Socio-Spatial Segregation in Indian Cities: Legal Violence and the Marginalization of Muslim Communities

By *Junaid ul Shafi**

In India's booming urban sprawl, Muslim communities are being boxed into corners geographically, socially, and economically. This paper explores the socio-spatial segregation of Muslim communities in Indian megacities, focusing on how systemic discrimination in housing perpetuates cycles of exclusion, poverty, and marginalization. It critically examines the interaction between legal neglect, private discrimination, and social violence that reinforce spatial and social boundaries. Despite constitutional protections for equality, private actors and social practices often undermine these guarantees, leading to practices such as discriminatory enforcement, communal violence, and territorial stigmatization of Muslim neighborhoods. These processes result in deteriorating living conditions, declining property values, and increased police surveillance, reinforcing their marginalized status. The paper advocates for comprehensive legal reforms and urban policies that aim to foster inclusive housing, promote social justice, and address structural inequalities that sustain spatial segregation. By reimagining urban spaces as sites of inclusion, these reforms can challenge entrenched inequalities and facilitate better integration of Muslim communities into urban life.

Keywords: Legal Violence; Private Discrimination; Segregation; Marginalization

***

A. Introduction

In December 2024, in the Indian city of Moradabad, a Muslim doctor and his wife had just secured their dream home through a legitimate purchase from a colleague. But their joy quickly turned to despair as protests erupted, led by local Hindu residents.[1] The mob, fueled by opposition to the couple's presence in the neighborhood, made it clear: a Muslim family was not welcome in that space. Despite having every legal right, the couple found themselves caught in a storm of intimidation and fear, forced to back away from a home

* PhD candidate, School of Law, BML Munjal University Gurgaon (India), Email: Junaidulshafi@gmail.com.

1 *Omar Rashid*, Take Your House Back: Hindu Residents Protest Sale of Flat to Muslim Doctor Couple in Moradabad, The Wire, 6 December 2024, https://thewire.in/communalism/take-your-house-back-hindu-residents-protest-sale-of-flat-to-muslim-doctor-couple-in-moradabad (last accessed on 31 July 2025).

they had every right to inhabit. This forced withdrawal is not an isolated event; rather, it is symptomatic of a deeper architectural flaw within India's urban landscape.

India's rapid urbanization and economic development have fostered the emergence of sprawling megacities that symbolize opportunities for social mobility and innovation. However, beneath this veneer of progress lies a persistent pattern of socio-spatial exclusion, disproportionately impacting Muslim communities. Urban India is marked by deep communal divides, with spatial segregation especially between Hindus and Muslims fueling tension and recurring violence.[2] These conflicts have led to repeated displacement, pushing minorities, particularly Muslims, into increasingly isolated and marginalised areas.[3] Despite constitutional guarantees of equality, systemic discrimination manifesting through legal neglect, institutional biases, and social prejudices has resulted in entrenched cycles of marginalization, poverty, and spatial segregation. These cycles are perpetuated through a variety of mechanisms, including discriminatory enforcement of housing laws, judicial and administrative inaction, bias from landlords and property owners, communal violence that forces spatial isolation, and the emergence of ethnic enclaves. Together, these mechanisms perpetuate segregation, creating a dynamic that intensifies over time, trapping Muslim communities in conditions of exclusion that are both legally sanctioned and socially enforced.

While this paper emphasizes religious segregation particularly the spatial marginalization of Muslim communities', it is crucial to note that caste-based segregation remains an equally significant dimension of urban inequality in India.[4] Analytically, religious segregation often operates through boundary-making along faith lines, reinforced by political identities, legal discourses, and narratives of communal conflict, which shape territorial stigmatization and policies targeting Muslim neighborhoods. Caste segregation, on the other hand, stems from historical social hierarchies and endogamous practices within Hindu society, leading to spatial divisions that often intersect with religious identities but are rooted in different social and structural processes.[5] Empirically, caste-based spatial patterns are evident within Hindu communities, where marginalized castes (such as Dalits and Other Backward Classes) reside in distinct enclaves or informal settlements, sometimes overlapping with religious minorities.[6] Although both forms of segregation contribute to urban spatial inequality, their origins, mechanisms, and discursive framing differ, warranting differentiated analysis. Future work could explore the interconnections and layered effects

2 *Shail Mayaram,* Resisting Regimes: Myth, Memory and the Shaping of a Muslim Identity, New Delhi 1997, p. 54.

3 *Rowena Robinson,* Tremors of Violence: Muslim Survivors of Ethnic Strife in Western India, New Delhi 2005, p. 106.

4 *Gayatri Singh / Trina Vithayathil, / Kanhu Charan Pradhan,* Recasting inequality: residential segregation by caste over time in urban India, Environment and urbanization 31 (2019), pp. 615-634.

5 *Neeha Susan Jacob*, Understanding Spatial Inequalities in South Indian Cities: Exploring Residential Segregation Based on Caste, Artha Vijnana 67 (2025), pp. 377-392.

6 *Naveen Bharathi / Deepak Malghan / Sumit Mishra / Andaleeb Rahman,* Fractal urbanism: City size and residential segregation in India, World Development 141 (2021), pp. 1-14.

of caste and religious spatialities to further deepen understanding of urban exclusion in India.

I. Aim and Approach of this Article

This paper critically examines how legal violence, both explicit and structural, serves to reinforce spatial divides by marginalizing Muslim populations within urban landscapes. Drawing on multidisciplinary approaches, it explores how discriminatory housing practices, urban planning policies, and sporadic episodes of communal violence collaborate to produce and sustain segregated enclaves characterized by inadequate infrastructure, limited social mobility, and ongoing insecurity. This article undertakes a constitutional inquiry into the entwined modalities of social and legal violence as they are enacted through state-facilitated relocations of Muslim families amidst episodes of communal discord. It contends that such displacements do not merely reflect moments of crisis but are symptomatic of a deeper architecture of exclusion one in which violence is spatialized, inscribed into the very geographies of urban life through the creation of stigmatized and segregated localities. This structural marginalization constitutes a form of social violence: not episodic, but continuous; not always visible but deeply embedded.

The paper begins by conceptualizing legal violence and situating it within the existing theoretical frameworks, particularly drawing on constitutional jurisprudence and critical legal studies. It then analyzes the mechanisms through which law facilitates or legitimizes displacement, including state-facilitated relocations during communal conflict and administrative inaction in the face of private discrimination. Subsequent sections examine how these legal processes intersect with social violence to spatialize exclusion, transforming urban geography into a site of normalized harm. The paper concludes by situating these dynamics within the constitutional domain, arguing that state rhetoric of protection often conceals systematic failures of accountability. It underscores the urgent need for comprehensive legal reform and inclusive urban policy, contending that meaningful social equity in Indian cities requires a fundamental reconfiguration of the relationship between law, space, and power. Through this analysis, the paper contributes to broader debates on rights-based urban inclusion and justice for marginalized religious communities in contemporary India.

II. Legal Violence, State Power, and Spatial Inequality

This paper employs the concept of legal violence to critically examine the ways in which legal structures and state policies contribute to the marginalization of Muslim communities within urban spaces. Legal violence, as understood here, refers to the forms of harm or exclusion sanctioned or legitimized by legal institutions or state power. Drawing from Robert Cover's seminal work[7] the paper recognizes that law does not merely regulate

7 *Robert M. Cover,* Violence and the Word, Yale Law Journal 95 (1985), p. 1601.

behavior; it also constructs narratives and frameworks that shape societal realities, often in ways that disproportionately harm marginalized groups. Legal violence, therefore, is not simply violence enacted by the state, but a structural form of harm embedded within legal norms and institutional practices, such as discriminatory policies, surveillance practices, and biased legal interpretations

In this sense, *legal violence* refers to the harm produced or sanctioned by the law itself, manifested through formal mechanisms such as discriminatory zoning regulations, policy-driven displacements, administrative neglect, or differential policing.[8] These forms of violence operate under the guise of legality, embedding exclusion and inequality within the institutional logic of the state. By contrast, *social violence* encompasses prejudicial practices, systemic discrimination, and communal hostilities that are sustained through societal norms and interpersonal relations but are not codified in law. Recognizing this differentiation illuminates the *productive* role of law not as a neutral arbiter but as an active instrument in the organization of social hierarchies and spatial stratification.[9] It underscores how legal frameworks, despite their ostensible role in protecting rights, can function to authorize, normalize, and reproduce structural oppression. Critical engagement with the notion of legal violence thus foregrounds the centrality of law in producing and maintaining systemic inequality and highlights the necessity of legal reform not merely as a corrective measure but as a fundamental reconfiguration of the relationship between law, space, and power.[10]

