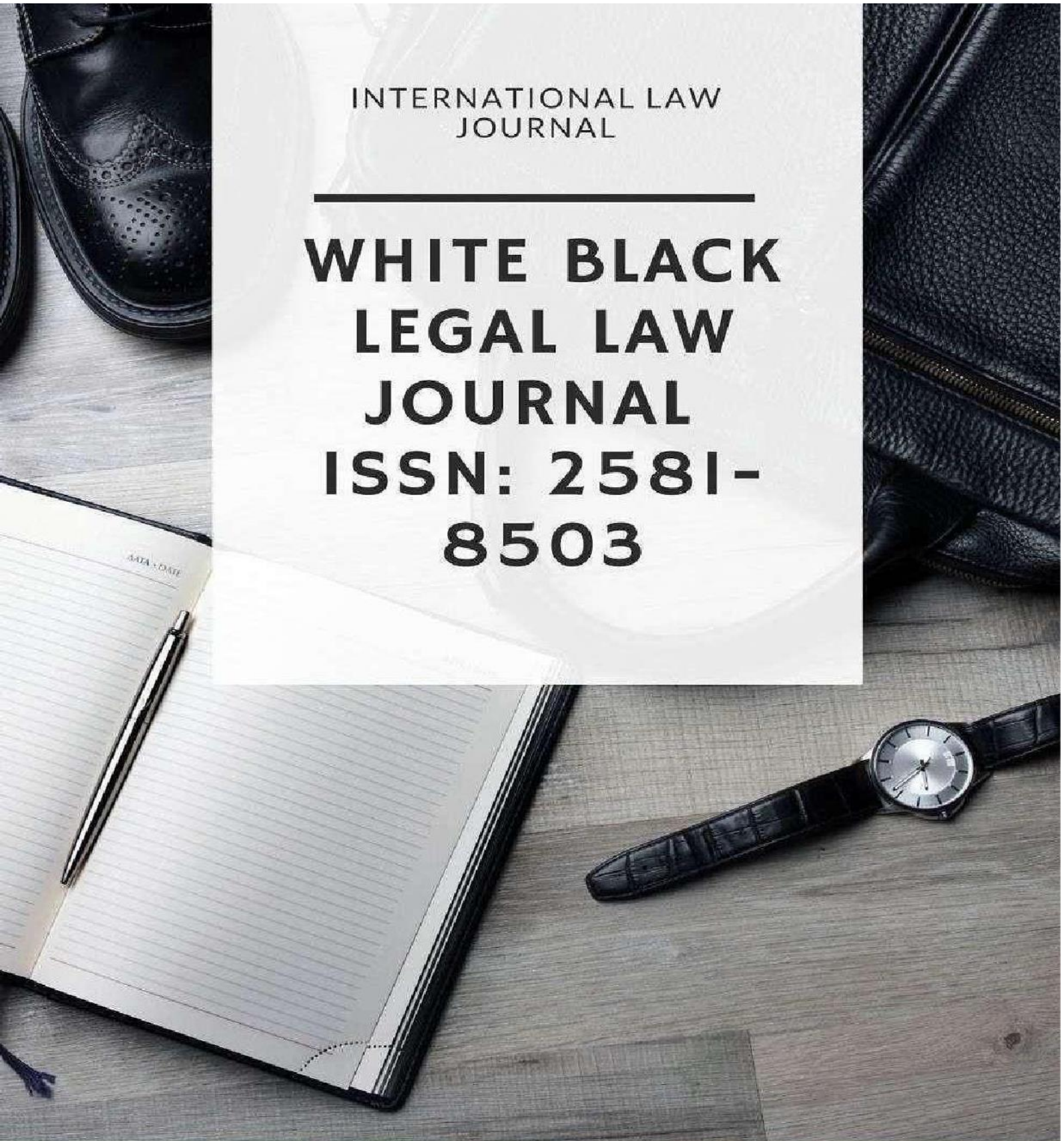




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ILLEGAL CONSTRUCTION AND DEMOLITION OF BUILDINGS IN KARNATAKA

A Legal and Socio-Economic Analysis

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Abstract

The rapid urbanization of Karnataka, particularly the Bengaluru metropolitan region, has catalyzed an unprecedented boom in real estate and infrastructure development. However, this growth has been severely marred by the proliferation of illegal constructions, unauthorized layouts, and systematic encroachments on public lands and water bodies (Rajakaluves). This research paper provides a comprehensive legal analysis of the framework governing illegal constructions and subsequent demolitions in Karnataka. Tracing the historical evolution of municipal laws—from the early Mysore Town Municipalities Act to the Bruhat Bengaluru Mahanagara Palike (BBMP) Act, 2020—the study highlights the perennial conflict between the right to property under Article 300A of the Constitution and the statutory duties of municipal authorities. By analyzing domestic legislation, international human rights instruments concerning housing, and landmark judicial precedents, this paper investigates the procedural loopholes and the controversial “Akrama-Sakrama” regularization scheme. The paper concludes that while the state possesses the authority to demolish unauthorized structures to enforce urban planning, such powers must be exercised without arbitrary discrimination and in strict adherence to due process. Ultimately, the paper proposes pragmatic suggestions to improve statutory implementation and curb the builder-politico nexus.

Keywords: Illegal Construction, Demolition, Karnataka Municipalities Act, BBMP Act, Right to Property, Urban Planning, Judicial Precedents, Akrama-Sakrama.

1. Introduction

1.1. History of Law

The legislative history governing building construction and municipal administration in Karnataka reflects a progressive attempt to manage urbanization. The foundation of modern

