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## SUPREME COURT RECLAIMED THE RIGHT THAT INDIA FORGOT

### THE HON'BLE SUPREME COURT DECLARED THE RIGHT TO WALK ON A SAFE AND WELL-DEMARCATED FOOTPATH AS A FUNDAMENTAL RIGHT

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#### ABSTRACT

*Courts are traditionally understood as arbiters of disputes among individuals. Rarely are they known as the architects of public policy. Yet contemporary Indian constitutional litigation increasingly produces judgments that suggest institutional responsibility along with final orders. ManiyarIliyaz @ Shaik Riyaz v. P. Ayyappan substantiates this development, where the Supreme Court of India left the matter open for institutional response rather than closing it with a final order while recognizing the right to walk on safe and well-demarcated footpaths as a fundamental right. This paper examines the judgment against the historical and constitutional evolution of pedestrian rights in India .This paper traces the treatment of pedestrian infrastructure from planned walking lanes in ancient Indian civilizations and legal traditions, through colonial road planning and post-independence technical standards, to demonstrate that pedestrian protection long remained a matter of policy rather than enforceable law. It then, using thorough analysis of constitutional jurisprudence ,underscores the doctrinal shift from a negative right to a positive, enforceable state obligation to build and maintain pedestrian infrastructure through Olga Tellis v. Bombay Municipal Corporation (1985) and S. Rajaseekaran v. Union of India to the present judgment. The paper further argues that the judgment signals a broader transformation in constitutional remedies by coupling the recognition of a new fundamental right with continuing institutional supervision. At the same time, it contends that the practical success of the right will ultimately depend upon legislative intervention and effective implementation beyond constitutional integration.*

**Key Words:** - Right to walk on footpath, Fundamental Right, Article 19, historical pedestrian infrastructure, Motor Vehicles Act, Olga Tellis Case.

## I. INTRODUCTION

There is a word for a wife who loses her husband and vice versa. There is even a word for a child who loses a parent. But language fails us when it comes to a parent who loses a child, perhaps because the loss is too unnatural and inverted, to be named. It is the loss of a future that was supposed to outlive you. This grief multiplies when the child is still small enough to be walked to school by hand. This is precisely the loss that prompted the Supreme Court to issue its new constitutional mandate.

A five-year-old boy, walking beside his father toward the school gate, was killed by a tanker on a road with no footpath.<sup>1</sup> In a country where walking is the most common way people get around, and where roads are built almost entirely for cars, trucks, and two-wheelers, the Court has now shifted its focus to something simple yet radical: walking on a safe footpath. In *ManiyarIliyaz @ Shaik Riyaz v. P. Ayyappan*,<sup>2</sup> the Supreme Court has declared that the right to walk on a footpath is a fundamental right, emphasizing that walking is not just a matter of convenience. It is deeply integrated with social, political, and constitutional life. At its core, this ruling addresses a question that is apparent in countless confrontations on Indian roads, i.e. who, exactly, are our roads for?

## II. HISTORICAL BACKGROUND OF ROADS AND FOOTPATHS

### Ancient India

Ancient India understood this protection of the walker's way before. The irony is that India's relationship with the walker is far older than its relationship with the road. Excavations at Mohenjo-daro reveal a city, nearly five thousand years old, laid out with deliberate town-planning. Main streets up to 30 feet wide, oriented to the cardinal points, flanked by narrower lanes of three to seven feet used specifically for pedestrian movement between houses and main thoroughfares.<sup>3</sup> Some have read the width of the main streets as evidence of accommodation for

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<sup>1</sup>SCC Online Blog, "Supreme Court Declares Right to Walk a Fundamental Right", SCC Times, June 20, 2026, available at <https://www.scconline.com/blog/post/2026/06/20/supreme-court-declares-right-to-walk-a-fundamental-right/> (last visited on 4<sup>th</sup> July, 2026).

<sup>2</sup>*ManiyarIliyaz v. P. Ayyappan*, 2026 SCC OnLine SC 1162.

