted to send a message, that anyone who attempted such a thing again, will face this. According to the government, this was a very quick, cheap and effective way to stop these protests.

Whenever any government makes use of such short-term solutions, where people become happy, basically the government gets an excuse to make no investments in rule of law. Because investing in the rule of law is very costly and difficult. Hence, they come up with encounter theory or the bulldozer theory. Such solutions will benefit no citizen in the long term. It might be that you're satisfied with the solution today but in the future, if you have a dispute with your neighbor, would that legal system listen to you? No! Because the governments had made no

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investments in the rule of law.

II. RECENT HOUSE DEMOLITION IN PRAYAGRAJ, UP

On May 27 2022, BJP's spokesperson Nupur Sharma was on a debate show on Times Now. During the debate, she was putting across her party's views on the Gyanvapi Masjid issue. In her argument, Nupur Sharma mocked Islam and Prophet Mohammad. She justifies her abuse by saying that it was a response to those Muslims who were making fun of Shivling⁴.

I don't wish to discuss who said what on that show Because according to me, that is not the main issue in this controversy. Let us go ahead with the timeline. Very quickly, her clip goes viral on social media and a brouhaha followed. On June 3, angry Muslim protesters started protests in Kanpur against Nupur Sharma. On 5 June, the anger against Nupur Sharma goes global. Indian products from stores in Gulf countries started being withdrawn. Some Middle East governments started releasing official statements and asked Indian ambassadors for an explanation. Under pressure, BJP sacks Nupur Sharma from the party. This was not surprising given the importance of India's relationships with the Middle East countries. There are several reasons for it- the most important being that many Indian citizens work and earn money in these countries. Despite this decision by the BJP, the rage doesn't stop. Some people started demanding legal punishment for Nupur Sharma, some even calling for her to be killed.

On June 10, many reports came up which showed Muslims protesting in public places after Friday prayers. Some of these protests turned violent too. Over 40 police officers were injured across India, while in Ranchi, two Muslim protesters were also allegedly killed by police. In Uttar Pradesh, the government decided to bulldoze the houses of the people who were the mastermind behind these protests. Javed Mohammed and his daughter Afreen Fatima have been vocal Muslim activists were accused to be the mastermind of the Friday riots in Prayagraj and their house was demolished⁵. This was the timeline of the entire controversy.

On 12 June a group of lawyers moved the Allahabad high court alleging that the demolition was illegal and pleading for the court looks into the matter if the high court does take up the plea these questions will beg to be answered in the judiciary.

⁴ Mohak Mangal, 'Nupur Sharma | Who Is Right? | Blasphemy' (*Youtube.com*, 2022) <https://www.youtube.com/watch?v=wv_60Cs_EzA>

⁵ immoral and unjustifiable Bulldozer justice is illegal, 'Bulldozer Justice Is Illegal, Immoral And Unjustifiable' (*The New Indian Express*, 2022) <<https://www.newindianexpress.com/opinions/editorials/2022/jun/14/bulldozer-justice-is-illegal-immoral-and-unjustifiable-2465320.html>>

III. ANALYSIS OF RECENTLY DEMOLISHED HOUSE IN PRAYAGRAJ, U.P.

There are several discrepancies⁶ in how Uttar Pradesh officials demolished the home of student activist Afrin Fatima and welfare party leader Javed Muhammad in Prayagraj, UP.

Discrepancy number one read what the law states the demolition has been carried out by the Prayagraj development authority under the **U.P. Urban Planning and Development Act of 1973**⁷ but Building demolition orders are governed by **section 27** of the legislation. Only 15 days after the owner of the property receives a copy of the order along with a brief summary of the reasons for the destruction, the demolition can begin.

Muhammad's family says they received notice from the administration half a day before. Javed's daughter Sumaiya Fatima says the first notice we got was the one pasted at our house after 10 pm on Saturday, that's late-night on 11 June 2022. The house was demolished on June 12th, and here's another important point: the order by the Prayagraj development authority states that Javed Muhammad was served with a show-cause notice on May 10, 2022, but the law clearly states that a copy of the order of removal must be delivered to the owner before the 15-day period can begin. Mohammad's lawyer, KK Roy, claims that the Prayagraj government backdated the notification to imply it was given on May 10, 2022, despite the fact that they had never received one.

