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Ensuring Right to Life for the Slum Dwellers: Obligations of the States under International Human Rights Law

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ABSTRACT

In urban governance, the rapid expansion of informal settlements has become the most pressing human rights challenge. Although the right to life is universally recognised as the supreme and non-derogable human right, millions of slum dwellers continue to experience systemic deprivation arising from inadequate housing, insecure land tenure, limited access to healthcare, unsafe drinking water, unhygienic sanitation, environmental degradation and recurrent forced evictions. All these issues raise a pressing question about the enforcement and protection mechanisms of international human rights law, which requires States parties to give proper effect to the right to life, to refrain from arbitrary deprivation, and to take positive measures securing the minimum conditions for a life lived with dignity. This article focuses on protecting slum dwellers' right to life and examines the scope of State obligations as it relates to international human rights law. Using a qualitative doctrinal and comparative methodology, it analyses the Universal Declaration of Human Rights, the ICCPR, the ICESCR, and the interpretative jurisprudence of United Nations treaty-monitoring bodies, alongside the doctrines of positive obligations, progressive realisation, minimum core obligations, and procedural safeguards against forced eviction. It further evaluates comparative constitutional jurisprudence from Bangladesh, India, and South Africa to illustrate judicial recognition of the interdependence between the right to life and socio-economic rights. The article argues that the contemporary right to life extends beyond protection against arbitrary killing and imposes enforceable obligations on States to address structural conditions threatening survival and dignity. Those obligations extend to legislative, administrative, judicial and policy responses to housing conditions, environmental hazards and the absence of basic necessities, so that foreseeable threats to life are met. In conclusion, it argues that, for slum dwellers, effective implementation of a rights-based approach founded on the rule of law, equality, accountability and non-discrimination must be ensured, so that the right to life is enjoyed not merely as a right to survive but as a right to live with dignity.

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I. INTRODUCTION

Rapid urbanisation has transformed cities into centres of economic development and opportunity, but it has also intensified socio-economic inequality, particularly in developing countries where public provision fails to keep pace with population growth and infrastructural demand. One of the most visible consequences is the proliferation of informal settlements, where residents typically lack secure tenure, adequate housing, sanitation, potable water, and healthcare. Far from a temporary phenomenon, informal settlements have become a structural feature of modern urbanisation.¹

UN-Habitat estimates that up to 3.4 billion people lack access to adequate, safe and secure housing, and that more than one billion people live in slums and informal settlements, a figure expected to grow as urbanisation accelerates in low- and middle-income countries.² Residents commonly face intersecting deprivations: insecure tenure, overcrowding, environmental hazards, inadequate waste management, unsafe water, and recurrent threats of eviction, which undermine not only socio-economic well-being but also life, health, and dignity itself. These are not merely conditions of hardship in the ordinary sense; they are conditions that predictably and foreseeably shorten life, whether through waterborne disease, exposure during extreme weather, fire in densely built and poorly serviced settlements, or the loss of livelihood and shelter that frequently follows eviction. The scale of the phenomenon means that how international human rights law characterises these harms, as matters of policy discretion or as questions of legal obligation, has consequences for a substantial proportion of the world's urban population.

Few guarantees in international human rights law carry the same foundational weight as the right to life, since the value of every other entitlement presupposes that the person claiming it survives to exercise it. For much of its history, the guarantee was read narrowly: a shield against the State's own resort to arbitrary killing, and little more.³ That reading no longer reflects how the guarantee actually operates. Tribunals and treaty bodies now treat foreseeable threats to survival, chronic poverty, homelessness, degraded environments, and the absence of basic

¹ U.N. HUMAN SETTLEMENTS PROGRAMME (UN-HABITAT), WORLD CITIES REPORT 2026: THE GLOBAL HOUSING CRISIS: PATHWAYS TO ACTION ch. 2 (2026), <https://unhabitat.org/world-cities-report-2026> [hereinafter WORLD CITIES REPORT 2026].

² *Id.*

³ International Covenant on Civil and Political Rights art. 6, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

healthcare facilities, as squarely within the State's field of responsibility, not outside it.⁴ The Human Rights Committee's own reading of Article 6 makes the point directly: protection from arbitrary deprivation is the floor of the guarantee, not its ceiling, and a State that wishes to discharge it fully must take the ordinary tools of governance, legislation, administration, adjudication and policy, and turn them toward threats to life it could reasonably have anticipated.⁵

This wider understanding is especially relevant to slum dwellers, whose deprivation is rarely due to a single factor but rather to the cumulative impact of inadequate housing, insecure tenure, poor health care, pollution and exclusion from public services, conditions which disproportionately affect women, children, older persons and persons with disabilities. The interdependence of civil and political rights and economic, social and cultural rights has now become a hallmark of human rights law. The Vienna Declaration and Programme of Action declares that all human rights are universal, indivisible, interdependent and interrelated.⁶ This is directly applicable to informal settlements, where the deprivation of adequate housing, sanitation, healthcare or clean water necessarily undermines the right to life itself. These deprivations are in fact rarely caused by a single administrative failure; they are the outcome of decades of exclusion from local government planning, absence of formal tenure documentation and reactive rather than preventative governance, such that a settlement usually comes under public and legal scrutiny only in a crisis such as a fire, a flood or an eviction notice, rather than because of the normal functioning of rights-respecting urban policy.

However, the literature is fragmented even with this development. Scholarship on the right to life remains largely focused on capital punishment, use of force and armed conflict, while scholarship on housing focuses on evictions or urban planning without a comprehensive integration of Article 6 jurisprudence. Research on informal settlements is typically sociological or policy-orientated rather than doctrinal legal analysis. Such fragmentation clouds the way the evolving interpretation of the right to life places positive obligations on States towards slum dwellers. There is also a pragmatic cost: if deprivation is seen as a matter of policy alone, it is equally difficult to hold States to account through legal, rather than political, mechanisms.

