

Centre for Law &
Urban Development
Monthly Newsletter

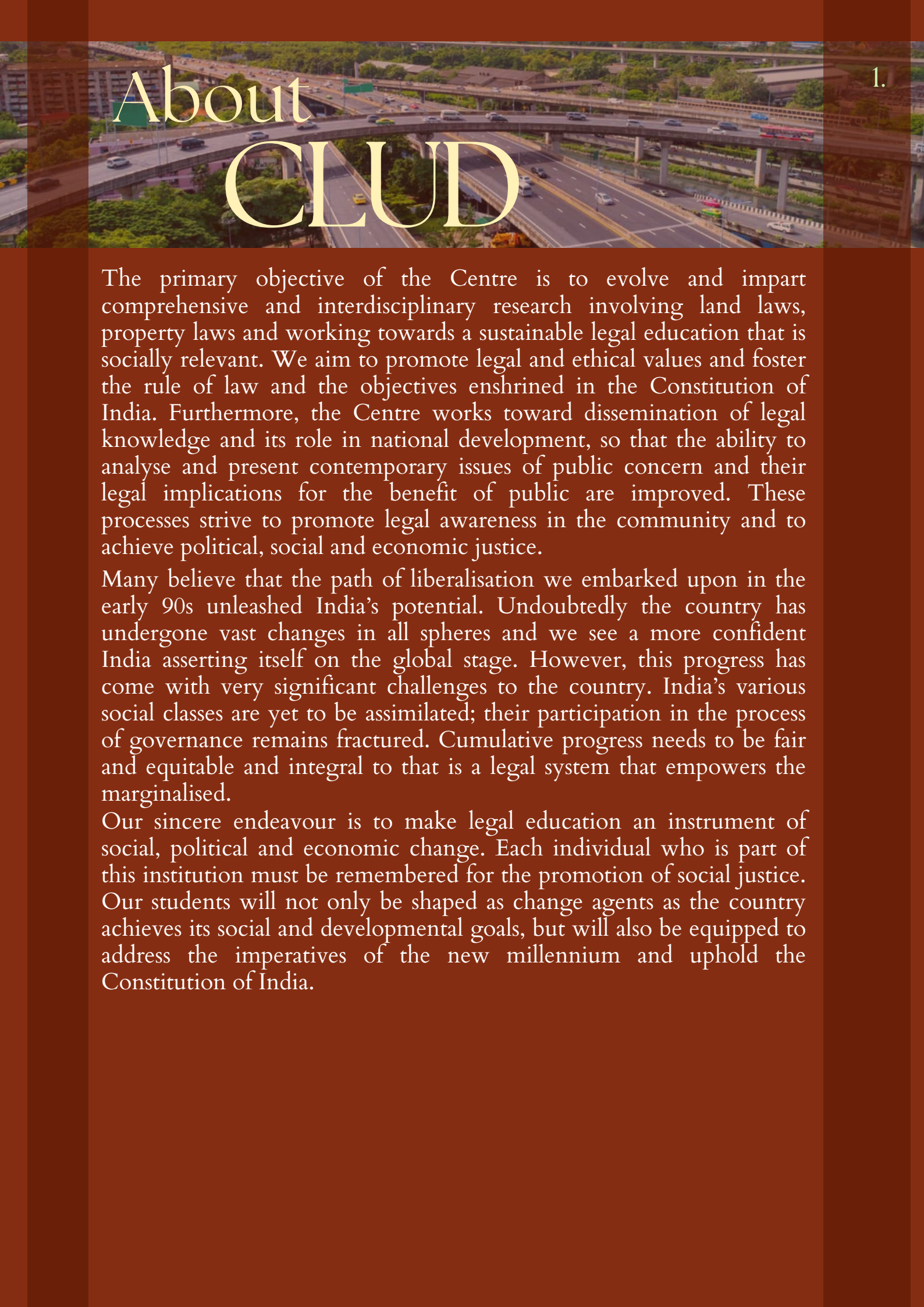
अधीतम्:
THE URBAN
ARCHIVES

August 2025



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About CLUD

1.

The primary objective of the Centre is to evolve and impart comprehensive and interdisciplinary research involving land laws, property laws and working towards a sustainable legal education that is socially relevant. We aim to promote legal and ethical values and foster the rule of law and the objectives enshrined in the Constitution of India. Furthermore, the Centre works toward dissemination of legal knowledge and its role in national development, so that the ability to analyse and present contemporary issues of public concern and their legal implications for the benefit of public are improved. These processes strive to promote legal awareness in the community and to achieve political, social and economic justice.

Many believe that the path of liberalisation we embarked upon in the early 90s unleashed India's potential. Undoubtedly the country has undergone vast changes in all spheres and we see a more confident India asserting itself on the global stage. However, this progress has come with very significant challenges to the country. India's various social classes are yet to be assimilated; their participation in the process of governance remains fractured. Cumulative progress needs to be fair and equitable and integral to that is a legal system that empowers the marginalised.

Our sincere endeavour is to make legal education an instrument of social, political and economic change. Each individual who is part of this institution must be remembered for the promotion of social justice. Our students will not only be shaped as change agents as the country achieves its social and developmental goals, but will also be equipped to address the imperatives of the new millennium and uphold the Constitution of India.

REAL ESTATE

Haryana RERA Orders Promoter to Compensate Homebuyers for Delay in Gurgaon Project

The issues giving rise to the present dispute relate to the non-delivery of possession of flats to homebuyers in a timely manner in Gurgaon, Haryana. The project was launched pursuant to the Haryana Affordable Housing Policy, which had originally set an expected delivery date of February 2024. The promoters had received significant advance payment from homebuyers. Despite the significant advance payment, the promoters completed construction and occupancy certificates. Frustrated with what they felt was the lackadaisical attitude of the promoters, the allottees directed their complaints to HRERA and looked for relief under Sections 18 and 19 of the Real Estate (Regulation and Development) Act, 2016, which provides protection to buyers if there is a project delay.

The developer defended the delay by invoking force majeure clauses, citing COVID-19 lockdowns, National Green Tribunal construction bans, and cost escalations. These assertions were squarely rejected by the regulatory authority, which observed that temporary disruptions could not excuse prolonged inaction and non-delivery. The Authority determined that when the developer accepted substantial payment from homebuyers toward completion of the project, it assumed a duty to deliver within the agreed-upon time or be responsible for costs.

Noting that the Authority had defaulted on its contractual and statutory obligations, the Authority ordered the developer, Agrante Realty to compensate each homebuyer, with an interest of 11.1% per annum on the amounts deposited by each allottee. Further, the Authority ordered the developer to complete the development of essential services including water, power, internal roads and recreational facilities. The developers were prohibited from charging additional sums towards the completion of the project.

The Authority emphasised that a promoter cannot benefit from its own default and that RERA's objective is to ensure timely project completion, financial discipline, and consumer protection. The order serves as a reminder that a builder shall remain strictly liable for delivery delays, notwithstanding external or administrative challenges.

NATIONAL COMPANY LAW TRIBUNAL CHENNAI CLARIFIES LIMITS OF HOMEBUYER CLAIMS IN INSOLVENCY PROCEEDINGS

3.

In the present case, National Company Law Tribunal (NCLT) Chennai considered the plea of two homebuyers who desired to intervene in an ongoing insolvency proceeding against a real estate developer. The buyers had sought recognition as financial creditors so they could participate in the company's resolution process.

The petitioners submitted that they had booked an apartment with the builder in 2017 through sale and construction agreements and had transferred ₹50 lakh as an advance. Once construction came to a standstill, the homeowners approached the Tamil Nadu Real Estate Regulatory Authority (TNRERA), which ruled in their favour and ordered the developer to refund the amount with interest and compensation. In 2024, however, the developer went into insolvency proceedings. Later, the petitioners filed a claim of ₹82.6 lakh before the Resolution Professional (RP), asserting that the RERA order made them entitled to recovery through the insolvency process.

