
FROM ARTICLE 21 TO URBAN REALITY: IS INDIA'S RIGHT TO SHELTER ENFORCEABLE TODAY?

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ABSTRACT

There is no explicit right to shelter guaranteed in the Constitution of India. However, the Supreme Court has increasingly interpreted shelter as an important aspect of life and dignity and included it under Article 21 of the Constitution since *Olga Tellis v. Bombay Municipal Corporation*. Through various cases from *Olga Tellis* to *Chameli Singh v. State of Uttar Pradesh*, constitutional law in India has gone beyond viewing life merely as physical life. The recent dilemma concerns development initiatives that require the relocation of those who have established homes. While smart cities, development, and redevelopments could make urban areas better to live in, they could also displace disadvantaged communities without adequate rehabilitation measures. This is what happened in the recent incidents in Bengaluru, Prayagraj and Bhubaneswar. Two landmark decisions that took place recently and which deal with the issue of demolition are, *In Re: Directions in the Matter of Demolition of Structures in 2024* and *Zulfiqar Haider v. State of Uttar Pradesh in 2025*. In this essay, one may say that the Right to Shelter is indeed enforceable but not an absolute right of occupation. Protection against arbitrary eviction and destruction of homes, procedural propriety, respect for human dignity, and where the actions of the State would lead to displacement, consideration of rehabilitation would be the important aspects of the enforceable right. The article would argue for an urban development approach where infrastructure development would still be allowed to go ahead but subject to constitutional scrutiny.

Keywords: Article 21, Right to Shelter, Urban Development, Smart Cities, Demolition, Rehabilitation, Forced Eviction, Constitutional Rights.

I. Introduction

Indian cities are rapidly developing. Infrastructure is expanding; transportation services are increasing; there are changes in the waste management system; old urban areas are being redeveloped. Development is a necessity. Indian cities need improvements in infrastructure, planning, and public services. But this kind of development raises constitutional problems – construction of a new city through the destruction of old houses.

There appear some additional complications if the displaced people reside in slums or do not have official recognition of occupation. Even if their occupancy status is arguable, the status of their relation to the house is not only economic one. House provides them security, privacy, education, employment opportunities, and social contacts. So demolition of house touches upon various aspects of life at the same time.

According to Article 21 no person should be deprived of life and personal liberty except according to procedure established by law.¹ Though the Constitution does not include the right to housing, the Supreme Court had many precedents in regard of interpretation of the right to life beyond its bare minimum. *Olga Tellis* case establishes connection between livelihood and residence.² In the case of *Chameli Singh* the Supreme Court explicitly states that right to shelter is an important element of life in terms of Article 21.³

Recently the problem became especially relevant due to fast urbanization. The decision of the Supreme Court *In Re: Directions in the Matter of Demolition of Structures* in 2024 provides some procedural requirements for demolitions across India.⁴ And the case of *Zulfiquar Haider v. State of Uttar Pradesh* in 2025 shows that even the Urban Development Authority could not violate people's right to shelter if proper procedure was not applied.⁵

The point here is not whether the right to shelter is recognized by the constitution. It is. But the problem is how far this right can constrain the State in the process of urban development and forced eviction.

¹ INDIA CONST. art. 21.

² *Olga Tellis v. Bombay Municipal Corp.*, (1985) 3 SCC 545, 571–72 (India).

³ *Chameli Singh v. State of U.P.*, (1996) 2 SCC 549, 554–55 (India).

⁴ *In Re: Directions in the Matter of Demolition of Structures*, 2024 INSC 866, paras. 76–99 (India).

⁵ *Zulfiquar Haider v. State of U.P.*, 2025 INSC 480, paras. 1–2, 28–35 (India).

The aim of this paper is to show that right to shelter is enforceable but not absolute. Right to shelter does not give anyone unlimited rights to occupy public property. Instead, it puts some constitutional limitations on the power of the State to evict people from their houses. Importance of this right nowadays is legal, procedural, dignified and substantial consideration of rehabilitation.

II. The Constitutional Evolution of the Right to Shelter

It is pertinent to discuss the emergence of the right to shelter in relation to the transformation of Article 21. The crucial landmark decision which led to such a transformation was *Maneka Gandhi v. Union of India*, where the Supreme Court ruled that the procedure by which any person is deprived of his life or personal liberty shall be one that is reasonable, just and fair.⁶ Thus, the right to life under Article 21 became a substantive protection against arbitrariness of the State.