⁴ HUMAN RIGHTS COMM., General Comment No. 36: Article 6 (Right to Life), U.N. Doc. CCPR/C/GC/36, paras. 3, 26 (Oct. 30, 2018), https://www.ohchr.org/Documents/HRBodies/CCPR/CCPR_C_GC_36.pdf [hereinafter General Comment No. 36].

⁵ *Id.* paras. 21, 26.

⁶ World Conference on Human Rights, Vienna Declaration and Programme of Action, U.N. Doc. A/CONF.157/23, pt. I, para. 5 (July 12, 1993) [hereinafter Vienna Declaration].

There are three arguments in this article. First, the modern right to life includes positive obligations that are enforceable, obliging States to adopt measures ensuring the minimum conditions for a life with dignity. Second, the unavoidable threats to life caused by deficient housing, insecure tenure, environmental degradation and lack of basic services are issues of State obligation. Thirdly, effective implementation requires an integrated approach to urban governance, recognising the indivisibility of civil, political, economic, social and cultural rights and placing human dignity at its centre.

The paper adopts a qualitative doctrinal and comparative method. It examines the international normative framework, the jurisprudence of UN treaty bodies and comparative constitutional decisions from Bangladesh, India and South Africa. It proceeds as follows: Part 2 provides a review of the available literature and identifies the research gap; Part 3 sets out the methodology; Part 4 addresses the tripartite duty to respect, safeguard and fulfil the right to life; Part 5 investigates comparative constitutional jurisprudence; Part 6 sets out the findings; Part 7 proposes a rights-based framework; and Part 8 concludes.

II. LITERATURE REVIEW: THE RIGHT TO LIFE AND THE PROTECTION OF SLUM DWELLERS

A. The Evolution of the Right to Life

The right to life is generally considered the supreme right, on which the enjoyment of all other rights depends. Conceived as a curb on arbitrary state power, its normative scope has expanded over time to include positive duties to protect persons from foreseeable threats arising from social, economic and environmental circumstances, a development of immediate relevance to slum dwellers, whose lives are less threatened by state violence than by systemic deprivation.

The Universal Declaration of Human Rights (UDHR) proclaims in Article 3 that everyone has the right to life, liberty, and security of person, establishing life as a universal entitlement grounded in human dignity.⁷ Although a declaration rather than a binding treaty, the UDHR has profoundly shaped customary international law,⁸ and notably does not treat the right to life in isolation: Article 25 recognises the right to an adequate standard of living, including food, housing, and medical care, indicating that the protection of life cannot be divorced from the material conditions necessary for human existence.⁹

⁷ Universal Declaration of Human Rights art. 3, G.A. Res. 217 (III) A, U.N. Doc. A/810 (Dec. 10, 1948) [hereinafter UDHR].

⁸ Hurst Hannum, *The Status of the Universal Declaration of Human Rights in National and International Law*, 25 GA. J. INT'L & COMP. L. 287 (1995-96).

⁹ UDHR, *supra* note 7, art. 25.

Treaty law gave this idea binding form in Article 6 of the ICCPR, which places States under a legal duty to protect life.¹⁰ For its first decades, the provision was read defensively, concerned chiefly with unlawful killing, the death penalty, torture, and disappearance, the paradigm violations of an authoritarian State.¹¹ The Human Rights Committee's General Comment No. 36 marks a decisive break from that defensive posture. It labels the right to life the "supreme right," non-derogable under any circumstance, and it ties that status to something more demanding than mere restraint: a State meets the guarantee only by confronting the ordinary, predictable causes of premature death, homelessness, hunger, disease, and a degraded environment among them.¹²

Legal scholarship has, on the whole, pushed this reinterpretation further rather than resisted it. Shue's central claim is that the negative/positive divide does not survive close scrutiny: every right of any substance calls for both restraint by the State and affirmative institution-building, because rights to security and rights to subsistence stand or fall together, and a government cannot make good on the first while starving its population of the second.¹³ The implication for a State that merely refrains from killing while permitting conditions that shorten life just as reliably is that it has not, on this account, actually kept its promise. A related but distinct point concerns history: the split between civil-political and economic-social rights was drawn in the context of deepening Cold War tensions rather than on principle, and those tensions contributed to the relative neglect of the second category on the human rights agenda.¹⁴ Langford's comparative survey supplies the evidence that this is changing: courts across a range of legal systems have, over roughly two decades, grown considerably more willing to treat housing, health, education, and social security as judicially cognisable claims rather than pure policy.¹⁵ A counter-current exists too: critics warn that courts asked to enforce social rights are pulled into essentially budgetary decisions for which adjudication is a poor institutional fit, risking a transfer of authority away from elected bodies. Sunstein sets out that objection with care, but argues that the reasonableness review adopted by the South African Constitutional Court in *Grootboom* offers a promising answer to it, one that requires special attention to those whose

¹⁰ ICCPR, *supra* note 3, art. 6.

¹¹ MANFRED NOWAK, U.N. COVENANT ON CIVIL AND POLITICAL RIGHTS: CCPR COMMENTARY 121-45 (2d rev. ed. 2005).

¹² General Comment No. 36, *supra* note 4, paras. 2-3, 26, 67.

¹³ HENRY SHUE, BASIC RIGHTS: SUBSISTENCE, AFFLUENCE, AND U.S. FOREIGN POLICY 35-64 (2d ed. 1996).

¹⁴ OFFICE OF THE U.N. HIGH COMM'R FOR HUMAN RIGHTS, FREQUENTLY ASKED QUESTIONS ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, Fact Sheet No. 33, at 1, 9 (2008), <https://www.ohchr.org/sites/default/files/Documents/Publications/FactSheet33en.pdf>.

