

# CSB IAS ACADEMY

THE ROAD MAP TO MUSSORRIE...

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## BULLDOZER JUSTICE

### SYLLABUS:

GS 2 > Constitution >> Fundamental Rights

### REFERENCE NEWS:

The Supreme Court laid down a series of guidelines to ensure that **due process** is followed for demolishing the properties of citizens. These guidelines were a part of the court's verdict in a case that had raised the issue of demolition of properties by state authorities as a punishment for the alleged involvement of the property owner in a crime. The case pertained to a set of pleas that challenged the "**extra-legal**" **practice of demolishing houses of people accused of criminal activities**. The practice has been observed in recent years in Uttar Pradesh, Madhya Pradesh and Uttarakhand. It was also seen in Rajasthan, in 2022.

### BULLDOZER JUSTICE:

- "Bulldozer justice" refers to a form of immediate, forceful administrative action where properties—such as homes, businesses, or other structures—are demolished by authorities. The justification provided is often illegal construction, encroachment, or as a response to an alleged crime.
- The practice is often perceived as a method of delivering "**instant justice**" without formal legal proceedings.

### **Legal and Constitutional Framework in India**

- **Right to Equality:** Article 14 of the Indian Constitution **guarantees equality before the law and equal protection of the laws**. The practice of bulldozer justice has been criticized for potential violations of this principle, as it may involve **selective targeting** of individuals or communities **without following due process**.
- **Right to Life and Personal Liberty:** Article 21 provides that no person shall be deprived of life or personal liberty except according to **the procedure established by law**. Demolitions without proper legal process may infringe upon the right to shelter, which has been recognized by the Supreme Court as part of the fundamental right to life.
- **Right to Property:** Though not a fundamental right, Article 300A of the Constitution states that no person shall be deprived of their property except by authority of law.

This requires that property demolition must be conducted following legal procedures, such as providing notice and the opportunity for a hearing.

- **Municipal and Urban Development Laws:** Various state and municipal laws govern construction and urban development, requiring proper permits for buildings. **Demolitions are legally justified when constructions are unauthorized or encroach upon public land.**

#### Key Legal Cases and Judicial Interpretations

- **Olga Tellis v. Bombay Municipal Corporation (1985 AIR 180):** This case dealt with the eviction of pavement dwellers and slum-dwellers in Mumbai. The authorities sought to remove them on the grounds of illegal encroachment.
  - **Judgment:** The Supreme Court ruled that the right to life includes the right to livelihood and that adequate notice and the opportunity to be heard must be provided before any eviction. The decision highlighted that any demolition without following due process would violate Article 21 of the Constitution.
- **Ajay Maken v. Union of India (2019 SCC Online SC 1470):** The case involved the demolition of unauthorized structures in Delhi without notice to the occupants. The affected parties argued that the demolition violated their right to shelter and due process.
  - **Judgment:** The Delhi High Court ruled that demolitions must follow due process, including issuing proper notices and allowing time for response. It emphasized that the state cannot take punitive actions without providing adequate opportunities for legal recourse.
- **Municipal Corporation of Delhi v. Gurnam Kaur (1989 AIR 38):** The case focused on the powers of municipal authorities to demolish unauthorized constructions in Delhi.
  - **Judgment:** The Supreme Court ruled that while municipalities have the right to remove illegal structures, they must comply with procedural requirements such as issuing notices and ensuring that the affected parties have an opportunity to contest the action.
- **Golak Nath v. State of Punjab (AIR 1967 SC 1643):** This landmark case did not involve demolitions directly but **focused on the limits of state power and the protection of fundamental rights.** It is often cited to emphasize that the state must operate within the bounds of law.
  - **Judgment:** The Supreme Court held that fundamental rights cannot be restricted or taken away by legislative actions unless authorized by the Constitution itself.

