
REVISITING HOUSING RIGHTS IN INDIA: FROM OLGA TELLIS TO A CONSTITUTIONAL RIGHT AGAINST FORCED HOMELESSNESS

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ABSTRACT

This article revisits the constitutional jurisprudence on housing and eviction in India through the lens of *Olga Tellis v. Bombay Municipal Corporation*. It argues that *Indian law does not recognise an absolute right to occupy public land, but has progressively developed a constitutional protection against arbitrary forced homelessness*. Beginning with the Court's recognition of livelihood under Article 21, the analysis traces the evolution of shelter rights through *Shantistar Builders*, *Chameli Singh*, *Ahmedabad Municipal Corporation*, *Sudama Singh* and *Ajay Maken*, and considers the Supreme Court's 2024 demolition directions and its 2025 reaffirmation of the constitutional significance of shelter and livelihood.

It contends that eviction involving vulnerable households should be assessed through legality, procedural fairness, proportionality, vulnerability assessment and meaningful rehabilitation. Particular attention is given to the relationship between the location of housing and livelihood, and to the risk that relocation may provide a physical dwelling while undermining access to employment and essential services. The article concludes by proposing a rights-based eviction framework that reconciles lawful urban planning with constitutional dignity, without converting the right to housing into an unconditional right to remain on public land.

Keywords: Article 21; housing rights; forced homelessness; eviction; rehabilitation; *Olga Tellis*; urban governance.

I. Introduction

Recent instances of demolition undertaken in the name of enforcement have shown that a home can be demolished within minutes, while the consequences of losing it may endure for years. For a person living in an informal settlement, eviction may simultaneously mean the loss of shelter, livelihood, access to education, healthcare, public transport and community. The constitutional problem, therefore, is not simply whether the State may remove an unauthorised structure, but whether it may do so in a manner that leaves individuals without any meaningful alternative.

This tension lies at the heart of *Olga Tellis v. Bombay Municipal Corporation*, where the Supreme Court considered the *proposed eviction of pavement and slum dwellers in Bombay*. The Court rejected the proposition that occupation of public pavements created an absolute fundamental right to remain there, but simultaneously held that livelihood forms part of the right to life under Article 21. The judgment consequently established a constitutional relationship between displacement, livelihood and human dignity.¹

The jurisprudence has since developed considerably. In *Shantistar Builders v. Narayan Khimalal Totame*, the Supreme Court recognised reasonable accommodation as an aspect of Article 21, while *Chameli Singh v. State of Uttar Pradesh* expressly treated shelter as an essential component of meaningful life. The Delhi High Court's decisions in *Sudama Singh v. Government of Delhi* and *Ajay Maken v. Union of India* subsequently moved the law towards surveys, consultation and rehabilitation before the eviction of vulnerable settlements.²

This article argues that *Olga Tellis* should be revisited not as establishing an absolute right to occupy public land, but as laying the foundation for a **constitutional right against arbitrary forced homelessness**. The State retains legitimate authority over public land and urban planning; however, where eviction threatens shelter and livelihood, legality must be accompanied by procedural fairness, proportionality and meaningful rehabilitation. The article traces this evolution and considers the framework necessary to reconcile urban development with constitutional dignity.

¹ *Olga Tellis v. Bombay Municipal Corp.*, (1985) 3 SCC 545, 572–73, 583–84.

² *Shantistar Builders v. Narayan Khimalal Totame*, (1990) 1 SCC 520, 523–24.

II. Constitutional Foundations of the Right to Housing

The Constitution of India does not expressly enumerate a standalone fundamental right to housing. Nevertheless, housing rights have emerged through the interaction of Articles 14, 19(1)(e) and 21, read alongside the Directive Principles of State Policy. Article 19(1)(e) guarantees citizens the right to reside and settle in any part of India. Article 21 protects life and personal liberty, while Article 14 subjects State action to the requirement of equality and non-arbitrariness. The Directive Principles reinforce this constitutional vision by directing the State towards social and economic justice and the protection of vulnerable sections of society.