¹⁵ Malcolm Langford, *The Justiciability of Social Rights: From Practice to Theory*, in SOCIAL RIGHTS JURISPRUDENCE: EMERGING TRENDS IN INTERNATIONAL AND COMPARATIVE LAW 3, 3-4 (Malcolm Langford ed., 2008).

minimal needs are not being met while respecting democratic prerogatives and the limits of public resources.¹⁶ The two positions are less opposed than they first appear. Progressive realisation, examined below, is precisely the doctrine that lets a court hold a State to a floor of protection without dictating the schedule or shape of everything built above it, which is this article's own position.

B. Positive and Negative Obligations

Negative obligations require States to abstain from conduct that interferes with the right to life, prohibiting arbitrary killing, torture, enforced disappearance, and excessive use of force.¹⁷ Such obligations remain indispensable, but on their own they answer only half the problem: a person can die just as surely from a government's failure to act on a known danger, untreated poverty, unregulated pollution, housing nobody has inspected, a health system nobody funded, as from anything a government does directly. General Comment No. 36 treats that failure to act as a failure of the same duty, requiring the whole ordinary machinery of governance, statutes, administration, budgets and courts, to be pointed at the everyday conditions, hunger and homelessness and disease among them, that shorten lives just as reliably as violence does.¹⁸ Inaction, in other words, is not a neutral default; on this reading it can be its own violation.

This jurisprudential evolution is particularly significant for slum dwellers, whose principal threats, unsafe housing, contaminated water, inadequate sanitation, insecure tenure and recurrent eviction, typically arise from governmental omission: a failure to regulate private actors, allocate resources, or plan effectively, rather than from affirmative misconduct. Critics argue that expansive positive obligations risk transferring resource-allocation decisions from democratically accountable institutions to the judiciary,¹⁹ a concern particularly salient in developing States facing fiscal constraints. International human rights law nonetheless adopts a balanced approach: Article 2(1) of the ICESCR permits progressive realisation according to available resources,²⁰ while the Committee on Economic, Social and Cultural Rights maintains that obligations of non-discrimination, access to remedies, and minimum essential levels of protection take immediate effect and cannot be indefinitely postponed.²¹ Positive obligations do

¹⁶ CASS R. SUNSTEIN, *DESIGNING DEMOCRACY: WHAT CONSTITUTIONS DO* 221-38 (2001).

¹⁷ ICCPR, *supra* note 3, art. 6.

¹⁸ General Comment No. 36, *supra* note 4, paras. 21, 26.

¹⁹ See Sunstein, *supra* note 16, at 221-38 (setting out this objection and arguing that the reasonableness review adopted in *Grootboom* offers a promising response to it).

²⁰ International Covenant on Economic, Social and Cultural Rights art. 2(1), Dec. 16, 1966, 993 U.N.T.S. 3 [hereinafter ICESCR].

²¹ COMM. ON ECON., SOC. & CULTURAL RIGHTS, General Comment No. 3: The Nature of States Parties' Obligations (Art. 2(1)), U.N. Doc. E/1991/23, paras. 1-10 (Dec. 14, 1990) [hereinafter General Comment No. 3].

not thus require ideal conditions of life, but require reasonable diligence to avoid threats that can be foreseen and to improve conditions incrementally within available resources.

This distinction is important, as it rules out two opposite and equally undesirable positions. It rejects the view that the right to life is fulfilled simply by the state abstaining from direct violence, as this would leave slum dwellers without recourse against completely foreseeable harm from governmental neglect. It also rejects the notion that states are constitutionally required to immediately eliminate informal settlements or to ensure a certain standard of housing irrespective of means, which would be both unrealistic and, in practice, counterproductive, since it is precisely such an unattainable standard that governments use to justify inaction altogether. Instead, the doctrine poses a narrower and more answerable question: whether the State has taken reasonable, non-discriminatory, and adequately resourced steps to address risks to life that were foreseeable and preventable.

C. Human Dignity and the Indivisibility of Rights

The right to life is inextricably linked to, and inseparable from, the principle of human dignity, which compels States to provide the conditions for individuals to live with freedom, security and respect, not simply to survive physically.²² Although the ICCPR and ICESCR were adopted as separate instruments, subsequent practice has consistently rejected any rigid separation between them: the Vienna Declaration affirms that “all human rights are universal, indivisible and interdependent and interrelated.”²³ The Committee on Economic, Social and Cultural Rights has reinforced this integrated approach in General Comment No. 4, explaining that the right to adequate housing extends beyond mere shelter to encompass legal security of tenure, affordability, accessibility, availability of services, habitability, cultural adequacy and location.²⁴ Olivier De Schutter argues that socio-economic rights impose obligations open to judicial enforcement rather than mere policy aspirations, so that even a State’s choices about raising and spending resources must be open to searching scrutiny by courts and other enforcement bodies,²⁵ while Sandra Liebenberg and Beth Goldblatt argue that these rights are crucial tools of substantive equality, addressing structural disadvantage rather than just outlawing discriminatory treatment.²⁶ This position suggests that governments cannot fulfil their

²² General Comment No. 36, *supra* note 4, paras. 2-3.

²³ Vienna Declaration, *supra* note 6, pt. I, para. 5.

²⁴ COMM. ON ECON., SOC. & CULTURAL RIGHTS, General Comment No. 4: The Right to Adequate Housing (Art. 11(1)), U.N. Doc. E/1992/23, para. 8 (Dec. 13, 1991) [hereinafter General Comment No. 4].

²⁵ OLIVIER DE SCHUTTER, THE RIGHTS-BASED WELFARE STATE: PUBLIC BUDGETS AND ECONOMIC AND SOCIAL RIGHTS 5 (Friedrich-Ebert-Stiftung Geneva Office 2018).

