

United Nations Human Rights: Mandate of the Special Rapporteur on the Right to Adequate Housing¹

Please provide any statistical indicators or other evidence regarding the health, mortality and morbidity consequences of inadequate housing and homelessness in your country on vulnerable groups, including documentation (visual or otherwise) of the lived experiences behind these numbers and of particular circumstances of which your organization is aware.

- According to Census 2011, there are 1.77 million homeless people in India that comes around to about 449,761 homeless households/families. However, this census enumeration is a gross underestimation of the homeless population in India and just presents a minute picture of the stark reality of the number of homeless in India. Despite constituting a significant number of the population, it is very unfortunate that the issue of homelessness and inadequate housing has been neglected by the Indian government. Apart from the Census enumeration of the homeless population, no in-depth study has been conducted by the government to look into important issues pertaining to the homeless in India such as health problem, mortality and morbidity.
- Access to social security schemes and health schemes of the government require appropriate documentation such as identity and resident proof like the *Aadhar* Card, ration card and so on, where place of residence is a mandatory requirement. Since the homeless do not have such proper documentation proof, they are excluded from getting the benefits which government initiative schemes promise to economically weaker sections of the society such as health, food, water and housing.
- The homeless and those with inadequate housing are disproportionately more affected by health problems than the rest of the population. YUVA's ground intervention on homeless in

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Mumbai shows that they frequently fall ill because of fever (nearly once in 3 months) and tuberculosis. Homeless women also suffer from gynecological problems and infections. Single homeless women and children are also prone to sexual and physical violence at the hands of anti-social elements.

- Furthermore, the homeless, especially, small children, are susceptible to water-borne diseases like diarrhea and jaundice. A study conducted by Association for Urban and Tribal Development (AUTD) in Visakhapatnam, Andhra Pradesh reveals that due to contamination of drinking water with drainage water, the homeless and those living in informal settlements are vulnerable to gastroenteritis, malaria and other contagious and life-endangering diseases.
- The mortality rate of homeless women is less than their male counterparts. This is because the homeless men are more prone to diseases like tuberculosis and HIV/ AIDS which leads to an early death. Alcohol addiction and drug abuse among the homeless men also contribute to their high mortality rate. Some homeless people suffer from mental illness issues and have a hard time accessing health care facilities.
- According to a research study conducted by Bombay Urban Industrial League for Development (BUILD) in Mumbai in 2011, lack of access to sanitation and hygiene has an adverse effect on the lives of the homeless. In places where public toilets are not available, the homeless have no option but to use the streets and open drains to relieve themselves. Absence of public toilets is further problematic for homeless women who are not able to take a bath until it is absolute necessary due to lack of privacy and unavailability of water. This leads to further hygiene problems, diseases and infections among the homeless.
- The study by BUILD also highlights that the majority of the homeless prefer to go to a government hospital for treatment during illness while the rest choose to self-medicate themselves by buying medicines from the local chemists. However, they often face discrimination by the hospital staff while accessing treatment due to their untoward and unkempt appearance.

Explain how the protection of the right to life in your state's (region or area of work) constitution or human rights legislation extends to violations resulting from alleged failures of governments to adequately address homelessness or inadequate housing. Please provide examples of attempts to secure access to justice for such violations of the right to life and describe the result. Please provide references to any relevant cases or initiatives.

- The Article 21 of the Constitution of India guarantees right to life and personal liberty as a fundamental right of all Indian citizens. Right to life can be interpreted to include right to shelter, water and health facilities. However, the homeless in India have no rights to live a dignified life. They have to even pay money to be able to access basic facilities like drinking water, toilets and food. Further, they have to endure daily harassment by the police and municipal corporations who keep evicting them from their makeshift homes. They are denied basic citizen's rights since they do not have an identity proof and residential proof.
- India has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) under the United Nation's Universal Declaration of Human Rights (UDHR). ICESCR recognizes the importance of Right to Adequate Housing and according to its Article 11.1: "The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognising to this effect the essential importance of international co-operation based on free consent". However, despite being a signatory of this Covenant, the Right to Adequate Housing still remains a dream for most of India's population, especially, the homeless.
- Deendayal Antyodaya Yojana-National Urban Livelihoods Mission (DAY-NULM) introduced by the government in 2014 has a provision to provide permanent and all-weather shelters with basic facilities to the urban homeless. The Scheme also provides for convergence of service delivery and provision of entitlements including social security, food, education and healthcare, including as well as identity proof, address proof, pension, BPL cards, ration cards, Integrated Child Development Services (ICDS) centres, free legal aid, and admission to government schools and public hospitals for urban homeless residents. The DAY-NULM has also assigned separate shelters for men, women, families, and special shelters for older persons without care, persons with mental illness, recovering patients and their families. However, the implementation of DAY-NULM is very poor. A total of 770 shelters have been sanctioned by States/UTs with a capacity of about 38,770 inmates which is a minuscule number of shelters to house India's 1.7 million homeless population. Lack of shelters in urban areas will be problematic for many homeless migrant informal

workers who do not have access to affordable housing. Moreover, in April 2015, Supreme Court has found severe financial holes in the government's scheme to construct permanent housing facilities for the urban poor under DAY-NULM. The evidence provided by Social Justice Bench of Judges Madan B Lokur and UU Lalit states that though the Centre had released Rs 1,078 crore to states to construct shelters for 9 lakh urban homeless but only 208 houses were built. Also, funds granted to all the states were 'utilised' only by 14 states. For example, UP constructed 37 houses for Rs 180 crore while Maharashtra did not construct a single house from the Rs 170 crore that was allotted.