The very expansion of Article 21 transformed this framework.

In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, the Supreme Court held that the right to life extends beyond mere physical existence and encompasses the right to live with human dignity. This understanding allowed socio-economic necessities to enter the constitutional conception of life.³ The Court subsequently developed a specific jurisprudence of shelter. In *Shantistar Builders*, it recognised that the right to life includes the right to reasonable accommodation. In *State of Karnataka v. Narasimhamurthy*, the Court held that the right to shelter is connected with Article 19(1) and that providing house sites to houseless persons may constitute a legitimate public purpose.⁴

The most comprehensive formulation came in the case of *Chameli Singh*. The Court held that shelter does not mean merely a roof but includes adequate living space, safe surroundings, water, sanitation, electricity and other civic amenities necessary for human development. The right to shelter was thus connected not merely with physical survival but with dignity, development and participation in society.⁵

International law reinforces this constitutional interpretation. Article 25(1) of the Universal Declaration of Human Rights recognises housing as part of an adequate standard of living, while Article 11(1) of the International Covenant on Economic, Social and Cultural Rights recognises the right to an adequate standard of living, including adequate housing. Although these instruments do not automatically create independently enforceable domestic rights,

³ *Francis Coralie Mullin v. Adm'r, Union Territory of Delhi*, (1981) 1 SCC 608, 618–19.

⁴ *State of Karnataka v. Narasimhamurthy*, (1995) 5 SCC 524, 526, ¶ 7.

⁵ *Chameli Singh v. State of Uttar Pradesh*, (1996) 2 SCC 549, 555, ¶ 8.

Indian courts have used international human-rights principles as interpretive aids in developing Article 21.⁶

The legal position is therefore clear in principle: **housing is constitutionally significant, but that significance does not automatically confer ownership or an unconditional right to remain upon a particular parcel of land.**

III. Olga Tellis: Livelihood, Eviction and Procedural Fairness

Olga Tellis remains the foundational decision for understanding this distinction. The petitioners included pavement and slum dwellers facing eviction from Bombay. The municipal authorities relied upon section 314 of the Bombay Municipal Corporation Act 1888, which empowered the Commissioner to remove encroachments. The petitioners argued that eviction would deprive them of their livelihood because their residences were located close to their places of work.

The Supreme Court accepted part of the State's argument: there could be no fundamental right to construct or maintain huts upon pavements or public roads. Article 19(1)(e), guaranteeing the right to reside and settle, could not be transformed into a licence to encroach upon public property. However, the Court refused to treat this conclusion as ending the constitutional inquiry. It held that livelihood is an integral component of the right to life because deprivation of the means of living can effectively deprive a person of life itself. The Court relied upon the empirical reality that many pavement dwellers lived near their workplaces because the cost and time of commuting from distant locations would make their employment unsustainable.⁷ The judgment's deeper contribution, however, lies in its treatment of procedure. The Court interpreted **section 314** as an "*enabling provision*" rather than a "*command to remove encroachments without notice*".

Although the Commissioner possessed discretion to dispense with notice in appropriate circumstances, that discretion had to be exercised reasonably and fairly. The ordinary rule remained that persons affected by State action should receive an opportunity to be heard.⁸

⁶ Universal Declaration of Human Rights art. 25(1) (Dec. 10, 1948); International Covenant on Economic, Social and Cultural Rights art. 11(1), Dec. 16, 1966, 993 U.N.T.S. 3.

⁷ *Olga Tellis v. Bombay Municipal Corp.*, (1985) 3 SCC 545, 572–73.

⁸ *Id.* at 583–84.

This principle is significant because it prevents the right to housing from becoming a conflict between two absolute claims. The pavement dweller does not acquire ownership merely by living on public land; equally, the State does not acquire an unrestricted constitutional power to remove the individual without considering the consequences.