Legal violence manifests in the role of law not solely through overt sanction but equally through abdication. Whether in the active orchestration of displacement under the guise of public order or in the silent legitimation of private discrimination, law emerges less as a bulwark of rights than as a tacit accomplice to exclusionary practices. The constitutional promise of equality, though textually robust, is rendered functionally anemic in the face of such normalized harm. By situating these forms of violence within the constitutional domain, this article argues that the state's rhetoric of protection often conceals a more unsettling reality: that constitutional accountability is routinely deferred or denied when the violence in question emanates not from overt state repression, but from the sanctioned inaction and permissiveness of legal institutions. The study underscores the urgent need for comprehensive legal reforms and inclusive urban policies, emphasizing that genuine social equity in Indian cities can only be achieved through pathways that address both overt discrimination and structural inequalities. By interrogating the intersection of law, policy, and social practice, this work seeks to contribute to ongoing debates on rights-based urban

8 *Cecilia Menjívar / Leisy Abrego*, Legal violence: Immigration law and the lives of Central American immigrants, American Journal of Sociology 117 (2012), p. 1387.

9 *Julie Shackford-Bradley,* Legal Violence and Restorative Justice, Hastings Journal on Gender and the Law 34 (2023), p. 103.

10 *Elena Ruíz,* Structural Violence: The Makings of Settler Colonial Impunity*,* New York 2024, p. 34.

inclusion and justice for marginalized religious communities amid India's complex urban fabric.

III. Historical Roots of Urban Segregation

In contemporary Indian cities, the boundaries separating Muslim and non-Muslim neighborhoods are neither spontaneous nor apolitical. They are the cumulative result of centuries of institutional design and everyday discrimination. Understanding the persistence and transformation of spatial segregation of Muslim communities in Indian cities necessitates a historical perspective that distinguishes between longstanding patterns of exclusion and recent developments.[11] The patterns of segregation emerge from colonial practices of urban planning and bureaucratic policies including the creation of separate municipal wards, "camp" and "native" city divisions, and the codification of religious identity in census and law institutionalized a logic of segregation that physically inscribed religious difference onto the urban fabric.[12] The work of Gayer and Jaffrelot[13] and others demonstrates how colonial-era patterns were perpetuated and often reinforced through state-led housing policies, discriminatory implementation of land use regulations, and socio-economic marginalization that limited Muslim mobility. However, to attribute contemporary segregation solely to the inertia of these historical legacies is to overlook its distinctively modern manifestations. The recent decades have witnessed a shift in the *mechanisms* of segregation, marked by the intensification of legal and discursive strategies that normalize exclusion.[14] Post-independence, these patterns have persisted and been reinforced through state-led policies, discriminatory land laws, and socio-economic marginalization. However, what is distinctively new in recent decades includes the intensified legal and discursive strategies that depoliticize and normalize segregation, such as territorial stigmatization, legal violence, and discursive representations that frame Muslim neighborhoods as inherently problematic.[15] Additionally, the role of neoliberal urban policies privatization, real estate market dynamics, and private sector steering marks a recent shift that deepens spatial divisions beyond colonial legacies.[16] By tracing these processes over time, we see a layered history where older practices are reconfigured through contemporary legal, discursive, and economic forces, producing a

11 *Fuad S. Naeem*, Monotheistic Hindus, Idolatrous Muslims: Muḥammad Qāsim Nānautvī, Dayānanda Sarasvatī, and the Theological Roots of Hindu–Muslim Conflict in South Asia, Religions (2025), p. 256.

12 *Prashant Kidambi,* The making of an Indian metropolis: Colonial governance and public culture in Bombay, 1890-1920, Hampshire 2016, p 71.

13 *Christophe Jaffrelot / Laurent Gayer,* Muslims in Indian cities: Trajectories of marginalization, New York 2011, p. 1-22.

14 *Aakar Patel,* Our Hindu Rashtra: What it is. How we got here, New Delhi 2020, p. 198.

15 *Onaiza Drabu*, Who Is the Muslim? Discursive Representations of the Muslims and Islam in Indian Prime-Time News, Religions (2018), p. 283.

16 *Sripad Motiram / Vamsi Vakulabharanam*, Mapping religion, space and economic outcomes in Indian cities, Urban Studies 62 (2024), p. 71.

transformation in both the form and the normalization of spatial segregation. The story of Muslim segregation in Indian cities is neither purely historical nor entirely contemporary it is a layered phenomenon in which the past is continually reactivated through modern legal and urban practices. This spatial division is further reinforced by long-standing socio-political dynamics stemming from the legacy of partition, cultural stereotypes, and recurring communal violence, which have systematically confined Muslim populations to segregated enclaves and shaped the urban fabric of Indian cities. As a result, the physical and social boundaries of Muslim neighborhoods are not merely products of urban development but are deeply intertwined with these historical processes of marginalization and exclusion.

B. Social Violence Fear and Segregation

In the maze of India's urban landscape, Muslim communities often find themselves pushed to the periphery literally and metaphorically by a combination of discriminatory housing practices, communal violence, and the destruction of their homes. The exclusion of Muslims in India has deep historical roots that trace back to the colonial period and the subsequent partition of the subcontinent in 1947. Under British rule, policies of divide and rule heightened religious divisions, exacerbating tensions between Hindus and Muslims. The partition, which created India and Pakistan, formalized these divisions, leading to violent communal conflict. This process crystallized religious boundaries in ways that continue to shape urban segregation today. Bipan Chandra contends that the partition of 1947, which divided British India into the secular state of India and the Islamic state of Pakistan, formalized religious lines, resulting in widespread violence and the forced migration of millions.[17] Post-independence, while India adopted a secular constitution, socio-political dynamics, such as the politicization of religion and economic disparities, have perpetuated the marginalization of Muslims, reinforcing their exclusion in various spheres of national life.[18] This exclusion is further compounded by perceptions of Muslims as "other" within the Hindu-majority state.[19] Crucially, the state is not a passive actor in this process. Their exclusion is driven not only by formal legal mechanisms, administrative neglect and targeted urban planning, but by more insidious, informal processes of what can be termed "social violence," a persistent, structural force manifesting through discriminatory housing practices by private landlords and communal violence. Though this form of violence is often dismissed as soft or informal, it plays a central role in producing and reinforcing patterns of segregation and inequality. The result is a pervasive condition of "violent exclusion," where Muslims are repeatedly displaced, denied secure tenure, and confined to the margins of urban life. Historically, the political imagination of the modern

17 *Bipan Chandra*, Communalism in modern India, New Delhi 2008, p. 329.

18 *Ali Khan Mahmudabad,* Indian Muslims and the Anti-CAA Protests: From Marginalization Towards Exclusion, South Asia Multidisciplinary Academic Journal (2020), p. 24.

19 *Shayan Sheikh,* India's Muslims: The 'Other' Within?, The Columbia Journal of Asia (2022), pp. 74-79.

Indian state has cast Muslims as the internal "Other".[20] The legacy of Partition, combined with widespread cultural stereotypes of Muslims as violent, backward, or disloyal, has contributed to their social and spatial alienation. Since independence, recurring anti-Muslim violence, whether in Nellie in 1983, Mumbai in 1993, Gujarat in 2002, or Delhi in 2020, has displaced Muslim families from mixed neighborhoods, forcing them into segregated enclaves. According to Pew Research, 36% of Hindus prefer not to have Muslims as neighbors.[21] Such attitudes underscore that these episodes are not isolated bursts of unrest but operate as long-term instruments of spatial reordering. They do more than destroy lives and property, they redraw urban maps, concentrating Muslims in ghettos and informal settlements under the guise of safety and resettlement.[22]

The spatial segregation of Muslims in Indian cities cannot be meaningfully analyzed apart from the structural and cyclical recurrence of Muslim violence, often cloaked in the euphemism of "communal violence" within South Asian legal and political discourse. Such episodes, which disproportionately target Muslim communities, produce not only immediate physical devastation but also enduring geographies of fear, displacement, and exclusion.[23] Notably, this violence is overwhelmingly urban in character, rendering the city both a crucible of opportunity and a locus of existential vulnerability.[24] This urban concentration is often attributed to the density and diversity of city populations, where historical segregation, economic competition, and politicized identity formations are more evident. Scholars contend that urban communal tensions are often instrumentalized through electoral strategies, spatial segregation, and socio-political anxieties arising from rapid urban transformation.[25] Anti-Muslim violence in India, officially categorized as "communal violence", functions not only as episodic unrest but as a mechanism of structural exclusion. These acts of targeted violence often result in long-term spatial segregation through the forced displacement of Muslim communities.[26] From the 1947 Jammu Massacre[27] to

20 *Sonia Sikka,* The Ideal of Multicultural Nationalism and the Othering of Muslims, Ethnic and Racial Studies (2025), p. 1-9.