²⁶ Sandra Liebenberg & Beth Goldblatt, *The Interrelationship Between Equality and Socio-Economic Rights Under South Africa’s Transformative Constitution*, 23 S. AFR. J. ON HUM. RTS. 335, 342-43 (2007).

obligations under the right to life when they allow conditions that systematically deny vulnerable communities the most basic of needs. This proposition is of obvious relevance to informal settlements, where insecure housing, unsafe water and inadequate sanitation are often treated as matters of policy rather than as engaging enforceable rights.

The indivisibility principle also has an important interpretive consequence that is sometimes overlooked: it means that civil and political rights instruments such as the ICCPR should themselves be read, so far as possible, in a manner consistent with and informed by the standards developed under the ICESCR, rather than as hermetically sealed from them. This is precisely the interpretive move made by the Human Rights Committee in General Comment No. 36, which draws directly on housing, health, and subsistence standards developed elsewhere in the treaty system to inform the content of Article 6. The doctrinal architecture for an integrated approach to the right to life of slum dwellers is, in this sense, already present in the treaty system; what has been lacking is a sustained scholarly and judicial effort to apply it systematically to informal settlements.

D. Adequate Housing and Forced Evictions

The right to adequate housing is grounded in Article 25 of the UDHR and Article 11(1) of the ICESCR,²⁷ and elaborated authoritatively in General Comment No. 4, which identifies legal security of tenure, habitability, affordability, accessibility, service availability, location, and cultural adequacy as its essential elements.²⁸ Security of tenure is of particular importance to slum dwellers, many of whom occupy land without formal recognition and consequently remain vulnerable to eviction and exclusion from infrastructure investment, reinforcing cycles of poverty and exposure to preventable risk.

This relationship becomes especially apparent in forced evictions. International law does not prohibit eviction outright, but requires that it be lawful, necessary, and proportionate, and accompanied by procedural safeguards. General Comment No. 4 treats forced evictions as justifiable only in the most exceptional circumstances, and General Comment No. 7 requires that any eviction be preceded by genuine consultation, adequate notice, access to legal remedies, and alternative accommodation where individuals would otherwise be rendered homeless.²⁹ The Special Rapporteur on Adequate Housing has elaborated these safeguards further, recommending that evictions be preceded by a comprehensive impact assessment, that

²⁷ UDHR, *supra* note 7, art. 25; ICESCR, *supra* note 20, art. 11(1).

²⁸ General Comment No. 4, *supra* note 24, para. 8.

²⁹ COMM. ON ECON., SOC. & CULTURAL RIGHTS, General Comment No. 7: The Right to Adequate Housing (Art. 11(1)): Forced Evictions, U.N. Doc. E/1998/22, paras. 13-17 (May 20, 1997); General Comment No. 4, *supra* note 24, para. 18 (evictions justifiable only in the most exceptional circumstances).

alternatives to displacement be genuinely explored rather than treated as a formality, and that particular care be taken to protect groups placed at heightened risk by eviction, including women, children, older persons, and persons with disabilities.³⁰ These safeguards reflect the principle that development objectives cannot justify arbitrary interference with dignity or expose individuals to foreseeable threats to life.

Malcolm Langford's comparative work confirms that housing is increasingly treated as a legally enforceable entitlement rather than a purely political question,³¹ a trend of particular significance for informal settlements, where overcrowding, unsafe construction, and displacement resulting from redevelopment typically reflect failures of governance rather than unavoidable circumstance. The procedural dimension of housing rights is, in this sense, inseparable from their substantive dimension: a legal system that recognises housing as an element of the right to life but permits summary eviction without notice, consultation, or alternative accommodation offers only a formal guarantee, disconnected from the practical protection of life that the right is meant to secure. It follows that any assessment of a State's compliance with its housing-related obligations must examine not only the availability of housing programmes in the abstract, but the manner in which displacement, where it does occur, is actually carried out.

E. Research Gap and Contribution

The literature reviewed above demonstrates substantial doctrinal development, yet three limitations persist. **First**, scholarship on Article 6 of the ICCPR and scholarship on housing rights under the ICESCR remain largely separate literatures, with few studies systematically analysing how the evolving interpretation of the right to life reshapes State obligations towards informal settlements specifically. **Secondly**, existing studies of informal settlements are frequently sociological or policy-oriented, giving limited attention to the normative content of enforceable international obligations. **Thirdly**, comparative constitutional scholarship tends to examine jurisdictions in isolation: Bangladesh, despite its large urban population and recurring informal-settlement litigation, has received comparatively little attention alongside India and South Africa.

A further limitation concerns the treatment of positive obligations themselves. Although scholars generally accept that States owe duties extending beyond non-interference, there

³⁰ SPECIAL RAPPORTEUR ON ADEQUATE HOUSING, *Basic Principles and Guidelines on Development-Based Evictions and Displacement*, U.N. Doc. A/HRC/4/18, annex I, paras. 31-33, 38 (2007); *see also* Leilani Farha (Special Rapporteur on Adequate Housing), *Guidelines for the Implementation of the Right to Adequate Housing*, U.N. Doc. A/HRC/43/43, Guideline No. 6, para. 35 (Dec. 26, 2019).

³¹ Langford, *supra* note 15, at 3-4.

remains uncertainty regarding the precise legal content of those obligations as applied to informal settlements specifically: questions concerning the scope of governmental responsibility for housing security, access to basic services, disaster preparedness, environmental protection, and procedural safeguards against eviction continue to receive fragmented treatment across distinct areas of human rights law, rather than being drawn together within a single, coherent account of what the right to life requires.