<sup>3</sup>Sir John Marshall, *Mohenjo-Daro and the Indus Valley Civilization* 283 (Arthur Probsthain, London, Volume 1, 1931).

two-way cart traffic.<sup>4</sup> However, Marshall's original excavation report cautions that wheeled traffic may have been rare or unknown when these streets were built, making their width more likely a mark of civic ambition than a specific traffic-engineering choice. In either reading, pedestrian movement was structurally accounted for through dedicated lanes long before any legal category of “footpath” was codified in law. This shows that pedestrian movement was taken more seriously than it is in most Indian cities today. Furthermore, Ancient Sanskrit texts named and ranked different categories of roads, such as the *Rajamarga*, for royal processions, and the *Janghapatha*, a path defined by walking itself.<sup>5</sup> *Padiku*, literally “footpath,” is recorded in the Brahmanda Purana as a distinct category with its own prescribed width, just like every other class of road. Moreover, the *Arthashastra* prescribed fines for anyone who obstructed a road or left it in disrepair.<sup>6</sup>

All of this was planned governance. Walking was not ignored, but rather it was treated as a use of public space worth protecting in law. Somewhere between that world and this one, the walker lost their claim to the road, and the Supreme Court had to intervene to reclaim and recover the rights.

### Colonial Era and Post-Colonial Era

The British rulers had their way of handling the roads in the name of the development of their colony. When the British turned their attention to Indian roads, it was rarely for the sake of the person walking on them or for development. Colonial town planning treated streets primarily to make trade, sanitation, and control convenient for them, i.e. wide, straight thoroughfares designed to move goods, troops, and later, motor traffic. They turned a blind eye towards the pedestrian as a rights-bearing citizen. The Bombay Improvement Trust, 1898, after the plague epidemic, disguised in the banner of “sanitary reform”, widened roads and demolished crowded working-class neighborhoods while building only a fraction of the housing it promised in return.<sup>7</sup> Paved roads were extended generously to the civil lines and cantonments where the

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<sup>4</sup>Deepak K. Watekar, “Ancient Indian Road Features and Modern Technological Perspectives” 7 International Journal of Research Publication and Reviews 11614 (2026).

<sup>5</sup>Deepak Keshav Watekar and More D. A., “Ancient Indian Texts on the Existence of Roads” 6 International Journal of Advance and Applied Research 12 (2025).

<sup>6</sup>Deepak Keshav Watekar and More D. A., “Ancient Indian Texts on the Existence of Roads” 6 International Journal of Advance and Applied Research 14 (2025).

<sup>7</sup>Caroline E. Arnold, “The Bombay Improvement Trust, Bombay Millowners and the Debate over Housing Bombay's Millworkers, 1896-1918” 30 Essays in Economic & Business History 105 (2012).

colonial elite lived, and far more sparingly to the Indian quarters where most people walked. The footpath, as planned, protected space, was not part of this colonial vision. The road was just an instrument to collect revenue and showcase control.

Independence did not shift its attention to such town planning but rather accelerated it. With car ownership still low in 1947, planners briefly experimented with the "garden city" model.<sup>8</sup> Chandigarh, India's most self-consciously planned city, was laid out with wide green boulevards and generous public space, reflecting a newly independent nation's aspiration (although Le Corbusier later modified Albert Mayer's original Garden City plan to incorporate CIAM principles).<sup>9</sup> But it was a fleeting display of the intentions of the then government. Between 1981 and 2001, India's six major metropolises saw their population grow by less than two times, while the number of registered motor vehicles in those same cities grew nearly eight times over.<sup>10</sup> This led to the reorientation of the road policy. A study by Wilbur Smith Associates and the Ministry of Urban Development (2008) across thirty Indian cities found that walking and cycling were still prioritised by nearly half of the population and even more in smaller towns, yet the same study found that people walked because they had to, not because cities encouraged it.<sup>11</sup><sup>12</sup> Footpaths were often treated as residual spaces rather than essential public infrastructure.