- The Supreme Court in **Maneka Gandhi vs Union of India of 1978** held that the executive procedures must be fair, just, and reasonable.
- The Supreme Court in **Municipal Corporation of Ludhiana vs Inderjit Singh of 2008** held that no authority can directly proceed with demolitions, even of illegal constructions, without providing notice and an opportunity to be heard to the occupant.

#### **ARGUMENTS IN FAVOUR OF BULLDOZER JUSTICE:**

- **Swift Action Against Illegal Encroachments:** Bulldozer justice enables quick removal of illegal encroachments and unauthorized constructions, which often take years to resolve through the traditional judicial process.
  - In cities like Delhi, Mumbai, and Lucknow, authorities have used bulldozers to clear illegal encroachments from public land and roads, easing congestion and allowing for better traffic management
- **Enforcement of Urban Order and Planning Laws:** Bulldozer justice helps enforce municipal laws and urban planning regulations, preventing unauthorized constructions that violate zoning rules, safety norms, and building codes
  - In the case of **Municipal Corporation of Greater Mumbai v. State of Maharashtra (2006)**, the Bombay High Court upheld the demolition of illegal structures in Mumbai, affirming that municipal authorities have the right to take corrective action to uphold zoning laws and urban planning.
- **Visible Deterrent to Future Violations:** The visible use of bulldozers as a form of immediate action acts as a deterrent to others who might consider violating laws, particularly regarding illegal construction and encroachment.
  - In Uttar Pradesh, the use of bulldozers by the state government to demolish illegal properties linked to criminals was cited as a strategy to deter future criminal activities. Authorities claimed a drop in crime rates in some regions, attributing it to the visible crackdown on properties linked to illegal activities.
- **Efficient Use of State Resources:** Bulldozer justice allows for efficient use of state resources, reducing the burden on the judiciary and minimizing lengthy legal procedures.
  - In Delhi, the demolition of illegal structures along riverbanks was expedited to address safety concerns related to flood-prone areas. The swift action prevented potential risks to public safety, highlighting the importance of immediate administrative intervention.

- **Restoration of Rule of Law:** Bulldozer justice emphasizes the rule of law by demonstrating that violations will not be tolerated and that the law applies equally to all upholding principle of accountability.
  - In **Aligarh Muslim University v. Mansoor Ali Khan (2000)**, the Supreme Court reiterated the importance of maintaining the rule of law in addressing illegal encroachments. The court emphasized that authorities must act firmly when dealing with illegal structures to preserve the integrity of the legal framework.
- **Protection of Public Interest:** Bulldozer justice is often justified on the grounds of protecting public interest, particularly in cases where illegal constructions affect essential services, public safety, or community welfare.
  - In Bhopal, the local administration used bulldozers to remove illegal encroachments on sidewalks, enabling better pedestrian movement and safety. Such actions are often framed as being in the "public interest" to ensure that public resources are used as intended.
- **Judicial Support for Administrative Actions in Clear Cases of Illegality:** Indian courts have, in several instances, upheld administrative demolitions where the illegality of construction is evident and due process is followed.
  - In the case of **Gurgaon Municipal Corporation v. Laxmi Narain (2018)**, the Punjab and Haryana High Court upheld the demolition of unauthorized constructions after the municipal authority had issued proper notices. The court emphasized that enforcement actions are valid if due process is followed.
- **Addressing Security and Law Enforcement Concerns:** In some cases, properties associated with criminal activities are demolished as part of a broader law enforcement strategy.
  - In Madhya Pradesh, the state government conducted demolitions of properties allegedly linked to organized crime, citing public safety concerns. The demolitions were part of a larger strategy to tackle crime and restore law and order in the region.

#### **CHALLENGES OF BULLDOZER JUSTICE:**

- **Violation of Due Process of Law:** The **Right to Fair Procedure** is an integral part of **Article 21** of the Indian Constitution, which guarantees the right to life and personal liberty. The Supreme Court has repeatedly emphasized that any action depriving a person of their property or rights must follow a legal process.
- **Discrimination and Selective Targeting:** Bulldozer justice has been criticized for disproportionately targeting marginalized communities, particularly religious and

ethnic minorities, leading to accusations of discrimination. This violates the constitutional right to equality under **Article 14**.