21 The Pew Research, Religion in India: Tolerance and Segregation, https://www.pewresearch.org/religion/2021/06/29/religion-in-india-tolerance-and-segregation/ (last accessed on 31 July 2025).

22 *Raheel Dhattiwala*, Next-door strangers: Explaining neighbourliness among Hindus and Muslims in a riot-affected city. in: Riaz Hassan (ed.), Indian Muslims: Struggling for equality of citizenship, Melbourne 2016, p. 146.

23 *Raheel Dhattiwala,* Keeping the peace: spatial differences in Hindu-Muslim violence in Gujarat in 2002, London 2019, pp. 74-75.

24 *Ashutosh Varshney,* States or Cities? Studying Hindu-Muslim Riots. Regional Reflections: Comparing Politics Across India's States, New Delhi 2004, pp. 177-218.

25 *Thomas Blom Hansen*, Wages of violence: Naming and identity in postcolonial Bombay, New Jersey 2001, p.124.

26 *Jaffrelot / Gayer,* note 14, p. 325.

27 *Christopher Snedden,* What Happened to Muslims in Jammu? Local Identity, 'the Massacre of 1947' and the Roots of the 'Kashmir Problem, South Asia: Journal of South Asian Studies 24 (2001), pp. 111-134.

more recent events in Muzaffarnagar or Delhi, such violence has significantly altered the demographic composition of affected regions. This violence has been predominantly urban in character; between 1950 and 1995, approximately 96% of all related deaths in India occurred in urban areas.[28]

The 2002 Gujarat pogrom and the 2020 Northeast Delhi violence represent this phenomenon, where Muslim families were not only displaced during periods of violence but also concentrated in specific ghettos or peripheral areas. This spatial reorganization is not a mere consequence of violence; it reflects a deliberate strategy by state and some non-state actors to isolate Muslim communities. The state's role in facilitating this segregation cannot be overlooked. Under the pretext of safeguarding Muslim families during communal unrest, law enforcement often orchestrates their relocation to so-called "safer" zones. Paul Brass argues that the "relocation" or displacement of Muslim communities following riots serves a long-term political function, facilitating demographic engineering and entrenching communal division. This process is often enabled by state apparatuses, with forced migration and violence functioning as instruments for reshaping urban space and consolidating Hindu majoritarian interests.[29] Yet, these moves seldom pave the way for a return to integrated, diverse neighborhoods. What begins as a temporary security measure often solidifies into lasting segregation, turning protective displacement into a quiet, enduring form of exclusion. This creates generational patterns of self-segregation, where Muslim families, having internalized the lessons of spatial risk, pass these fears on to subsequent generations, making housing choices based on inherited understandings of safe and dangerous spaces.

Communal violence in India has resulted in the large-scale displacement and spatial segregation of Muslim communities. In urban centers such as Mumbai, targeted violence, particularly following the 1993 Bombay riots after demolition of the Babri masjid,[30] led to a concentration of displaced Muslims in enclaves like Dongri, Mohammad Ali Road, and Bhendi Bazar. This pattern of relocation, driven by both fear and necessity, has entrenched segregation, with limited corresponding movement by Hindu populations.[31] Similar dynamics are evident in Jogeshwari, Kurla, and Mumbra, where Muslims reside in isolated pockets, often surrounded by Hindu-majority areas. In Ahmedabad, the 2002 riots reinforced a stark east–west division, with Muslims increasingly confined to areas such as

28 *Ashutosh Varshney,* Ethnic Conflict and Civic Life: Hindus and Muslims in India, New York 2002, p. 6.

29 *Paul R. Brass,* The production of Hindu-Muslim violence in contemporary India, Seattle 2013, p. 34.

30 *Qudsiya Contractor,* Jab Babri Masjid Shaheed Huyi: Memories of Violence and Its Spatial Remnants in Mumbai, in: Narayana Jayaram (ed.), Social Dynamics of the Urban: Studies from India, New Delhi 2017, p. 135.

31 *Abdul Shaban / Zinat Aboli*, Socio-spatial segregation and exclusion in Mumbai. In: Maarten van Ham et al. (eds.), Urban Socio-Economic Segregation and Income Inequality: A Global Perspective, 2021, p. 163.

Juhapura, Shahpur, and Khanpur, while mixed neighborhoods like Paldi and Navrangpura have witnessed a withdrawal of Muslim residents.[32]

Aurangabad stands as another vivid portrait of a city split along religious lines. Neighborhoods like *Harri Patti Melaka* for Muslims and *Bhagwa Patti Melaka* for Hindus mark the map with invisible borders, etched deeper by the 1988 riots and their aftermath. For many Muslim residents, these divides are more than symbolic as they translate into real struggles, especially when seeking housing in areas backed by powerful political forces like the Shiv Sena.[33] These trends are not limited to older metropolitan areas; recent studies spanning over 3,000 cities and 100,000 neighborhoods confirm the widespread nature of Muslim residential segregation in India.[34] Saluja's research in Bhopal highlights a deepening sense of abandonment among Muslims, compounded by both state neglect and social exclusion. Despite aspirations for civic inclusion, many Muslims are relegated to marginalised spaces, reinforcing cycles of vulnerability.[35] These communalised geographies do not merely reflect pre-existing inequalities but actively reproduce spatialized injustice and socio-political exclusion. The Sachar Committee Report of 2006 highlights that, due to growing concerns over safety and security, many Muslims are increasingly moving into ghettos where they feel more protected.[36] This spatial separation has become a powerful tool for both exclusion and control, entrenching divisions that span generations. These communalized geographies are further reinforced by active exclusion in the private sphere.

I. Unequal Access: Housing Bias and Governance Failures

Discriminatory practices within the housing markets are perhaps the most pervasive form of social violence. Research consistently shows that Muslims face significant barriers to accessing rental and owned accommodations, particularly in mixed or predominantly non-Muslim neighborhoods. Studies have shown that Muslim responses to rental advertisements are significantly lower than those of non-Muslims, with landlords frequently

32 *Sazzad Parwez / Gazala Khan / Tabassum Khan*, Communal ghettoisation in urban India: A process of informal but systematic segregations, GeoJournal 89 no. 4 (2024), p. 123.

33 *Asaf Ali lone,* Housing and Spatial Segregation: Snippets from Aurangabad, Housing report CPR, https://indiahousingreport.in/outputs/opinion/housing-and-spatial-segregation-snippets-from-aurangabad/, (last accessed on 31 July 2025).

34 *Adukia and others*, Residential Segregation in Urban India (Center for Effective Global Action, 2019), https://cega.berkeley.edu/wp-content/uploads/2020/03/aant-segregation.pdf (last accessed on 31 July 2025).

35 Anshu Saluja, Whose city is it anyway? Place, community and the fractured urban, Contemporary South Asia 32 ((2024), pp. 580-592.