However, the RP asserted that the amount had not been paid to the corporate debtor but to one of its directors in his personal capacity. The RP further submitted that the property in question had already been sold to another buyer who held a valid no-objection certificate from LIC Housing Finance. The petitioner's claims were therefore classified as "refunds" and not homebuyer debt.

In this context, the Tribunal perused the documents placed on record. It observed that the agreements had been executed with the Director and not the corporate entity itself, as had been submitted by the RP. Further, the receipts produced for the ₹50 lakh payment also bore the name of the individual director, and no evidence was led to show that the amount had entered the company's books. In this regard, the Tribunal asserted that this transaction does not create an obligation that is legally enforceable as a debt against the corporate debtor in terms of Section 5(8) of the Insolvency and Bankruptcy Code (IBC).

It also noted that the TNRERA order was passed by an ex-parte order and that it should not automatically bind insolvency proceedings. The NCLT noted that insolvency proceedings involve strict proof of debt as well as default and that though inferences arrived at in RERA can be persuasive, they can never replace the standard of proof envisaged under the IBC. Finally, the Tribunal relied on Section 25 of the Indian Contract Act of 1872, noting that a contract is void when it is not backed by sound consideration, or when one of the parties lacks the ability to make the contract. The petitioners could not establish a proper debtor-creditor relationship through an unregistered agreement. For this reason, NCLT rejected the application and concluded that the applicants were neither financial creditors nor had any locus to intervene.

Uttar Pradesh Government Initiates Vision 2047 Reforms in A Major Real Estate Overhaul

The Uttar Pradesh Government has initiated major property and rental reform initiatives as a part of its Vision 2047 scheme, focusing on transparency and efficiency in the real estate sector.

The vision seeks to promote extensive digital innovation in the real estate industry by leveraging QR codes to verify legal ownership. The interactive reform aims to encourage potential buyers to scan a QR code to view past transactions associated with the property and if the seller has authorized legal ownership to sell the property. Further, buyers will no longer need to visit registration offices to withdraw stamp papers, as the Government plans to establish ATM machines dispensing stamp papers in the denominations of Rs. 10, Rs. 20, Rs. 50 and Rs. 100. Next, to promote affordable rental housing, the Government plans to introduce formal rental agreements, a fixed registration fee and subsidised stamp duty charges. The Government further strives to introduce a family settlement mechanism wherein, family property disputes can be settled at a fixed rate of Rs. 5,000.

The most interesting development however is the Government's aim to promote transactions involving women homebuyers. Under the reform, any property worth Rs. 1 crore, registered in the name of a woman will receive an instant rebate of Rs. 1 lakh in stamp duty. With many reforms directed towards the stamp duty regime, the Government has decided to undertake the task of simplifying complex stamp duty structure. Presently, there are 42 different types of parameters for calculating stamp duty. However, the reform will reduce this number to 18-20.

The Maharashtra Government has released the Maharashtra State Housing Policy, 2025, to address the State's massive housing deficit and manage rapid urbanisation, climate change and evolving socio-economic conditions. The Housing policy is built on 4 primary pillars: 1) Data driven decision making; 2) Expanding affordable housing stock; 3) Promoting green building practices and; 4) Implementing institutional reforms.

Data Driven Governance

The scheme seeks to integrate a scientific, evidence-centric approach towards planning housing reforms. The Government to complete a comprehensive state wide survey to assess housing requirements by 2026, to provide a basic understanding of present and anticipated demands. This will be complemented by State Housing Information Portal (SHIP), a centralised database, which will act as a one-stop repository of demand and supply data. Further, the Policy mandates the creation of a Land Bank database by 2026, take stock of buildable government and semi-government land that can be utilised for residential development, thereby streamlining project implementation.

Creating an Affordable Housing Stock

The policy aims to create 35 lakh houses for Economically Weaker Section (EWS) and Lower Income Groups (LIG) strata by 2030. Reforms are divided into two broad categories: 1) Green field (new houses) and; 2) Brown-field (redevelopment).

Green-field projects primarily focus on projects for vulnerable populations. Senior citizen housing projects are categorized as a separate use category under the policy, allowing development in residential areas with maximum permissible Floor Space Index of 2.5. Other incentives include single-window clearance, tax concessions, and mandatory registration with MahaRERA. The next category i.e., student and working women's housing, are to be allocated solely on rental basis. These facilities will receive 24/7 security protection, basic amenities as standard and proximity to major job and educational hubs.

Brown-field projects address issues pertaining to dilapidated urban real estate. The policy promotes self-redevelopment and pledges a capital Rs. 2000 crores towards the goal.

The policy further focuses on the slub rehabilitation sector, suggesting to amend the Maharashtra Slums Act to provide 25% ready reckoner rate to private landholders.

Green Building Initiatives

To combat climate change, the policy mandates the adoption of sustainable practices in development of projects. The Eco-Niwas Samhita (energy conservation code for residential buildings) shall be made mandatory for all affordable housing and public authorities must mandatorily install solar power grids. Further, the Government will provide a grant to encourage adoption of sustainable and cost-effective methods.

Institutional and Financial Reforms

The policy aims to establish a Maha Awas Fund, a corpus of Rs. 20,000 crores for affordable housing. The government will also encourage financial institutions to create targets for providing credit facilities to EWS and LIG people. The policy will provide a single-window clearance system for large projects exceeding 10,000 sq. mt. The Policy further aims to strengthen the oversight mechanism by introducing an apex grievance redressal committee for redevelopment project to address issues relating to improper implementation of schemes.

Education
Department
v. Ms. Asiya
Jamil,
2025:DHC:739
6

On the 21st of August, 2025, a Single Judge bench of the Delhi High Court, led by Justice Saurabh Banerjee, recently held that to establish that the landlord does not have any bona fide necessity, the burden of proof lies on the tenant and the landlord has the prerogative to decide the premises which best suits their requirement. The dispute arose as the respondent (landlady), Ms. Asiya Jamil filed an eviction petition before the Additional Rent Controller (ARC), which was allowed by the learned ARC on the grounds of bona fide necessity of the landlady. However, against this, the appellant (tenant) approached the high court. The relation between the two parties is that of landlord and tenant as the tenant was operating a school in the property owned by the respondent.

In her eviction petition, she had stated that other properties she owned in the same premises were occupied by other tenants, meaning she had no other reasonably suitable portion available. However, the tenant contended that the landlord had no bona fide requirement because she owned other properties and was interested in letting out the subject premises at a higher rent.

The High Court was faced primarily with the issue of whether the tenant raised a successful issue with regard to the bona fide requirement of the landlord as she had alternative suitable accommodation. To this, the High Court responded that eviction proceedings require three primary factors, which include, landlord-tenant relationship, bona fide requirement and alternate suitable accommodation. The Court held that if a landlord pleads bona fide requirement as the ground for eviction, it is presumed to be genuine and the burden of proof lies on the tenant to prove the contrary. Furthermore, the landlord need not show any substantive proof regarding the actual bona fide requirement; the assertion/claim itself is generally sufficient for the Court to proceed with the presumption. The Court further held that it is the prerogative of the landlord to decide the premises which best suit her requirements and which require eviction and the same cannot be dictated by the tenant. The burden rests on the tenant to show how the other accommodations are suitable to the landlord's requirement, and a mere assertion of alternate accommodation is not enough.

Tarabai Nagar
Co-Op. Hog.
Society
(Proposed) v.
The State of
Maharashtra,
2025 INSC 1015

A division bench of the Hon'ble Supreme Court of India, comprising of Justice Surya Kant and Justice N. Kotiswar Singh, held that land cannot be acquired without extinguishing the owner's preferential right to propose a rehabilitation scheme as per Chapter I-A of the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971.

