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Bulldozer Justice: Constitutional Limits on State Power

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WHY IN NEWS

Multiple state governments continued to use demolitions as punitive action against individuals accused of crimes — before any court verdict — raising fresh constitutional concerns. The Supreme Court’s landmark November 2024 guidelines mandating 15-day written notice, personal hearings, and personal liability of officials have brought renewed scrutiny to whether these demolitions comply with the rule of law.

The phenomenon colloquially termed “bulldozer justice” — the use of property demolitions by state governments as a punitive response to crime or communal unrest — has become one of the most contested constitutional questions in contemporary India. At its core, the debate is about whether the executive branch can appropriate the functions of the judiciary, and whether fundamental rights can be suspended by administrative fiat.

WHAT IS BULLDOZER JUSTICE?

The term gained currency particularly after incidents in Uttar Pradesh, Madhya Pradesh, and other states where the properties of individuals accused of crimes — often immediately after communal incidents, without waiting for trial — were demolished by municipal or development authorities. The official justification is typically “illegal encroachment” or “unauthorised construction.” Critics argue that the timing and targeting — overwhelmingly against members of minority communities or political opponents — reveals the demolitions’ true purpose: collective punishment and intimidation.

The pattern typically follows this sequence:

A crime occurs, or communal tensions rise

Police identify an accused person (note: *accused*, not convicted)

Within days or hours, municipal authorities arrive with bulldozers

The accused person’s home — often housing their entire family — is demolished

The family is rendered homeless; the accused remains in custody

No court has ordered the demolition. No judicial process has concluded the property is illegal. The executive is acting as judge, jury, and executor simultaneously.

CONSTITUTIONAL PROVISIONS AT STAKE

Article 14 — Right to Equality The Constitution guarantees equality before the law and prohibits arbitrary state action. Selective demolitions — targeting accused individuals while similarly situated structures elsewhere remain untouched — are inherently arbitrary and violate the equality guarantee. The Supreme Court has long held that any administrative action must be non-discriminatory, proportionate, and bear a rational nexus to a legitimate state aim. Demolishing a home as punishment for an alleged crime fails all three tests.

Article 21 — Right to Life and Personal Liberty The right to life under Article 21 is not merely the right to exist — it encompasses the right to live with dignity. The Supreme Court in a series of judgments has progressively expanded Article 21 to include:

- Right to livelihood (*Olga Tellis v. BMC, 1985*)
- Right to shelter (*Chameli Singh v. State of UP, 1996*)
- Right to health, education, and a clean environment

Demolishing a family’s home — including children and elderly members who had nothing to do with the alleged crime — directly violates this constitutional right. The deprivation of shelter is not merely a property matter; it is an assault on the dignity and survival of persons.

Article 300A — Right to Property Though no longer a Fundamental Right, Article 300A remains a constitutional right. It was **inserted into Part XII of the Constitution by the 44th Constitutional Amendment, 1978** — passed under Prime Minister Morarji Desai’s Janata Party government — which removed the Right to Property from Part III (Fundamental Rights). Article 300A states that “*no person shall be deprived of his property save by authority of law.*” “Authority of law” requires a valid law, proper procedure, and judicial oversight — not a municipal notice issued 24 hours before a demolition.

Separation of Powers The Constitution establishes a clear demarcation: punishment for offences is a judicial function. The legislature defines offences and penalties; the judiciary applies them after a fair trial; the executive enforces judicial orders. When the executive begins unilaterally punishing people — demolishing their homes as a form of state retribution — it collapses this separation and inverts the constitutional order.

International Law: Geneva Conventions Demolishing the homes of family members to punish an accused violates the prohibition on **collective punishment** enshrined in Article 33 of the Fourth Geneva Convention (1949), which applies to civilian populations. While the Geneva Conventions are technically war-time instruments, the principle they embody — that innocents must not be punished for the acts of a relative — is a foundational norm of civilised governance.

JUDICIAL HISTORY: HOW COURTS HAVE RESPONDED

Indian courts have consistently held that due process cannot be dispensed with:

Maneka Gandhi v. Union of India (AIR 1978 SC 597) This landmark judgment — delivered by a seven-judge constitutional bench — fundamentally transformed the interpretation of Article 21. Prior to it, the Court held in *A.K. Gopalan v. State of Madras* (1950) that any procedure established by law was sufficient. The

Maneka Gandhi judgment rejected this narrow reading, holding that the procedure must be “right, just, and fair” — not arbitrary, fanciful, or oppressive. This principle means no deprivation of life, liberty, or shelter is constitutionally valid without a procedure that is substantively fair. The case arose from the impounding of Maneka Gandhi’s passport without a hearing, but its doctrinal reach extended to every sphere of executive action affecting personal liberty.

Olga Tellis v. Bombay Municipal Corporation (1985 SCR Supl. (2) 51) Pavement dwellers in Mumbai challenged their eviction without notice. The Supreme Court held that the right to livelihood is integral to the right to life — you cannot separate a person from their means of survival. Eviction without notice or hearing was held unconstitutional. This case directly applies to demolitions: the state cannot remove shelter — a basic means of survival — without due process.

