



SC Calls for Uniform Demolition Guidelines

For Prelims: [Supreme Court](#), [Retributive Justice](#), [Article 300A](#), [Article 21](#), [Geneva Convention](#), [rule of law](#).

For Mains: Judiciary, Rule of Law, Demolition Drive and Rule of Law, Law Against Demolition Drives, Judgements & Cases.

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Why in News?

The [Supreme Court \(SC\) of India](#) recently announced its intention to issue nationwide guidelines to **regulate property demolitions**, a move spurred by increasing concerns over the **practice of "bulldozer justice."**

- The SC's intervention highlights a growing need for standardised due process to prevent arbitrary and potentially unjust demolitions.

Note: Bulldozer justice, a term refers to the practice of demolishing properties, often belonging to those accused of crimes, sometimes without following proper legal procedures.

Why is the Supreme Court Addressing Property Demolitions?

- **Context of the Move:** The SC's decision comes amid widespread reports of property demolitions being used as a **form of [punitive justice \(also known as Retributive Justice\)](#)**.
- Local state governments have increasingly resorted to **bulldozers to demolish properties of those accused of crimes**, often bypassing established legal procedures.
- **Supreme Court's Response:** The SC emphasised that demolishing property solely based on accusations or convictions **violates principles of [due process and natural justice](#)**. This practice has raised concerns about its legality and fairness.
 - The SC criticised the practice of demolishing properties without proper legal procedures. They stressed that **even a conviction does not justify demolition without adherence to legal norms**.
 - The SC pointed out that **guidelines are needed to ensure demolitions are carried out fairly and consistently across all states**, especially in cases involving unauthorised constructions.

How will the Guidelines Affect Demolition Practices?

- **Pan-India Guidelines:** The SC plans to establish broad guidelines applicable nationwide to ensure that demolitions are conducted in accordance with legal procedures.
 - These guidelines will cover aspects such as notice periods, opportunities for legal

responses, and documentation requirements.

- **Addressing Arbitrary Actions:** The guidelines aim to prevent arbitrary demolitions that could be **motivated by extrajudicial reasons**. By standardising procedures, the SC hopes to curb the misuse of demolition practices.
- **Impact on Legal Framework:** The SC's proposed guidelines could serve as a crucial **check against the trend of "bulldozer justice."**
 - They are expected to provide a **uniform legal framework for property demolitions**, ensuring adherence to due process.

What are the Concerns Regarding Demolition Drives?

- **Constitutional:**
 - **Article 300A of the Indian Constitution:** Guarantees that [no person shall be deprived of their property](#) except by law. This provision emphasises that property can only be taken away following due process and under valid laws.
 - **Article 21 of the Constitution:** Guarantees that [no person shall be deprived of life or personal liberty](#) except according to a procedure established by law.
 - **Immediate demolitions** without due process **violate the right to a dignified life** and personal liberty.
 - **Article 14 (Equality Before Law):** Demolitions that disproportionately affect certain communities (like slum dwellers) can be challenged as discriminatory.
 - **Article 19 (Freedom of Speech and Expression):** Punitive demolitions targeting those **expressing dissent or criticism** can be seen as infringing on [free speech rights](#).
 - **Rule of Law:** A fundamental principle of the Constitution, which mandates that **actions of the state must comply with established legal procedures** and respect for individual rights.
 - The misuse of legal instruments for **suppression and control, rather than justice**, undermines the [rule of law](#). The administrative practice of demolishing properties without due process reflects this antithesis, warranting judicial scrutiny and intervention.
- **Geneva Convention and International Obligations:** **Article 87(3) of the Geneva Convention prohibits collective punishments**. Such demolitions also violate [Article 51\(3\) of the Indian Constitution](#), which mandates that India must respect international treaties and laws.
 - The Indian Constitution, much like any civilized society, **does not recognize the concept of collective punishment**.
 - Taking punitive **actions against the family members of an accused**, by demolishing their homes, **does not align with the rule of law**. The state cannot **retaliate by committing another offense** under the guise of justice.
- **Irreversible Damage:** The **emotional and financial toll** of home demolitions is significant. Innocent family members who had no role in the alleged crimes suffer unnecessarily.
- **Targeting Marginalised Communities:** The practice disproportionately impacts minority and marginalized communities, perpetuating social divisions and existing inequalities.
 - Victims of bulldozer justice are **often left without resettlement options or compensation**, exacerbating their suffering and marginalisation.
- **Erosion of Trust:** The practice **undermines public trust in political and legal institutions** by bypassing established legal procedures.

