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Bulldozing Justice, One Bent Rule at a Time

By: Sunil Kumar

The hasty injustice meted out through bulldozers demolishing properties of the accused is made possible by selective and wrongful application of rules, all cheered on by political authorities and given a pass by courts so far.

We live in troubled times. This perhaps is the most charitable view that can be taken to describe what is happening around us, whether in Manipur, Uttar Pradesh, West Bengal, Madhya Pradesh, Rajasthan, Maharashtra or, in fact, any other state. Gruesome killings, lynching, horrendous incidents of rape and atrocities against women continue unabated despite prescription of severe punishments, including capital punishment, in statutes passed by Parliament and state legislatures. The demand for quick justice grows and, in the digital age and age of social media, oft-times it spreads like wildfire, in the process giving rise to fraught situations of law and order. And a hasty solution that authorities can think of to assuage public outrage is to come up with actions which border on giving a decent burial to the ‘rule of law’ and to modern theories of justice built on principles such as individual responsibility of crimes committed, presumption of innocence of accused till proven guilty in a court of law, and adherence to principles of natural justice.

One such quick-fire solution is the increasing use of bulldozers by state authorities in recent times to raze residential and business premises of the ‘accused’, even before investigation has been completed and a charge sheet filed, let alone being found ‘guilty’ by a competent court. The bulldozer has become a symbol of the popular notion of majoritarian justice.

As authorities see it, such action helps deflect public anger and attention away from questions of police functioning and consigns the case to the slow grind of trial courts. The political leadership basks in the glory of ‘quick, drastic action’ against the culprits as the shine has been taken out of old assurances like ‘culprits will not be spared and strictest possible action would be taken against them’, which seemed to work so effectively earlier despite being repeated ad nauseum.

Based on information available in the public domain, the most common associated ‘crimes’ that bring bulldozers to the property of the accused range from discovery of ‘bovine meat’ in vehicles or houses, rape and murder, incitement to violence or/and destruction of public property during public protest. It must be noted that there are no central or state laws which authorise state agencies to raze the property of any accused or even of a convict. This was a telling observation made by a bench of Justices B. R. Gavai and K.V. Viswanathan during a [Supreme Court hearing](#) related to unlawful use of bulldozers.

Efforts to brand any community or caste as ‘criminal’ is akin to the immoral practice of branding certain tribes as ‘criminal tribes’ by the colonial masters in 19th century. The bulldozer should not become a symbol of justice in any civilised country and society.

To get round the ‘unlawful’ act of bulldozing, authorities routinely cite other violations of the municipal law such as encroachment on public land, unauthorised construction, etc. In a matter of hours, district police and civic authorities conveniently ‘unearth’ the fact that the residential or commercial properties of the ‘accused’ are ‘unlawful’, built on encroached land, or without sanction of a building plan, or in violation of sanctioned building plans. It does not matter if the buildings had existed for decades or were even sanctioned, approved, and built with government subsidy. It also transpires that notices had been served and no reply had been received from the ‘accused’. It looks as if the stars conspire to determine the time of ‘bulldozer’ action!

These alleged violations of civic laws are civil offences and not criminal offences. Building bye-laws provide for ‘compounding’ of such infringements. In case orders of demolition are passed by the competent authority after adhering to due process of law where the accused is granted an opportunity to justify his/her stand, demolition is to be carried out in a manner wherein sufficient time and opportunity is granted to the accused to retrieve their belongings.

Civic authorities would be hard put to honestly testify that no similar cases of violation of building bye-laws exist elsewhere even at that point of time when bulldozer is pressed into action. This is all the more glaring as one would be hard put to cite even one instance in the recent past where demolition using bulldozer has been carried out when there has been no accompanying heinous crime

by an ‘accused’. In the normal course of events, when there is an alleged violation of civic construction laws – unaccompanied by any other criminal accusation -- property owners manage to get stay orders from competent courts well in time and such cases drag on in courts for years. It seems ‘bulldozer action’ is reserved for select cases alone.

No civic authority in any state has the wherewithal, either in terms of competence or resources, to ensure that there is full compliance with rules by all residents in the city. They are also not equipped to ensure that no such buildings get constructed in the first place without obtaining all requisite approvals. For instance, the Brihan Mumbai Municipal Corporation has just eight employees per 1,000 population. This number is just one per 1,000 in the Patna and Gurgaon Municipal Corporations. The situation is no different, or is even worse, in smaller local administrations which are resource-starved. Even urban development authorities – tasked with city planning and development – are unable to check this malaise. They are also in no position to check encroachment on public lands given the state of land maps in urban areas. More often than not, the officials turn a blind eye to such infringements either on account of ‘consideration’ received or pressure from elected representatives ranging from the local corporator to the MLA and MP.

