

Bulldozer Justice

Why in News?

Recently, the Supreme Court of India has invited suggestions from the parties concerned to frame appropriate pan-India guidelines on extra-legal demolitions.

What is bulldozer justice?

- It refers to extra-legal demolition of properties of individuals accused of crimes, often targeting their families too and executed via bulldozers.
- **Causes** - Large-scale demolition drives are executed as a means of collective punishment for rioters.
- **Extra-legal demolishment** - The bulldozer action that had started in Delhi's Jahangirpuri in 2022 has now spilled over to different parts of the country.
- The violence that ensued in Nuh, Haryana in 2023, due to a clash between two religious groups, ended with the local administration demolishing a number of homes in the neighbourhood.
- Communal riots in Madhya Pradesh's Khargone also resulted in the demolition of houses and businesses owned by Muslims who were deemed to be 'alleged rioters'.
- **Issues** - In each of these cases, the demolition is justified under municipal laws either on account of
 - Action against encroachment or
 - Under the pretext of unauthorised construction

The due process envisaged under judgments of the Supreme Court and High Courts like Sudama Singh & Ors. vs Government of Delhi and Ajay Maken & Ors vs Union of India are completely bypassed in bulldozer justice.

Legal Conditions for Demolition of Constructions

- It is on the basis of municipal laws of the state governments like
 - Delhi Municipal Corporation Act
 - Mumbai Municipal Corporation Act
- **Unauthorised constructions**- Structures that have been built without proper permits or in violation of municipal regulations.
- **Encroachments on public land**- Properties that encroach upon public roads or other public spaces.
- **Violation of building codes**- Structures that do not comply with prescribed building codes or safety regulations can be demolished.
- **Violation of municipal regulations**- Non-compliance with local building codes or regulations.

How it violates rule of law?

- **Punitive measure** - This 'tough on crime' or 'eye for an eye' approach are punitive measures, carried out without due process or proper legal justification.
- **Violates fundamental rights** - Demolishing homes without following legal procedures violates fundamental rights and due process, raising serious constitutional concerns.
- **Loss of Assets**- Individuals may lose valuable assets and investments due to demolitions, which can have long-term financial implications for affected families.
- **Violates family members rights** - It can displace families, leading to significant socio-economic hardships.
- **Ethical issues**- It raises ethical concerns about fairness and justice.

The United Nations **Basic Principles and Guidelines on Development-based Evictions and Displacement**, 2019, prescribe directives to address displacement issue from a humanitarian perspective.

What are the recent SC guidelines?

- Alleged involvement in crime is no ground for demolition of a property.
- The alleged crime has to be proved through due legal process in a court of law.
- No individual's property should be destroyed solely due to their or a family member's alleged involvement in criminal activities.
- Even in cases of illegal constructions, demolitions must adhere to proper legal protocols.
- It proposed the respective authorities to lay down certain guidelines on a pan-India basis so that the concerns with regard to the issues raised are taken care of.

How due process in demolitions can be ensured?

- The cardinal rule is that demolitions must be carried out only in exceptional circumstances, and according to the due process established under law.
- **Classifying the properties** - Classify the types of buildings or constructions that can be brought down by state actions.
- **Assessing surrounding circumstances** - It must strike a balance between state action and the right to adequate housing and resettlement.
- **Data analysis on recent demolitions** - It is to identify clear patterns and better understand the existing gaps in the process.
- **Structured procedural guidelines** - It should in a phased manner, to add multiple checkboxes at each stage which need to be ticked before any irreversible step is taken.

Pre-Demolition Phase

- Burden of proof to show cause should be shifted from the affected person to the authority.
- Publish information about land records and resettlement plans in notice for demolition.
- Ample time be given for those concerned to analyse the situation, seek legal advice and respond to the show-cause notice.
- An independent committee of the State government, with judicial and civil society representatives, should review the proposed demolition.
- Affected persons must be engaged in discussions about alternative housing options and compensation.
- During this phase, the needs of vulnerable groups such as children, the elderly, and disabled persons should be addressed.
- A minimum period of a month should be provided between the intimation of notice to demolish and its execution, allowing affected individuals time to retrieve their belongings.

Demolition Phase

- Minimise the use of physical force in the eviction process.
- Avoid the use of heavy machinery such as bulldozers.
- A requirement for the presence of government officials who are not a part of the authority demolishing the construction.
- Pre-decide the time for the demolition.
- Surprise demolitions should be cause for punitive action against the authority.

Rehabilitation Phase

- Provide adequate and proper temporary or permanent rehabilitation.
- Establish a speedy grievance redress mechanism to afford the affected persons a chance to challenge the decisions that may have been taken at any stage.
- Remedies such as compensation, restitutions and return to the original home must be carved out within the law.

What lies ahead?

- The current task of the Supreme Court i.e., formulating pan-India guidelines must look at the issue through a multidimensional lens.
- In the course of devising guidelines, the Supreme Court must impose a complete moratorium on the punitive demolition of establishments.
- In legitimate instances of demolition, the guidelines should prescribe a strict tripartite procedure to ensure that those at the receiving end are not rendered helpless without any recourse.

References

1. [Indian Express | SC guidelines on bulldozer justice](#)
2. [Hindustan Times | SC's warning to states](#)
3. [The Hindu | Due Process in Extra-legal Demolitions](#)