municipal governance in the region can be traced back to the Mysore City Municipalities Act, 1933, and subsequently the Karnataka Town and Country Planning Act, 1961 (KTCP Act). As the state transitioned and cities expanded, the Karnataka Municipal Corporations Act, 1976 (KMC Act) was enacted to consolidate the laws relating to municipal corporations.¹ The KMC Act became the primary instrument empowering local bodies to regulate building constructions, issue licenses, and demolish unauthorized structures. In 2020, recognizing the unique challenges of a mega-city, the legislature enacted the Bruhat Bengaluru Mahanagara Palike Act, 2020 (BBMP Act), specifically tailored for the administration of Bengaluru, endowing the corporation with distinct statutory powers to tackle building byelaw violations.²

1.2. Background of the Issue

Over the last three decades, Karnataka, with Bengaluru at its epicenter, transitioned into the “Silicon Valley of India.” This economic metamorphosis triggered massive migrations, exponentially increasing the demand for residential and commercial spaces. The inability of statutory bodies like the Bangalore Development Authority (BDA) to supply affordable housing synchronously led to the rampant growth of revenue layouts and illegal constructions. Builders frequently bypassed zoning regulations, floor area ratio (FAR) restrictions, and setback norms. One of the most critical manifestations of this illegality has been the encroachment of ‘Rajakaluves’ (stormwater drains) and lake beds, which severely disrupts the city’s topography and results in devastating urban floods. The municipal response has historically oscillated between turning a blind eye due to corruption or political pressure, and sudden, draconian demolition drives that often leave unsuspecting buyers homeless, thereby raising profound legal and humanitarian concerns.

2. Legal Framework Governing the Aspect

2.1. Laws, Constitution & Legislation

The jurisprudence surrounding building demolition rests at the intersection of constitutional rights and statutory municipal regulations. Under the Constitution of India, the right to property is recognized as a constitutional right under Article 300A, which mandates that “no person shall be deprived of his property save by authority of law.”³ Furthermore, the expansive interpretation of Article 21 (Right to Life) by the Supreme Court encompasses the right to

¹ Karnataka Municipal Corporations Act, 1976, § 321.

² Bruhat Bengaluru Mahanagara Palike Act, 2020, § 356.