We need to ponder over the need to introduce some form of ‘law of torts’ in our legal system whereby the administrators are made to pay personal damages if a physical or financial harm is found to have been caused by their ‘illegal’ and reckless actions.

Consequently, where bulldozers are brought in to raze buildings, the police and district administration informally direct civic authorities to ‘produce’ reports which provide the legal fig leaf to carry out the demolitions. If, at any time, the legality of demolitions comes up before courts, the police and district administration can conveniently wash their hands off the matter. Under the letter of law, demolitions are carried out by the civic authority and the police only provide ‘support’ for the operations. This puts the onus completely on the local government officials and absolves the police and district administration of all responsibility. People forget the acts of omission and commission of the police relating to the ‘original’ crime for which they should be answerable.

The situation is aggravated when it emerges that the owners whose properties have been demolished using bulldozers overwhelmingly belong to one community. ‘Bulldozer justice’ in the last few years seems to be aimed at targeting a particular community and polarizing society along communitarian lines. It makes a mockery of equality before law, rule of law and due process of law. It is indeed a sad state of affairs that the judiciary has been, by and large, a silent spectator to this unfolding scenario in different parts of the country. (Suhas Palshikar has [described](#) the response of the judiciary as indulgence.) This practice is as abhorrent as the ‘encounter killings’ resorted to by the police. After over hundreds of such so called ‘encounter killings’ by the police in some States, when the judiciary questioned this practice suddenly all police bullets have begun to hit criminals below their knees during the course of police encounters!

The biggest casualty of this ‘bulldozer justice’ is the judicial system and justice itself. Bulldozers found pride of place and were displayed in public rallies of some leaders during the recent national elections. The perpetrators – the police, the civil administration, and the political masters – bask in the virtue of quick action and response to crimes. No questions are being asked of those who are responsible for running the system in the first place and society is being divided and its moral fabric torn to shreds in the process.

The use of bulldozers to demolish property of the accused cannot guarantee their eventual conviction in a court of law. It may provide momentary political dividends to some but at great cost to society and certainly by further weakening an already emaciated administrative and criminal justice system. It does not fix the larger problem of shoddy, incompetent, and corrupt crime investigation, which delays trials and hinders convictions.

Matters which strike at the rights of individuals and citizens cannot and must not be left on the judiciary alone. The time may be perhaps right to think of building some legal safeguards into urban laws to protect against such reckless action by local administration authorities.

The arbitrary and intentional overturning of rule of law or justice by the bulldozer state creates near-anarchic conditions which are much more conducive to unbridled brutality against ordinary citizens, in particular against women, suppressed castes, minorities and persons vulnerable owing to poverty, lack of social standing, or just being peripheral in society. Threat to public order would not diminish if a feeling of alienation takes deep root among sections of the population. Efforts to brand any community or caste as ‘criminal’ is akin to the immoral practice of branding certain tribes as ‘criminal tribes’ by the colonial masters in 19th century. The bulldozer should not become a symbol of justice in any civilised country and society.

In a belated albeit welcome development, the Supreme Court took up for hearing on 2 September a case filed in 2022 pertaining to demolitions carried out in Jahangirpuri in Delhi and other related matters. During the hearing the court has sought suggestions from all concerned parties to enable it to frame guidelines on a ‘pan-India’ basis so as to take care of concerns with regard to the issues raised. This gives some hope that it will put an end to this brand of ‘bulldozer justice’.

Yet it must be remembered that all such matters which strike at the rights of individuals and citizens cannot and must not be left to the judiciary alone. The time may be perhaps right to think of building some legal safeguards into urban laws to protect against such reckless action by local administration authorities. We also need to ponder over the need to introduce some form of ‘law of torts’ in our legal system whereby the administrators are made to pay personal damages if a physical or financial harm is found to have been caused by their ‘illegal’ and reckless actions. Such provision may enable them to stand up to demands for reckless actions from political bosses. Informed discussion and debate in citizen forums are necessary to check bulldozer justice which veritably ends up bulldozing justice itself.

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