

Health Care Concerns of the Homeless in India: A Human Rights Approach in COVID-19

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Abstract

Homelessness is the absence or denial of one's housing rights. Homelessness is the violation of human rights that occurs in every country, endangering the health and lives of the poorest people. Thousands of human lives are at stake every year just because of lack of shelter. Due to lack of reliable statistics on the homeless population and lack of accountability towards them, the homeless tend to be overlooked in government programmes. Homeless people aren't limited to a specific population. In the vicious cycle of homelessness, children, women, the elderly, particularly the disabled and people with special needs are all victims. Comparing to other marginalized groups like women, children, indigenous and elder people, homeless face many human rights violations as well as health and social inequalities. Massive health inequalities are found across the world among homeless people; hence, the right to health is one of the most violated human rights for homeless. The misery of homeless people has been exacerbated by the Covid-19 pandemic³ which has spotlighted the significance of adequate housing in a way that has never been seen before. This paper considers that homeless people are one of the most vulnerable members of the society, and faces many health care inequalities and human rights abuses during Covid-19. This study focuses on the human rights obligations of India to provide the right to housing during the COVID-19 pandemic. For the purpose of the study various international human rights laws as well as Indian constitutional and legal documents has been analysed.

Keywords: Rights of Homeless People in India and Human Rights Violation, Right to Health and Access to Healthcare, Obligation of Government.

I. Introduction

“The connection between health and dwelling is one of the most important that exists.”

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³ THE WIRE (last visited Oct. 23, 2021), <https://thewire.in/uncategorised/homelessness-amid-covid-19-miseries-untold-and-promises-shattered>.

---Florence Nightingale⁴

Article 25 of the Universal Declaration of Human Rights (UDHR)⁵ recognize food, clothing, housing, health care and social services as essential human right components of adequate standard of living for health and well-being.⁶ Several people struggle to meet the first two requirements while the third stays afar their reach. As a result, a significant portion of the population lives in public locations such as roads, pavements, and streets, and is classified as "homeless."⁷ Homelessness is about the absence or denial of one's housing rights. Despite the right to shelter being at the central place within the global legal system, over one billion people are not adequately housed. Every year millions are forcefully evicted from their homes, or threatened with forced eviction because of various reasons. Thousands of human lives are at stake every year just because of lack of shelter. Due to major lack of reliable statistics on the homeless population and lack of accountability towards them, the homeless tend to be overlooked in government programmes. Homeless people aren't limited to a specific population. This affects all races and genders including men, women, girls, youth, who lack education and employment, and families who are unable to pay rent or mortgage home. They can't afford to rent houses or rooms as their income is low. In the vicious cycle of homelessness, children, women, the elderly, particularly the disabled and people with special needs are all victims. Therefore, this complex issue of homelessness requires a robust legal framework and effective public policy to ensure socio-economic and cultural protections for homeless people.

Homelessness is a heinous violation of human rights that occurs in every country, endangering the health and life's of the poorest people.⁸ Comparing to other marginalized groups like women, children, indigenous and elder people,

⁴ TEE L. GUIDOTTI, HEALTH AND SUSTAINABILITY AN INTRODUCTION 320 (Oxford University Press 2015).

⁵ Universal Declaration of Human Rights 1948. Art 25, par. 1.

⁶ Id at 4.

⁷ Sanjukta Sattar, Homelessness in India, Vol 15. No. 1, SHELTER 9, 11 (2014) (Dec. 30, 2015), <https://www.hudco.org/writereaddata/shelter-apr14.pdf>.

⁸ LEILANI FARHA, (Special Rapporteur On The Expulsion On The Right To Adequate Housing), Info Note on the Homelessness And Human Rights, (Dec. 30, 2015), U.N. Doc. A/HRC/31/54.

homeless face many human rights violations as well as health and social inequalities. Homeless people around the world live in conditions that are life- or health-threatening, or in other environments that do not protect their human rights and dignity. Massive health inequalities are found across the world among homeless people; hence, the right to health is one of the most violated human rights for homeless.

The misery of homeless people has been exacerbated by the Covid-19 pandemic.⁹ The pandemic has spotlighted the significance of adequate housing in a way that has never been seen before. The present public health crisis has shown how housing and health are inextricably connected. Housing is a social determinant of health, yet it is rarely taken into account when developing health policies. However, when we are encouraged to stay at home in a quarantine or self-isolate, it is clear that our home is the most important health setting in our lives, and one cannot enjoy their right to health without a secure home.¹⁰

This paper considers that homeless people are one of the most vulnerable members of the society, and faces many health care inequalities and human rights abuses during Covid-19. This study focuses on the human rights obligations of India to provide the right to housing during the COVID-19 pandemic. For the purpose of the study various international human rights laws as well as Indian constitutional and legal documents has been analysed.

