

DEMOLITIONS AS STATE-SANCTIONED COLLECTIVE PUNISHMENT

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'No amount of populist satisfaction can justify such an action' | Photo Credit: PTI

The aftermath of the recent violence in Nuh, Haryana, saw what is now a familiar pattern: immediately after the violence, the local administration, backed by the state, demolished a number of homes in localities or neighbourhoods. These were the homes and neighbourhoods, a few political officials claimed, to which the accused rioters belonged.

The demolitions in Nuh are just the latest iteration of what has come to be called “bulldozer justice”. For more than a year, from Khargone in Madhya Pradesh, to Khambhat in Gujarat, to Jahangirpuri in Delhi, to Nagaon in Assam, to many others, the demolition of homes as a form of frontier justice (as a response to political violence) has become a standard feature of administration.

In carrying out the demolitions, the state and its officials speak with a forked tongue. The public and official justification is that the demolitions are carried out in order to remove “illegal structures” or “encroachments”. Municipal laws that authorise the removal of unauthorised structures are invoked as the legal cover for such action. This is the justification the state sticks to when it is challenged in court. However, even as it does so, politicians, and at times, even officials of the administration, go on record to say that the purpose of the demolitions is to “teach a lesson” to alleged rioters.

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First, it is important to note that the state’s public justification fails on its own terms. Over the years, the courts have recognised that what we euphemistically refer to as “unauthorised structures” are often the dwelling places of economically marginalised and vulnerable people, who have been failed by the state in its obligation to provide shelter to all its citizens. Consequently, other than enforcing basic procedural requirements — such as adequate notice — courts have also insisted that before demolitions are carried out, the administration must conduct a survey to check whether the residents are eligible for rehabilitation schemes, and if so, complete their rehabilitation (through a process of meaningful engagement) before any demolitions are done.

Rehabilitation, in turn, does not simply mean picking up people from one part of the town and dumping them in another, but ensuring that there is no substantial disruption to their (already) precarious lives.

The basic purpose is to ensure that the state does not simply make its own citizens homeless, and with no recourse. Doing so is a marker of an uncivilised society.

It is obvious that the instant demolitions that we see do not comply with these procedural or substantive requirements. Last year, it was found that notice in a demolition case was actually back-dated by the administration to give an appearance of complying; in the Nuh demolitions, there have been widespread allegations that the notice and the demolitions were carried out on the same day. The state's attempts to provide a fig-leaf of legitimacy to its demolitions, therefore, fall away at the slightest scrutiny.

But at the end of the day, everyone knows that what is happening is not a dispute over municipal law, zoning regulations, and "unauthorised" structures. It is clear that what is happening is state-sanctioned collective punishment, which is predominantly targeted against specific communities. Instead of engaging the machinery of law enforcement and justice — which is what states bound by the rule of law do — the state prefers to mete out a form of frontier justice, enforcing order through violence, and itself becoming the law-breaker.

This is evident from the fact that, as pointed out above, politicians, administrators, and even on occasion the police have stated that the true purpose of demolitions is to target the homes of alleged rioters. It is evident from the timing of the demolitions, coming instantly after cases of violence. It is evident from the fact that the reality of our urban design is such that zoning regulations are dead letters: as people have repeatedly pointed out, a good part of Delhi's most affluent neighbourhoods has been built in violation of zoning regulations. Somehow, however, it is not these colonies that face the bulldozer, but the vulnerable and the marginalised. And it is evident from the fact that the demolitions have happened predominantly in Muslim neighbourhoods, in the aftermath of communal violence.

This has, admittedly, not always been the case: in Uttar Pradesh, demolitions have been carried out against the properties of various "gangsters", and in last year's Jahangirpuri violence, a Hindu man's shop was demolished for no perceivable reason. However, it has been repeatedly noticed — and Nuh is the most recent example — that when the bulldozers run, it is primarily in Muslim neighbourhoods. This pattern has now become impossible to ignore: just a few days ago, when issuing a stay order on the Nuh demolitions, the High Court of Punjab and Haryana observed that what was going on had the appearance of ethnic cleansing. Ethnic cleansing is not a phrase that should ever be used lightly, and the tragedy is that in this case, its use was undoubtedly apposite.

Bulldozer justice might satisfy the anger of people who have been caught up in riots, and who are accustomed to seeing the criminal justice system grind on for years without result. Indeed, whether it is extra-judicial killings or home demolitions, this is indeed the justification that is trotted out: that the courts are too slow, too prone to giving bail, and too indulgent in handing out acquittals. Therefore, in order to assuage public anger, the state must take it upon itself to deliver "justice" outside the bounds of law.

It should be obvious that this is dangerous and destructive logic. Bulldozer justice is a form of collective punishment, where punishment is not only meted out before guilt is proven, but along with the supposedly guilty individual, their innocent family members are also punished. No amount of populist satisfaction can justify such an action.

Furthermore, punishment without guilt — punishment at the discretion of the state — violates the rule of law. The rule of law is all that stands between a marauding state and the basic safety of individuals. Abandoning the rule of law for frontier justice is the first step towards an authoritarian society where one's safety, physical possessions, and even life and liberty, will be at the whims and fancies of state officials.

In this context, it falls to the courts to enforce the rule of law and the Constitution. Unfortunately, for more than a year, the courts have been silent; even the Supreme Court of India has, when faced with this situation, purported to accept the state's justification of going after "unauthorised structures." In doing so, the courts have, to use the words of George Orwell, chosen to "reject the evidence of their eyes and ears." The High Court of Punjab and Haryana's order marks the first time that the judiciary has taken active notice of this pattern of lawless bulldozer "justice". One hopes that it is the beginning of the judiciary reinforcing basic constitutional principles and values against state impunity.

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