³ Constitution of India, art. 300A.

livelihood and adequate shelter.⁴ Consequently, any demolition action by the state must not only be backed by statutory law but must also be fair, just, and reasonable.

At the state level, the Karnataka Municipal Corporations Act, 1976, specifically Section 321, delineates the procedure for the demolition or alteration of buildings constructed unlawfully.⁵ The provision requires the Commissioner to issue a provisional order detailing the violations and granting the owner an opportunity to show cause. Only upon unsatisfactory compliance or response can a confirmation order for demolition be executed. In the context of Bengaluru, Section 356 of the newly enacted BBMP Act, 2020, mirrors these provisions, explicitly providing the Chief Commissioner the authority to order the demolition of buildings erected in contravention of building byelaws or approved plans.⁶

Additionally, the Karnataka Town and Country Planning Act, 1961 plays a vital role in macro-level zoning and planning, rendering any development without the Planning Authority's permission illegal. The Real Estate (Regulation and Development) Act, 2016 (RERA) also serves as a central legislation protecting homebuyers by penalizing developers for deviations from sanctioned plans, thereby operating as a preventive mechanism against illegal constructions.

3. International Instruments & Framework Governing Proprietary Status

The conflict between state-mandated demolitions and individual property rights is also addressed by international human rights frameworks, which emphasize the right to housing and protection from arbitrary interference. Article 17 of the Universal Declaration of Human Rights (UDHR) asserts that everyone has the right to own property and that no one shall be arbitrarily deprived of it.⁷ This establishes a global normative standard that state deprivation of property (such as demolition) must adhere strictly to the rule of law and not be subject to the whims of municipal authorities.

More specifically, Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes the right of everyone to an adequate standard of living, including adequate housing.⁸ The UN Committee on Economic, Social and Cultural Rights, in its General Comment No. 7, explicitly condemns forced evictions and demolitions without

⁴ *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 SCC 545.

⁵ Karnataka Municipal Corporations Act, *supra* note 1.

⁶ Bruhat Bengaluru Mahanagara Palike Act, *supra* note 2, § 356(3).

⁷ Universal Declaration of Human Rights, art. 17, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948).

⁸ International Covenant on Economic, Social and Cultural Rights, art. 11, Dec. 16, 1966, 993 U.N.T.S. 3.

adequate legal protection, prior notice, and exploring all feasible alternatives. While India is a dualist state and international treaties are not directly enforceable unless domestically legislated, Indian courts, particularly the Supreme Court, frequently read these international principles into Article 21 of the Constitution to ensure that municipal demolitions do not violate fundamental human dignity.

4. Judicial Precedents (Case Laws)

Judicial interventions have significantly shaped the law regarding illegal constructions in Karnataka and India at large. Courts have consistently held that while unauthorized constructions pose a severe threat to urban planning, municipal authorities cannot act high-handedly.

In the seminal case of *Olga Tellis v. Bombay Municipal Corporation*, the Supreme Court ruled that the right to livelihood and shelter is intertwined with the right to life under Article 21. While the state can evict or demolish, it must strictly follow due process and natural justice.⁹ Regarding illegal constructions by builders, the Supreme Court took a stringent stance in *Friends Colony Development Committee v. State of Orissa*, observing that unauthorized constructions are a menace to society and cannot be compounded or regularized as a matter of course. Builders who violate sanctioned plans cannot claim equity.¹⁰

In the specific context of Karnataka, the controversy surrounding the Akrama-Sakrama scheme (Section 76FF of the KTCP Act) was challenged in *Citizens Action Forum v. State of Karnataka*. The High Court of Karnataka initially stayed the regularization rules, and the matter escalated to the Supreme Court. The courts recognized that blanket regularization of illegal buildings incentivizes lawlessness and undermines the fundamental principles of town planning.¹¹ Furthermore, in cases of Rajakaluve encroachments, the Karnataka High Court in various public interest litigations has issued continuous *mandamus* directing the BBMP to ruthlessly demolish structures obstructing stormwater drains, emphasizing that environmental safety supersedes individual property interests.¹²

⁹ *Olga Tellis*, *supra* note 4, at 550.