The post-colonial decades saw pedestrian infrastructure addressed through technical manuals. The Indian Roads Congress, a body for road standards, published IRC:103, its Guidelines for Pedestrian Facilities, which set out technical specifications for footpath widths and crossing designs, etc. They told planners how to build footpaths for pedestrians and not that they were obligated to. The standard was revised in 2022 as IRC:103-2022, which, for the first time, mandated that footpaths must be provided on all street types where vehicular speeds exceed 15 kmph.<sup>13</sup>

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<sup>8</sup>Dr Katie Oconnell, "Garden City", Sustainable Urban Development, available at: <https://sustainable-urban-development.com/city-planning/history-of-planning/garden-city/> (last visited on July 05, 2026).

<sup>9</sup>Annapurna Shaw, "Town Planning in Postcolonial India, 1947-1965" 30 *Urban Geography* 865-866 (2009).

<sup>10</sup>John Pucher, Zhong-Ren Peng, Neha Mittal, Yi Zhu & Nisha Korattyswaroopam, "Urban Transport Trends and Policies in China and India: Impacts of Rapid Economic Growth" 27 *Transport Reviews* 287 (2007)

<sup>11</sup>Wilbur Smith Associates & Ministry of Urban Development, Study on Traffic and Transportation Policies and Strategies in Urban Areas in India 38-44 (Ministry of Urban Development, Government of India, 2008).

<sup>12</sup>Abhijit Datey, Vishal Darji, Tejas Patel & Darshini Mahadevia, "Walking and Cycling in Indian Cities: A Struggle for Reclaiming Road Edges" 2-3 (Centre for Urban Equity, CEPT University, Working Paper No. 18, 2012)

<sup>13</sup>Indian Roads Congress, IRC:103-2022: Guidelines for Pedestrian Facilities 6 (Indian Roads Congress, New Delhi, 2020)

The shift in language came in 2009-2010, when Delhi's Unified Traffic and Transportation Infrastructure Centre (UTTIPEC) published its Street Design Guidelines under the Delhi Development Authority.<sup>14</sup> The guidelines were approved for immediate implementation and uniform adoption by all road-owning agencies in Delhi. UTTIPEC's stated goal was the equitable distribution of road space, so that the maximum number of people should be able to move safely and conveniently through the city, with pedestrians placed at the heart of street design.<sup>15</sup> It was a meaningful conceptual shift, but it remained a planning guideline, applicable only to Delhi, enforceable by no one in particular. The right to walk still had no law to be backed up.

### The Current Pedestrian Crisis

Looking at the numbers, the publication "Road Accidents in India 2023" indicates that there have been 1,72,890 deaths in road accidents in the year 2023, out of which 35,221 are pedestrian deaths, 7.30% increase from the year 2022.<sup>16</sup> Thus, 20.40% of deaths on Indian roads were of pedestrians.<sup>17</sup> These figures include children like the five-year-old crossing roads, or women walking home after their night shift with no streetlight or footpath. This is an on-ground reality of how ignored pedestrians are even today. A comparison with Scandinavian countries, often held up as the standard for road safety, shows that India's pedestrian death rate was about 40 percent higher than theirs back in 1990. By 2021, that gap had widened to roughly 600%, falling further behind.<sup>18</sup>

Researchers studying road behaviour in India found they needed an entirely new term to describe what Indian walkers do every day. They call it "Pedestrian Resilience",<sup>19</sup> the set of coping behaviours people develop simply to survive footpaths that do not exist, traffic that follows no predictable pattern, and crossings that offer no real protection. It is one thing to study how people violate traffic rules; it is another to study how people have learned to navigate a system that was

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<sup>14</sup>Unified Traffic and Transportation Infrastructure (Planning & Engineering) Centre (UTTIPEC), Street Design Guidelines: For Equitable Distribution of Road Space (Delhi Development Authority, 2010).

<sup>15</sup>Unified Traffic and Transportation Infrastructure (Planning & Engineering) Centre (UTTIPEC), Walkability Guidelines (Delhi Development Authority, New Delhi, 2011).

<sup>16</sup>Transport Research Wing, Ministry of Road Transport and Highways, Road Accidents in India 2023 62 (Government of India, 2024).

<sup>17</sup>Ibid.

