



Bulldozer Justice and the Erasure of Muslim Identity: Case Commentary

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On November 13, 2024, the Supreme Court of India in *In Re: Directions in the matter of demolition of structures*ⁱ passed a significant judgment condemning the practice of punitive demolitions often referred to as “bulldozer justice”.ⁱⁱ The court emphasized that demolishing homes based solely on the fact of an individual’s criminality is unconstitutional and arbitrary. The judgment while condemning the punitive demolitions also goes a step ahead and establishes procedural safeguards requiring authorities to issue notices and provide affected individuals with an opportunity to challenge demolition orders. The judgment is a much-welcome intervention in the legal landscape of this country and should be celebrated as a victory for the rule of law.ⁱⁱⁱ While this decision ostensibly reinforces legal protections, it ultimately lacks substantive force. It’s a veneer of judicial intervention which fails to address the core issue “the identity of those victims”. The Apex court whether by design or oversight has depoliticized the matter at hand and reduced it to a mere question of urban governance. With this the court effectively abdicated its responsibility to confront and undo systematic targeting of minorities. In doing so, the court has robbed us from what could’ve been a monumental moment of judicial reckoning. A judgment which could have questioned and dismantled this humongous infrastructure of discrimination.

Background

In recent years, India has witnessed an alarming rise in the use of demolitions as a tool of retribution, a trend which is often termed as “Bulldozer Justice.” This phenomenon involves state demolishing homes and businesses of people accused of crimes. Though justified as urban

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planning or encroachment removal, These demolitions routinely bypass due process and judicial oversight. A study of these demolitions reveals a more sinister reality: the systematic targeting of Muslims in the aftermath of protests, riots, or other expressions of dissent. The origins of Bulldozer Justice can be traced back to political developments in Uttar Pradesh^{iv}, where bulldozers became symbolic of swift and decisive state action under the pretext of law and order. Since then, similar patterns have emerged in other states such as Madhya Pradesh^v, Delhi^{vi} and Gujarat. The case before the Supreme Court—*In Re: Directions in the matter of demolition of structures* emerged from this context.

Critique of the Judgment

Systemic Targeting and Legal Erasure

Amnesty International in its report titled “Bulldozer Injustice in India and JCB’s Role and Responsibility,” 2023 documented 128 punitive demolitions across five Indian states (Assam, Gujarat, Madhya Pradesh, Uttar Pradesh, Delhi) between April and June 2022^{vii}. In Amnesty’s report one can see a clear consistent pattern of discrimination employed by the state machinery against the minorities. These demolitions disproportionately targeted Muslim communities, often following protests or episodes of communal violence, displacing over 617 individuals, many rendered homeless overnight without compensation. Muslim-owned homes and shops were demolished while adjacent Hindu-owned structures were left intact. Complementing these findings, The UN Special Rapporteur on Minority Issues, Fernand de Varennes, in 46 communications between 2020 and 2023, highlighted concerns over the systemic nature of such actions, citing violations of minority rights and multiple international human rights obligations in India^{viii}.

Despite the detailed nature of the judgment, the Hon’ble Supreme court makes no reference to these statistics. The Court approaches the issue as a case of administrative overreach. largely detached from its socio-political context. This is evident from the way the affected individuals are framed primarily as property owners, with little to no acknowledgment of their broader social identities or the contexts in which the demolitions occurred. Take the examples of the case of 2023 Haryana riots^{ix} where over 1,200 homes and shops^x were razed in Muslim-majority areas

following clashes during a VHP-organised pilgrimage. Such instances underscores the need for judicial scrutiny of situations where executive action may disproportionately affect specific social groups.

Judicial Minimalism as a Cloak for Structural Evasion

In the present case, the Hon'ble Supreme Court's stance hauntingly aligns with the judicial philosophy as outlined by Cass R. Sunstein in "*Beyond Judicial Minimalism*"^{xi}. The judgment can be characterized by narrow rulings, shallow reasoning, and a calculated refusal to engage with deeper normative questions. By carefully avoiding any mention of religious identity and structural bias, the court provides us with a textbook example of what Mr. Sunstein would describe as the "Virtues" of minimalism, deciding just this case without venturing into vast theoretical terrain

However, minimalism can become counterproductive when it evades systemic issues that require a more substantive constitutional engagement. As Sunstein warns, "Minimalism might be easiest in the short run, but in the long run, it can be extremely destructive. Sometimes shallowness is a bad idea; sometimes it is best to rethink foundational issues".