The link between livelihood and right to shelter is highlighted in *Olga Tellis* case. This case dealt with the issue of the eviction of pavement and slum dwellers in Bombay. The Supreme Court observed that livelihood can be linked to residency as eviction from the place of livelihood could lead to loss of means of subsistence.⁷ The decision in this case did not establish a right to occupy public property. It only indicated that evictions cannot be viewed as administrative activities if they impact on conditions of life.

The concept of right to shelter got further constitutional recognition in *Chameli Singh*. The Supreme Court recognized that right to shelter was an integral part of the right to life. Shelter in this context was not considered simply as physical shelter but as one of the conditions related to safety, privacy, dignity and human development.⁸

Further strengthening of this line was seen in *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan*, where the competing claims of pavement dwellers and municipality were considered.⁹ It shows a clear understanding of the important difference between the right to shelter and indefeasible ownership and right to remain on a specific piece of property. The right to shelter means that the destruction of one's dwelling cannot be considered as non-relevant

⁶ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, 272–73 (India).

⁷ *Olga Tellis*, (1985) 3 SCC at 571–72.

⁸ *Chameli Singh*, (1996) 2 SCC at 554–55.

⁹ *Ahmedabad Mun. Corp. v. Nawab Khan Gulab Khan*, (1997) 11 SCC 121, 130–31 (India).

from the constitutional perspective.

Such difference becomes quite apparent in the context of urban planning in modern days. Government can have legal powers to acquire lands, build or remove unauthorised buildings. However, such powers do not make eviction of a person free from the restrictions of constitutionality. Lawfulness of the occupation of the land and lawfulness of eviction method are two different issues.

III. Article 21 and The Limits of State Power

The current enforceability of the right to shelter is most apparent in the way in which courts examine the State's actions before evicting a person from his property.

In *Sudama Singh v. Government of NCT of Delhi*, the High Court of Delhi examined the eviction of individuals residing in urban slum dwellings and made it clear that eviction could not be simply the destruction of structures. It examined rehabilitation in light of livelihood and the requirements for a life with dignity.¹⁰

In a similar vein, in *Ajay Maken v. Union of India*, the constitutional interpretation of housing law in the case of eviction from an urban slum dwelling was examined. The High Court of Delhi made it clear that it was not simply whether the structures were placed upon the unowned land. It was important to take into account the larger ramifications of eviction in terms of livelihood, dignity and access to basic services.¹¹

Such decisions are important because it shifts the focus away from the idea of ownership only to look at the constitutional ramifications of State actions. A person without any title to the property would not automatically have a constitutional right to stay there. On the other hand, the lack of title would not mean that the State could do what it wanted without due process of law and examination of the consequences of eviction.

The right to shelter is thus limited mostly to a prohibition on arbitrary conduct. The State can regulate land usage and initiate public projects. However, the process of removal of someone's home would have to satisfy constitutional requirements of due process.

¹⁰ *Sudama Singh v. Gov't of NCT of Delhi*, 168 (2010) DLT 218, 230–34 (India).

¹¹ *Ajay Maken v. Union of India*, 260 (2019) DLT 585, 610–18 (India).

It is particularly important in cases of rapid demolition when the affected person does not have any chance to object to the State's actions.

IV. From Recognition To Procedural Enforcement: The 2024 Supreme Court Judgment

In *Re: Directions in the Matter of Demolition of Structures* is an important development insofar as the enforceability of the right to shelter is concerned. The Court has dealt with the legality of demolition of residential properties as an executive function and has underlined the rule of law, separation of powers, and natural justice.¹²

It acknowledged the importance of shelter within Article 21 and provided nationwide guidelines regarding procedure of demolition of structures. Except for certain exceptions which shall be discussed below, an authority must give prior notice, afford an opportunity of hearing, and make a reasoned order for such action to take place before demolition takes place and the aggrieved party should be given an opportunity of challenging the order before its demolition.¹³

These procedural requirements apart from being important in the immediate context of what is termed as "bulldozing justice" are important from the constitutional perspective in the sense that the power to demolish an unauthorised construction cannot be an administrative tool to bypass procedure.

V. Prayagraj: When Urban Planning Powers Cross The Constitutional Line

The decision of the Supreme Court of India in *Zulfiqar Haider v. State of Uttar Pradesh* in 2025 provides an especially good example of the constitutional guarantee of shelter.¹⁴

In the present case, the demolition was carried out by the Prayagraj Development Authority in accordance with the provisions of the Uttar Pradesh Urban Planning and Development Act, 1973.¹⁵

The Court concluded that the demolition of the housing premises of the appellants was carried out in an arbitrary and unlawful manner. In the statutory procedure, there was an appeal

¹² *In Re: Directions in the Matter of Demolition of Structures*, 2024 INSC 866, paras. 14–54, 76–89 (India).