- **State of West Bengal v. Anwar Ali Sarkar (1952 AIR 75):** The Supreme Court ruled that laws and actions must be non-arbitrary and must apply equally to all persons, reinforcing the idea of equality under Article 14.
- **Lack of Judicial Oversight:** Many demolitions carried out under bulldozer justice are administrative decisions with limited judicial oversight. This absence of scrutiny raises concerns about the unchecked use of executive power.
- **Impact on the Right to Shelter:** Bulldozer justice can violate the right to shelter, which the Supreme Court has interpreted as an essential part of the right to life under **Article 21**. Evictions and demolitions without proper rehabilitation or alternative housing cause severe hardship to affected individuals and families.
  - **Chameli Singh v. State of Uttar Pradesh (1996 2 SCC 549):** The Supreme Court held that the right to shelter is part of the right to life and that evictions should be carried out in a humane manner, with adequate provisions for rehabilitation.
- **Arbitrary and Excessive Use of Executive Power:** The principle of **Rule of Law** requires that state actions be governed by established legal procedures and not by arbitrary decisions. Excessive executive power undermines constitutional governance and the separation of powers.
  - **D.K. Basu v. State of West Bengal (1997 1 SCC 416):** The Supreme Court laid down procedural safeguards to prevent the abuse of executive power, emphasizing that any state action must follow established legal procedures.
- **Absence of Proper Rehabilitation Measures:** Article 21 includes the right to live with dignity, implying that forced evictions must be accompanied by proper rehabilitation to avoid infringing on human dignity. The government has a duty to protect the interests of displaced individuals.
  - **Sudama Singh v. Government of Delhi (2010 168 DLT 218):** The Delhi High Court ruled that evictions should not take place without a proper survey and rehabilitation plan for affected residents.
- **Inadequate Compensation for Affected Individuals:** Article 300A of the Indian Constitution protects the right to property, stipulating that no person shall be deprived of their property except by authority of law. This implies that due compensation must be provided if property is taken or demolished.

- **Bachan Singh v. State of Punjab (1980 2 SCC 684):** The judgment emphasized that penalties or actions taken by the state must be proportional and fair, applicable to property rights and compensation as well.

### SC GUIDELINES:

The Supreme Court of India has established guidelines for demolition processes to ensure transparency, accountability, and respect for due process. These guidelines emphasize that demolitions should not be punitive actions against accused individuals without proper legal procedure. The guidelines outline several key points:

- **Notice Requirement:** A minimum of 15 days' notice must be provided to the owner or occupier before any demolition, including the details of the structure and the reasons for demolition. A personal hearing must also be offered to contest the decision.
- **Hearing and Final Order:** A hearing should be conducted, with a record of the proceedings. The final demolition order must include details on why the case cannot be resolved and whether partial or complete demolition is necessary. Justification for choosing demolition as the last resort must be included.
- **Post-Demolition Order:** After the final order is issued, there is a 15-day window allowing the owner to remove the construction or challenge the decision in court. Demolition should proceed only if the order is not stayed and construction remains.
- **Documentation:** Demolition must be video-recorded, and both an inspection report and a post-demolition report must be prepared.