This article addresses these gaps by advancing a unified analysis of the right to life and the protection of slum dwellers, treating housing rights, socio-economic rights, and civil and political rights as mutually reinforcing components of a single framework grounded in dignity, equality, and indivisibility. It further contributes a comparative assessment of Bangladesh, India, and South Africa, evaluating how domestic courts have interpreted the relationship between life, dignity, and socio-economic rights, and considering the extent to which these developments support the progressive evolution of international human rights law. Bangladesh, in particular, offers an instructive case study precisely because its jurisprudence remains at an earlier stage of development than that of India or South Africa: examining it comparatively makes visible both the doctrinal foundations already in place and the specific respects in which further judicial or legislative development would be required to extend meaningful protection to slum dwellers.

III. METHODOLOGY

This article employs a qualitative doctrinal legal research methodology, appropriate where the objective is to analyse legal rules, interpret treaty provisions, and evaluate judicial decisions rather than to collect empirical data.³² It adopts a normative analytical approach to the evolution of positive State obligations through treaty interpretation and the jurisprudence of international human rights bodies, supported by a comparative method examining selected constitutional jurisprudence from Bangladesh, India, and South Africa. These jurisdictions were selected because each has developed significant case law on the relationship between the right to life, housing, dignity, and socio-economic rights; the purpose of the comparison is not to rank national systems but to assess how domestic courts contribute to the progressive development of international human rights law. The study draws primarily on primary sources (treaties, customary international law, General Comments adopted by United Nations treaty-monitoring bodies, reports of Special Rapporteurs, and judicial decisions delivered by domestic courts), supplemented by leading academic literature in international human rights law, constitutional law, and socio-economic rights, in order to provide critical evaluation and contextual analysis.

³² Terry Hutchinson & Nigel Duncan, *Defining and Describing What We Do: Doctrinal Legal Research*, 17 DEAKIN L. REV. 83 (2012), <https://ojs.deakin.edu.au/index.php/dlr/article/view/70>.

The comparative element is confined to constitutional adjudication rather than legislative or administrative measures, since it is at the level of judicial interpretation that the doctrinal relationship between the right to life and socio-economic rights has been most clearly articulated; this necessarily leaves questions of implementation and enforcement (matters better suited to empirical or policy-oriented research) outside the scope of the present doctrinal analysis.

IV. STATE OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

International human rights law increasingly conceptualises State responsibility through the tripartite framework of obligations to respect, protect, and fulfil. Although first articulated in relation to economic, social, and cultural rights, this framework has increasingly informed the interpretation of the right to life itself.³³

The **obligation to respect** requires States to refrain from conduct that directly interferes with protected rights. For slum dwellers, this prohibits arbitrary or unlawful forced eviction, discriminatory denial of public services, and excessive use of force during eviction operations, demanding that public authorities act with legality, necessity, and proportionality.

The **obligation to protect** extends State responsibility to the conduct of third parties, requiring governments to prevent private actors, land developers, employers, industrial operators and landlords, from interfering with protected rights. This dimension of State responsibility is especially significant for informal settlements, where the State is frequently not the direct source of harm but nonetheless permits it to occur through inadequate regulation: unsafe construction standards left unenforced, industrial effluent discharged into water sources used for drinking or bathing, or private landlords evicting tenants without any of the procedural protections that would apply to State-led eviction. States must therefore establish effective regulatory frameworks addressing environmental pollution, unsafe construction, hazardous working conditions, and unlawful displacement; a failure to exercise due diligence in preventing foreseeable harm may breach international obligations even where the immediate harm is inflicted by a non-State actor.

The **obligation to fulfil** is the most extensive dimension of State responsibility, requiring legislative, administrative, financial, and policy measures to facilitate the effective enjoyment of rights: within informal settlements, the progressive improvement of housing, access to potable water, sanitation, healthcare, and disaster preparedness. While resource limitations may affect the pace of implementation, States remain under an immediate obligation to take

³³ *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights* para. 6 (1997).

reasonable steps and to guarantee minimum essential levels of protection without discrimination.³⁴

General Comment No. 36 sits comfortably within this same tripartite structure: living with dignity is not a bonus attached to Article 6 but part of what the guarantee means, which is why the Committee expects States to be addressing homelessness, hunger, a degrading environment, disease, and destitution as a matter of course.³⁵ A State that lets those conditions go unaddressed cannot necessarily shelter behind the ICESCR alone; the same failure may just as easily engage Article 6 of the ICCPR directly. This does not require governments to eliminate urban poverty immediately or provide ideal living conditions; it requires reasonable diligence, fair allocation of available resources, prioritisation of vulnerable populations, and implementation consistent with equality, participation, transparency, and accountability.

Applied to informal settlements, the tripartite framework generates a reasonably concrete set of expectations. Conditions within many slums, overcrowding, contaminated water, inadequate sanitation, and heightened vulnerability to fire, flood, and disease outbreaks, are seldom accidental; they typically reflect prolonged failures of governance, planning, and regulatory oversight rather than unavoidable natural circumstance. The obligation to fulfil, in particular, requires States to move beyond reactive humanitarian responses to crises that have already occurred, towards preventive strategies capable of reducing structural risk before it results in irreversible harm. The protection of slum dwellers is accordingly best understood not as an act of governmental charity but as the fulfilment of legally binding obligations, a proposition tested in the following comparative analysis of domestic constitutional jurisprudence.

V. COMPARATIVE CONSTITUTIONAL JURISPRUDENCE

Comparative jurisprudence offers valuable insight into how the right to life has been judicially extended beyond protection against arbitrary deprivation to encompass the conditions necessary for a life of dignity. This Part examines Bangladesh, India, and South Africa, jurisdictions that illustrate, in different institutional forms, the judicial contribution to positive State obligations towards informal settlements.

A. Bangladesh

Bangladesh's Constitution contains no freestanding housing guarantee. What it has instead is Article 32's assurance that life and personal liberty may be taken away only in accordance with law, a text written with executive detention in mind, not slum clearance. The Appellate Division

³⁴ ICESCR, *supra* note 20, art. 2(1); General Comment No. 3, *supra* note 21, paras. 1-10.

