

**Bill No. XLVIII of 2009**

THE CONSTITUTION (AMENDMENT) BILL, 2009

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BILL

*further to amend the Constitution of India.*

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2009.

Short title, and  
commencement.

(2) It shall come into force with immediate effect.

2. After article 21A of the Constitution, the following article shall be inserted,  
namely:—

Insertion of  
new article 21B.

**"21B. (1) Every Citizen shall have the right to adequate housing as Parliament may, by law, determine from time to time.**

Right to  
housing.

(2) Without prejudice to the generality of the foregoing provisions, nothing in clause (1) shall prevent the State from making any provision for fixing norms and criteria for the allotment of dwelling units to the citizens.

(3) Nothing in this article shall prevent the State from implementing special Housing Schemes through its Boards or Authorities or agencies for the senior citizens, retired Government employees, physically challenged citizens, citizens belonging to Scheduled Castes, Scheduled Tribes, other Backward Classes, widows and other weaker sections of the society.

*Explanations.—* For the purposes of this article “housing” includes an appropriate dwelling unit with all basic amenities and ambience.



## STATEMENT OF OBJECTS AND REASONS

Ours is a vast and over populated country. Even after more than six decades of independence and after implementation of ten five year plans, there is housing crisis in the country and crores of citizens are still homeless. Though, we may blame the booming population and other social and economic reasons for the acute shortage of housing in the country but unfortunately, is increasing day by day both in rural and urban areas of the country. As a result, millions of poor people are forced to live in sub human conditions on the unauthorized slums pavements, footpaths, shed of busstands, under flyovers and bridges, drain pipes, *jhuggi* clusters without basic facilities like sanitation, drinking water, toilets, electricity, etc. They have no option but to languish in such inhuman conditions of living.

Housing is one of the basic human needs and world over the right to adequate housing has been codified as a human right in the Universal Declaration of Human Rights. The United Nations and more than fifty Constitutions in the world do recognize the constituent elements of the housing right as a human right. The Supreme Court of India has also recognized the right of housing by bringing it within the ambit of right to life. In *Olgo Tellis* case, hon'ble Supreme Court laid down that pavement dwellers could only be evicted only after arranging alternative accommodation for them. Thus effectively the Hon'ble Supreme Court has recognized the right of shelter. In the case of *Shantistar Builders Vs. Narayan K. Totame*, Hon'ble Supreme Court laid down that right to adequate housing is a constitutional obligation of the State. It is, therefore, necessary that the Government should come forward to ensure adequate housing for millions of homeless citizens more so for those who are languishing on pavements, footpaths, *Jhuggi Jhopri* clusters, and slums not only because it is their right but it would guarantee a healthy and satisfied citizens. Therefore, it has become necessary to include right to adequate housing as a fundamental right in our Constitution.

Hence this Bill.

AKHILESH DAS GUPTA



#### FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the insertion of right to housing in the list of Fundamental Rights for the citizens. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. Though it is not possible to give the exact funds that will be involved at this juncture, it is estimated that an amount of rupees fifty thousand crore may involve as recurring expenditure per annum, a major part of it will get recovered eventually.

A non-recurring expenditure to the tune of rupees ten thousand crore may also be involved from the Consolidated Fund of India.



*ANNEXURE*

EXTRACT FROM THE CONSTITUTION OF INDIA

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**21A. Right to education—**The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

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*(Dr. Akhilesh Das Gupta, M.P.)*