- The all-India housing shortage comes out to be 18.78 million (Census 2011). Flagship schemes introduced by the present National Democratic Alliance (NDA) government with large budgetary allocations and visions to make India "slum-free" such as *Pradhan Mantri Awas Yojana- Housing for All 2022 (PMAY)* and Smart Cities Mission ignore the issue of homelessness. Also there are no specific guidelines or monitoring mechanisms to assess their accountability since they are schemes and not policies.

Has the disproportionate effect of homelessness and inadequate housing on particular groups (eg: persons with disabilities, Indigenous peoples, women experiencing violence, etc.) been recognized by courts or human rights bodies in your country (region/area of work) as an issue of discrimination? Please provide examples.

The disproportionate effect of homelessness and inadequate housing has been recognised by the Indian Courts; however, their implementation still remains very poor.

- A writ petition 196/2001 dated 13th January 2010 brought to the notice of Supreme Court highlighted the appalling conditions in which the homeless were living on the streets of Delhi in the extreme cold weather. They were being denied the right to food and shelter which is a violation of their fundamental right to life with dignity. The Delhi High Court of initiated a *suo moto* case² on the issue of homelessness in Delhi after eviction of homeless persons by the state government from a homeless shelter. Though the number of homeless shelters in

² *The Court on its Own Motion v. Govt. of Delhi and Anr.*, W.P. (C) 29/2010.

Delhi have increased significantly (from 17 to 266), human rights violations and poor quality of life remain a part and parcel of the homeless' lives.

- The issue of homelessness was brought into the purview of the 'right to food' case (*PUCL v. Union of India and Others*)³ in the Supreme Court of India in 2010. The Court ordered that shelters must be sufficient to meet the need of the homeless, in the ratio of at least one shelter per 100,000 population, in every major urban centre. It also stated that shelters should be functional throughout the year and not as a seasonal facility only during the winters and should be equipped with clean water, adequate sanitation, nutritious food sources, and health services. Despite strong orders from the Supreme Court, the situation in most cities across India is abysmal with regard to provisions for the homeless.
- In response to a petition by the Homeless Collective, the Brihanmumbai Municipal Corporation (BMC) and the State cited non-availability of land to rehabilitate the homeless. In this backdrop, on December 17 2015, the BMC approved a proposal to build cow shelters spread over one lakh square feet in the city while 2000 square metres has been allotted to a Bollywood celebrity to develop a dance institution in Mumbai.
- DAY-NULM proposes a standard of 50 square feet per person in a homeless shelter. In most cities, however, the homeless are provided only about 15 square feet per person in a shelter, which is not sufficient to live with dignity. The lack of adequate space also results in overcrowding and congestion, leading to adverse health impacts on shelter residents. There is also an acute shortage of shelters for women, families, women with children, working men, and shelters for people with special needs such as older persons, persons with disabilities, persons living with mental illness or HIV/AIDS, and chemically dependent persons.

What measures does your organization promote or recommend to ensure access to justice for violations of the right to life resulting from homelessness and inadequate housing and to ensure that governments address these violations with appropriate urgency and commitment?

YUVA strongly believes in the 'The Right to City' framework in our work with the homeless and our strategies of intervention have been aimed towards orienting, facilitating and educating urban poor, especially the homeless, about their entitlement rights, accessing various identity proofs and government schemes.

³ *PUCL v. Union of India and Others*, W. P. (C) 196/ 2001.

YUVA recommends the following measures to ensure that homeless get access to justice and adequate government intervention:

- The Indian government should ensure that the provisions under the international human rights conventions such as Right to Adequate Housing under the International Covenant on Economic, Social and Cultural Rights (ICESCR) are strictly followed so as to give a life of dignity to the homeless in India.
- Provision for housing for the homeless under the flagship schemes of the Central government such as PMAY and the Smart Cities Mission.
- Introduction of a special type of identity proof for the urban homeless in which residential proof is not needed so that they are able to access to basic services and benefit from the schemes introduced by the government and are able to get food at a cheaper rate through the Public Distribution Scheme (PDS).
- The Indian government should not just provide shelters but also give employment opportunities for the homeless under their skill development programmes like 'Skill India' and 'Make in India' so that they can get better opportunities in life.
- Advocate for reservation of land and construction of night shelters in appropriate ratio with the homeless population in Delhi, Ahmedabad and Mumbai and monitor the effective implementation of reservation in the Master Plans of the 3 cities.
- Creation of a pressure group made in collaboration with stakeholders such as the collectives of Homeless, Academic Institutions, Urban Planners/Managers, Civil Society Organizations, Local Authorities and the State which would fight against the rights of the homeless population.
- Basic Service Facilitation Centres should be introduced in every city which can provide support services to the homeless and pavement dwellers by facilitating their ration cards, PAN cards, *Aadhar* Cards, voting cards and other entitlements like toilet pass, birth certificate etc.
- The government should introduce drop-in shelters and hostel-cum-schools for homeless street children where they can stay in a safe and secure environment.
- Advocate for the accessibility of homeless population to housing schemes, legal entitlement, social security schemes and formal education.
- Study on the denial of legal entitlements and other services for homeless population to make the government more accountable to the people.