Discrepancy number two where's the opportunity to show cause the same. No such order shall be made without providing the owner or the person involved a reasonable chance to demonstrate cause, according to the Uttar Pradesh Urban Planning and Development Act of 1973. Why the order should not be made again here's what Sumiaya Fatima, Javed's daughter told they didn't get any notice from any authority about our house until Saturday(11 June 2022) night if our house was illegal all these years why did we never hear of it, then so the law states that the order for demolition shall not be made until the owner has been given a reasonable opportunity to explain themselves so the opportunity to show cause has to be given before the order is given and then there has to be at least a 15-day period before the demolition can take place but the family states the first they heard of the order was when it was pasted at their house on Saturday night where did the opportunity for show cause go. what's more Javed Muhammad was arrested by the U.P. police on Saturday his wife Parveen and daughter Sumiaya were detained by the police since Friday night as well and the two were let go only on Sunday

⁶ The Quint, 'Can UP Administration Explain These 4 Discrepancies In Demolition Of Afrin & Javed'S House?' (*Youtube.com*, 2022) <<https://www.youtube.com/watch?v=2737Gqj2axE>>

⁷ 'U.P. Urban Planning And Development Act, 1973' (*Bareactslive.com*, 2022) <<http://www.bareactslive.com/ALL/UP388.HTM>>

morning so even after the order was placed how much time did they really have to make their case before their house was demolished. Any demolition that took place without a chance to show cause would be violative of the legal provisions and natural justice principle as well to punish someone without giving them a chance to explain their side.

Discrepancy number three whose house is being demolished the demolition order by the Prayagraj development authority notice addressed to Javed Muhammad son of Muhammad Azer but the family says that the owner of the house is Parveen fatima Javed Muhammad's wife and they say they have documents and receipts to prove the same. Why did the Prayagraj Development Authority send the demolition order to Javed Muhammad, and if they did so in the order and official communication itself, wouldn't it make the destruction illegal and in violation of the regulations? Sumiaya fatima told the house is in my mother's name it was gifted to her by her ancestors that doesn't automatically make it my dad's house all the bills we have been paying have been in our mother's name

Discrepancy number four a completely unrelated coincidence the demolition of the house took place one day after the U.P. police claimed Javed Muhammad was a mastermind of the June 10 2022 violence in Prayagraj. The U.P. police has officially stated that the demolition has nothing to do with the case against Javed in relation to the violence. So it's a completely unconnected coincidence then well if only the exact same coincidence wouldn't have happened in cargo and Jahangirpuri and elsewhere across up on several occasions then we wouldn't be raising this question.

IV. DEMOLITION OF BUILDINGS OR BULLDOZER JUSTICE: RIGHT OR WRONG?

I am strictly against this for two reasons: I want to explain it through a small story; this man is called Maximilien Robespierre. He ruled France in late 1700 right after the french revolution. He popularized a system of punishment. Any suspected criminal would be hanged to death using this machine called guillotine. His approach was initially popular amongst masses, but eventually, people realized that this punishment was used to target opposition leaders. Robespierre's tenure became famous as the "reign of terror".

The bulldozer justice system even though is not as extreme as guillotine, but represents a similar logic- the punishment should be inflicted immediately. And we have seen this method several times in India. Three years ago, a rape case in Hyderabad was in news. In order to solve this case, the police took 4 accused on a highway and killed them in an encounter. A lot of people were extremely happy. But unfortunately, this did not solve the rape problem in Hyderabad. These instant solutions are like a drug-they do give you a dopamine hit suddenly

which makes you instantly happy, if you're sad. But they do not solve your actual problem.

Second reason due to which I am not happy with the bulldozer justice, it is a form of collective punishment. Basically, the government said that it is ready to meet out collective punishment. Here's what collective punishment means- say there are 5 people connected to one another. If the government says that the first person is an accused, then it is ready to punish all the 5 people. This is collective punishment. Even if we assume that those accused by the UP government actually did this crime, then by demolishing their house, we basically punished even those that lived in that house and had nothing to do with the crime. If you support this methodology of collective punishment, imagine one person in your house commits a crime, and you had no knowledge about that crime then does the government have the right to demolish your house? This was done by Nadir Shah during his rule, where he burnt entire villages only to punish only the Mughals.

V. BULLDOZER JUSTICE: QUICK JUSTICE SYSTEM OR JUST REVENGE?

Politics in the shape of bulldozers is currently being deployed all throughout the country. It began with the UP elections. Then, in Madhya Pradesh, Shivraj Singh Chouhan's administration put up billboards promoting Bulldozer Mama on the highway. After Bulldozer Baba and Bulldozer Mama, we eventually saw Bulldozer Justice. Madhya Pradesh's Home Minister, Narottam Mishra, told Barkha Dutt during an interview, "I feel that when it comes to hooligans, they should receive what they deserve. These individuals are causing harm to society. They make it harder for decent people to live. We must also be regarded as taking swift action against the rioters." After Madhya Pradesh's Bulldozer Justice, the Bulldozers reached Delhi's Jahangirpuri. The timestamps were curiously similar. These bulldozers reached the place soon after a communal riot. They demolish the homes and shops of some people.