II. Definition and Concept of Homelessness

The definition of 'homelessness' is different in each nation and figuring the exact picture of homelessness is difficult. Definitions of homelessness vary widely across the globe, depending on language, socio-economic conditions, cultural norms, affected groups and the purpose for which homelessness is defined.¹¹ The human right to adequate housing has been defined by the UN

⁹ THE WIRE <https://thewire.in/uncategorised/homelessness-amid-covid-19-miseries-untold-and-promises-shattered>, (last visited Oct. 23, 2021).

¹⁰ EUROPEAN PUBLIC HEALTH ALLIANCE <https://epha.org/the-impact-of-the-covid-19-crisis-on-homelessness/> (last visited Oct. 23, 2021).

¹¹ In the United Nations (UN) System, used for example, in the "Compendium of Human Settlement Statistics", the expression "Homeless household" refers to households without a shelter that would fall within the scope of living quarters. They carry their few possessions with them sleeping in the streets, in doorways or on piers, or in any other

Special Rapporteur on adequate housing as follows: “The right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity”¹² The term houseless, pavement dwellers, roofless, homeless, and shelterless do not always cover the same meaning. The definition of homeless or homeless person for the purposes of this study is the same as that in Aashray Adhikar Abhiyan defines a homeless person as[one] who has no place to call a home in the city. By home is meant a place which not only provides a shelter but takes care of one’s health, social, cultural and economic needs. Home provides a holistic care and security.¹³

About 2 per cent of the world's population may be homeless, based on statistics, and another 20 per cent lack adequate housing.¹⁴ According to the 2005 UN Global Report, more than 100 million people are homeless and about 1.6 billion people are without adequate housing.¹⁵ In a developing nation like

space, on a more or less random basis. The Statistics Division of the Department of Economic and Social Affairs of the United Nations has defined “primary homelessness” as persons living without a shelter or living quarters and “secondary homelessness” as including persons with no place of usual residence.

The Census of India 2011 defines 'houseless household' as, 'households who do not live in buildings or census houses but live in the open on roadside, pavements, in hume pipes, under flyovers and staircases, or in the open in places of worship, mandaps, railway platforms, etc.'

The Habitat defines homeless as “people sleeping rough, on the street, in public places, or in any other place not meant for human habitation”. It also identifies less visible types of homeless i.e. those sleeping in shelters provided by welfare or other institutions. In the compendium of Human Settlement Statistics, the expression “Homeless household” refers to “¼ households without a shelter that would fall within the scope of living quarters. They carry their few possessions with them sleeping in the streets, in doorways or on piers, or in any other space, on a more or less random basis”.

¹² Miloon Kothari et al, The Human Right to Adequate Housing and Land, NATIONAL HUMAN RIGHTS COMMISSION (Oct. 24, 2021, 10.24 PM), <https://nhrc.nic.in/sites/default/files/Housing.pdf>.

¹³ GRAHAM TIPPLE, SUZANNE SPEAK, THE HIDDEN MILLIONS: HOMELESSNESS IN DEVELOPING COUNTRIES, 77 (Routledge Taylor and Francis Group, 2009).

¹⁴ JOSEPH CHAMIE, As Cities Grow, So Do the Numbers of Homeless, (Oct. 24, 2021, 10.35 PM), <https://yaleglobal.yale.edu/content/cities-grow-so-do-numbers-homeless>.