The dispute arose because the impugned land in Kurla was owned by Indian Cork Mills (ICM), but a slum had developed over it, and it was subsequently designated as a slum area under Section 4 of the Slums Act. In 2011, the Slum Rehabilitation Authority (SRA), along with the Slum Rehabilitation Area and the Society, requested that the authorities acquire the land for redevelopment. A notice was served to the initial owners, ICM, regarding the redevelopment, to which ICM claimed a right to submit the proposal themselves. The State government then initiated the procedure for land acquisition. Aggrieved by this, ICM approached the High Court which allowed the ICM to submit a proposal and instructed the SRA to consider the proposal expeditiously. The Society, SRA and the government approached the Supreme Court against the order of the High Court. The primary issue before the Court was whether the owner had any preferential right to propose the rehabilitation scheme for redevelopment.

The Court read Sections 3B(4)(e) and 13(1) conjunctively, and held that when an owner is ready and able to propose an SR scheme within a reasonable time, its right comes before SRA stepping in. Section 13(1) provides that the slum redevelopment authority may, in public interest, order the redevelopment of any area at its own cost.

The Court held that the requirement for a specific notice inviting the owner to submit an SR Scheme shall be read as mandatory. The Court opined that expecting a landowner to remain vigilant about the declaration of his land as an SR Area through a Gazette Notification, and filing an SR scheme without the same being invited by the SRA, would be preposterous.

Further, the Court held that the state cannot acquire the land without giving the landowner a preferential right to propose the redevelopment plan. The Court relied on Section 14 of the Act to arrive at this conclusion, as the same provides for the power of the state to acquire land for the redevelopment of the slums.

A Trend towards Digitisation of Land Records: Karnataka HC Issues Directions to use Technology for Resolving Disputes

1.Directions to use Technology for Resolving Disputes

There has been a trend of the High Courts across the country directing the state governments to adopt comprehensive technological solutions to resolve digitalisation and integration of land records for better solution of land disputes. This takes a step forward in finding a digital solution to such disputes as it goes beyond computerisation to resolve title disputes or forest encroachments.

Recently, a single judge bench of the Karnataka High Court, led by Justice Suraj Govindaraj, mandated the state government to create unified, geospatial platforms, public portals and legally accountable digital checks to resolve complex land disputes, especially the ones which have some environmental considerations.

The Court highlighted that while the Digital India Land Records Modernisation Programme facilitates digitisation of the land records, it does not necessarily imply integration of the same. The court highlighted that the existing system creates uncertainties and facilitates fraudulent land transactions.

The Karnataka High Court, directed the formation of a joint, high-level committee with the task of overseeing the proper implementation of the instructions laid down by the Court, which include:

- 1.Create an automated system on the integrated geospatial platform to handle all land-related applications.
- 2.Creating an online system in which approvals are granted to prevent approval of such plans which conflict with a notified forest boundary.
- 3.Creating a publicly accessible portal to view a comprehensive and colour-coded report of the land parcel.
- 4.Reconciliation of the historical records with the digitised forest and revenue maps.
- 5.Adoption of the Unique Land Parcel Identification Number (ULPIN) as the linking key for all records, aiding transparency and public due diligence.

Maharashtra, and Uttar Pradesh, among others, have supported pilot projects linking e-courts with digitized land and registration databases, speeding up dispute resolution and providing first-hand evidence for courts. The orders in Karnataka and other states signal an important shift from scattered digital systems to unified platforms, where all departments work from the same reliable set of records.

Gram
Panchayat,
Asota v State
of Rajasthan,
2025:RJ-
JD:35560

1. A single bench of the Rajasthan High Court, led by Justice Kuldeep Mathur, recently held that once a piece of land has been declared as urban area in the master plan, the State can permit land conversion for development of such an area.
2. The dispute between the Gram Panchayat and the government arose as a consequence of inclusion of the village of Asota into the Master Plan for the Urban Area of Sujangarh, to which the Gram Panchayat of Asota objected. However, despite the multiple objections filed by the Gram Panchayat, the state government still included the village in the 'Sujangarh Master Plan 2036'.
3. The primary contention of the petitioner was that while a communication from the state government assured the Sarpanch that the Gram Panchayat would continue to exercise administrative powers, the subsequent letters stated otherwise. Vide a letter issued by the Commissioner of the Municipal Council of Sujangarh, the Tehsildar was asked not to undertake any proceedings for conversion of the land from agricultural to non-agricultural purpose.
4. The primary issue before the high court was whether the letter restricting the Gram Panchayat's powers regarding land conversion and issuance of Pattas were illegal, arbitrary and contrary to the powers available to the Gram Panchayat.
5. The Court held that once an area was declared as an urban area, the State was well within its rights to grant permission for land conversions from agricultural to non-agricultural uses, for development, improvement and expansion of such area. The later communication did not contradict the earlier one; it clarified that since the revenue village was included in the Master Plan, the Municipal Council would handle all technical planning, development, and land conversion work for the urban area.

Supreme Court Clarifies Role of Insurers in Motor Accident Compensation

1.

In a landmark ruling, the Supreme Court of India strengthened the framework for fair compensation in motor accident cases involving minors and low-income claimants. The Court held that when a claimant or their family is unable to provide proof of income, it becomes the insurer's responsibility to produce the applicable minimum wage notification before the Motor Accident Claims Tribunal.

The case arose from a 2012 accident in Gujarat, where eight-year-old Hitesh Nagjibhai Patel sustained severe injuries and a 90% permanent disability after being hit by a vehicle. The Motor Accident Claims Tribunal initially awarded him ₹3.9 lakh, which the Gujarat High Court later enhanced to ₹8.65 lakh. Finding the compensation inadequate, the family appealed to the Supreme Court.

A Bench of Justices Sanjay Karol and Prashant Kumar Mishra recalculated the compensation using the 2012 minimum wage for a skilled worker in Gujarat (₹6,836 per month), added 40% towards future prospects, and applied a multiplier of 18. The final award rose to ₹35.9 lakh with 9% annual interest. The Court clarified that minors cannot be treated as "non-earning" individuals and must be compensated based on at least the notified minimum wage for skilled labour.

The Court also issued systemic directions to circulate the order across all High Courts and Motor Accident Claims Tribunals, ensuring consistent application of this standard.

This judgment not only corrected an individual injustice but also set a precedent that protects vulnerable claimants. It shifts the burden of establishing income benchmarks from victims to insurers, ensuring that technical gaps do not deny fair compensation to those already suffering.

Policy Reflection: The ruling underscores that access to justice in compensation law must not depend on proof of income but on proof of loss.

New Metro Corridors Redefine Urban Mobility in Kolkata and Bengaluru

India's urban transport network received a significant boost in August 2025 with the inauguration of multiple metro and rail projects in Kolkata and Bengaluru. Prime Minister Narendra Modi flagged off three new sections of the Kolkata Metro — Noapara–Jai Hind Bimanbandar, Sealdah–Esplanade, and Belegghata–Hemanta Mukhopadhyay — extending the city's network by 13.61 kilometres across three corridors. The new lines connect major hubs such as the airport, Sealdah, and Howrah, and are expected to reduce travel time between these busy nodes from over an hour to just minutes.

At the inauguration, the Prime Minister described Kolkata as a “living link between India's history and its modern aspirations,” highlighting how metro expansion supports the twin goals of “Ease of Living” and “Ease of Travel.” He noted that India's metro network has now crossed 1,000 kilometres nationwide, up from 250 kilometres in 2014, reflecting a decade-long policy shift towards mass rapid transit and multimodal connectivity.

On August 10, 2025, similar momentum was seen in Bengaluru, where the Prime Minister launched the city's new Yellow Line³ of Namma Metro and flagged off three Vande Bharat Express trains to different regional destinations. Together, these projects aim to ease congestion, cut travel times, and strengthen regional mobility across India's growing metropolitan corridors.

Policy Reflection: As cities expand, sustainable connectivity is becoming central to urban governance. The twin launches in Kolkata and Bengaluru show how infrastructure development, when paired with accessibility, can drive both economic growth and equitable urbanisation.

Supreme Court: No Toll on Pothole-Ridden Highways

In a landmark ruling reinforcing accountability in public infrastructure, the Supreme Court held that the National Highways Authority of India (NHAI) and its concessionaires cannot collect toll if the highway is poorly maintained. The judgment, delivered on August 18, 2025, by Chief Justice B.R. Gavai and Justice K. Vinod Chandran, dismissed NHAI's appeal against the Kerala High Court's decision suspending toll collection at the Paliyekkara plaza on NH-544 in Thrissur.