What are the Other Judicial Pronouncements Related to Property Demolitions?

- **Maneka Gandhi vs. Union of India Case, 1978:** The Supreme Court held that the phrase used in Article 21 is "**procedure established by law**" instead of "**due process of law**," which means the procedures must be free from arbitrariness and irrationality, and should be just, fair, and non-arbitrary.
 - Therefore, demolitions based on suspicion or unfounded allegations contradict the principles of justice, fairness, and non-arbitrariness.
- **Olga Tellis vs. Bombay Municipal Corporation Case, 1985:** The Supreme Court affirmed that Article 21 of the Constitution, which guarantees the **right to life, includes the right to livelihood and shelter**. Thus, demolishing homes without due process infringes on constitutional rights.

- **K.T. Plantation (P) Ltd. V. State of Karnataka Case, 2011:** Supreme Court ruled that the legislation providing for deprivation of property under **Article 300-A** must be just, fair, and reasonable.

What are the Guidelines for Demolitions Under Local Laws?

- **Rajasthan:** Demolitions in Rajasthan are regulated under the Rajasthan Municipalities Act, 2009, and the Rajasthan Forest Act, 1953.
 - **Due Process Requirements:** Requires notice to be served to the alleged offender and provides an opportunity to make a written representation before property confiscation.
 - Specifies that **only a Tehsildar can order eviction of trespassers**, ensuring a formal process before property seizure.
- **Madhya Pradesh:** Governed by the Madhya Pradesh Municipalities Act, 1961.
 - **Due Process Requirements:** Allows demolition of buildings constructed without permission but mandates prior notice to the owner to show cause before any demolition action.
- **Uttar Pradesh:** Under the Uttar Pradesh Urban Planning and Development Act, 1973.
 - **Due Process Requirements:** Requires a notice to be issued to the property owner with a period of 15 to 40 days to respond before demolition. The owner has the right to appeal the order.
- **Delhi:** Regulated by the Delhi Municipal Corporation Act, 1957 (DMC Act).
 - **Due Process Requirements:** Allow removal of unauthorized structures without prior notice under certain conditions.
 - It also **mandates a reasonable opportunity for the owner to contest the demolition order** and provides an appeal mechanism before the Appellate Tribunal.
- **Haryana:** Governed by the Haryana Municipal Corporation Act, 1994.
 - **Due Process Requirements:** Similar to the DMC Act but provides a shorter period (three days) for initiating demolition. It also requires a reasonable opportunity for the owner to argue against the order.

Way Forward

- **Reinforce the Rule of Law:** All state actions must strictly adhere to the law. Arbitrary demolitions driven by emotions or politics undermine the legal system and rights. Justice requires fair trials, due process, and established legal procedures, not swift retribution.
 - State actions must **target individual wrongdoers, not entire families** or communities. The legal system must separate criminal justice from collective punishment and uphold the presumption of innocence.
- **Strengthening Judicial Oversight:** Establish specialised tribunals or courts to handle disputes related to property demolitions. These **tribunals should have the power** to review government decisions, **grant injunctions, and award appropriate remedies**.
- **Review of Existing Laws:** Conduct a comprehensive review of existing laws and regulations related to **property rights, urban planning, and land acquisition** to identify any inconsistencies or ambiguities.
 - There is a **need for clear, national guidelines to regulate demolitions**, ensuring proper notice, hearings, and opportunities for appeal.
- **Alternative Dispute Resolution:** Promote the use of **alternative dispute resolution mechanisms**, such as mediation and arbitration, to resolve disputes related to property rights and demolitions.
- **Rehabilitation:** Develop comprehensive **rehabilitation plans for individuals affected** by demolitions, including provisions for alternative housing, livelihood support, and mental health services.

Drishti Mains Question:

Q. Discuss the challenges posed by arbitrary property demolitions in India and the role of the judiciary in regulating property demolitions.

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