¹³ *Id.* paras. 90–99.

¹⁴ *Id.* para. 91.

¹⁵ *Zulfiqar Haider v. State of U.P.*, 2025 INSC 480, paras. 1–2 (India).

mechanism, but its implementation was hindered by procedural issues.¹⁶

The Supreme Court has clearly determined that the right to shelter is a part of Article 21 and cannot be deprived except for the due process of law.¹⁷ This decision is important since the authority concerned is a statutory urban development authority. Thus, the court decision shows that the power of planning is not constitutionally higher than the fundamental rights of the citizen.

The significance of the Zulfiquar Haider case is that it highlights the significance of the practical meaning of procedural justice. If a hearing is carried out only after the destruction of the house, then this hearing cannot compensate for the loss incurred before demolition. The consequences will extend further and possessions can be lost, children will lose their schooling and access to work.

Thus, this court decision supports the notion that the right to shelter has a preventive aspect.

VI. Bengaluru's Kogilu Layout: The Rehabilitation Question

The case of Kogilu Layout in Bengaluru represents the current conflict between infrastructure and housing. In December 2025, the structures were demolished in Wasim Colony and Fakir Colony on account of the construction of a solid-waste-management facility. The legality of the demolition and the sufficiency of the rehabilitation program became an object of judicial proceedings in Karnataka High Court.¹⁸

The positions of the State included inquiries related to the nature of the buildings and the use of the land by the inhabitants. At the same time, the residents claimed rehabilitation and the manner of the demolition. Thus, the case raises the problem of the current constitutional controversy rather than the conclusion of the court procedure.

Kogilu case is important for demonstrating the difference between legality of demolition and the sufficiency of measures following it. Even when the public purpose of the actions has been proven, the affected people still need the place to live even after demolition. Thus, the

¹⁶ *Id.* paras. 15–27.

¹⁷ *Id.* paras. 28–35.

¹⁸ *Zaiba Tabassum v. State of Karnataka*, W.P. Nos. 39814 of 2025 & 1458 of 2026 (Karn. H.C. filed Dec. 2025).

constitutional dispute concerns more than necessity of the land for the public facility.

This example shows why the issue of rehabilitation cannot be considered as an act of good will from the State side. When the government foresees the consequence of its actions in form of homelessness, the constitutionality of the relocation should be taken into account.

The Kogilu case should be analyzed carefully. It does not mean that all demolitions performed under the purpose of infrastructure development are violations of Article 21 of the Indian Constitution. It means that procedures of notice, protection, and rehabilitation are essential in the case of direct influence of the decisions on people's lives.

VII. Bhubaneswar's Shantipalli Basti: Development With Rehabilitation

A different paradigm emerges in the case of the redevelopment of Shantipalli Basti in Bhubaneswar. In *Khetrabasi Behera v. State of Odisha*, the Orissa High Court dealt with a redevelopment programme where the residents of the settlement were involved, and transit accommodation was provided pending their relocation.¹⁹

The case shows that there is no obligation under the Constitution to maintain an existing settlement unaltered just because it provides shelter to individuals living within its boundaries. Urban settlements may need to be redeveloped due to infrastructure, safety, sanitation or planning reasons. But what really matters is how the process of redevelopment is carried out with respect to the treatment of its residents.

When relocation is part of a well-planned scheme of housing and the residents who will be affected receive alternative accommodation, the link between development and shelter becomes entirely different from a case in which demolition merely causes displacement and homelessness.

It is important for the future of Indian cities. The right of people to shelter under Article 21 of the Constitution cannot be seen as an obligation on the State not to demolish any existing structure irrespective of planning necessities. Rather, the obligation of the State should be to factor the impact of any relocation in the development process.

¹⁹ *Khetrabasi Behera v. State of Odisha*, W.P. (C) No. 11667 of 2010, slip op. at 2–37 (Orissa H.C. Nov. 14, 2025).

The above example proves that redevelopment and shelter are not mutually exclusive.

VIII. Smart Cities and Constitutional Accountability

The constitutional issue only assumes greater relevance against the backdrop of the Smart Cities Mission. The constitution of the Mission itself includes the concepts of redevelopment and retrofitting as significant types of area-based development. It also specifically talks about improvement of existing areas, including slums, and mentions affordable housing and inclusive development amongst the objectives of the Mission.²⁰

Redevelopment need not necessarily be at odds with the right to shelter. Indeed, carefully planned redevelopment projects may improve housing, sanitation and connectivity.