The Court observed that when citizens pay tolls, they acquire a corresponding right to demand safe, unhindered, and well-maintained roads. It described the current toll regime as a "toll on both the purse and the patience of the citizen," condemning the practice of collecting user fees despite long traffic jams and damaged road stretches.

Emphasising the principle of public trust, the Court said that while private concessionaires may recoup project costs under Build-Operate-Transfer contracts, such recovery cannot override the State's duty to maintain infrastructure. The Bench criticised NHAI's "rank neglect" and questioned how commuters could be charged ₹150 for a one-hour route that now takes twelve hours due to congestion.

The Court clarified that toll collection may resume only after smooth traffic flow is restored. Any financial loss to concessionaires can be raised before NHAI or through contractual remedies.

This judgment not only redefines the accountability of public authorities in infrastructure projects but also strengthens the citizen's right to fair use of public roads.

Policy Reflection: The ruling bridges urban governance and citizen rights, reminding authorities that infrastructure revenue cannot come at the cost of public dignity and safety.

Washington's 2025 Urban Planning Reforms

Planning reforms have been passed in Washington state which point to one of the most significant changes in city administration in recent times for the United States. The essence of the problem is simple: the local governments have always been in the dilemma of optimising housing demand and land-use regulation with environmental growth management. With the 2025 legislative session, the state attempted to equalize this equation, restructuring both the state and local planning models to allow tighter, more equitable, and climate-friendly development of urban areas.

The core of the legislative package is the Senate Bill 5148 - The Housing Accountability Act that proposes the possibility of certification of housing elements within the state Growth Management Act. The Act gives the Department of Commerce authority to examine and certify local housing plans as to their compliance and require disciplinary action in case of non-conformity with statutory housing objectives by cities or counties. The non-compliant jurisdictions are no longer allowed to refuse affordable or moderate-income housing applications- an extreme change which entrenches enforceability in the local planning law. In addition to this, Senate Bill 5184 - The Parking Reform and Modernization Act puts a strict cap on the amount of parking that can be required by cities. This is in line with national and international trends whereby it is now acknowledged that too much parking drives housing prices too high and deters transit-oriented development. This change is further institutionalised in House Bill 1491, which requires developing so-called station areas around big transit centres, which should be densely populated with mixed residential and commercial properties, and affordable housing quotas and tax breaks. The other complementary legislations such as Senate Bill 5611 (easing land division in multifamily housing) and House Bill 1576 (obliging the owner to give permission to a historic landmark designation) are indicative of another policy agenda which is to simplify the process of development without violating property rights and heritage balance.

These reforms transform local planning to become more performance-based rather than a simplified procedure. The requirements of compliance are no longer limited to plan adoption, but rather on delivery of compliance which is now measurable especially in terms of housing and density targets.

To India, where the issue of urban reforms also concerns affordable housing and transit-oriented planning, the Washington model of legislation presents an eye opener. It reflects the current changes in reforms of India's Model Building Bye-Laws (2016) and Transit-Oriented Development (TOD) Policy which aim to bring in density, affordability, and mobility with the help of law.

With the adoption of digital transformation in cities, the increase in the use of common sensors in cities has created a critical concern: how can technology improve governance without undermining the trust of the people? The intervention contained in the 2025 report by the Eurocities Digital Forum Lab, *Public Sensors, Public Trust*, is important in this respect wherein the authors claim that, in the implementation of smart cities, ethics and transparency should be established as an integral part of digital infrastructure rather than be dismissed as an afterthought. Public sensors, which are used to check air, traffic and energy consumption are now essential in the efficient management of the city. However, their application creates complicated issues of privacy, data management and citizens' consent.

The Eurocities Lab suggests the idea of a human-oriented model of governance with three principles: limiting purposes, minimising data, and moral control. The idea of ethics within is at the core of this change. Instead of making compliance a form of an automated, routine and mechanised check-list, cities like Eindhoven, Leipzig, and Lisbon have made ethical consideration a part of the sensor life-cycle, both in design and deployment, as well as in decommissioning. As an illustration, the public sensor register of Eindhoven reveals the position, ownership and use of all urban sensors, whereas the LoRa network of Lisbon and Digital Transparency Project of Porto encourage community awareness via signage, open platforms and participatory communication.

The key question for most of Europe however remains – how can we deploy sensors in a manner that strengthens European urban democratic values and social trust? This dilemma also summarises the new ethos of European urban digital policy. With the increasing data-drivenness of cities, the ethical guardrails implemented into digital systems will be what make technology a facilitator of democracy, rather than a tool of autocratic implementation of government policies.

European Union Unveils The European High-Speed Rail Network In A Bid To Foster Cross-Border Development

17.

The European Union (EU) will unveil a strategy for its high-speed rail network to attain mobility and efficiency across Europe. The strategy will make cross-border rail travel easier and assist the bloc in its fight against climate change. The European High-Speed Rail Network, still a subject of deliberation at the European Commission, has the potential to cover 49,400 km and link all EU capitals and major towns with a population of over 250,000 people.

The project will serve of great strategic significance as the network is expected to stimulate economic growth by improving access to markets and fostering regional development. Further, the high-speed rail network will look to compete with air travel over short and medium distances across Europe, serving as a valuable revenue generating source for the Union.

At the heart of the plan lies the objective of improving consumer experience. A survey released by the European Union revealed that three in every four travellers would prefer to take a high-speed train instead of a plane if connections between capitals and major urban areas were fast and reliable. However, the current cross-border rail travel in Europe suffers from poor coordination and connectivity. Varying line gauges, rolling stock specifications and signalling systems, hamper the operation of trains across national borders. This has made air travel more affordable and convenient to book, resulting in railways accounting for less than 10% of cross-EU travel.

However, the most important objective of the proposal is to combat environmental challenges by making cross-border travel more sustainable. Through this proposal, the Union aims to allow people to make more climate-friendly choices while ensuring that mobility becomes more accessible and affordable at the same time. European Union data suggests that rail travel between London and Amsterdam can help reduce carbon emissions by up to 93% compared to air travel over the same destinations.

If implemented successfully, the project can make cross-border travel not just greener, but also place the EU in a better strategic position by connecting major socio-economic hubs, while making travel both cheaper and more affordable.

India's Surge in Medical Tourism

The medical tourism industry has seen phenomenal growth in India; an influx of 1,31,856 foreign tourists arrived in the country as medical tourists in the period between January and April 2025. This represents 4.1 percent of the total FTAs over this time frame, according to the data provided by the Ministry of Tourism. The steady increase from 1.8 lakh arrivals in 2020 to more than 6.4 lakh in 2024 refers to the increasing global reputation that India has as an effective healthcare destination.

Medical tourism is defined as the movement of patients across borders in search of low-cost and quality healthcare. Bangladesh has become the biggest source of patients over the past five years, with Iraq, Somalia, Oman and Uzbekistan coming in after that. The comparative advantage of India is its global standard healthcare professionals, high-quality medical facilities, and much cheaper rates than other advanced countries.

This growth has been enhanced by the Government of India. Government initiatives have accelerated this growth. The Heal in India campaign, led by the Ministry of Health and Family Welfare, focuses on public-private partnerships to enhance the ecosystem of hospitals, facilitators, hotels, airlines and regulators. In addition, the 171 countries where e-medical visas are extended have simplified the process for international patients. The Gujarat government is encouraging wellness retreat activities like Ayurveda, Meditation, Yoga, and training paramedical workers, demonstrating how state policies can be reinforced by sub-national ones. These steps are essential in making India a global leader in health and wellness services.

Medical tourism has huge socio-economic ramifications. It increases foreign exchange rates, creates job opportunities and fosters other related industries such as hospitality and tourism. It also reinforces Indian health diplomacy by improving the goodwill with other foreign countries. However, this development must be balanced. It should not draw resources out of the needs of local healthcare to focus on the demand of foreign patients.