36 *Justice Rajinder Sachar,* The Social, Economic and Educational Status of the Muslim Community of India, Sachar Committee Report, Prime Minister's Office, Government of India, New Delhi 2006.

citing religious preferences in their rejections.[37] Much like rural panchayats, elite Resident Welfare Associations (RWAs) in Indian cities act as urban cartels denying housing to Muslims, whether openly or cloaked in codes like vegetarian only, Jains only or Brahmin only.[38] This explicit discrimination is not limited to outright refusal but extends to more subtle exclusionary tactics like higher security deposits, shorter lease terms, restrictions of religious practices, and invasive monitoring of personal activities. A significant proportion of home seekers from Scheduled Castes and Muslims face discriminatory practices, including direct refusals, subtle denials, and explicitly biased terms and conditions.[39] Empirical studies further substantiate these patterns of exclusion. A study by Thorat et al. in Delhi's NCR found that both Dalits and Muslims face discrimination in the rental housing market, with Muslims experiencing greater bias. Those who manage to secure housing often do so under unfair terms.[40] Such differential terms create a two-tier housing market where Muslims are forced to either accept substandard accommodations or pay a premium for inferior conditions in already segregated neighborhoods. Beyond in-person interactions, digital housing platforms also reflect entrenched biases. An audit of major real estate websites found Muslim applicants received responses from landlords only 22% of the time, compared to 35% for upper-caste Hindus. When both were contacted, landlords typically called upper-caste Hindus sooner.[41] A 2016 study conducted by UNU-WIDER documented substantial discrimination against Muslims in Delhi's rental housing market, demonstrating that Muslim applicants had a significantly lower likelihood of receiving callbacks from landlords compared to upper-caste Hindu applicants.[42] Further evidence from 2019 reports highlighted the pervasive challenges faced by Muslims in securing rental housing in major urban centers such as Delhi and Mumbai. These reports noted that many landlords explicitly refused to rent to Muslim tenants, effectively confining them to segregated neighborhoods.[43]

In numerous Indian cities, areas predominantly inhabited by Muslims are systematically deprived of access to basic civic infrastructure and public services by local municipal

37 *Saugato Datta / Vikram Pathania*, For whom does the phone (not) ring? Discrimination in the rental housing market in Delhi, India, WIDER Working Paper 2016/55. Helsinki: UNU-WIDER (2016), pp. 1-30.

38 *Sushmita Pati*, Properties of rent, New Delhi 2022, p. 122.

39 *Vinod Kumar Mishra*, Caste, Religion and Ethnicity: Role of Social Determinants in Accessing Rental Housing, CASTE: A Global Journal on Social Exclusion 1 (2020), p. 73.

40 *Sukhadeo Thorat / Anuradha Banerjee / Vinod K. Mishra / Firdaus Rizvi*, Urban rental housing market: Caste and religion matters in access, Economic and Political Weekly (2015), pp. 47-53.

41 *Saugato Datta / Vikram Pathania*, Dimensions of Discrimination: Discrimination in Housing, in: Ashwini Deshpande (ed.), Handbook on Economics of Discrimination and Affirmative Action, New Delhi 2023, p. 667.

42 *Ibid.*

43 *Mohsin Alam Bhat,* Bigotry at Home: How Delhi, Mumbai Keep Muslim Tenants Out Article 14. https://www.article-14.com/post/bigotry-at-home-how-delhi-mumbai-keep-muslim-tenants-out (last accessed on 31 July 2025).

authorities and other state institutions. These neighborhoods frequently suffer from inadequate sanitation facilities, irregular or unsafe drinking water supply, poor drainage systems, unpaved roads, and irregular supply of electricity.[44] Throughout this neglect, these areas have earned stigmas like "dirty" and "undesirable", with residents unjustly labeled as "illegal" or "criminal".[45] Over time, this constant vilification and disregard have tied Muslims to violence, crime, and societal decay, further deepening the divide and denying them even the most basic services, like clean water.[46] Consequently, Muslim neighborhoods are widely perceived as squalid, unhygienic, and incongruous within a broader urban landscape that increasingly reflects dominant ideals of civility and public order.[47] Such deficits are not coincidental or marginal; they reflect entrenched patterns of institutional neglect that have come to characterise urban governance concerning minority-dominated areas.[48] This deprivation is often rationalised through technocratic or economic justification, such as land tenure irregularities or lack of formal planning. However, these narratives obscure the underlying political and communal biases that structure urban development. As Rowena Robinson observes, the provision of urban infrastructure and amenities systematically bypasses Muslim localities. Basic facilities such as parks, widened roads, recreational spaces, and modern educational institutions are conspicuously absent from these areas. While these amenities are nominally designed for the general public, their actual spatial distribution reveals a pattern of implicit exclusion.[49]

The selective placement of public goods not only reflects underlying socio-religious biases but also reinforces patterns of marginalisation with long-term consequences for urban equity and inclusion. This pattern cannot be dismissed as bureaucratic oversight or market failure; rather, it reflects a deeper, systemic abdication of state responsibility. The Indian state, through both inaction and discretionary urban planning, has participated in the production of unequal cityscapes where Muslim areas are marked by infrastructural decay and civic invisibility[50]. In her research within the slums of Mumbai, Qudsiya reveals a stark narrative: the margins are not born, they are made. Through calculated spatial violence, the

44 *Anjali Adukia et al.,* Residential segregation and unequal access to local public services in India: Evidence from 1.5 m neighborhoods, Working Paper (2022).

45 *Parvis Ghassem-Fachandi,* Pogrom in Gujarat: Hindu Nationalism and Anti-Muslim Violence in India, New Jersey 2012, pp. 12-20.

46 *Nikhil Anand,* Municipal disconnect: On abject water and its urban infrastructures. Ethnography 13 (2012), pp. 487-509.

47 *Sudipta Kaviraj,* Filth and the Public Sphere: Concepts and Practices about Space in Calcutta, Public Culture 10 (1997), pp. 83-113.

48 *Tommaso Bobbio,* Informality, Temporariness, and the Production of Illegitimate Geographies: The rise of a Muslim sub-city in Ahmedabad, India (1970s–2000s), Modern Asian Studies (2021), pp. 1-34.

49 *Rowena Robinson,* Private Acts and Structural Inequality: Law and Housing Discrimination, Socio-Legal Review 18 (2022), p. 70.

50 *Javeed Alam,* The contemporary Muslim situation in India: A long-term view, in: Gurpreet Mahajan / Surinder S. Jodhka (eds.), Religion, Community and Development, New Delhi 2010, p. 203.

state redraws the city's map to exclude, while the Hindu right weaves cultural populism and communal politics into everyday life, further entrenching divisions.[51] Together, they shape these neighborhoods not just as physical edges of the city, but as lived peripheries, spaces marked by exclusion, insecurity, and contested belonging.[52] The cumulative effect of this denial is to naturalise marginalisation and reproduce spatial inequity as a seemingly apolitical outcome, when in fact it is the result of deeply political and discriminatory choices embedded within the machinery of the state.

Real estate agents further institutionalize this exclusionary practice through "steering" methods that direct Muslim buyers and renters away from certain areas, ostensibly to maintain neighborhood harmony. These agents, through informal networks, determine which areas are "suitable" for Muslim clients, effectively confining them to specific parts of the city.[53] This not only restricts access to quality housing but also reinforces patterns of spatial segregation, entrenching marginalization. Additionally, neighborhood resistance compounds these barriers, as local residents mobilize against the settlement of Muslim families. Residents' associations and neighborhood committees often discourage landlords from renting or selling properties to Muslims, creating informal social barriers that prevent integration.[54] Ghazala Jamil observes that housing segregation rooted in identity is not merely a reflection of social prejudice, it carries tangible, material consequences.[55] Property owners, driven by the desire to protect and grow their investments, often perceive the presence of Muslims in a neighborhood as a threat to property values. This perception is not just about personal prejudice it reflects how economic value is socially constructed and racialized within the housing market. Discrimination becomes a market logic, where exclusion is justified through financial reasoning, and neighborhoods are "curated" to maintain a certain kind of social and economic capital. The political economy of urban real estate thus facilitates and legitimises exclusionary practices, where private property interests align with, and indeed reinforce, systemic marginalisation. In their eyes, it "pollutes" the social fabric, dragging down real estate prices. As a result, Muslims find themselves barred from entering certain Hindu-majority localities striving to preserve their exclusivity or confined

51 *Qudsiya Contractor,* Remaking the 'mohalla': Muslim basti-dwellers and Entrepreneurial Urbanism in Mumbai., in: Kanekanti Chandrashekar Smitha (ed.), Entrepreneurial Urbanism in India: The Politics of Spatial Restructuring and Local Contestation, Singapore 2016, p. 137.

52 *Qudsiya Contractor,* Unwanted in My City – The Making of a Muslim Slum in Mumbai, in: Laurent Guyer / Christophe Jaffrelot (eds.), Muslims in Indian Cities: Trajectories of Marginalisation, New York 2011, p. 23.

53 *Zvi Weinstein*, Public Housing Policy among Project Renewal Neighborhoods in Israel, Journal of Welfare and Social Security Studies 94 (2014), pp. 45-80.

