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Homes destroyed, laws ignored: Can SC put an end to 'bulldozer justice'?

The Supreme Court's move to regulate illegal demolitions has the potential to change the way justice is delivered. Here's why it matters

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Oct 17, 2024, 14:52 IST



The [Supreme Court \(https://timesofindia.indiatimes.com/topic/supreme-court-of-india\)](https://timesofindia.indiatimes.com/topic/supreme-court-of-india), in an important decision regarding the illegal bulldozer demolitions on the private homes of accused individuals and their family members, emphasised the need to follow legal procedures before any demolition. The court recommended freezing such illegal bulldozer demolitions for some time while proposing to

frame pan-India guidelines to protect private property from illegal and targeted demolitions.

This has reignited the debate surrounding 'bulldozer justice' and the need to put legal restrictions upon its misuse amid rising cases involving bulldozer demolitions.

The Supreme Court stated that even the properties of convicted criminals would be protected from state-sponsored punitive demolition, and legal procedures are required to be followed in all cases; however, public encroachments by private individuals in the form of unauthorised construction would not be covered under the protection.

This judgment makes us examine the concept of 'bulldozer justice', the jurisprudence developed on the right to housing and property by the Supreme Court, and the possible way forward regarding the guidelines to protect private property from illegal and targeted demolitions by the state.

In recent years, states have been taking punitive action against accused individuals via bulldozer demolition actions while they are awaiting trial despite India having an adversarial model of justice dispensation where the accused are innocent until proven guilty.

Being an adversarial system of criminal justice, the responsibility to produce evidence is placed on the party that seeks to establish guilt, with the judge acting as counsel for both parties, which means the burden of proof lies on the prosecution, which in the case of 'bulldozer justice' is the opposite as it is the state that has taken punitive actions against the concerned individuals.

In this light, 'bulldozer justice' may be seen as a form of extrajudicial retributive punishment going against the spirit of constitutionalism. It is used as an extrajudicial tool against alleged anti-social elements by the state, including accused individuals. At the core of 'bulldozer justice' lies the violation of several constitutional and human rights.



'Law Not Allow Bulldozing Home Of Accused' Says Supreme Court On Bulldozer Justice | Court News

Misuse of power

The foremost violation is the right to housing and providing alternative accommodation under Article 21 of the Constitution, which safeguards the right to life and personal liberty.

In the case of *Olga Tellis vs Bombay Municipal Corporation* (1985), the Supreme Court recognised the right of livelihood and housing as part of the right to life under Article 21. Moreover, the court had also opined the requirement of providing access to alternative accommodation and rehabilitation in eviction cases.

The Constitution of India also requires legal procedures to be followed in cases involving the deprivation of property under Article 300A.

In the case of *KT Plantation Pvt Ltd & Anr vs State of Karnataka*, the Supreme Court held that any legislation providing for deprivation of property under Article 300A must be “just, fair and reasonable” as understood in terms of Articles 14,

19(1)(g), 26(b), 301 and must comply with the other provisions of the Constitution. All these safeguards and rights are violated through 'bulldozer justice', which may be motivated by extrajudicial reasons.

It even goes against the recommendations of the Justice Malimath Committee, whose report on the adversarial system submitted in April 2003 emphasised reforming the criminal justice system and providing legal rights and protection for victims.

The report had drawn attention to a significant issue of putting in place a victim compensation fund under the victim compensation law and assets confiscated through organised crimes being used through this fund, which could lead to rehabilitation of the victims of 'bulldozer justice'.

From an international perspective, under the Rome Statute, the role of victims has been elaborately explained by not only giving them the right to participate in the proceedings but also putting in place a Victims and Witness Unit, Trust Fund for Victims, and Office of Public Counsel for Victims. Although India is not a party to the Rome Statute, good practice may be used to develop victim participation through such mechanisms at the local level.

It needs to be understood that the pan-India guidelines must instigate a new penal and sentencing philosophy that places the emphasis not on punishment and retaliation but on reparation, mediation and conciliation.

This philosophy translates into ceasing to regard the offence against the state but be viewed as an offence against the individual victim, not as a violation of an abstract entity but as a violation of the rights of the victim and those who are related to such victims.



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Focus on justice

Given this background, the guidelines that the Supreme Court will be drafting at the pan-India level must recommend training criminal justice personnel to sensitise them to the needs and plight of those targeted through 'bulldozer justice'. This would lead to ensuring restorative justice for such victims that reflects a balanced justice system where equal rights and justice to victims are ensured, and that is a non-stigmatising, economically viable, socially practicable, fair and just process.

The concept of restorative justice is helpful in the manner that assists the courts to address the causes and effects of such actions by the state, as well as its unintended consequences to the victims. Thus, the judicial system should be made more humane and responsible for protecting the rights of the poor victims who are otherwise weak and vulnerable to protect themselves.

All institutions, including the courts and the state, should play a key role in adopting this approach to protect and preserve the interests of the victims and

society affected by 'bulldozer justice'.

Going forward, the proposed guidelines by the Supreme Court represent a significant step towards curbing the misuse of state power in the form of 'bulldozer justice'. By ensuring that demolitions are carried out in accordance with legal principles and by prioritising the rights of individuals affected by such actions, the judiciary can reaffirm its commitment to the rule of law.

A humane, fair and just judicial process that recognises the importance of restorative justice is essential for upholding the dignity of all citizens and ensuring that the justice system works for the betterment of society as a whole.

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