All in all, the medical tourism boom is not just an indication of the increased international healthcare reputation that India holds but it is also a demonstration of its ability to use policy, infrastructure and diplomacy to develop a holistic ecosystem.

Strengthening India's Public Healthcare System

The Government of India has made a number of significant policy initiatives to make healthcare services more equitable, affordable, and accessible to all over the past ten years. These reforms are at primary, but also tertiary level, and include digital innovations and specific capacity-building actions.

The National Health Mission (NHM) remains the key stone of these reforms that ensures universal coverage by its rural as well as urban mission. Its areas of focus include the following, which are; reproductive and maternal health, child health, adolescent health, and management of communicable and non-communicable diseases.

One of the milestones has been opening 1,77,906 Ayushman Arogya Mandirs (AAMs) by June 2025. These enhanced Sub-Health Centres and Primary Health Centres now distribute twelve full service packages, which are preventive, promotive, curative, palliative, and rehabilitative care at no cost and much closer to the local communities.

In order to strengthen health infrastructure, a financial project, the Pradhan Mantri Ayushman Bharat Health Infrastructure Mission (PM-ABHIM) was initiated with a financial outlay of 64,180 crores (2021-26). The scheme focuses on the development of the critical capacities such as Block Public Health Units, Integrated Public Health Laboratories, and Critical Care Blocks, to guarantee the preparedness of pandemics and other health disasters.

The flagship Ayushman Bharat Pradhan Mantri Jan Arogya Yojana (AB PM-JAY) also provides health-insurance of 5 lakh per family per year to 12 crore vulnerable families. In October 2024, the scheme was added to include 6 crore senior citizens between 70 and above years old, regardless of the socioeconomic status, under Vay Vandana Card.

More than that, the Pradhan Mantri Swasthya Suraksha Yojana (PMSSY) has increased tertiary care and medical training by establishing 22 new AIIMS, as well as upgrading 75 government medical colleges. The total number of government medical colleges has almost doubled since 2014 with undergraduate seats growing by 51,348 to 1,15,900, and postgraduate seats expanding by 31,185 to 74,306.

Healthcare Under Fire: UN Warns of Rising Attacks on Aid Workers and Hospitals

The United Nations Population Fund (UNFPA) has raised a red flag over the mounting death toll of armed conflict on the health systems of the world and reported that, health workers, hospitals and ambulances are more and more targeted by attacks. During the timeframe 2023- 2024, there was a twofold increase in attacks on health facilities and more than 900 health-care workers died. In 2024, there was also unprecedented levels of humanitarian aid workers being killed, and seemingly this is going to be even worse in 2025 as financial support is contracting. Gaza is currently among the most affected territories with almost two years of hostilities destroying the health system. As of October 2023, over 720 attacks against medical facilities have been met with at least 1,580 deaths of health personnel. Basic maternal and neonatal care has collapsed leaving midwives to deliver babies under hazardous circumstances in an active war zone environment. Most of the health facilities in war prone areas in Sudan have been rendered non-functional, surpassing 80% of the total health facility count, forcing midwives to bear immense risks to access homes of women. Hospitals like Ibrahim Malik in Khartoum that had been used as emergency and maternal hospitals are now in ruins.

The worsening crisis in Haiti has witnessed armed gangs burning down hospitals and shutting down clinics, leaving about 1.2 million women and girls in a dire need of a refuge against gender-based violence.

Elsewhere in Ukraine, the World Health Organization has reported over 300 cases in 2025 alone with women having to walk long distances through areas of bombardment to obtain maternal health services.

Similar is the case with the Democratic Republic of the Congo (DRC) which is facing similar destruction with majority of the maternal health facilities having either been bombed, or even looted. UNFPA mobile health teams are often the only healthcare provider to displaced women.

Besides the physical destruction of infrastructure, UNFPA warns such attacks are eroding decades of the humanitarian aid and health services, putting millions of people, especially women and children, at severe risk.

KKK Hydro Power Limited v. Himachal Pradesh State Electricity Board Limited: Supreme Court on Section 86 of the Electricity Act

M/s. KKK Hydro Power Limited v. Himachal Pradesh State Electricity Board Limited involved a dispute which concerned the ability of a power generating company and a distribution licensee to privately enter into a Power Purchase Agreement (PPA) or to fix tariffs on their own without obtaining the authority of the State Electricity Regulatory Commission (SERC) as required by Section 86(1)(b) of the Electricity Act, 2003. The Court held that agreements made privately to change tariffs cannot be considered valid and such agreements ought to be regulated. The core issue was whether the additional PPA that introduced another tariff of Rs. 2.95/kWh on energy provided by an extended project by the hydropower facility was legal, bearing in mind that it was never evaluated nor approved by the SERC. The Court decided that the regulation and approval of the SERC is a statutory obligation compulsory to all changes of tariff under any PPA.

The bench closely traced the regulatory history, identifying a distinction between the phase when the original PPA was entered and the stage post-augmentation of the hydropower plant. The latter was when new regulations had come into force. The original plant tariff had been set at Rs. 2.50/kWh which had been laid down before the establishment of the commission itself and thus not liable to be affected by subsequent regulatory changes. However, for the additional 1.9MW capacity of the plant, which came into existence only after the new regulations had been put in place, it was requisite under the law that tariff determination shall be done as per prevailing regulations and subject to review by the commission.

Notably, despite the fact that an additional supplementary PPA had been signed which was an effort to adjust the tariff, the Supreme Court emphasized that this would not supersede the statutory mandate requiring the commission's approval. The regulatory framework thus enables the SERC to prudently evaluate electricity procurement, including price-setting, thereby ensuring transparency and helping protect consumer interests. It is pertinent to note herein that the specific revised tariff of Rs. 2.60/kWh continues to remain in place considering longstanding practice and absence of appeal from the board.

The judgment reiterates and underscores the significant role of regulatory bodies particularly in the energy sector and lays down that mandatory regulatory requirements cannot be superseded or circumvented.

India has achieved a crucial milestone in the world of renewable energy – reaching half of its entire installed power generation through the contribution of non-fossil-based energy, five years before the 2030 Paris agreement deadline. It represents a critical point in the shift to clean energy of the country and proves that well-designed policies, local innovativeness, and political commitment can help in speeding up climate commitments. As per the International Renewable Energy Agency (IRENA, 2025), India has become the third-largest producer of solar energy in the world, with a 1,08,494 GWh of generation (overtaking Japan) and the fourth-largest in overall renewable generation. By July 2025, the total solar capacity in the country is 119.02 GW and the renewable energy sources make more than half of the national grid capacity of 484.82 GW. This development is due to the large-scale solar parks, rooftop installations, and hybrid systems, which indicate the way India is changing its power generation to fossil-based to decentralised and sustainable. This success is anchored in strong local production and consistency in policy. The solar module manufacturing power of India increased almost twice in a year with 38 GW in March 2024, reaching 74 GW in 2025, and the PV cell manufacturing reached 25 GW. Trade policies like Basic Customs Duty on imported goods, and Production-Linked Incentive (PLI) Scheme have encouraged the manufacture of indigenous goods and decreased reliance on external supply chains.

The PM Surya Ghar Muft Bijli Yojana (one crore households to receive free solar electricity), PM-KUSUM Scheme (solarising agriculture), and the Solar Parks and Ultra Mega Power Projects (40 GW by 2026) are good examples of the multi-faceted approach adopted by India where it involves rural inclusion, urban resilience, and industrial self-reliance. The PM JANMAN solar electrification program of tribal villages, complementary innovations like floating solar parks, agrivoltaics and others show how the renewable energy could be used to develop people in a more inclusive way. India's leadership is also extending globally by the means of the International Solar Alliance (ISA) and One Sun, One World, One Grid (OSOWOG) initiative that seeks to create a transnational solar energy network. Combined, these measures can shift India, which was previously a passive actor in the world climate talks, to the role of an architect of the new green energy order. This change implies that climate governance and urban development law are convergent in sustainable energy policy not just as a goal of environmental policy, but also as a legal and infrastructural framework to pursue equitable growth. India's success demonstrates that energy security and sustainability can be in balance, although it requires a steady investment, localisation, and coordination between central and the local governments.