The restrained reasoning employed by the apex court sits uneasily with the commitment of the Indian constitutional framework towards "substantive equality", particularly under Article 14, as affirmed in *Nitisha vs Union of India*^{xii}. Substantive equality requires the court to look beyond formal neutrality and assess the impact of law and policy on marginalized groups. Against this constitutional backdrop, the court's unwillingness to interrogate the disproportionate impact of mass demolitions on specific communities reflects a missed opportunity to uphold the very principles it has championed in prior cases.

Conclusion

The Supreme Court's judgment against punitive demolitions is a step in the right direction, but it is woefully inadequate to heal the systemic rot beneath. By reducing the victim to faceless property owners, the judgment tries to perpetuate that identity exists in a vacuum, which is far from the truth. Religious identity, in specific, is not incidental to oppression but rather a constituent of it.

When bulldozers raze through Muslims' homes, an Individual's right to exist as an equal citizen is under attack. The court's procedural safeguards, while necessary, offer only a limited remedy. They do not fully engage with the broader concern that structural inequalities continue to shape how different communities experience their rights and status within society.

ⁱ 2024 INSC 866

ⁱⁱ Handley E, "What Is 'Bulldozer Justice'? Why Indian Authorities Are Demolishing Homes" *ABC News* (June 15, 2022) <<https://www.abc.net.au/news/2022-06-16/india-bulldozer-politics-justice-muslim-protesters-bjp/101147882>> accessed April 1, 2025

ⁱⁱⁱ Palshikar S, 'SC Verdict Is Welcome - but the Ideological, Political Bulldozer Remains' (*The Indian Express*, 18 November 2024) <<https://indianexpress.com/article/opinion/columns/sc-verdict-is-welcome-but-the-ideological-political-bulldozer-remains-9674927/>> accessed 1 April 2025

^{iv} Pandey BG, "How Bulldozers Became a Vehicle of Injustice in India" *BBC News* (June 19, 2022) <<https://www.bbc.com/news/world-asia-india-61837134>> accessed April 1, 2025

^v "'Nobody Is above Law': Madhya Pradesh CM Mohan Yadav Defends 'Bulldozer Justice'" *Hindustan Times* (August 25, 2024) <<https://www.hindustantimes.com/cities/bhopal-news/nobody-is-above-law-madhya-pradesh-cm-mohan-yadav-defends-bulldozer-justice-101724527041050.html>> accessed April 1, 2025

^{vi} Srivastava BN, "Jahangirpuri: How Religious Violence Razed Homes and Dreams" *BBC News* (April 21, 2022) <<https://www.bbc.com/news/world-asia-india-61172227>> accessed April 1, 2025

^{vii} "Stop Bulldozer Injustice against Muslims in India" (*Amnesty International*, February 7, 2024) <<https://www.amnesty.org/en/latest/news/2024/02/india-authorities-must-immediately-stop-unjust-targeted-demolition-of-muslim-properties/>> accessed April 1, 2025

^{viii} "Testimony to the US Commission on International Religious Freedom" (*Human Rights Watch*, September 27, 2023) <<https://www.hrw.org/news/2023/09/27/testimony-us-commission-international-religious-freedom>> accessed April 1, 2025

^{ix} The Hindu, "Making a Riot: The Hindu Editorial on the Communal Clashes in Haryana" *The Hindu* (August 4, 2023) <<https://www.thehindu.com/opinion/editorial/making-a-riot-the-hindu-editorial-on-the-communal-clashes-in-haryana/article67154320.ece>> accessed April 2, 2025

^x Vats S, "At Least 1,200 Structures Razed in 5-Day Nuh Demolition Drive Following Hindu-Muslim Riots" *Land Conflict Watch* (May 19, 2024) <<https://www.landconflictwatch.org/conflicts/at-least-1-200-structures-razed-in-5-day-nuh-demolition-drive-following-hindu-muslim-riots#>> accessed April 1, 2025

^{xi} Cass R. Sunstein, "Beyond Judicial Minimalism," 43 *Tulsa Law Review* 825 (2007). *Avl at*: "https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=12217&context=journal_articles"

^{xii} (2021) 15 SCC 125