Our story doesn't end here. The bulldozers are then seen at Alwar, Rajasthan. They destroy a temple there. Previously, a journalist called Aman had begun to sabotage the peace. He went on TV and claimed that the demolition of Alwar was in reprisal for the Jahangirpuri tragedy, saying, "Jahangirpuri's payback." Mahadev is being attacked. We then discovered that the area destroyed in Rajasthan had already been bulldozed prior to the Jahangirpuri event. It took place on April 17th or 18th, 2022. The second thing we discovered was that, despite the Congress is the current government in Rajasthan, the municipal administration in Rajgad is under the authority of the BJP. Similarly to how the AAP governs Delhi, the BJP controls the MCD in the city.

According to a report in Dainik Bhaskar, the Municipality Board has been planning to demolish

the temple for the past seven months. Let's not delve into specific occurrences; instead, let's try to grasp the significance of this Bulldozer Politics. What are the ramifications? What impact does it have on the country's law and order? What impact does it have on ordinary people's lives? What makes certain individuals so enthusiastic about bulldozer politics?

Is Jahangirpuri the only illegally settled place in the entire Delhi? Only these 300 homes were illegal? Why aren't you investigating Delhi as a whole?" Taking it at its value, the government finds those who are rioting and throwing stones, and sends a bulldozer to their homes to demolish their homes and businesses. Bulldozer Politics, in general, is thought to be like this by the majority of people. Some argue that the government is on the lookout for something else. The government inspects the dwellings to see if they were constructed unlawfully. Whether or if there is any unauthorised invasion. If there is, it means there are two conditions. One of them is being a stone pelted. Second, there's invasion that isn't lawful. Bulldozers will be sent to your home only after that. That's Bulldozer Justice.

Whatever the reasons may be, it effectively implies that neither the police nor the courts will take any action. The government will make the decision on its own. Houses will be bulldozed. This is known as Bulldozer Justice⁸.

Is it, however, really justice? This, in my opinion, does not constitute fairness. It's known as vengeance. These are two quite distinct terms. Justice and revenge are two words that come to mind while thinking about revenge. It may appear that the two terms are interchangeable. However, the more you consider these two terms, the clearer it seems that they are drastically different. They have distinct meanings and frequently contradict one another. Revenge is a strong emotional reaction. The person seeking vengeance wishes to exact it as quickly as feasible. Justice, on the other hand, is a sensible reaction. After considerable discussion, a sensible choice was reached. It frequently takes a considerable amount of time. Revenge puts the victim and the perpetrator on an equal footing. After the retaliation, both the wrongdoer and the aggrieved end up feeling the same way. Revenge is a never-ending circle. There is no end to it. Justice, on the other hand, brings closure. It brings about social harmony. This is why Mahatma Gandhi remarked, "The desire for vengeance will blind the entire world." This isn't how the legal system operates. It doesn't work on the principle of "an eye for an eye." If the country's legal system was based on vengeance, then every murderer in the country should have been executed. But that isn't the case. Because the authors of every single Constitution

⁸ 'What Is 'Bulldozer Justice'? Why Indian Authorities Are Demolishing Homes' (*Abc.net.au*, 2022) <<https://www.abc.net.au/news/2022-06-16/india-bulldozer-politics-justice-muslim-protesters-bjp/101147882>>

produced throughout the world were aware of this. Revenge will not provide society long-term peace. We must comprehend the intentions, reasons, and repercussions of every crime committed in the country. If we honestly want the country to be at peace.

You'll recall the horrific Mumbai attacks on 26/11. Major Sandeep Unnikrishnan, a courageous NSG Commander, was killed in action during the assaults. Ajmal Kasab, a terrorist, has been charged. Finally, in November 2012, he was executed by hanging. Some folks rejoiced when this occurred. His demise was a cause for celebration. Do you know how Sandeep Unnikrishnan's father felt about it? He called it folly, saying that hanging Kasab was hardly a cause for rejoicing. There isn't much to be cheerful about. Kasab's hanging was a legal requirement. This was decided by the judiciary in order to maintain social peace. That's why, rather than rejoicing, he advised everyone to exercise restraint.