In *BSES Rajdhani Power Ltd. v Union of India*, Supreme Court clarified certain key aspects of the Electricity Act, 2003 and the Electricity (Amendment) Rules, 2024. The judgement evaluated the creation, continuation and liquidation of regulatory assets by electricity regulatory commissions, focusing on whether and how revenue gaps at distribution utilities should be recovered through future tariffs. The primary issue in this case was whether regulatory commissions have the legal authority and duty to create regulatory assets as an accounting measure for costs which are not immediately recoverable from consumers and whether such actions can be considered consonant with the various laws and regulations laid down in the Electricity Act, National Tariff Policy and Electricity Amendment Rules 2024.

There is a practice among electricity distribution companies of deferring cost recovery. This is done by allowing an uncovered revenue gap to be carried forward as a regulatory asset. These regulatory assets do not have any defined limits and help in bridging temporary short falls and protecting consumers from tariff shocks. The Court conceded that while regulatory assets may help in such manner, they cannot be allowed to grow unchecked because such a regulatory failure would ultimately lead to burden on consumers and would also undermine the financial health of the electricity sector. Most importantly, this would also digress from the underlying ideal of having cost reflective tariffs.

Moreover, the judgement of the Court also especially emphasised that electricity is a public good and a material resource under Article 39 of the Constitution. The bench traced the legislative evolution and statutory framework, thereby concluding that tariff setting functions, ought to be governed by principles of transparency, accountability, and efficiency. The Court noted that the Electricity Act requires independent regulatory bodies and not the government to make decisions with regards to tariff imposition and this is done in order to avoid persistent revenue gaps. Further, as per Rule 23 of the Electricity Amendment Rules, 2024, and the National Tariff Policy, regulatory assets must be strictly limited to no greater than 3% of the approved annual revenue requirement and these should also be liquidated within three years. Additional requirements include that existing gaps should be repaid within a maximum of seven years and should be accompanied by detailed plans overseen by the appellate tribunal. After a careful scrutiny of the above laws and regulations, the Supreme Court also directed state commissions to comply with the given norms and sought to restrict the creation of new regulatory assets, except under stringently defined conditions. This judgement reflects a crucial clarification with regards to ensuring discipline and accountability in regulatory practises in the energy and electricity sector.

The Supreme Court Raises Alarm on Unregulated Development in Himachal Pradesh

The Court dismissed the appeal against the HC judgment upholding a state notification denying a right to construct the Hotel at Shri Tara Mata Hill, being declared as “Green Area,”. The Bench comprising Justices JB Pardiwala and R Mahadevan upheld the notification prohibiting all private construction on the site. While dismissing the said appeal the court remarked that such notification, while laudable, should have been brought earlier as a lot of ecological damage had already been done in the State and ordered the government to submit a report on steps taken to address the concerns expressed by the Court by the next date of hearing.

The Court flagged the unchecked development in the state like highways, tunnels, ropeways and urban expansion that often bypasses environmental safeguards. The Court remarked that this was not being done with due consideration of the ecological impact, and was undertaken without scientific study. This strive for development and promotion for tourism is done at the cost of preserving the green cover and environment affecting green cover, traffic congestion, waste generation, noise pollution, overuse of water resources, and encroachment into ecologically sensitive areas. Consequently disturbing the ecological balances as evidenced in the recent cloud bursts in District Kullu & Manali.

It has increased landslides, flash floods, and soil erosion, as seen in recent monsoons. The removal of forest guard posts has worsened illegal logging, further degrading the ecosystem. Poor waste management practices, outdated municipal laws, and the construction of hotels on unstable slopes worsens environmental risks. It remarked that while tourism and development are economically vital, the State’s neglect of environmental safeguards threatens its ecological balance and long-term sustainability. Apart from these remarks and directions to the state to submit a report, the Court also converted the Civil Appeal to a Public Interest Litigation.

SC strikes notification that exempted certain construction projects from obtaining prior environmental clearance.

The Supreme Court on 5 August, 2025 in *Vanashakti v. Union of India* partly struck down the notification exempting construction projects relating to industrial sheds, schools, colleges, and hostels from obtaining prior environmental clearance under the Environmental Impact Assessment (EIA) notification 2006 for being contrary to the Environmental Protection Act, 1986. Note 1 in column 5 of Entry 8(a) of the impugned notification made exempted from applicability of 2006 notification, the projects or activities for industrial shed, school, college and hostel for educational institutions.

The Bench comprising Chief Justice BR Gavai and Justice K Vinod Chandran held that such an exemption was arbitrary and contrary to the objectives of the Environment Protection Act, 1986. The Court remarked that any large-scale construction, exceeding 20,000 square metres inevitably affects the environment, regardless of whether it serves educational or industrial purposes. The Court also rejected the Centre's contention that educational institutions or industrial buildings should be treated differently. On that the court remarked that education has also become commercialised.

The Court emphasized that sustainable development requires balancing economic progress with environmental preservation and reaffirmed that natural resources must be protected for coming generations. It criticized the government's justification that self-regulatory safeguards, like waste management and rainwater harvesting, were adequate, also for the reason that the exemption lacked oversight by expert bodies such as the State Environment Impact Assessment Authorities.

However, the Court only struck part of the notification and upheld the rest of it, including the removal of the condition that Category B projects located near eco-sensitive or protected zones be treated as Category A projects, acknowledging that SEIAAs were competent to evaluate such projects at the state level. The petition had challenged both the notification and a related Office Memorandum extending it to Kerala, arguing that it was the government's fourth attempt to weaken environmental safeguards. Ultimately, the Supreme Court partially allowed the petition, quashing only Note 1 to Clause 8(a) while maintaining the validity of the remaining provisions.

Supreme Court mandates river's replenishment study for granting of Environmental Clearance for Sand Mining Projects

The Supreme Court, on August 23 2025, held that environmental clearance (EC) for sand mining projects cannot be granted without a replenishment study that scientifically assesses a river's natural capacity to recover annually from sand extraction. The Bench comprising Justices PS Narasimha and AS Chandurkar held that such data is a mandatory prerequisite for granting ECs, alongside the District Survey Report (DSR). The Court observed that the DSRs, prepared for sand mining in three blocks of Jammu and Kashmir, were “fundamentally defective” as they lacked replenishment data, and therefore were untenable in law. Consequently, the Court dismissed appeals by the Union Territory of J&K, Ladakh, and the National Highways Authority of India (NHAI) and upheld the National Green Tribunal's (NGT) decision to quash the clearances.

Comparing it to forest conservation, the Court held that just as logging requires an assessment of tree growth rates, sand mining requires a replenishment study to ensure extraction does not exceed the river's natural capacity to restore itself. It emphasised that unchecked sand mining destabilizes riverbeds and banks, reduces biodiversity, and disrupts entire floodplain ecosystems. As the global demand for construction-grade sand is increasing rapidly, the Court stressed on the urgent need for sustainable sand mining practices, ones that are supported by scientific data. The judgment explained that even under controlled conditions, sand extraction affects hydrology and geomorphology, leading to erosion and loss of aquatic life. Therefore, conducting a replenishment study is not optional but critical to a DSR. The Court criticized regulatory bodies in Jammu and Kashmir, particularly the Environment Appraisal Committee and Environment Impact Assessment Authority, for granting clearances without complete data, thus “compromising regulatory integrity.” It described the attempt to justify limited mining in the absence of replenishment data as an unacceptable regulatory failure.

Reaffirming the principles of environmental governance, the Court held that any DSR prepared without a scientific replenishment study is invalid, and environmental clearance based on such reports is illegal. This decision buttresses India's environmental regulatory framework by ensuring that development projects involving natural resource extraction are guided by scientific assessment and ecological responsibility.