<sup>18</sup>Geetam Tiwari, Rahul Goel & Kavi Bhalla, India Status Report on Road Safety 2024 3 (Transportation Research and Injury Prevention Centre, Indian Institute of Technology Delhi, 2024).

<sup>19</sup>Nadiya Ishrath & G.R. Bivina, "Linking Pedestrian Behaviour, Safety Perception, and Behavioural Adaptation: An Indian Perspective" 121 Transportation Research Part F: Traffic Psychology and Behaviour 103685 (2026).

never built to keep them safe in the first place. The standard global framework for road safety, often called the “3E” approach (Engineering, Education, Enforcement), assumes a baseline of organised traffic, clear signage, and functioning footpaths.<sup>20</sup> In much of urban India, none of those three conditions exists in its true nature, leaving the pedestrian to compensate. The result, according to government data for 2023, is that roughly one in every five people was killed on Indian roads that year. Resilience has quietly been disguised as a survival strategy.

### III. CONSTITUTIONAL BACKGROUND OF THE JUDGEMENT

#### Article 19 and Freedom of Movement

The right to walk is derived from the foundational article whose groundwork was set up long before, i.e. Article 19<sup>21</sup> read with Article 21.<sup>22</sup> Article 19(1) guarantees Indian citizens six fundamental freedoms, subject to reasonable restrictions. These are the right to speech and expression, the right to assemble, the right to form associations, the right to movement, the right to settle and reside, and the right to practice any profession. The court settled the right to walk on footpaths, with the right to movement guaranteed under Article 19(1)(d), read with Article 19(1)(a), Article 19(1) (b), Article 19(1) (c) and Article 21 of the Constitution of India.

Article 19(1)(d) has always been associated with wheels. Courts and commentators treated it as a guarantee against arbitrary restraint, such as the right not to be confined to a state, a district, or a town without any reason, rather than the means of transportation.

#### Article 21- Right to Life and Livelihood

In 1985, a case arose that had nothing to do with footpaths and everything to do with whoever gets to claim a piece of pavement as their own. *Olga Tellis v. Bombay Municipal Corporation*,<sup>23</sup> arose when the Maharashtra government announced it would forcibly evict every pavement and slum dweller in Bombay without notice under the Bombay Municipal Corporation Act, 1888 and deport them to their places of origin. These people had built flimsy homes of plastic sheeting and bamboo along the pavements because it was close enough to their daily-

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<sup>20</sup>Ibid.

<sup>21</sup>The Constitution of India, art. 19.

<sup>22</sup>The Constitution of India, art. 21.

<sup>23</sup>*Olga Tellis v. Bombay Municipal Corpn.*, (1985) 3 SCC 545

wage jobs. The petitioner argued that eviction would take their livelihood, and with it, their right to life under Article 21.

The court held that “no person can live without the means of living, that is, the means of livelihood”. Life, the Court said, also meant the conditions that make survival possible at all, not just the act of breathing.

In addition to this, the court held that while the dwellers had no fundamental right to occupy public pavements as dwellings, their eviction could not be carried out without due process. But in explaining why the pavement could not be a permanent home, the court said that footpaths are public property intended for the convenience of the general public, and that their primary purpose is to let pedestrians go about their daily affairs with safety and security.

In 1985, this was a side observation. The court was protecting the pedestrian’s access to the pavement from the dwellers’ competing claim, not declaring a constitutional right to a footpath. In this case, this right was not yet born but was named.

Furthermore, in *S. Rajaseekaran v. Union of India*, 2012,<sup>24</sup> wound through the court for over a decade, producing directions on vehicle safety standards and road engineering. Then, in May 2025, a bench of Justices Oka and Bhuyan, hearing an application in the same case, said that the right to use footpaths without obstruction is a fundamental aspect of the right to life under Article 21.<sup>25</sup> One year later, the 2026 judgment completed what *S. Rajaseekaran* had begun, moving the right to walk from Article 21's penumbra into a full, named, enforceable fundamental right.