Other relevant cases:

Francis Coralie Mullin v. Union Territory of Delhi (1981): Right to live with dignity, not just animal existence

Chameli Singh v. State of UP (1996): Right to shelter is a fundamental right under Article 21

Sudama Singh v. Government of Delhi (2010): Delhi HC — eviction without rehabilitation violates fundamental rights

SUPREME COURT DIRECTIONS: NOVEMBER 2024 GUIDELINES

In **November 2024**, a two-judge bench of the Supreme Court comprising **Justice B.R. Gavai** and **Justice K.V. Viswanathan** — hearing **Writ Petition (Civil) No. 295/2022**, titled “*In Re: Directions in the matter of demolition of structures*” — issued comprehensive procedural directions that now have the force of law across all states and Union Territories:

15-day written notice — Before any demolition of residential or commercial property, authorities must serve a written notice via registered post (not just affixing on the wall, which can be ignored or denied) giving the occupant at least 15 days to respond

Personal hearing — The occupant must be given a genuine opportunity to present their case before any demolition order is finalised; the right to be heard is non-negotiable

Reasoned written order — The demolition order must be a speaking order, setting out the reasons, and must be served on the occupant before the bulldozers arrive

Video documentation — The entire demolition process must be filmed; this serves as evidence both of compliance with procedure and of what was demolished

Personal liability of officials — Officers who carry out demolitions in violation of these guidelines are personally liable; they cannot hide behind “superior orders”

No demolition without judicial review — If an occupant approaches a court, demolition must be stayed until the court rules

These directions apply to *all* states and to *all* demolitions — irrespective of the cause or context — where the state is the demolishing authority.

WHY THIS MATTERS BEYOND THE LEGAL

The rise of bulldozer justice represents something deeper: the gradual erosion of the presumption of innocence — one of the most fundamental principles of criminal jurisprudence. A person is innocent until proven guilty by a court of law. Demolishing their home treats them as guilty before trial.

It also represents the weaponisation of administrative law — using municipal and development regulations, whose stated purpose is urban planning and safety, as tools of political targeting. The same property may have been “illegal” for years before suddenly attracting demolition notices days after its owner appears in a political or criminal controversy.

For aspirants writing Mains answers, the following analytical dimensions are crucial:

Rule of Law vs. Rule by Law: The state must act *through* law, not merely *with* law — a distinction the Supreme Court has emphasised repeatedly

Substantive due process: India has moved from procedural due process (follow the steps) to substantive due process (the steps must themselves be fair)

Federalism dimension: Most demolitions are by state governments; the Centre’s silence on the practice raises questions about cooperative constitutionalism

UPSC RELEVANCE

Articles 14, 21, 300A; 44th Constitutional Amendment (property right shift); Geneva Convention Article 33.

MAINS GS-2:

Fundamental Rights and their expansion by judiciary; Separation of Powers; Rule of Law; judicial activism; rights of accused.

GS-4 ETHICS:

State power and ethics, collective punishment, duty of officials.

PREVIOUS YEAR QUESTION ANGLE:

“In the light of recent developments, examine the constitutional validity of demolitions ordered by executive authorities as a punitive measure.”

★ FACTS CORNER — KNOWLEDGE PEDIA

Article 14: Right to Equality — equality before law and equal protection of laws

Article 21: Right to Life and Personal Liberty — includes right to shelter, livelihood, dignity

Article 300A: Right to property (constitutional right, not fundamental right); “No person shall be deprived of property save by authority of law”

44th Constitutional Amendment (1978): Passed under PM Morarji Desai’s Janata government; removed the Right to Property from Fundamental Rights (Part III); inserted Article 300A in Part XII

SC judgment: “In Re: Directions in the matter of demolition of structures” — Writ Petition (Civil) No. 295/2022

SC bench (November 2024): Justice B.R. Gavai and Justice K.V. Viswanathan

Maneka Gandhi v. Union of India — AIR 1978 SC 597: Established “due process” standard — procedure must be “right, just and fair,” not merely “established by law”

Olga Tellis v. Bombay Municipal Corporation — 1985 SCR Supl. (2) 51: Right to livelihood is part of Article 21; eviction without notice/hearing is unconstitutional

Chameli Singh v. State of UP (1996): Right to shelter is a fundamental right under Article 21

Geneva Convention Article 33 (Fourth Geneva Convention, 1949): Prohibits collective punishment of civilians

Supreme Court directions on demolitions (November 2024): Mandatory 15-day written notice; personal hearing; video documentation; personal liability of officials

A.K. Gopalan v. State of Madras (1950): Earlier SC case that took narrow view of Article 21 — overruled in spirit by Maneka Gandhi

OTHER RELEVANT FACTS:

Separation of Powers: Not explicitly mentioned in Constitution but implied; SC has called it part of the Basic Structure (Kesavananda Bharati, 1973)

Basic Structure Doctrine: Established in Kesavananda Bharati v. State of Kerala (1973) — Parliament cannot amend constitutional fundamentals

Presumption of Innocence: Core principle of criminal jurisprudence; an accused is innocent until proven guilty by a court — not recognised by “bulldozer justice”

Writ of Mandamus: Can be used to direct authorities to follow due process; **Article 32** (SC) and **Article 226** (HC) are the tools

Collective punishment is also prohibited under **Article 7 of the ICCPR** (International Covenant on Civil and Political Rights), to which India is a party

Rule of Law vs. Rule by Law: Rule of Law means state is subject to law; Rule by Law means state uses law as a tool — the distinction is critical for GS-4

Sources: [The Hindu](#), [Indian Express](#), [Supreme Court of India](#), [Bar and Bench](#), [LiveLaw](#)

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