But the constitutional issue arises when the existing population becomes invisible in the process of planning. Urban development is typically assessed in terms of how much infrastructure is built and what investments have been made. But a constitutional assessment would require one other criterion: Can the existing population live with dignity after this development.

It is significant because informal settlements are usually part of an economic integration with the city. The inhabitants are dependent on employment, education, transport and trade facilities in the vicinity. Relocation elsewhere can offer them housing but take away livelihoods.

This is what is recognized in the constitutional jurisprudence relating to shelter as well. While Chameli Singh emphasized the connection between shelter and the conditions for human development, Olga Tellis brought out the connection between residence and livelihood.

Thus, for a Smart City, the legal question of whether a settlement may be evacuated must be accompanied by another constitutional question: what constitutional implications will follow from the evacuation. Development cannot be a constitutional exception to Article 21.

IX. Is The Right To Shelter Actually Enforceable?

The answer is yes, but not unqualifiedly.

²⁰ Ministry of Urban Development, Government of India, *Smart Cities Mission: Mission Statement & Guidelines* 8–9 (2015).

The right is enforceable when there is arbitrary deprivation of shelter through State action. Zulfiqar Haider provides a specific and recent illustration of judicial intervention against illegal demolition. And the 2024 demolition case shows again how judicial enforcement of procedure is possible even before demolition occurs.

Article 21 does not guarantee an unlimited right of occupation of public land. The State has the authority to control the use of land; demolish hazardous constructions; carry out legitimate construction work, etc. An occupant of public land without any legal right cannot claim an absolute right under the right to shelter against legal eviction.

Enforceability of the right therefore depends on the process of deprivation and not on any absolute guarantee of certain property.

In the broader sense, this differentiation also solves the problem of development. Development in Indian cities is not constrained by any constitutional requirement; it is the exercise of power that is constitutionally restrained.

Wherever it becomes necessary to displace people, it is appropriate to check whether alternative housing arrangements exist; proper identification of those who will have to move out; whether relocation would enable them to continue using essential facilities and services and whether the people were given a reasonable chance to contest the proposal.

X. Towards A Constitutional Model of Urban Development

That response is not to halt urban development. There is a need for good roads, waste-disposal system, public transportation facilities, and planned expansion in urban areas. However, the constitutional aim ought to be one that protects against such development that will result in the invisibility of vulnerable residents.

An improved urban law would have provisions for assessing the shelter implications of any project. Assessment would be done in order to identify the number of people affected, their dependence on employment opportunities in the locality and the availability of other shelters and its consequences.

Wherever possible, rehabilitation ought to precede demolition. In situations where there is a compelling reason for demolition, temporary accommodation should be arranged in order to

ensure that the State's actions do not cause homelessness.

In addition, participation on the part of the residents in decision making is vital. The residents ought to be informed about the development in order to object. Moreover, the administrative records ought to show the legal justification for demolition, notice issued, objections raised and measures for rehabilitation proposed.

Those requirements will not stop development, but they will ensure constitutional legitimacy.

The State would still be at liberty to undertake redevelopment and construction of infrastructure. The only difference would be in the way the decision-making process is conducted. The demolition of a shelter would no longer be regarded as an ordinary removal of a structure, but it would be an action with serious implications on the right to shelter.

XI. Conclusion

The history of Article 21 itself is proof of how constitutional law is capable of responding to changes in society. Shelter as a right has been derived from the right to life and gained separate constitutional importance via judicial interpretation.

Olga Tellis established a connection between livelihood and habitation, while Chameli Singh accepted that shelter is an integral part of life, and the subsequent judgments have revolved around the process and rehabilitation of this right, which has gained practical recognition due to the demolition case of 2024 and the judgment of Zulfiquar Haider in 2025..

Thus, today the question is not about whether there is a constitutional right to shelter. The real question is whether such constitutional right can impact the way cities are planned.

Kogilu is a clear example of continued issues with demolition and rehabilitation. Prayagraj has demonstrated that even statutory development authorities have to comply with the due process. Shantipalli shows that shelter and redevelopment are not necessarily mutually exclusive when relocation is incorporated into a systematic process of housing.

Shelter right does not mean that every settlement has to be saved. It means that the State should understand that demolition of homes has constitutional consequences. A smart city cannot be created by rendering its poorest citizens invisible. Displacement may be justified by

development. Arbitrary displacement may never be.

Thus, the future of Article 21 in the urban context of India will not only depend on how many roads are being built and how many houses constructed, but also on whether the urban governance recognizes people living in the city as citizens possessing constitutional rights. The constitutionally mature city is not just a city that grows faster. It is a city that grows without sacrificing dignity for the sake of development.