#### IV. THE JUDGEMENT

On June 19, 2026, the Supreme Court noted that neither a footpath nor a pedestrian crossing was present where the five-year-old lost his life. Justice P.S. Narasimha and Justice A.S. Chandurkar, who authored the judgment, treated this not merely as a road safety failure but as a constitutional one. The court, therefore, recognized the right to walk on well-built and demarcated footpaths as a primary fundamental right while keeping this right above the right to move on wheels. Most

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<sup>24</sup>*S. Rajaseekaran v. Union of India* in W.P. (C) No. 295/2012

<sup>25</sup>*S. Rajaseekaran v. Union of India*, (2025) 2 SCC 579

importantly, it asked everyone to disassociate their minds from linking the right to move under Article 19(1)(d) only with movement on wheels.<sup>26</sup>

### **Walking in Indian Political and Cultural History**

The Court went further than Article 19(1)(d) alone. It held that walking is not merely locomotion. In India, it is expression, assembly and association.<sup>27</sup> The Dandi March and the Bhoodan Movement were walks. The Pandharpur Wari, an 800-year-old pilgrimage, which dissolves caste hierarchies as thousands move together in devotion, is a walk.<sup>28</sup> The court traced history to conclude that walking is intertwined socially, culturally, religiously, and politically and is reformative in India. In recognising this, the court read walking into Articles 19(1)(a), 19(1)(b), and 19(1)(c), i.e. the rights to expression, peaceful assembly, and association, alongside Article 21's guarantee of life and personal liberty. The pedestrian has been reduced to pejorative, whereas the walker is the most fundamental participant in public space. The walker who joins Wari is exercising Article 19(1)(c) rights. The walker who joins a protest march is exercising Article 19(1)(a). The walker who simply walks to school is exercising Article 19(1)(d) read with Article 21. The Court unified all of this into a single, coherent constitutional framework, which was the need of the hour for far too long in a country like India.

### **Why the Court wants a New Law**

It is imperative to understand that pedestrians' rights would not be served right if the roads don't have well-demarcated and safe footpaths, "a minimum of the minimum duty".<sup>29</sup> This duty falls on urban development authorities, municipal corporations, municipalities, and panchayats.

The court noted that no legislation in India recognises, protects, or enforces the right to walk. Fundamental rights such as the right to education became the Right to Education Act, 2009,<sup>30</sup> the right to food became the National Food Security Act, 2013,<sup>31</sup> the right to information became the

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<sup>26</sup>*Supra* note 2, para. 4.

<sup>27</sup>*Supra* note 2, para. 8.

<sup>28</sup>Roshna Atul Zende, "Pandharpur Wari: A Timeless Pilgrimage of Faith, Unity, and Transformation" 12 Yashomanthan 52 (2025)

<sup>29</sup> *Supra* note 2, para. 7.

<sup>30</sup>The Right of Children to Free and Compulsory Education Act, 2009 (Act 35 of 2009).

<sup>31</sup>The National Food Security Act, 2013 (Act 20 of 2013).

RTI Act, 2005.<sup>32</sup> Each of these statutes protects and regulates the rights equally. The right to walk has no such framework.

### **Rights, Duties, Remedies, and Institutions**

Rather than disposing of the matter with a conclusive order, the Court left it open for continuing mandamus that positions the judgment as an ongoing supervisory mandate rather than a one-time declaration of rights. The Court mentioned a four-part framework that any meaningful rights legislation must have is to “protect, enhance, and provide quick remedies for violations, and also establish a full-time regulator to plan, enforce, and implement this precious right”.<sup>33</sup> Where a road exists, the duty to provide a demarcated and well-maintained footpath should follow automatically. In its final declaration, the court directed that citizens whose right to walk is violated may seek restitutionary remedies directly under the Constitution and the Specific Relief Act<sup>34</sup> against the duty-bearing local bodies.