If we fast forward ten years to 2022, when people's homes in Jahangirpuri were destroyed and stores were razed, was the Constitution observed when bulldozing it? Was the correct procedure followed or not? Why had the Supreme Court ordered this bulldozer to stop⁹?

Let's come to the actual facts. The thing is the justice meted out by the judiciary, if often time-consuming but just. It knows exactly what it wants to achieve. On the other hand, vengeance is exacted immediately. Because retribution is motivated by emotions and rage, it frequently misses its intended target. It has the unintended consequence of harming innocent people. The authorities assert that when bulldozing, they followed the proper procedures and only bulldozed unlawful encroachments. The inhabitants of Jahangirpuri were ordered by the Supreme Court to produce an affidavit claiming that they were not given any prior notice. And don't forget that the destruction had been ordered to be halted by the Supreme Court. The bulldozer, on the other hand, continued to work for hours after the order was given. What is this paradigm of Bulldozer Revenge that trampled on justice? The order of the Supreme Court was likewise disobeyed.

VI. WHY DO SOME PEOPLE SUPPORT THIS FORM OF POLITICS?

There are three main reasons behind this:

First reason is communal hatred. Some individuals are so enraged by members of different religions that they lose sight of humanity. They begin to celebrate atrocities committed against others. Especially when they believe the atrocities are aimed just at one community. These individuals have been brainwashed to the point where they have forgotten the conditions in which they live; an average Hindu middle-class guy and an average Muslim middle-class man

⁹ 'Bulldozer Justice' (*Tribuneindia News Service*, 2022) <<https://www.tribuneindia.com/news/editorials/bulldozer-justice-386378>>

are both in similar positions. Despite inflation, rising fuel and diesel costs, CNG and LPG prices, rising food prices, dropping FD and PF rates, and rising unemployment, they are so violent that they obtain sadistic pleasure from seeing others tortured. But even so, I wouldn't call this the main reason.

The second reason is more prevalent. Our sluggish legal system. The police and courts have a history of delaying justice. Nirbhaya's case that had moved the country, it had taken 7 years to get justice in that. Many people are so fed up with this justice system, and look towards "instant justice." On top of it, they are also influenced by films where promote vigilante behaviour. The issue is that these folks don't realise that the swift justice they celebrate is actually retribution. There's also a distinction to be made between vengeance and justice. Only the court system has the power to bring true peace to society. There will be an increase in hostility, wrath, and gangs in the country if we start idealising Bulldozer politics and going for retribution. Rather of dropping, the crime rate rises as a result of this.

The third reason is that some people adore the image of the Strongman. People admire politicians who appear to be powerful. These people frequently have secret admiration for tyrants. The bulldozer's image is an extension of the strongman's image.

VII. LEGAL ASPECT

The petition being heard by Supreme Court challenges the recent demolitions in Uttar Pradesh which targeted the accused of violence over Nupur Sharma's remarks against Prophet Muhammad. Supreme court says that demolitions should not be in retaliation.

The petitions to the Supreme Court have following grounds¹⁰:

1. A structure cannot be demolished without providing the affected individual a reasonable opportunity to be heard, according to Section 10 of the Uttar Pradesh (Regulation of Building Operations) Act of 1958.
2. According to Section 27 of the Uttar Pradesh Urban Planning and Development Act, 1973, before demolition actually takes place, the affected person required to be heard and given 15 days notice. The aggrieved person can also file an appeal against the demolition within 30-day period.

Thereby, it was contended that these provisions were not followed in demolishing the houses.

¹⁰ The Quint, 'Act According To Law: SC Says UP Demolitions Can't Take Place Without Notice' (*TheQuint*, 2022) <<https://www.thequint.com/news/law/supreme-court-hear-plea-against-demolition-drives-in-uttar-pradesh-16-june-nupur-sharma-prophet-row-violence#read-more#read-more>>

VIII. CONCLUSION

The countries that invest in their institutions develop more. If you want India to develop in the long term, this is what we should demand our government to do that they invest in India's institutional building.

Finally, I want to share two things. First, this controversy is an example of the impact that news debates can have on our society. For the last few years, we have been seeing how TV media is causing polarization.

Unfortunately, we are extremely intolerant in our country. Unfortunately, the common people, who neither have the money nor the rule of law to protect them, become victims of this.

What can be the possible solutions? The solution is to make reforms to our legal system. It is necessary to expand the number of police officers. Better training for police officers is required. There is a need for police reform and for officers to be paid more. Judge vacancies are being filled. In addition, the number of judges and courts in the country should be increased. Remember that seeking swift justice might result in the wrong people being imprisoned and innocent people being harmed.