54 *Taran N Khan,* No Muslims, no single people: Anyone who rents in Mumbai has to follow an unspoken code of conduct, Scroll.in, 25 May 2016, https://scroll.in/article/808343/why-anyone-who-rents-in-mumbai-has-to-follow-an-unspoken-code-of-conduct (last accessed on 31 July 2025).

55 *Ghazala Jamil,* Accumulation by Segregation: Muslim Localities in Delhi, New Delhi 2017, p. 354.

to areas where their presence is tolerated but visibly marginalized, excluded by both market forces and social boundaries.[56]

II. Systematic Home Demolitions and Urban Dispossession

The most extreme form of social violence, however, is the destruction of property, or "domicide". This term, coined by Canadian geographer, J. Douglas Porteous, refers to the targeted destruction of homes against the will of its owners, often by means of expropriation, but not limited to it.[57] In India Domicide has encompassed not only homes but also businesses as a means of erasing Muslim presence from contested spaces. The systematic destruction of Muslim-owned property during communal violence is not random but follows a discernible pattern, as seen during the 2020 Northeast Delhi riots. Muslim properties were deliberately targeted, while those owned by non-Muslims were left largely unscathed.[58] The large-scale violence included systematic desecration, arson, and looting of Muslim religious sites and properties.[59] In recent years, "bulldozer justice" has increasingly targeted Muslim communities, with homes razed not through court orders but based on accusations, suspicions, or participation in protests.[60] Rather than adhering to established legal procedures such as issuing show-cause notices, providing an opportunity for a fair hearing, or obtaining prior judicial authorization state authorities have increasingly undertaken demolitions on the basis of unsubstantiated allegations, including alleged involvement in communal violence or participation in public protests. This pattern of executive overreach must be situated within a broader context of democratic backsliding. Since assuming power, the Bharatiya Janata Party (BJP)-led government has, as Khaitan argues, systematically and incrementally eroded institutional checks on executive authority, thereby weakening constitutional accountability mechanisms.[61] Empirical evidence underscores this concern: between April and June 2022, administrative authorities in four BJP-ruled states and one governed by the Aam Aadmi Party demolished at least 128 structures predominantly owned by Muslims.[62] These practices raise urgent legal and ethical questions regarding

56 *Ghazala Jamil,* The Capitalist Logic of Spatial Segregation: A Study of Muslims in Delhi, Economic and Political Weekly 49 (2014), pp. 52-58.

57 *J. Douglas Porteous / Sandra E. Smith*, Domicide: The global destruction of home, Montreal 2001, p. 12.

58 *Amnesty International,* Unearthing Accountability JCB's Role and Responsibility in Bulldozers Injustice in India.

59 *Saeed Ahmad,* Muslim pasts and presents: Displacement and city-making in a Delhi neighbourhood, Modern Asian Studies 56 (2022), pp. 1872-1900.

60 *Ananya Sharma,* Of Rubble, Ruins, and Bulldozers: Punitive Populism, Popular Culture, and the Indian Case, Global Studies Quarterly 5 (2025), p. 2.

61 *Tarunabh Khaitan*, Killing a constitution with a thousand cuts: Executive aggrandizement and party-state fusion in India, Law & Ethics of Human Rights 14 (2020), pp. 49-95.

62 *Vineet Bhalla,* Why does 'bulldozer justice' continue in spite of the Supreme Court ruling it illegal in November? Scroll.in, 26 March 2025, https://scroll.in/article/1080661/why-does-bulldozer-just

collective punishment, selective enforcement, and the normalization of extra-legal state action. These demolitions are frequently justified on planning grounds yet rarely target the majority community in similar circumstances.[63] What masquerades as law enforcement is, in reality, an extension of collective punishment and spatial control.[64] Their homes are demolished with judicial indifference, and they remain frequent victims of communal violence, from Ahmedabad to Assam. But the deeper violence lies in the aftermath: the steady ghettoisation not simply from riots, but from a system where law is drained of justice and bloated with political intent. It is shaped by a bureaucratic coldness on one side and inflammatory legal signals on the other a quiet architecture of exclusion built through the very instruments meant to protect.[65]

This landscape of exclusion is shaped not just by violence or planning policy, but by the state's deep complicity. During the Emergency, slum clearance projects disproportionately targeted Muslim areas.[66] The demolition at Turkman Gate in Delhi, which killed over a thousand Muslims and displaced thousands more, was framed as urban development.[67] Similarly, in 2004, over 300,000 mostly Muslim residents were evicted from Yamuna Pushta ahead of the Commonwealth Games, again under the pretext of beautification. In these instances, the rhetoric of modernization masked a violent remapping of the city, one that systematically erased vulnerable communities from central spaces.

C. Legal Violence and Socio-Spatial Segregation: The Marginalization of Muslims in Indian Megacities

India's megacities, despite their celebrated diversity, exhibit profound socio-spatial segregation that systematically marginalizes Muslim communities through legal violence, the deployment of ostensibly neutral laws as instruments of exclusion and displacement. This marginalization transcends economic inequality, manifested through deliberate legal architectures that weaponize constitutional provisions, planning regulations, and administrative procedures to entrench religious segregation. While scholarly attention has predominantly focused on caste-based spatial exclusion, the religious dimension of urban marginalization,

ice-continue-in-spite-of-the-supreme-court-ruling-it-illegal-in-november (last accessed on 31 July 2025).

63 *M. Mohsin Alam Bhat,* The Irregular and the Unmaking of Minority Citizenship: The Rules of Law in Majoritarian India, Social & Legal Studies 33 (2024), pp. 690-721.

64 *Sushmita Pati,* Bulldozers in the City Economies of Excess and Repair, Public Culture (2025), p. 218.

65 *Fahad Zuberi / Raphael Susewind,* Totalitarian law and communal ghettoisation: an Arendtian perspective, Social & Legal Studies 33 (2024), p. 745.

66 Commission of Enquiry, also known as the Shah Commission, published three reports on the abuse of authority, excesses and malpractices committed and action taken or purported to be taken in the wake of the Emergency (Shah Commission 1978).

67 *Yasir Hameed,* Master plans and patterns of segregation among muslims in Delhi, Critical Planning 23 (2017), p. 112.

particularly the systematic targeting of Muslims through legal mechanisms, demands critical examination as a form of state-sanctioned violence.

I. Planning as Violence: The Weaponization of Urban Development

Urban planning emerges as a particularly insidious form of legal violence, deploying seemingly technical regulations to achieve exclusionary outcomes. Municipal authorities systematically designate Muslim neighborhoods as "unauthorized" or "high-risk", justifying their exclusion from development initiatives and their targeting for demolition.[68] The Dharavi Redevelopment Project exemplifies this pattern, prioritizing commercial interests while displacing Muslim and Dalit communities to peripheral areas lacking basic infrastructure.[69] This exclusionary logic is not confined to isolated projects but is embedded within everyday planning practices.

The selective implementation of beautification drives, and slum rehabilitation programs reveals the violent potential of planning law.[70] While Muslim settlements face demolition under "illegal encroachment" provisions, similar violations in Hindu-majority areas remain unsanctioned. Such uneven application of the law has broader spatial and communal consequences. This differential enforcement transforms urban planning from a tool of development into an instrument of communal cleansing, systematically erasing Muslim presence from valuable urban real estate. The recent phenomenon of "bulldozer justice", the demolition of Muslim homes and businesses under municipal regulations following communal tensions, represents the apotheosis of planning law as violence.[71] In September 2020, the Delhi Development Authority (DDA) launched a demolition drive in the national capital targeting over 100 homes of poor Muslims on the Yamuna floodplains near Batla House, Jamia Nagar.[72] Citing the National Green Tribunal's ban on riverbank construction, ignoring statutes mandating rehabilitation before eviction.[73] The selective nature of enforcement becomes especially evident in comparison. While poor Muslim communities face swift demolition, structures like the Akshardham Temple and Sri Sri Ravi Shankar's Art of Living Centre also on the floodplains was left untouched, facing only

68 *Bhat*, note 64, p. 704.

69 *Ayesha Mueller-Wolfertshofer,* Does Identity have Space in Dharavi's Redevelopment? Understanding the Interrelation of Hybridity and Identity in the Indian Context, International Journal of Urban and Regional Research (2025), pp. 1323-1340.

70 *Ananya Roy,* Why India cannot plan its cities: Informality, insurgence and the idiom of urbanization, Planning theory 8 (2009), pp. 76-87.