The Supreme Court highlights several key constitutional principles:

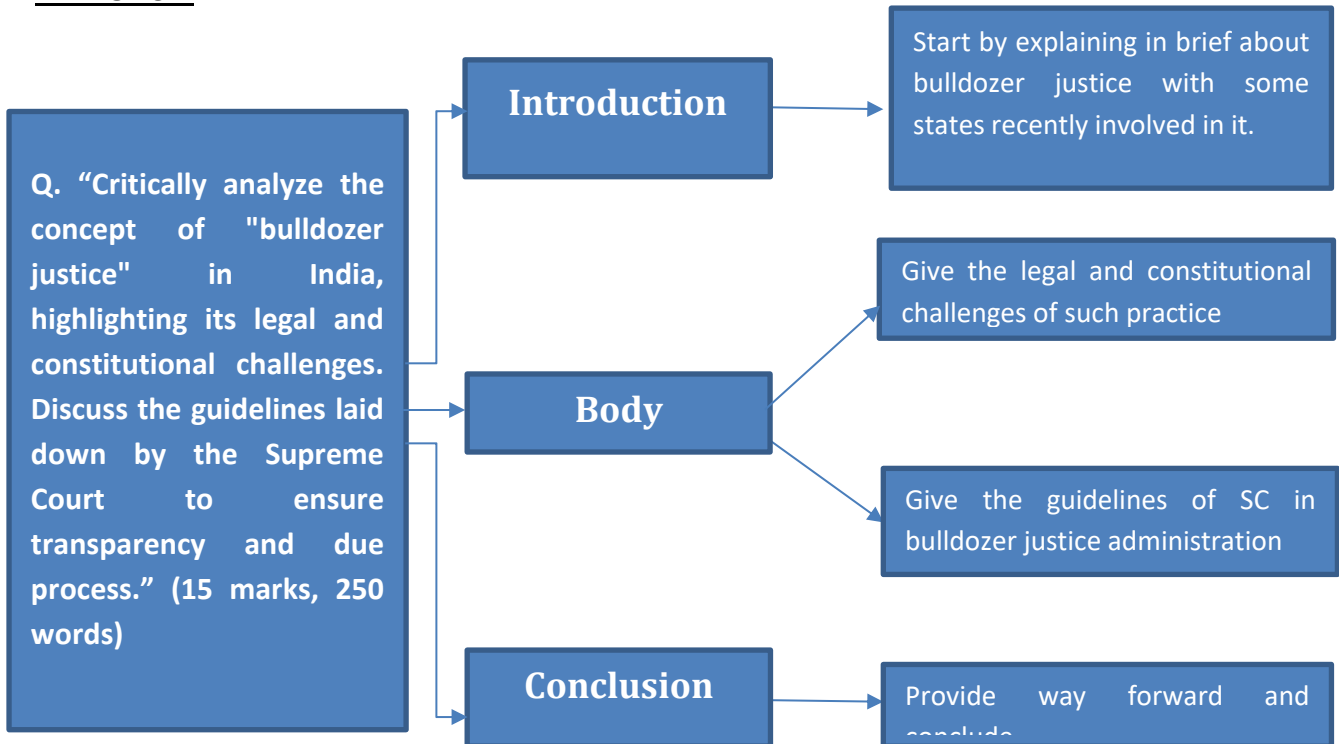
- **Separation of Powers:** The judiciary is responsible for adjudicating guilt, not the executive. It is "impermissible" for state officials to use demolition as punishment.
- **Public Trust & Transparency:** Public officials must be accountable for their actions, and demolition orders should not target properties merely because the owner is an accused.
- **Right to Shelter:** Under Article 21, which protects the right to life and dignity, demolitions that deprive innocent family members of their shelter are unconstitutional.

The guidelines do not apply to unauthorized structures in public spaces or to demolitions ordered by a court of law.

### PRACTICE QUESTION:

Q. "Critically analyze the concept of "bulldozer justice" in India, highlighting its legal and constitutional challenges. Discuss the guidelines laid down by the Supreme Court to ensure transparency and due process." (15 marks, 250 words)

**APPROACH:**



**MODEL ANSWER:**

"Bulldozer justice" in India refers to the practice of using administrative authority to demolish properties allegedly linked to illegal activities or unauthorized constructions. This approach, often perceived as a form of "instant justice," has been criticized for bypassing legal procedures and potentially violating constitutional rights. It has been observed in states like Uttar Pradesh, Madhya Pradesh, and Uttarakhand, raising concerns about fairness, transparency, and adherence to the rule of law.