¹⁰ *Friends Colony Development Committee v. State of Orissa*, (2004) 8 SCC 733.

¹¹ *Citizens Action Forum v. State of Karnataka*, (2017) (Karnataka High Court) (Pending Supreme Court appeal).

¹² *Forward Foundation v. State of Karnataka*, (2015) NGT (South Zone).

5. Controversy, Analysis, and Loopholes

The governance of illegal constructions in Karnataka is riddled with systemic loopholes and intense controversies. The most prominent controversy is the “Akrama-Sakrama” scheme—a legislative attempt to regularize unauthorized developments and deviations upon payment of a penalty fee. Proponents argue it is a pragmatic solution for millions of residents, but critics correctly analyze it as a moral hazard. It penalizes law-abiding citizens while rewarding violators, essentially acting as a revenue-generating tool for the state rather than a corrective planning measure.¹³

Analytically, the legal framework suffers from an enforcement deficit. Sections 321 of the KMC Act and 356 of the BBMP Act are robust on paper but are undermined by corruption and the builder-politician-bureaucrat nexus. Notices are often deliberately delayed until a building is fully occupied, creating a humanitarian shield for the builder. Once innocent buyers occupy the flats, courts are reluctant to order mass demolitions, citing equity and hardship.

A major legal loophole lies in the provisional notice mechanisms. Errant builders frequently exploit the appellate tribunals by obtaining ex-parte stay orders against municipal demolition notices. Furthermore, the lack of coordination between the revenue department, BDA, and BBMP allows illegal layouts to obtain electricity and water connections, conferring a false sense of legitimacy on unauthorized constructions before the demolition authorities even take notice.

6. Suggestions to Analysis & Improving Implementations

To bridge the gap between statutory intent and on-ground reality, a multi-pronged approach is necessary. First, there must be strict, proactive enforcement of the Real Estate (Regulation and Development) Act, 2016. Preventative vigilance is far superior to post-facto demolition. RERA authorities and municipal bodies must integrate their databases so that no project can be marketed without undisputed municipal sanctions.

Second, the implementation of technology is paramount. Karnataka must mandate the use of Geographic Information Systems (GIS), drone mapping, and satellite imagery to monitor urban sprawl. Automated alerts should be generated when a structure deviates from its sanctioned

¹³ Karnataka Town and Country Planning Act, 1961, § 76FF.

physical footprint, removing the reliance on corruptible physical inspections by ward engineers.¹⁴

Third, statutory loopholes allowing extended litigation must be closed by establishing fast-track municipal tribunals to handle demolition stays. No stay order should be granted without hearing the municipal corporation. Moreover, there should be a statutory mandate to affix personal liability on the municipal engineers in whose jurisdiction an illegal construction occurs. If a building is demolished for illegality, the engineers who allowed it to rise to completion should face immediate suspension and financial penalties.

7. Conclusion

The rampant illegal construction and the resultant demolition drives in Karnataka highlight a deep-seated crisis in urban governance. While the statutory frameworks like the KMC Act, the BBMP Act, and the KTCP Act provide adequate powers to the authorities, their implementation is often paralyzed by systemic corruption, political interference, and delayed judicial processes. The right to property under Article 300A is not absolute and must yield to planned urban development; however, the state cannot weaponize demolitions arbitrarily while concurrently running regularization schemes like Akrama-Sakrama that endorse the very same illegalities. Protecting the sanctity of urban planning requires moving beyond reactive demolitions toward a paradigm of proactive deterrence, technological surveillance, and absolute accountability of municipal officers. Only through such stringent measures can Karnataka harmonize its rapid infrastructural growth with the rule of law and the fundamental rights of its citizens.

¹⁴ Bruhat Bengaluru Mahanagara Palike Act, *supra* note 2.