Supreme Court issues slew of directions including mandatory prior EIR and Green Bench Approval for projects in NOIDA

On 13th August 2025, the Supreme Court, on the basis of a Special Investigation Team (SIT) report that exposed serious irregularities in the functioning of the NOIDA Authority, issued orders that addressed corruption, governance lapses, and environmental violations. The Court held that excessive compensation had been paid in several land acquisition cases, which suggested collusion between NOIDA officials and landowners. On that basis, it directed that a new SIT is to be constituted to conduct a fresh inquiry, replacing the earlier team. It also restrained all project development in NOIDA until prior Environmental Impact Assessments (EIA) are conducted and approved by the Court's Green Bench.

The case originated when the Court ordered an SIT probe during the anticipatory bail hearing of a NOIDA law officer accused of awarding inflated compensation. The SIT, on probe, found that in 20 cases, landowners received unjustifiably high compensation, and in 1,198 cases, enhanced payments were made even though court directions existed for only 1,167. Moreover, the SIT report named erring NOIDA officials and suggested examining bank records and assets of officers, their relatives, and landowners to determine collusion and disproportionate wealth. Consequently, it recommended constituting an independent agency, with expertise in financial investigations to pursue the matter further.

Beyond financial irregularities the SIT also criticized NOIDA's internal governance, calling it opaque, centralized, and reactive. It noted delayed grievance responses, lack of public transparency, and policy favouritism toward developers. Major decisions were made reportedly without sufficient public scrutiny or disclosure. To correct these structural flaws the SIT proposed major reforms, including replacing the existing authority with a metropolitan corporation, appointing a Chief Vigilance Officer, instituting High Court-monitored oversight, regular third-party financial audits, public meetings, and the formation of a citizen advisory board.

Acting on these findings, the Court ordered the Uttar Pradesh Director General of Police to form a three-member SIT to register preliminary enquiries into financial and administrative irregularities, with assistance from forensic and Economic Offences Wing experts. If prima facie offences are found, cases must be registered under the law. The Court also directed the UP Chief Secretary to appoint a Chief Vigilance Officer in NOIDA, form a citizen advisory board within four weeks, and ensure no project proceeds without EIA approval. To see more, view the [order](#).

The Supreme Court expands the powers of Pollutions Boards to deter potential environmental polluters

The Supreme Court on 4th August 2025, in *Delhi Pollution Control Committee v. Lodhi Property Co. Ltd etc.*, in a bench comprising Justice P.S. Narasimha and Justice Manoj Misra held that the Pollution Control Boards under the Water Act and the Air Act have the power to direct the payment of environmental damages. The judgment was delivered while the Court was dealing with an appeal to the liabilities imposed by the Delhi Pollution Control Committee on the respondent-corporation.

The Court, while doing an expansive interpretation of Section 33A and 31A of the Water Act and Air Act respectively, held that Pollution Control Boards can impose restitutionary and compensatory damages or require the furnishing of bank guarantees as an ex-ante measure to prevent potential environmental damage. These provisions do not as such allow for such powers but are only limited to the power of the respective boards to direct the closure, prohibition or regulation of the pollution source and the stoppage or regulation of supply of electricity, water or any other service. However, the court broadly interpreted the provisions and held that regulators must be allowed flexibility in such directions in view of the current climate scenario. The Court referred to Article 48A of the Constitution, the Directive Principle to protect the environment to include the power to restitute the environment. The Court also referred to past precedents *M.C. Mehta v. Kamal Nath*, *Vellore Citizens' Welfare Forum v. Union of India* and *Research Foundation for Science (18) v. Union of India* to gather a basis for damages for restitution or remediation as compensatory relief for environment and the application of the Polluter Pays principle.

The Court also remarked that since these Boards are always under the control of the concerned governments and thus there is an inherent risk of abuse if wider powers are conferred on it, there is a need for formulating rules to ensure transparency and non-arbitrariness. The rules should contain the method in which environmental damage is determined and the assessment of damages along with a framework for citizens to file complaints. While the judgment is a step forward in environmental jurisprudence and the move to deter climate change, it is also a wide leap in terms of judicial overreach by way of interpretation.

Tripura Human Rights Commission takes a step to curb drainage mismanagement in Agartala

The Tripura Human Rights Commission, on 1 August 2025, served notices to the state Urban Development Department, Agartala Smart City Limited, and Commissioner, Agartala Municipal Corporation due to complaints regarding huge inconveniences caused because of the construction of drains in Agartala. The Commission asked the above authorities to provide written responses on the complaints.

The step was taken following a complaint filed by an environmental forum, the Forum for Protection of Environment and Water Bodies, alleging the common inconvenience being faced by city dwellers due to slow and poorly executed drainage construction work. The complaint alleged that the ongoing incomplete work has resulted in piles of soil, damaged roads, and open drains, leading to inconvenient pedestrian and vehicular movement, particularly in the monsoon season. People were also having trouble entering their houses, as construction waste and pooled water had developed in various spots.

The petitioner also complained that construction materials, such as wooden planks intended to act as temporary bridges across open drains, were instead being dropped into the drains themselves, thus blocking water flow and posing sanitation risks. Such a situation, they complained, enhanced the risk of disease and flooding, and constituted a violation of the right of residents to safe and hygienic living conditions.

The Commission was mindful of the aforesaid grievance and noted that the problem involves a substantial segment of Agartala's population and requires urgent administrative notice. It directed the authorities to provide reasons for the delay, the current status of work, and the measures being adopted to mitigate public suffering.

The Commission's notification stressed accountability and transparency in the execution of urban development schemes under the Agartala Smart City Mission. Moreover, the case also highlighted the poor civic infrastructure of the city and improper coordination between construction and maintenance departmental authorities.

MISCELLANEOUS

Supreme Court Revision of Stray Dogs Order

The recent Supreme Court decision on managing stray dogs indicates a milestone in the re-evaluation of urban animal welfare and safety. The primary issue was whether stray dogs should be placed in shelters or released after sterilisation and vaccination and whether control mechanisms should be implemented for feeding of strays.

The Court digressed from its previous order dated August 11 that required all stray dogs to be permanently placed in shelters in Delhi-NCR, and ordered that only those dogs found to be rabid, or those suspected to be rabid, or those exhibiting aggressive behaviour, could be quarantined or sheltered whereas the rest should be sterilised, dewormed, vaccinated and sent back to their localities as stipulated by Animal Birth Control Rules. The judgment further noted that special feeding areas should be put in place in every municipal ward.

The ruling is indicative of the need to have a comprehensive, practical approach to stray dog management balancing concerns of animal welfare with the considerations of human safety. The bench appreciated difficulties in crowded shelters, operational bottlenecks, and the necessity of aligning judicial practice with constitutional values. Nationwide, municipal authorities have the responsibility of ensuring that immunised animals are returned, that shelters have proper facilities, staff, and medical surveillance, and encourage adoption of strays.

The biggest change is that municipal organizations are obliged to establish special areas to feed, and notice boards are to be placed to show authorized feeding and create helplines to report the breach of the rules. The decision also suggests financial input by the petitioners and the NGOs for infrastructural support to manage stray animal population.

Demolishing Illegal Constructions: Does The Right to Shelter Outweigh the Rule of Law?

I.Introduction

The urban Indian landscape is plagued with illegally-built commercial and residential structures. The Supreme Court has expressed displeasure with various governments for failing to curb ubiquitous encroachments on government land and unauthorized constructions on private property. Various Municipal Corporations have struggled to keep this menace in check. Unfortunately, the Supreme Court is yet to lay down guidelines for ensuring compliance with municipal laws. While data from the Ministry of Housing and Urban Affairs indicates that actual demolitions contribute to a decline in illegal constructions, the Supreme Court's recent verdict in In Re: Directions In The Matter Of Demolition Of Structures ('Bulldozer Justice') undermines the executive's efforts to uphold high urban planning standards.