71 *Darshini Mahadevia / Renu Desai*, Everyday violence in urban India: is planning the driver or mitigator?, in: Jennifer Erin Salahub / Markus Gottsbacher / John De Boer / Mayssam D. Zaaroura. (eds.), Reducing urban violence in the Global South, New York 2019, pp. 177-199.

72 *Amir Malik,* This Is Like Killing Us: DDA Demolition Leaves Hundreds of Batla House Slum Dwellers Homeless, The Wire, 5 August 2025, https://thewire.in/rights/batlahouse-slum-demolition-dda-yamuna (last accessed on 31 July 2025).

73 Delhi Laws (Special Provisions) Act, 2006.

fines after prolonged negotiations.[74] This selective enforcement reflects the state's ability to bend legality, revealing a deeply unequal urban governance shaped by religion, class, and political proximity.

II. The Disturbed Areas Act: Institutionalizing Segregation

The Disturbed Areas Act (DAA)[75] in Gujarat represents the clearest manifestation of law as an instrument of segregation. Originally framed as a conflict prevention mechanism, the DAA has evolved into a sophisticated apparatus for blocking Muslim access to Hindu-majority neighborhoods.[76] Through bureaucratic complexity and administrative discretion, the Act transforms property transactions between communities into sites of state surveillance and control.[77]

The DAA's operational logic reveals what Tejani conceptualizes as "saffron geographies" urban spaces that embody Hindutva ideology through systematic exclusion.[78] By requiring official approval for inter-community property transfers, the Act institutionalizes segregation while maintaining the fiction of communal harmony. The consolidation of Muslim ghettos like Juhapura in Ahmedabad represents not policy failure but policy success, the deliberate concentration of Muslims in marginalized spaces subjected to systematic neglect.[79] This legal architecture depicts ethnocratic governance, wherein seemingly neutral administrative procedures serve majoritarian political projects. The DAA's discourse of "disturbance" constructs Muslim presence as inherently destabilizing, justifying perpetual segregation as necessary for public order.[80] This discursive violence through legal categorization of communities as problematic, precedes and enables physical violence, creating conditions where Muslim displacement appears both necessary and legitimate.

74 *Gaurav Vivek Bhatnagar*, National Green Tribunal Holds Art of Living Responsible for Damage to Yamuna Floodplains, The Wire, https://thewire.in/environment/ngt-yamuna-art-of-living (last accessed on 31 July 2025).

75 The full name of statute is 'The Gujarat Prohibition of Transfer of Immovable Property and Provision for Protection of Tenants from Eviction from Premises in Disturbed Areas Act 1991'.

76 *Bushra Saba / Sumana Gupta*, Residential apartheid in India: a matter of people or state? Case of Ahmedabad, Journal of Asian and African Studies (2024), pp. 4079-4099.

77 *Zuberi / Susewind,* note 66, pp. 756-757.

78 *Sheba Tejani,* Saffron geographies of exclusion: the disturbed areas act of Gujarat, Urban Studies 60 (2023), pp. 597-619.

79 *Sazzad Parwez,* An Empirical Inquiry into the Nature of Systematic Discrimination and Trajectory of Increasing Communal Segregation in India, Journal of Underrepresented & Minority Progress 8 (2024), p. 216.

80 *Bushra / Gupta,* note 77, p. 4081.

III. The Lived Experience of Legal Violence

For many urban Muslims in India, legality is not experienced as protection, but as vulnerability, where rights are denied through both active repression and calculated neglect by the Indian state and its institutions. Following the formation of the modern Indian state, properties worth billions belonging to Muslims were seized under the pretext of the Enemy Property Ordinance, later formalized into law as the Enemy Property Act.[81] Municipal bodies routinely deny construction or renovation permits in Muslim neighborhoods, courts fail to address bias, and police often enable communal intimidation. These are not administrative failures, but deliberate silences that legitimize exclusion under the guise of democratic governance.

This violence extends beyond housing. In many cities, Muslims don't get permission for building mosques, and the state usually restricts the construction of mosques or the allocation of burial grounds. Their food practices are criminalized, their clothing stereotyped, and their heritage sites either neglected, seized by the state, or demolished on arbitrary grounds. Even heritage buildings and waqf properties, once seen as repositories of collective memory and identity, have increasingly been seized, repurposed, or left to decay under state custodianship. These processes manifest the erasure of religious and cultural presence through legal and bureaucratic mechanisms that are formally secular yet substantively discriminatory.

Even where attempts are made to integrate Muslim settlements into the legal framework, such as through regularization policies, they often offer only partial recognition. While some informal neighborhoods receive basic services or limited tenure security, these measures seldom translate into full legal incorporation. Many residents remain vulnerable due to technical violations tied to outdated or exclusionary master plans. In areas like Jamia Nagar, ownership is often mediated through Power of Attorney arrangements, which were rendered legally invalid by a 2011 Supreme Court ruling.[82] This decision not only delegitimized these arrangements but further entrenched the legal precarity of entire communities. Many residents, especially in informal settlements or disputed properties, depended on PoA to establish ownership or conduct transactions an arrangement that, although legally questionable, provided a pragmatic means for residents to secure rights or manage property. The Court's decision rendered these arrangements legally invalid, stripping residents of their acknowledged legal standing and rendering their property rights vulnerable to dispute or eviction. This judicial action deepened legal precarity because it increased residents' exposure to arbitrary eviction, loss of property, or lack of formal tenure security without providing clear, accessible, and equitable legal alternatives. It essentially eliminated a practical avenue through which marginalized communities could assert and protect their

81 *Sanober Umar,* Constructing the Citizen Enemy-The Impact of the Enemy Property Act of 1968 on India's Muslims, Journal of Muslim Minority Affairs 39 (2019), pp. 457-477.

82 Suraj Lamp & Industries Pvt. Ltd. v. State of Haryana, AIR 2012 Supreme Court 206.

property rights, leaving them in a state of legal limbo. This accumulation of legal precarity then contributes to the systemic devaluation of these areas.

IV. Territorial Stigmatization and Legal Abandonment

The spatial concentration of Muslim communities within segregated urban enclaves facilitates a form of structural harm that sociologist Loïc Wacquant identifies as "territorial stigmatization", the systematic devaluation of geographic areas associated with marginalized populations.[83] Within the legal and administrative imaginaries of the state, such neighborhoods are frequently constructed as zones of deviance or disorder, thereby justifying heightened surveillance, discriminatory resource allocation, and exclusionary planning practices. Consequently, this process effectively translates socio-spatial segregation into a legally and institutionally reinforced stigma, wherein residence in a particular area becomes a proxy for risk, illegitimacy, or criminality, often with profound consequences for the constitutional rights of those who inhabit it. These areas, designated as "disturbed" or "high-risk", become subjects of legal abandonment, excluded from development initiatives, and subjected to punitive policing. The state's withdrawal of services and investment from Muslim neighborhoods constitutes a form of slow violence, gradually degrading living conditions while maintaining the fiction of neutral governance.

This spatial stigmatization creates self-reinforcing cycles of exclusion. As Muslim neighborhoods deteriorate due to systematic neglect, they become easier targets for further marginalization.[84] Compounding this physical degradation, the normalization and perpetuation of spatial segregation are profoundly influenced by discursive practices. Property values decline, making these areas even less desirable to non-Muslims, while justifying continued exclusion from development programs. The legal framework thus produces the very conditions it claims to address, creating "problem" spaces that require continued intervention and control. Legal responses to this spatial injustice have been largely absent or ineffective.

The normalization and perpetuation of spatial segregation are profoundly influenced by discursive practices that justify and narrate the exclusion of Muslim communities. Public discourse, media representations, and political rhetoric often construct Muslim neighborhoods as sites of insecurity, disorder, or moral decline, thereby framing segregation not merely as a material outcome but as a justified response to perceived threats. Such narratives are imbued with symbolic elements religious and cultural markers that serve to stigmatize Muslim localities further.[85] The affective dimension, involving fear, and

83 *Loïc Wacquant,* Territorial stigmatization in the age of advanced marginality, Thesis eleven 91 (2007), pp. 66-77.

84 *Anasua Chatterjee,* Margins of citizenship: Muslim experiences in urban India, New Delhi 2017, p. 10.