³⁵ General Comment No. 36, *supra* note 4, paras. 3, 26.

opened that text considerably in the FAP 20 litigation, *Dr. Mohiuddin Farooque v. Bangladesh*. The appeal turned on standing, but in deciding it Roy Choudhury J observed that Articles 31 and 32 protect the right to life as a fundamental right, one that “encompasses within its ambit, the protection and preservation of the environment, ecological balance free from pollution of air and water, and sanitation without which life can hardly be enjoyed”, which brought environmentally caused harm to health within the reach of those Articles.³⁶ Two things happened in that case, not one: a wider reading of “life” was articulated from the Bench, and the door to the courthouse widened too, since the Court held that a concerned member of the public, and not only a directly injured party, could bring the claim. That second development matters more than it might first appear for informal settlements, where the people most exposed to harm are usually the least equipped, financially or administratively, to sue in their own name. The reasoning has since carried over into a run of public-interest suits over pollution and public health, even though slums themselves have rarely been the direct subject; the logic nonetheless travels easily to settlements where residents face the same combination of unsafe water, precarious housing, and seasonal flooding.

Measured against India and South Africa, Bangladeshi doctrine still has real gaps. What litigation exists has clustered almost entirely around individual eviction disputes (was this particular removal lawful, was it procedurally fair), rather than building toward any general statement that the State owes slum residents something before an eviction notice ever arrives. Courts have, in effect, waited for the crisis and then adjudicated it, rather than recognising a standing duty to keep the crisis from developing in the first place. Given how much of urban Bangladesh actually lives informally, that is not a minor gap, and it is exactly the gap that the more developed Indian and South African case law, taken up next, helps to close.

B. India

No jurisdiction examined here has pushed the right to life further from its textual starting point than India. Article 21’s guarantee against deprivation of life or liberty “except according to procedure established by law” is procedural on its face; the Supreme Court has spent decades reading substance into it.³⁷ The turn began with *Maneka Gandhi v. Union of India*, where the Court insisted that any procedure restricting life or liberty must itself be fair, just, and reasonable, a holding whose real effect was to convert Article 21 from a guarantee about *how* the State may act into one that also constrains *what* the State may do.³⁸ Once that door opened,

³⁶ *Dr. Mohiuddin Farooque v. Bangladesh*, 49 DLR (AD) 1 (1997) (Bangl.) (Civil Appeal No. 24 of 1995, decided July 25, 1996) (the FAP 20 case) (Roy Choudhury, J., concurring).

³⁷ INDIA CONST. art. 21.

³⁸ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597 (India).

shelter walked through it: *Chameli Singh v. State of Uttar Pradesh* placed the right to shelter inside Article 21 itself, on the reasoning that a home supplies not just cover from the elements but the privacy and security a person needs to develop as one.³⁹ *Olga Tellis v. Bombay Municipal Corp.* pushed the logic toward livelihood: the Court accepted that removing a pavement dweller's ability to earn could, in substance, amount to taking life itself, even while leaving municipal authorities free to clear genuinely unlawful encroachments, provided fairness and due process were observed.⁴⁰ *Subhash Kumar v. State of Bihar* extended the same guarantee outward again, this time to the physical environment, reading a right to pollution-free water and air into Article 21 and thereby reaching harms with no identifiable individual wrongdoer at all.⁴¹

Read as a sequence rather than four isolated holdings, the pattern is unmistakable: procedural fairness first, then a substantive right to shelter, then the recognition that a poor person's livelihood and life are practically the same thing, and finally an environmental dimension answering harms no single actor caused. Very little of this followed from new constitutional text: it is one clause, read four different ways over four decades, doing the work an entire dedicated bill of socio-economic rights might otherwise have to do.

The record is not without difficulty. Scholars have questioned how far courts can go in directing resource allocation without substituting their own judgment for the executive's, and implementation has proved uneven where large redevelopment projects affect people who lack the means to litigate;⁴² in *Olga Tellis* itself, the Court accepted the petitioners' right-to-livelihood argument while permitting the removals to proceed after notice. None of that undoes the doctrinal point. India shows that housing, livelihood, and environmental protection can all sit inside a single right to life without stripping the State of its ordinary power to regulate land, so long as legality, proportionality, and fair process are actually observed. If there is one idea India contributes that Bangladesh and South Africa do not state as directly, it is this: for a great many people living informally, a livelihood is not a separate interest that happens to support survival; it is what survival consists of.

C. South Africa

Of the three systems compared here, South Africa's is the only one that did not need judicial imagination to find housing inside its constitutional guarantees. Section 26 requires the State to

³⁹ *Chameli Singh v. State of Uttar Pradesh*, (1996) 2 SCC 549 (India).

⁴⁰ *Olga Tellis v. Bombay Municipal Corp.*, AIR 1986 SC 180 (India).

⁴¹ *Subhash Kumar v. State of Bihar*, AIR 1991 SC 420 (India).

⁴² See Gautam Bhan, "This Is No Longer the City I Once Knew": Evictions, the Urban Poor and the Right to the City in Millennial Delhi, 21 ENV'T & URBANIZATION 127, 127 (2009).

take reasonable steps, within the resources it actually has, toward realising access to adequate housing over time.⁴³ What the Constitutional Court had to work out was not whether housing counted, but what “reasonable” would mean in practice, and *Government of the Republic of South Africa v. Grootboom* supplied the first answer: no one can demand housing from the State on the spot, but a housing programme that has nothing to offer people in the most desperate circumstances is not a reasonable programme, and therefore fails the constitutional test regardless of what it achieves for everyone else.⁴⁴ *Port Elizabeth Municipality v. Various Occupiers* took the reasonableness idea and applied it to eviction specifically, refusing to let the dispute be settled as a simple property question; Sachs J’s judgment insisted that turning people out of their homes engages constitutional values of compassion and social justice that an ordinary ownership claim does not.⁴⁵ *Occupiers of 51 Olivia Road v. City of Johannesburg* went a step further procedurally, holding that residents facing eviction are owed “meaningful engagement” from the authorities beforehand, not as a courtesy, but as a freestanding constitutional obligation flowing from dignity and the idea that people affected by a decision should have some part in shaping it.⁴⁶