Holding that demolishing citizens' properties solely on the ground that the owners are accused or convicted of criminal offenses is contrary to the Rule of Law, the Court recognized that the arbitrary and sudden demolition of isolated illegal structures without similar treatment meted out to others in the vicinity indicates the executive authority's malafide intent. While this judgement rightly addresses the recent trend of the Indian executive selectively utilizing state machinery to demolish unauthorized constructions of targeted occupants without following due process, the verdict's misplaced reliance on concepts such as the Right to Shelter weakens the legal position of municipal authorities in ensuring compliance with existing laws.

Interestingly, in another recent decision, Rajendra Kumar Barjatya v. U.P. Avas Evam Vikas Parishad ('Rajendra Kumar'), the Supreme Court observed that any construction made in contravention of the law would be considered illegal and must necessarily be demolished. The Court clarified that prolonged occupation or inaction of authorities cannot legitimize such construction. This position is somewhat contradictory to the Court's stance in the Bulldozer Justice case, which laid strict guidelines to curb arbitrary, though legal demolitions. With these conflicting judgements, a new fundamental question of law arises: Does the Right to Shelter weigh over the Rule of Law?

This article critiques the Bulldozer Justice verdict in the context of its misplaced reliance on the Right to Shelter as a justification for delaying the demolition of unauthorized structures. While cautioning against such reliance, this piece proposes workable solutions to address the challenge of illegal construction in Indian cities.

I. The Conflict of Right to Shelter with the Rule of Law

The unabated mushrooming of illegal constructions in cities despite court orders and demolition notices indicates that actual demolition is crucial for large-scale deterrence. If arbitrary demolitions violate the Rule of Law, so does the inaction of not conducting actual demolition of unauthorized structures after following due process. In this context, the Bulldozer Justice judgement is an unintended setback to the Rule of Law.

The Supreme Court relied on Albert Venn Dicey's three pillars of the Rule of Law in paragraph 14, the first of which states that “no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land.” The caveat in Dicey's conception that a distinct breach of law justifies punishment and suffering in body or goods was conveniently overlooked by the Supreme Court. Illegal constructions indeed constitute a distinct breach of law, especially when such a breach has been established in the ordinary legal manner through demolition notices, and not serving punishment for such acts is contrary to the Rule of Law.

The Court also defended the curbs on demolition of such properties with the rationale that the family members of the targeted individual who co-habit in the same property should not be penalized solely on the grounds of being related to the accused. The Court placed reliance on the Right to Shelter, a facet of Article 21 as recognized in Chameli Singh and others v. State of U.P. and another to conclude that “depriving innocent people of their Right to Life by removing shelter from their head would be wholly unconstitutional.” While collective punishment for the liability of one individual is indeed undesirable, the Court failed to view the illegal occupancy of the said premises as a wrongful act in itself that is contrary to the Rule of Law. It would be an incorrect position of law to consider a resident of an unauthorised construction as ‘innocent.’

While laying down guidelines on the due process to be followed before demolitions occur, the Supreme Court clarified that these directions shall not be applicable to the demolitions of unauthorized structures in public places such as roads, streets, footpaths, or water bodies, and to court-ordered demolitions. However, the unaddressed flaw in this arrangement is whether such guidelines extend to situations where the said illegal construction is wholly or partly in a public place and is used for residential purposes. If so, the Bulldozer Justice verdict would embolden the occupants of such constructions by prolonging their possession of such land.

Another concern raised by the Bulldozer Justice verdict is the Court's uncritical view of considering it disproportionate to conduct demolition of the property if there is scope for the unauthorized constructions to be compoundable, where only a part of the construction is required to be removed. This rationale is flawed as it unnecessarily enables the proprietors to easily evade demolition of the entire property by claiming that the illegality can be cured. Contrarily, most illegal structures are plagued with safety concerns such as a high risk of fires and collapse, and allowing such partial demolitions only increases such risks, instead of making the perpetrators accountable. Allowing such consequences under the pretext of the Right to Shelter, defeats the very purpose of this right, which is access to housing in a safe and reliable structure.

The Bombay High Court in Suhas v. The State of Maharashtra held that dangerous buildings must be razed in entirety and municipal authorities cannot merely stop at issuing notices. Yet, the legal position endorsed by the Court in Bulldozer Justice is unlikely to reduce the sharply-rising annually reported instances of illegal constructions, and may instead encourage temporary partial demolitions where the original illegal construction can reappear due to inaction. Such unintended consequences would be a disservice to the concept of Rule of Law.

I. Legislative Effort To Tackle Illegal Construction

The Bombay High Court has termed the flourishing of illegal buildings in India's urban centres a 'humanitarian problem.' However, despite legislative intervention, this problem has not been solved in any major city.

A good example is the inefficacy of the Gujarat Regularization of Unauthorised Development Act, 2022 ('Gujarat Act') in curbing such constructions in Ahmedabad. The Gujarat Act allows for the fee-based legalization of certain constructions, which is contrary to the Supreme Court's verdict in Rajendra Kumar, prohibiting the regularization of illegal structures. It is noteworthy that the Supreme Court had previously in Esha Ekta Apartments Coop Housing Society Ltd. v. Municipal Corporation of Mumbai observed that courts should refrain from ordering regularisation of illegal and unauthorised constructions, as doing so encourages violators and jeopardizes the idea of planned urban development. Thus, legislative intervention must not be focused on short-term solutions such as regularization of illegal constructions which nullify the public trust doctrine by legalizing encroachments.

Another flaw of the Gujarat Act is that it does not allow for suo motu actions by the relevant authority, relying on a complaint-based system that is not resident-friendly in densely-populated neighbourhoods where filing a complaint may lead to the ostracization of complainants. The Supreme Court in Supertech Limited v. Emerald Court Owner Resident Welfare Association observed that "a breach of the planning authority of its obligation to ensure compliance with building regulations is actionable at the instance of residents whose rights are infringed by the violation of law." While the local resident should be at the centre of such an arrangement, it is crucial to ensure the safety and anonymity of such complainants.

Recently, Bengaluru has started implementing an effective existing provision in force, Section 15(4) of the Karnataka Town and Country Planning Act, 1961 (the Karnataka Act), which empowers the Planning Authority to seal an illegally constructed structure and to discontinue any work in progress in such premises until demolition takes place. Such provisions are largely beneficial and should be implemented across cities as they ensure that due process is followed before demolition, and also act as sufficiently deterrent by putting an end to the continued occupation and use of the illegal property.

Sealing of the property also ensures that it remains under the public eye and is timely demolished by the municipal authority. An important distinction here could be between the residential use of such property and commercial use, wherein the former may allow for a relaxation in the timeline of sealing the property to strike a balance between enforcing the Rule of Law, and upholding the occupants' Right to Shelter.

I. The Way Forward

The Courts have time and again recognized that the menace of illegal constructions is attributable to multiple parties, including the municipal authority officials who often act in connivance with the occupants of illegal constructions. Hence, for the Bulldozer Justice judgement to be truly effective, it is essential to uphold the Rule of Law by regulating the conduct of all parties involved in violating municipal law through illegal constructions. This can be done by fixing penal accountability for both the builders of illegal structures, and the government and municipal corporation officials who overlooked such constructions.

Towards this end, municipal authorities must be empowered to take suo motu cognizance of instances of illegal constructions. This must be accompanied by a system of filing anonymous complaints that can allow local residents to inform authorities about alleged violations. For this, municipal corporations can use drone technology to map areas within their jurisdiction, while simultaneously assessing whether or not the removal of the illegal construction requires complete demolition to ensure compliance with safety standards. Measures like these shall ensure that demolition orders for illegal construction are neither arbitrary, nor punitive, and follow the restorative spirit endorsed in Rajendra Kumar.

Finally, the Supreme Court must clarify that the guidelines laid down in Bulldozer Justice would not apply as long as the unauthorized construction encroaches upon government land, notwithstanding its use for residential purposes. To complement such judicial measures, legislative intervention is needed through provisions similar to Section 15(4) of the Karnataka Act, provided that regularization of such encroachments is avoided. Hence, the Rule of Law would rightly prevail over the Right to Shelter to curb the menace of illegal constructions.

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