85 *Syed Abid Ali Bukhar / Nadia Saleem / Waqar Ahmad,* Islam and Muslims in the Indian Press: A Content Analysis, Pakistan JL Analysis & Wisdom 3 (2024), p. 109.

suspicion, plays a crucial role in reinforcing these narratives, translating social prejudice into spatialized practices of exclusion. By framing Muslim neighborhoods as clusters of risk, these discourses normalize their marginalization, making segregation appear as a rational or necessary measure under the guise of security and public order.[86] Recognizing this discursive dimension is essential to understanding the deep embedment of exclusionary practices within societal narratives that sustain legal and material inequalities.

The securitisation of urban space has resulted in intensified surveillance and policing of Muslim-majority neighbourhoods, which are routinely pathologized as zones of disorder by state authorities. These neighborhoods, often reductively labelled as 'mini-Pakistan', are transformed into internal borderlands, evoking imaginaries of national alterity within the territorial core of the Indian state.[87] This spatialised anxiety finds sharp expression in the discourse of Hindutva, where Muslim visibility both corporeal and architectural is framed as an existential threat. As Grant observes, the very presence of Muslim bodies and buildings becomes "threatening".[88] Muslims of Bengali origin in Indian cities are subjected to surveillance, dehumanization, and detention, with their citizenship constantly questioned and dignity denied.[89] They face institutional stigma rooted in colonial-era laws, enforced through policing, monitoring, and identity verification.[90] Complementing this securitised framing, Chatterjee illustrates how in Kolkata, Muslim-dominated areas are discursively cast as culturally deviant, inhabited by residents presumed to lack the civility and modern sensibilities associated with cosmopolitan urban life.[91] These interlocking narratives of suspicion and inferiority are not incidental;[92] they are central to the processes by which Muslims are excluded from broader access to the urban commons. This legal violence is not aberrant but structural, embedded in the very architecture of Indian urban governance.

D. Private Discrimination, Public Silence: The Legal Void in Housing Rights

The Indian Constitution's promise of equality before the law (Article 14) and protection against discrimination (Article 15) confronts a fundamental doctrinal limitation: its inability

86 *Zainab Farhat,* Spatial Segregation and Muslims in India: A Review. Journal of Muslim Minority Affairs 43 (2023), p. 60.

87 *Deepak Mehta,* Collective violence public spaces and the unmaking of men, Men and Masculinities 9 (2006), p. 204.

88 *Will J. Grant,* The Space of The Nation: An Examination of the Spatial Productions of Hindu Nationalism, Nationalism and Ethnic Politics 11 (2005), p. 339.

89 *Salah Punathil*, Precarious citizenship: detection, detention and 'deportability' in India, Citizenship Studies 26 (2022), p. 55.

90 *Sanjeev Routray,* The Postcolonial City and its Displaced Poor: Rethinking 'Political Society' in Delhi, International Journal of Urban and Regional Research 38 (2014), p. 2292.

91 *Anasua Chatterjee,* Narratives of Exclusion: Space, Insecurity and Identity in a Muslim Neighbourhood, Economic and Political Weekly 50 (2005), p. 92.

92 *Burhan Majid*, The Suspect Muslim and the grammar of epistemic violence, Economic and Political Weekly 61 (2026), p. 12.

to address horizontal discrimination, exclusionary practices by private actors that systematically marginalize religious minorities in urban housing markets. This doctrinal shortcoming highlights a broader issue where state neutrality inadvertently enables discrimination by private entities. This constitutional silence on private discrimination creates what Sandra Fredman identifies as a "regulatory gap" where state neutrality operates as complicity in systematic exclusion.[93] For Muslims in contemporary Indian cities, this gap manifests as routine denial of housing access by landlords, cooperative societies, and developers practices that remain legally permissible despite their discriminatory impact.

I. The Legal Gap and the Impact of Horizontal Discrimination in Housing

The theoretical foundations of anti-discrimination law distinguish between vertical discrimination (state action against individuals) and horizontal discrimination (private party exclusion). While classical liberal theory prioritizes negative rights against state interference, critical race theorists like Patricia Williams[94] argue that this formulation obscures how private discrimination can be as systematically exclusionary as state action. The Supreme Court's jurisprudence on equality rights consistently maintains that fundamental rights operate exclusively against state action. In *Pradeep Kumar Biswas v. Indian Institute of Chemical Biology*[95] the Court reaffirmed that "fundamental rights are primarily rights against the state and not against private individuals." This doctrinal position, while protecting individual autonomy and contractual freedom, creates systematic blind spots where private discrimination operates beyond constitutional reach. Nowhere are these doctrinal blind spots more evident than in urban housing markets, where private decision-making effectively governs access to citizenship-defining resources. In housing markets, where access to shelter constitutes a fundamental aspect of citizenship, private discrimination assumes quasi-governmental effects in determining who can participate in urban life.

The Supreme Court's decision in *Zoroastrian Cooperative Housing Society Ltd. v. District Registrar, Cooperative Societies*[96] crystallizes the judiciary's approach to religious exclusion in private housing. The case arose when a Parsi member sought to sell his apartment to a non-Parsi, which the society claimed violated its bye-laws. The same clause was struck down by the Bombay High Court and upheld by the Supreme Court of India. The apex Court ruled in favor of the society, holding that the member could not sell the apartment to a non-Parsi. The Court's validation of religiously restrictive membership clauses prioritized associational autonomy under Article 19(1)(c) over equality concerns. The judgment's reasoning reveals several problematic assumptions. Firstly, the

93 *Sandra Fredman,* Substantive equality revisited, International Journal of Constitutional Law 14 (2016), p. 712.

94 *Patricia J. Williams,* The alchemy of race and rights, Massachusetts 1991, p. 150.

95 2002 5 SCC 111.

96 2005 5 SCC 632.

Court treated religious exclusion as analogous to other forms of voluntary association, ignoring housing's fundamental character as a basic necessity rather than a recreational activity. Secondly, the decision failed to consider the cumulative impact of multiple exclusionary societies on minority access to housing. Housing, as an essential human right, is a key determinant in the broader landscape of inequality, influencing access to education, healthcare, employment, and political participation thus reshaping social and political rights. As Kimberle Crenshaw argues in her theory of intersectionality, social exclusion operates across multiple axes such as race, class, and religion shaping individuals lived experiences in complex and compounded ways.[97] By treating exclusionary practices in housing as an issue of voluntary association, the Court failed to account for how religious identity, combined with other socio-economic factors, exacerbates the marginalization of minority communities, particularly Muslims. The Court's formalistic approach to freedom of association obscured the deeper issue of substantive inequality resulting from systematic religious exclusion.[98]

Most significantly, the *Zoroastrian Cooperative* precedent established a "discrimination privilege", the legal right to exclude based on religious identity when exercised through private associational forms. This privilege operates asymmetrically, benefiting dominant communities who can afford exclusive housing while constraining minorities to segregated enclaves with inferior amenities and services. The precedent thus legitimizes what amounts to residential apartheid, where religious identity determines access to urban space and resources.

II. Global Approaches and the Case for Legislative Change

International experience demonstrates alternative approaches to horizontal discrimination that extend beyond India's restrictive state action doctrine. The United States Fair Housing Act (1968) explicitly prohibits discrimination by private landlords, real estate agents, and housing developers, creating comprehensive protection against exclusionary practices. Similarly, the United Kingdom's Equality Act 2010 applies anti-discrimination principles to both public and private housing provision. The South African constitution's horizontal application clause (Section 8(2)) provides a particularly relevant model, requiring courts to develop common law consistently with constitutional values even in private relationships. This approach enables judicial intervention against systematic private discrimination while preserving contractual autonomy in genuinely private arrangements.[99] These comparative

97 *Kimberle Crenshaw,* Mapping the Margins: Intersectionality Identity Politics, and Violence Against Women of Color, Stanford Law Review 43 (1991), p. 1241.

98 *Gautam Bhatia,* Freedom from community: Individual rights, group life, state authority and religious freedom under the Indian Constitution, Global Constitutionalism 5 (2016), p. 351.

99 *Edgar Pieterse,* On a relational model of urban politics, Urban Africa: Changing contours of survival in the city (2005), p. 138.

models suggest that India's reliance on constitutional adjudication alone is insufficient to address systematic horizontal discrimination.

The absence of comprehensive anti-discrimination legislation in housing reflects broader politico-economic dynamics that benefit dominant communities. As Corbridge et al. argue, India's liberalization process has strengthened private property rights while weakening redistributive mechanisms, creating conditions where market-based exclusion operates with minimal state intervention.[100] By treating private discrimination as beyond legal concern, the state maintains plausible deniability while enabling exclusionary practices that serve majoritarian political projects. This silence is particularly pronounced regarding Muslim exclusion, where Islamophobic discrimination intersects with broader securitization discourses.