What emerges from these three cases together is a picture of positive obligation with real teeth but real limits. Government has to design programmes, spend money sensibly, and actually talk to the people it plans to move, yet the court reviewing all of this asks only whether the approach taken was reasonable, not whether it was the approach the judges themselves would have chosen.⁴⁷ That is a narrower role than it might sound: *Grootboom*’s test refuses to treat section 26 as a mere aspiration beyond judicial reach, but it equally refuses to let judges draft housing policy from the bench. The question a court actually asks is whether what was done, and how, holds up as reasonable given the position of those with the least, a test demanding in substance, while leaving the executive to design the policy itself.

None of this has stopped South African slums from growing, nor made housing delivery consistent, which is itself an instructive fact: however well-constructed the doctrine, litigation cannot manufacture the political will or administrative capacity that turns a judgment into a functioning programme. Any jurisdiction, Bangladesh included, weighing a stronger constitutional or statutory housing guarantee should take that limitation seriously. Better

⁴³ S. AFR. CONST., 1996, § 26.

⁴⁴ *Government of the Republic of South Africa v. Grootboom*, 2001 (1) SA 46 (CC) (S. Afr.).

⁴⁵ *Port Elizabeth Municipality v. Various Occupiers*, 2005 (1) SA 217 (CC) (S. Afr.).

⁴⁶ *Occupiers of 51 Olivia Road, Berea Township v. City of Johannesburg*, 2008 (3) SA 208 (CC) (S. Afr.).

⁴⁷ *Grootboom*, 2001 (1) SA 46 (CC) paras. 39-41.

doctrine sharpens the legal argument and the available remedy; it does not, by itself, get houses built where budgets, municipal capacity, or political commitment are missing.

D. Comparative Analysis

Despite significant institutional differences, the three jurisdictions reveal convergent judicial recognition that the right to life extends beyond protection against unlawful killing to the material conditions necessary for dignity, and that governmental inaction may threaten constitutional rights as seriously as affirmative misconduct. Bangladesh has developed this principle primarily through environmental jurisprudence under Articles 31 and 32, without yet articulating a comprehensive framework specific to informal settlements. India has interpreted Article 21 expansively to encompass shelter, livelihood, and environmental protection, while requiring that governmental regulation satisfy fairness and proportionality. South Africa, through the express constitutional entrenchment of housing rights, has developed the most structured doctrinal tools, reasonableness review and meaningful engagement, for assessing positive obligations without displacing democratic policy-making.

None of the three jurisdictions, however, has developed a fully integrated framework addressing the cumulative relationship between the right to life and the multiple, interlocking deprivations experienced within informal settlements; housing, environmental protection, public health, and eviction tend to be adjudicated as discrete concerns, in separate lines of cases invoking separate doctrinal justifications. This fragmentation mirrors that identified in the international literature and supports the case, developed in the following Part, for an integrated interpretation of existing obligations rather than the creation of new rights.

Three further observations follow from the comparison. First, the degree of doctrinal development appears to correlate closely with the specificity of the constitutional text: South Africa's express textual guarantee of housing has produced a correspondingly more granular jurisprudence than Bangladesh's more general guarantee of life and liberty, suggesting that textual specificity, while not a precondition for judicial recognition of positive obligations, meaningfully accelerates it. Secondly, in each jurisdiction the judiciary has been careful to preserve institutional boundaries, requiring reasonableness, fairness, or proportionality rather than dictating the substantive content of housing policy, a self-restraint that appears to have been instrumental in sustaining the legitimacy of this line of jurisprudence over time. Thirdly, and most significantly for the purposes of this article, in none of the three jurisdictions has the judiciary yet treated the right to life and the right to adequate housing as, in substance, a single composite guarantee for residents of informal settlements; each has instead developed one

strand of the doctrine (environmental protection, livelihood, or housing) more fully than the others.

VI. FINDINGS

The preceding analysis supports five principal findings.

First, the right to life under international law has moved decisively beyond a purely negative guarantee: General Comment No. 36 and the doctrine of positive obligations together require States to address foreseeable, structural threats to survival, inadequate housing, unsafe environments, and the absence of essential services among them, and not merely to refrain from arbitrary killing.

Secondly, this expanded guarantee is doctrinally continuous with, rather than separate from, the economic and social rights framework: the indivisibility principle means that housing standards developed under the ICESCR properly inform the content of Article 6 of the ICCPR itself, so that a State's housing failures may engage its right-to-life obligations directly.

Thirdly, the three jurisdictions compared here, Bangladesh, India, and South Africa, converge on the underlying principle that governmental inaction can threaten constitutional rights as seriously as affirmative misconduct, even though they differ sharply in doctrinal maturity. Bangladesh has developed this principle only through environmental jurisprudence under Articles 31 and 32, without yet articulating any framework specific to informal settlements; India has read a single general clause expansively enough to reach shelter, livelihood, and environmental protection; South Africa's express textual guarantee has produced the most granular doctrinal tools, reasonableness review and meaningful engagement in particular. Textual specificity, while not a precondition for judicial recognition of positive obligations, appears to accelerate their development considerably.

Fourthly, the right to life and the right to adequate housing have not yet been considered together as a single composite guarantee by any of the three jurisdictions, specifically for residents of informal settlements. Housing, environmental protection, public health and eviction remain adjudicated as discrete concerns, in separate lines of cases invoking separate doctrinal justifications. This fragmentation mirrors the divide identified in the international literature between right-to-life scholarship and housing-rights scholarship.