**LEGAL AND CONSTITUTIONAL CHALLENGES ASSOCIATED WITH BULLDOZER JUSTICE:**

- **Violation of Due Process of Law:** Bulldozer justice often skips legal procedures such as notices and hearings, violating the right to fair procedure under **Article 21** of the Indian Constitution, which guarantees the right to life and personal liberty. The Supreme Court in *Olga Tellis v. Bombay Municipal Corporation (1985)* established that evictions must follow due process, with adequate notice and the opportunity for a hearing
- **Discrimination and Selective Targeting:** This practice has faced criticism for disproportionately affecting marginalized communities, particularly minorities, raising

concerns about discrimination under **Article 14**, which ensures equality before the law. In *State of West Bengal v. Anwar Ali Sarkar (1952)*, the Supreme Court stressed that state actions must be non-arbitrary and apply equally to all citizens

- **Impact on Right to Shelter:** The right to shelter is an integral part of the right to life under **Article 21**. Bulldozer justice has been criticized for displacing families without adequate alternative arrangements, infringing upon this right. In *Chameli Singh v. State of Uttar Pradesh (1996)*, the Supreme Court held that evictions must be carried out humanely, with provisions for rehabilitation
- **Arbitrary Use of Executive Power:** The unchecked power of the executive in demolitions undermines constitutional governance and the separation of powers. The Supreme Court in *D.K. Basu v. State of West Bengal (1997)* emphasized that state actions must be based on established legal procedures to prevent arbitrary use of authority

#### **SUPREME COURT GUIDELINES TO ENSURE TRANSPARENCY AND DUE PROCESS:**

- **Notice Requirement:** A minimum of 15 days' notice must be given to the owner or occupier, detailing the reasons for the demolition and allowing time for a personal hearing to contest the decision.
- **Hearing and Final Order:** A proper hearing should be conducted, with records of the proceedings. The final demolition order must explain why demolition is necessary and whether it should be partial or complete.
- **Post-Demolition Protocol:** After the final order, there is a 15-day window for the owner to remove the structure or seek legal redress. Demolition should only proceed if the order is not stayed and the construction remains. The demolition must be documented through video recording, inspection reports, and post-demolition reports.
- **Accountability and Transparency:** The guidelines emphasize the **separation of powers**, noting that the executive cannot assume judicial functions, such as punishing individuals through demolition. Public officials are accountable for their actions, and demolition should not target properties simply because the owner is an accused

#### **Judicial Interpretations and Key Case Laws:**

- In *Ajay Maken v. Union of India (2019)*, the Delhi High Court mandated that demolitions must adhere to due process, including proper notice and opportunities for appeal



- The Supreme Court in *Municipal Corporation of Ludhiana v. Inderjit Singh (2008)* affirmed that even illegal constructions require notice and a chance for the owner to be heard before any demolition can take place

To ensure that bulldozer justice does not violate constitutional principles, it is crucial to:

- **Strengthen Procedural Safeguards:** Implement strict guidelines for issuing notices, conducting hearings, and providing adequate time for legal recourse.
- **Enhance Judicial Oversight:** Establish fast-track courts to review demolition cases, ensuring that administrative actions do not bypass judicial scrutiny.
- **Prevent Discriminatory Practices:** Enforce anti-discrimination measures to ensure demolitions are based on objective criteria, not on selective targeting of communities.
- **Ensure Proper Rehabilitation:** Develop comprehensive resettlement plans and compensation for displaced individuals, safeguarding the right to shelter and dignity.

"Bulldozer justice" poses significant legal and constitutional challenges, particularly in ensuring fairness, preventing discrimination, and upholding the right to shelter. While it aims to address unauthorized constructions and maintain public order, the practice must align with the rule of law and due process principles. The Supreme Court's guidelines underscore the need for transparency, accountability, and judicial oversight to protect individual rights.