In Indian cities, the combination of private discrimination and legal silence creates zones of exclusion where Muslims experience diminished citizenship despite formal constitutional equality. The concentration of Muslims in segregated areas is more like a "regulatory abandonment", the state's withdrawal of services and protections from stigmatized areas. These neighborhoods face inferior infrastructure, inadequate policing, and exclusion from development initiatives, creating conditions where legal rights become practically meaningless.[101]

The persistence of horizontal discrimination challenges fundamental assumptions about constitutional equality in diverse societies. The Indian Constitution's emphasis on individual rights obscures how group-based discrimination operates through apparently neutral market mechanisms. The neglect of horizontal discrimination exposes a deeper constitutional failure and inability of legal frameworks to recognize and address the ways in which private power can systematically erode foundational constitutional principles. This shortcoming underscores the need to reconceptualize the notion of equality in a manner that extends beyond the traditional state action paradigm, recognizing that constitutional values can be equally threatened by non-state actors.

The legal void surrounding horizontal discrimination in housing represents more than doctrinal oversight. It constitutes a structural choice that privileges private autonomy over inclusive citizenship. As India's cities become increasingly segregated along religious lines, the absence of anti-discrimination legislation assumes the character of policy through omission, enabling systematic exclusion while maintaining the fiction of constitutional equality. Addressing this void requires comprehensive legislative intervention modeled on international best practices, extending equality principles to private housing provision while preserving legitimate associational autonomy.

100 *Stuart Corbridge / Glyn Williams / Manoj Srivastava / René Véron,* Seeing the state: Governance and governmentality in India, New York 2005, p. 159.

101 *Nabeela Ahmed*, Infrastructure as territorial stigma: labour migrant exclusions in the Indian city, International Journal of Urban and Regional Research 49 (2025), pp. 498-513.

E. Toward Substantive Equality: Legal and Institutional Reforms for Housing Justice

Despite the formal guarantees of equality enshrined in the Indian Constitution, the country's housing landscape continues to operate in a legal and regulatory vacuum, in which discrimination often conceals itself behind the façade of neutrality. The exclusion of religious minorities, particularly Muslims, from equitable access to housing is not merely incidental; rather, it is symptomatic of a broader spatial and legal architecture that normalizes and entrenches systemic disadvantage. The exclusion of religious minorities from equitable housing access in India is rooted in what Peter Marcuse terms the "layered city", a spatial configuration that reflects and reinforces systemic power hierarchies.[102] Planning systems, regulatory omissions, and enforcement failures contribute to this dynamic, where seemingly neutral policies systematically disadvantage marginalized communities.

Comparative constitutional and planning frameworks from other jurisdictions offer instructive lessons. Post-apartheid South Africa's Spatial Planning and Land Use Management Act (SPLUMA) embeds principles of redress directly into planning law, mandating that decision-makers assess the spatial implications of their policies.[103] Similarly, the United States' "Affirmatively Furthering Fair Housing" (AFFH) doctrine extends beyond prohibiting discrimination by requiring active steps toward racial and economic integration.[104] The German concept of *Drittwirkung* (third-party effect)[105] and South Africa's horizontal application of constitutional rights provide alternative models for extending constitutional protections to private relationships.[106] These examples illustrate how planning law can shift from ostensible neutrality to an inclusive model of governance where inclusion, equity, and spatial justice are central to urban governance. India, by contrast, still treats housing discrimination as either an aberration or a private matter.

A key step lies in explicitly recognizing religious identity, particularly Muslim identity, as a protected category in housing rights law. Just as caste, gender, and disability have found place in anti-discrimination jurisprudence, so too must religion, without reverting to a reservation model. Yet India's legal framework remains underprepared. The Constitution provides sweeping declarations of equality through Articles 14, 15, and 21, but these principles rarely penetrate the private domain of housing transactions. The U.S. Fair Housing Act of 1968 offers a compelling model. Its genius lies not only in prohibiting discrimination but in recognizing its structural forms, particularly through the "disparate

102 *Peter Marcuse,* From critical urban theory to the right to the city, City 13 (2009), pp. 185-197.

103 *Stephen Berrisford,* Why it is difficult to change urban planning laws in African countries, Urban Forum 22 (2011), pp. 209-228.

104 *Robert G. Schwemm*, Source-of-income discrimination and the fair housing Act, Case Western Reserve University Law Review 70 (2019), p. 573.

105 *Eric Engle,* Third party effect of fundamental rights, (Drittwirkung). Hanse Law Review 5 (2009), p. 165.

106 *Deeksha Bhana,* The horizontal application of the Bill of Rights: A reconciliation of sections 8 and 39 of the Constitution, South African Journal on Human Rights 29 (2013), pp. 351-375.

impact" doctrine, upheld in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*.[107] This legal tool acknowledges that even facially neutral policies can produce deeply unequal outcomes, a recognition sorely missing from Indian jurisprudence[108]. Ultimately, India's urban future hinges on a simple but radical shift: from formal equality to substantive justice. If we continue to treat private discrimination and institutional exclusion as invisible, we risk reinforcing what Lipsitz termed a "possessive investment in whiteness"[109]. In the Indian context, the metaphor may be reimagined as an investment in upper-caste, majority-dominated spatial privilege. In doing so, we betray the egalitarian vision of social citizenship, where access to basic goods like housing is not a market favor, but a democratic right. What is needed now is a commitment to spatial justice a recognition, as Edward Soja argues, that geography is never neutral.[110] In other words, where one lives determines what one can access, how one is seen, and what one can become. Housing justice in India will not be achieved through piecemeal fixes. It demands legal recognition, institutional reform, and political will all aimed at reimagining the city as a site of inclusion, rather than exclusion.

F. Conclusion

The legal and spatial marginalization of Muslim communities in India's megacities is neither incidental nor anomalous, but rather a product of deeply embedded structures of legal violence and institutionalized exclusion. This inquiry has illuminated the pervasive role of legal violence and institutionalized discrimination in configuring the socio-spatial realities of Muslim communities residing in India's megacities. The sustained marginalization of these communities, evident in exclusionary housing practices, prejudiced modalities of urban planning, and episodic eruptions of communal violence, demonstrates that legal regimes frequently operate not as guarantors of inclusion but rather as instruments of exclusion.

Constitutional promises of equality, while rhetorically robust, are often rendered ineffectual by structural silences and weak enforcement mechanisms. These systemic deficiencies facilitate the reproduction of spatial segregation and deepen patterns of socio-economic inequality. In this context, law is not merely complicit but actively implicated in the production and perpetuation of urban marginality. Redressing these entrenched forms of exclusion demands a fundamental reorientation from a formalistic conception of equality towards a more substantive vision of justice. Such a shift necessitates the recognition of

107 576 U.S. 519 (2015).

108 *Kate Gehling,* The Fair Housing Act after the Inclusive Communities: Why One-Time Land-Use Decisions Can Still Establish a Disparate Impact, University of Chicago Law Review 90 (2023), p. 1471.

109 *George Lipsitz*, The possessive investment in whiteness: Racialized social democracy and the "white" problem in American studies, American Quarterly 47 (1995), pp. 369-387.

110 *Edward Soja,* Spatializing the urban, Part I. City 14 (2010), pp. 629-635.

religious identity as a legally protected category, the incorporation of anti-discrimination norms with a focus on disparate impact, and the recalibration of urban policy frameworks to prioritize equity over aesthetics.

Urban governance must eschew technocratic, depoliticized interventions in favor of participatory, justice-oriented approaches that foreground the lived experiences of marginalized groups. Planning and policy must be consciously restructured to dismantle the spatialized inequalities that have long defined the urban condition for minority communities.

Ultimately, any meaningful pursuit of social equity within India's urban milieu must adopt an intersectional lens that interrogates and disrupts both the juridical and sociopolitical architectures of exclusion. Only through such a comprehensive and critical undertaking can the constitutional ethos of equality be actualized, enabling the emergence of cities that are not only more just but also authentically inclusive spaces in which all communities may flourish with dignity and security. Until the law ceases to function as a silent architect of exclusion, efforts toward urban justice will remain incomplete, and the promise of democratic equality will continue to elude the most vulnerable.