Olga Tellis therefore established a more enduring proposition: the legality of the underlying occupation and the constitutionality of the eviction are distinct questions.

IV. From Livelihood to Shelter and Rehabilitation

Subsequent jurisprudence gradually expanded the protection recognised in *Olga Tellis*. In *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan*, the Supreme Court reiterated that no individual possesses a right to encroach upon public streets or pavements. At the same time, it recognised the State's constitutional responsibility to facilitate shelter for poorer sections of society so that the right to life becomes meaningful. The case therefore preserved the State's authority over public land while reinforcing its positive responsibilities towards vulnerable populations.⁹

The Delhi High Court subsequently converted these broad principles into more concrete procedural safeguards. In *Sudama Singh*, the Court considered the eviction and relocation of “*jhuggi dwellers*” in Delhi. It held that rehabilitation could not be treated as an administrative afterthought and emphasised meaningful consultation with affected residents. The Court stressed that relocated residents should not be made worse off and that rehabilitation must be consistent with their rights to life, livelihood and dignity.¹⁰

The issue received further attention in *Ajay Maken v. Union of India*, arising from the demolition of the Shakur Basti settlement in Delhi. The Court examined the absence of an adequate survey before demolition and required authorities to identify affected residents and formulate appropriate rehabilitation arrangements. It ultimately emphasised that a detailed survey, rehabilitation planning and consultation with affected residents should precede eviction where the applicable policy protects them.¹¹

The law has therefore moved beyond the narrow question of whether a person has title to land.

⁹ *Ahmedabad Municipal Corp. v. Nawab Khan Gulab Khan*, (1997) 11 SCC 121, ¶¶ 8–10.

¹⁰ *Sudama Singh v. Government of Delhi*, (2010) 168 DLT 218 (DB), ¶¶ 59, 64.

¹¹ *Ajay Maken v. Union of India*, 2019 SCC OnLine Del 7618, ¶¶ 136, 144.

It increasingly asks whether State action that removes shelter has been exercised through a constitutionally acceptable process.

V. The Modern Position: The Right Against Forced Homelessness

The strongest way to understand contemporary housing jurisprudence is not as creating an absolute **right to remain**, but as recognising a constitutional **right against arbitrary forced homelessness**. This distinction is essential. Urban authorities must be able to remove structures occupying roads, railway land, drainage channels or other public infrastructure where genuine public interests require their removal. Constitutional housing rights cannot freeze urban planning or create permanent private rights over public property.

At the same time, the State cannot treat homelessness as an irrelevant consequence of its action. Where authorities know that eviction will displace a vulnerable population, constitutional proportionality requires consideration of the human consequences. This principle is particularly visible in the Supreme Court's 2024 decision in *In Re: Directions in the Matter of Demolition of Structures*. The Court held that arbitrary demolition without due process violates constitutional principles and issued safeguards requiring prior notice, an opportunity to contest the proposed action and time to seek judicial or appellate scrutiny. Importantly, however, the Court expressly excluded unauthorised structures situated in certain public places, including roads, streets, footpaths and areas abutting railway lines, from these general directions.¹²

That qualification makes *Olga Tellis* more, not less, important. It demonstrates that the special constitutional problem of vulnerable persons occupying public spaces cannot simply be resolved through a universal demolition protocol. In such cases, the constitutional balance must be informed by the specific principles of *Olga Tellis*: fair procedure, consideration of livelihood and reasonable exercise of statutory discretion.

The Supreme Court's subsequent jurisprudence reinforces this balance. In 2025, in *In re T.N. Godavarman Thirumulpad*, the Court reiterated that the right to shelter is a facet of Article 21 and that the right to livelihood is a fundamental right, while also reaffirming that no person has a right to encroach upon public land.¹³

¹² *In re Directions in the Matter of Demolition of Structures*, 2024 SCC OnLine SC 3291, ¶¶ 90–91.