Fifthly, and consistently across the three jurisdictions, courts have preserved institutional boundaries by requiring reasonableness, fairness or proportionality rather than imposing their own substantive content on housing policy, a self-restraint that appears to have sustained the

credibility of this line of jurisprudence over time even as it renders implementation contingent on political will and administrative capacity that adjudication alone cannot provide.

VII. RECOMMENDATIONS

On the basis of these findings, this article proposes a unified rights-based framework of five substantive components, secured by accountability mechanisms, addressed to courts, legislators, and policymakers alike.

First, human dignity should be adopted explicitly as the normative foundation of State responsibility, consistent with General Comment No. 36: the right to life protects the conditions necessary for a dignified life, not merely biological existence, so that policy concerning informal settlements engages legally enforceable obligations rather than discretionary welfare. This places the onus on the State to show that any failure or delay is due to actual resource constraints and reasonable prioritisation, and does not permit informal settlements to be treated as beyond the scope of legal review.

Secondly, States should take a broad view of **positive obligations**, including regulating private actors, providing access to essential services, reducing environmental risk, and identifying systemic conditions before they cause irreversible damage, so that the response is preventive as well as remedial. Regulatory failures that allow unsafe construction, unregulated industrial pollution in residential areas, or contamination of shared water sources should be treated as a human rights concern in their own right, and not just an environmental or municipal-administration matter, so that affected residents can invoke the right to life directly in seeking redress.

Thirdly, adequate housing should be recognised as an indispensable component of the right to life, including security of tenure, habitability, affordability, access to services and protection from arbitrary displacement, in line with General Comment No. 4 and reinforced by the jurisprudence of India and South Africa. Security of tenure is an area that particularly deserves legislative attention. Much of the damage in informal settlements is related to the lack of any formal legal relationship between residents and the land they occupy. Regularisation or formal recognition of occupation, even if not full ownership, can materially reduce exposure to arbitrary displacement and unlock access to services that formal recognition usually requires.

Fourthly, procedural justice should govern governmental decision-making affecting informal settlements: meaningful consultation, adequate notice, judicial review, and effective remedies, reflecting the lesson of *Olivia Road* that the legitimacy of eviction or redevelopment depends on process as much as substance. Genuine consultation typically surfaces less disruptive

alternatives to eviction, and its absence is itself evidence of an unreasonable or disproportionate response.

Fifthly, non-discrimination and substantive equality should inform implementation at every stage, since slum dwellers frequently experience exclusion compounded by poverty, disability, gender, or migration status; resource constraints may affect the pace of realisation but cannot justify discriminatory treatment or the denial of minimum essential protection. Particular attention should be paid to intra-settlement inequality, since informal settlements are not homogeneous communities, and interventions designed without regard to gender or disability frequently reproduce, rather than remedy, existing patterns of exclusion.

Finally, these five components require effective **accountability mechanisms**, judicial review, treaty-body monitoring, and national human rights institutions, operating alongside transparent governance, participatory urban planning, and adequate budgetary allocation, since litigation alone cannot secure durable protection. National human rights institutions and specialised administrative tribunals have a particularly important role to play here, offering more accessible and less adversarial routes to redress than constitutional litigation, which remains largely inaccessible to individual slum dwellers acting alone. This framework does not create new rights; it offers a coherent interpretation of existing international standards, providing courts, legislators, and policymakers with a principled basis for evaluating governmental responsibility towards vulnerable urban communities.

VIII. CONCLUSION

Traditionally, the protection of the urban poor has been studied separately through the lenses of housing policy, urban governance and socio-economic development. This article has argued that such fragmented approaches do not reflect the contemporary evolution of international human rights law, under which the right to life is no longer confined to protection against arbitrary deprivation but has developed into a broader guarantee requiring States to protect the conditions necessary for a life of dignity, a development of direct consequence for the more than one billion people living in informal settlements worldwide.

The tripartite framework of obligations to respect, protect and fulfil provides a coherent standard by which State conduct can be assessed in situations of structural deprivation, clearly delineating between what is already required under international law and what is a matter of political discretion. The comparative study of Bangladesh, India and South Africa illustrates the gradual, albeit uneven, judicial extension of constitutional protection to housing, livelihood and environmental conditions, while concurrently exposing the limits of adjudication in the absence

of sustained institutional capacity and political commitment. Each jurisdiction, in its own doctrinal idiom, has come to a broadly convergent conclusion: that the right to life cannot be restricted to protection against unlawful killing where the ordinary operation of governmental neglect places life in comparable jeopardy.

This article has put forward a unified rights-based framework, incorporating human dignity, positive obligation, adequate housing, procedural justice, equality and accountability within the wider notion of the right to life, not as a way of creating new legal entitlements, but as a means of applying existing international human rights norms coherently to the realities of informal settlements. The framework is deliberately modest in its jurisprudential ambition: it does not ask courts or treaty bodies to recognise novel rights, but to read existing obligations under Article 6 of the ICCPR, Article 11 of the ICESCR, and their domestic constitutional analogues as already demanding the integrated response that the realities of informal settlement require.

With rapid urbanisation, climate change and rising inequality putting growing pressure on housing and essential services, international human rights law must continue to acknowledge the interlinked nature of civil, political, economic, social and cultural rights. Further research might usefully explore how the framework proposed here might be operationalised through specific legislative or administrative reforms at the domestic level, particularly in jurisdictions such as Bangladesh where constitutional recognition of the right to life is well established, but its application to informal settlements remains comparatively undeveloped. In the final analysis, the protection of slum dwellers is not a matter of government charity or discretionary policy but a question of legal responsibility: a rights-based understanding of State obligations affirms that every individual, regardless of economic status or place of residence, is entitled not only to survive, but to live in conditions consistent with human dignity.