### **Why the Motor Vehicles Act is Insufficient**

The Court spoke unequivocally about the Motor Vehicles Act, 1988,<sup>35</sup> a statute that dealt with pedestrian deaths, being never designed to protect walkers. Its predecessor, the 1939 Act, was built to standardise commercial transport and generate revenue through registration and permits, followed by the same in the current 1988 Act.<sup>36</sup> That framework did not include or recognise pedestrians’ right to seek correct remedies. Therefore, calling for a statutory body to do the needful is important. It asked for a dedicated statutory framework, a full-time regulator, and directed copies of the judgment to the Ministries of Housing and Urban Affairs, Rural Development, and Road Transport and Highways, as well as to the Law Commission.<sup>37</sup>

### **From Negative Rights to Positive Rights**

What separates *Olga Tellis* from the 2026 judgment is the direction in which each right points. *Olga Tellis* established a negative right. It was a shield against the State's arbitrary power to evict, demolish, and deport without due process. The court asked the State to act fairly when it

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<sup>32</sup>The Right to Information Act, 2005 (Act 22 of 2005).

<sup>33</sup>*Supra* note 2, para. 13.

<sup>34</sup> Specific Relief Act, 1963 (Act 47 of 1963), s. 38-40.

<sup>35</sup>Motor Vehicle Act, 1988 (Act 59 of 1988).

<sup>36</sup>Motor Vehicle Act, 1939 (Act 4 of 1939).

<sup>37</sup>*Supra* note 2, para. 21.

took something away. Unlike the 2026 judgment, it never asked the State to affirmatively build anything. The current judgment held an enforceable duty on the state to build the footpaths under a properly functioning statutory body.

## V. POSSIBLE CRITICISM

Looking into the wording of the judgment, it speaks of footpaths “wherever a road exists”. However, rural India's relationship with the road is different in foundation and structure. Most rural roads or small-town roads have no footpath because they have barely any traffic density to justify one. Yet walking remains more prevalent than in cities. Further, the duty-bearers that include panchayats and municipal corporations have no or little technical and financial capacity to implement this uniformly across drastically unequal institutions.

The duty as framed makes authorities responsible for building and maintaining footpaths where roads exist. It says less about the more common everyday violations. Footpaths that exist on paper but are occupied by vendors, parked vehicles, or construction debris become a medium of disparity between the paperwork and ground reality. Whether the fundamental right can be enforced against these competing yet equally vulnerable private users of the same public space is left unsettled and unaddressed.

Declaring pedestrian access superior over motorized movement is a strong normative statement, but cities periodically face genuine trade-offs where footpath space is the first one to be ignored and compromised for road widening, metro pillar placement or drainage system. The judgment does not offer courts a framework for adjudicating these conflicts when a municipal body pleads that other public interests justified encroaching on footpath width.

The precedents set by the IRC's 1988 pedestrian guidelines and UTTIPEC's 2010 street design code already prescribe footpath widths, kerb heights, and obstruction-free corridors in granular detail. They are simply advisory, not binding, and have been ignored for decades. The court advised and declared walking as a right under their scope. However, whether a fundamental right succeeds where a century of advisory guidelines failed will depend entirely on what Parliament does with the referral. Until then, it is a settled constitutional framework yet to be transformed into an enacting law.

## VI. CONCLUSION

Strip away the footpath, and what remains is a judgment about who owns the road. For most Indians, walking is not a lifestyle preference or a fitness routine. It is the only available mode of transport. The burden of pedestrian deaths falls disproportionately on the poor, the elderly, and women, a group least likely to own a car or even a two-wheeler, and least equipped to absorb the cost of a hospital bill or a funeral. The trajectory before the judgment that the country witnessed was ignorance towards the importance of footpaths for pedestrians. The 2026 judgment changed the path to a mandatory constitutional demand. Before it, a city could ignore its footpaths and face nothing more than bureaucratic criticism. After it, a citizen can walk into a court and compel a municipal corporation to build, maintain, and protect a footpath while claiming compensation when it fails to do so. For a country where pedestrian deaths account for a significant share of all road fatalities, and where footpaths are routinely encroached upon by vendors, parked vehicles, and construction debris, the recognition of these rights changes the perspective on which the road belongs to. In that sense, the ruling reaches back past the Motor Vehicles Act, past the colonial road planning, to something closer to what ancient Indian texts mentioned, and modern India slowly forgot, i.e., walking is a right to be protected.