¹³ *In re T.N. Godavarman Thirumulpad*, 2025 INSC 754 (May 22, 2025).

VI. The Limits of Indian Housing Jurisprudence

Despite this evolution, the Indian framework remains fragmented. First, the right to housing is largely judge-made. While Article 21 provides a powerful constitutional foundation, India lacks a comprehensive national statutory framework establishing uniform standards for eviction, rehabilitation, consultation and relocation.

Second, rehabilitation frequently remains dependent upon governmental policies and eligibility criteria. This creates a difficult distinction between the constitutional importance of shelter and the administrative question of whether an individual qualifies under a particular rehabilitation scheme.

Third, relocation can itself undermine the purpose of the right to shelter. A distant settlement lacking employment opportunities, schools, healthcare, transport and sanitation may provide a physical roof while destroying the social and economic foundations that make that roof meaningful.

This is precisely where *Olga Tellis* remains relevant. Its insight was not merely that livelihood exists within Article 21, but that the practical circumstances of vulnerable people matter to constitutional adjudication. The Court recognised that location can determine whether a person can sustain employment. A housing policy that ignores this relationship risks reducing rehabilitation to the mere transfer of bodies from one geographical location to another. The modern conception of housing must therefore include **habitability, accessibility and livelihood**, rather than merely physical shelter.

VII. Towards a Rights-Based Eviction Framework

A coherent Indian framework should reconcile the State's power over land with the constitutional interests of affected residents. **Firstly, legality must precede demolition.** Authorities should identify the statutory basis for eviction and determine whether the proposed action falls within their lawful powers.

Second, procedural fairness must be guaranteed. Notice, an opportunity to respond and access to judicial review should ordinarily precede eviction. *Olga Tellis* demonstrates that statutory discretion cannot be exercised arbitrarily.

Third, authorities should conduct a vulnerability and habitation assessment. Such assessment should identify households, children, elderly persons, persons with disabilities and individuals whose livelihoods depend upon proximity to the settlement.

Fourth, rehabilitation should precede displacement wherever legally and practically feasible. *Sudama Singh* and *Ajay Maken* provide persuasive models for surveys, consultation and rehabilitation planning. **Finally, relocation must be meaningful.** Housing should not be assessed exclusively by the existence of a physical structure. Access to transport, employment, education, healthcare, water and sanitation should form part of the assessment.

This approach is consistent with *Chameli Singh*, which understood shelter as an environment necessary for human development.

Government programmes can complement this constitutional framework. Pradhan Mantri Awas Yojana-Urban 2.0 provides Central Assistance to eligible beneficiaries and implementing agencies to construct, purchase or rent affordable housing, and includes an Affordable Rental Housing vertical. Such schemes are important, but administrative schemes should complement, not replace constitutional safeguards.

VIII. Conclusion

The constitutional journey from *Olga Tellis* to contemporary housing jurisprudence demonstrates a gradual transformation in the understanding of shelter. What began with the recognition that eviction may deprive a person of livelihood has developed into a broader constitutional concern with shelter, dignity, rehabilitation and procedural fairness. Yet this development should not be misunderstood as granting an unconditional right to occupy public land. Such a proposition would disregard legitimate interests in public infrastructure, urban planning and lawful land management. The more defensible constitutional position is narrower and stronger: **the State may remove unlawful occupation, but it must not produce avoidable homelessness through arbitrary or procedurally unfair action.**

Olga Tellis therefore remains relevant not because Indian constitutional law has remained frozen since 1985, but because its central insight has acquired greater significance. The right to life cannot be understood in isolation from the conditions that make life sustainable. For vulnerable urban populations, shelter, livelihood and dignity are deeply interconnected. The

future of housing rights in India should consequently move towards a uniform rights-based eviction framework founded upon legality, notice, participation, proportionality and meaningful rehabilitation. Urban development and housing rights need not be opposing constitutional values. The real constitutional challenge is to ensure that development does not make the most vulnerable citizens invisible.