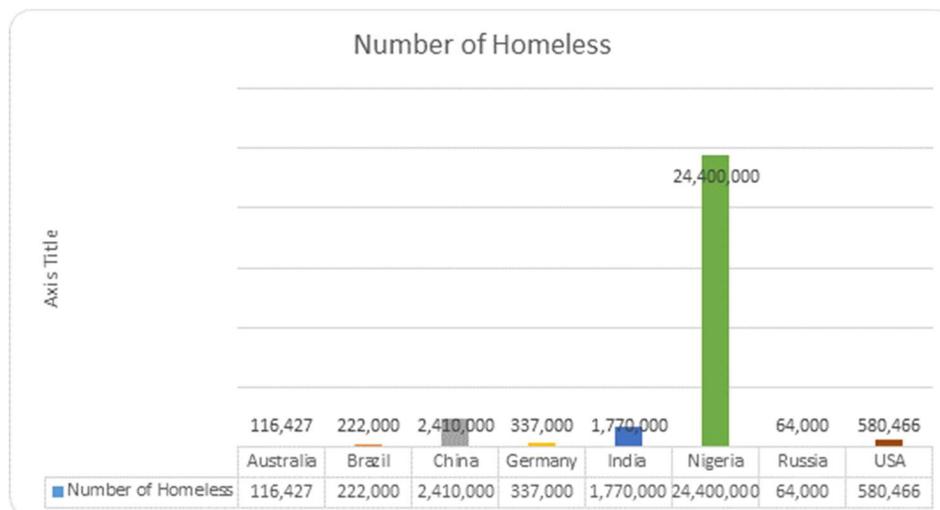
¹⁵ GLOBAL HOMELESSNESS STATICS, HABITAT (2015), <http://www.homelessworldcup.org> (last visited Oct. 23, 2021).

India, homelessness is a major issue. According to the 2011 census there are 1.77 million homeless people in India, or 0.15 percent of the country's total population.¹⁶

TABLE 1: Estimated Number of Homeless People in the Latest Available Year

Sl No:	Countries	Year	Number of Homeless	Homeless as a % of Total Population
1	Australia	2016	116,427	0.48%
2	Brazil	2020	222,000	0.05%
3	China	2011	2,410,000	0.18%
4	Germany	2018	337,000	0.41%
5	India	2011	1,770,000	0.15%
6	Nigeria	2007	24,400,000	1.7%
7	Russia	2010	64,000	0.44%
8	USA	2020	580,466	0.18%

Figure 1: Estimated Number of Homeless People in the Latest Available Year

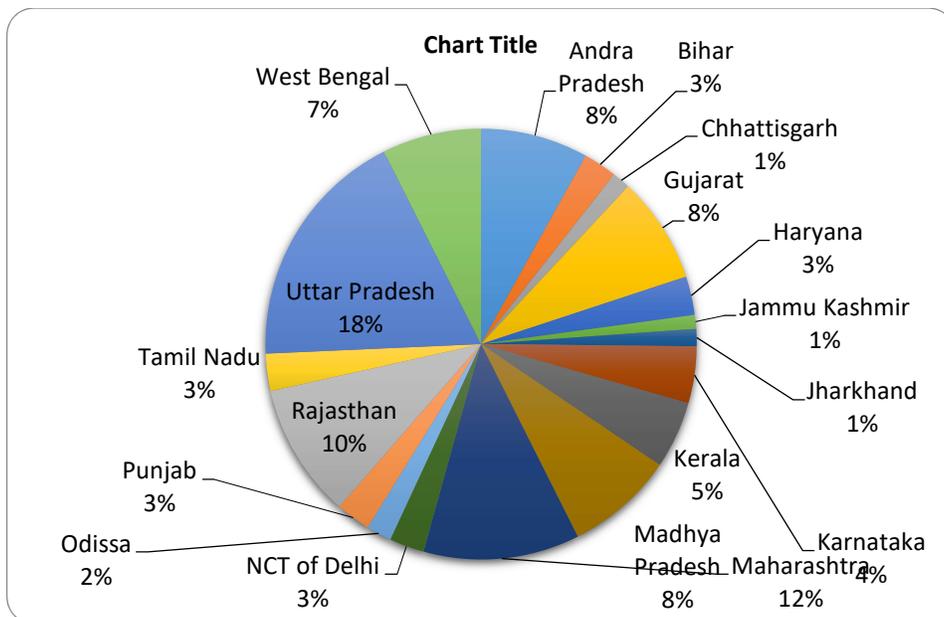


Source: Compiled by Author from OECD Affordable Housing Database¹⁷

¹⁶ CENSUS INDIA, 2011, <http://www.censusindia.gov.in> (last visited Oct. 23, 2021).

It is evident from the above table that in all the developed, developing and under-developed countries (for which the statistics is available - except Nigeria), the number of people listed as homeless accounts for less than 1% of the total population. As the exact number of homeless persons is unknown and is difficult to get as well, the aforementioned numbers cannot be relied completely as the available data might not be accurate.

Figure 2: Distribution of Homeless Population across Selected States in India



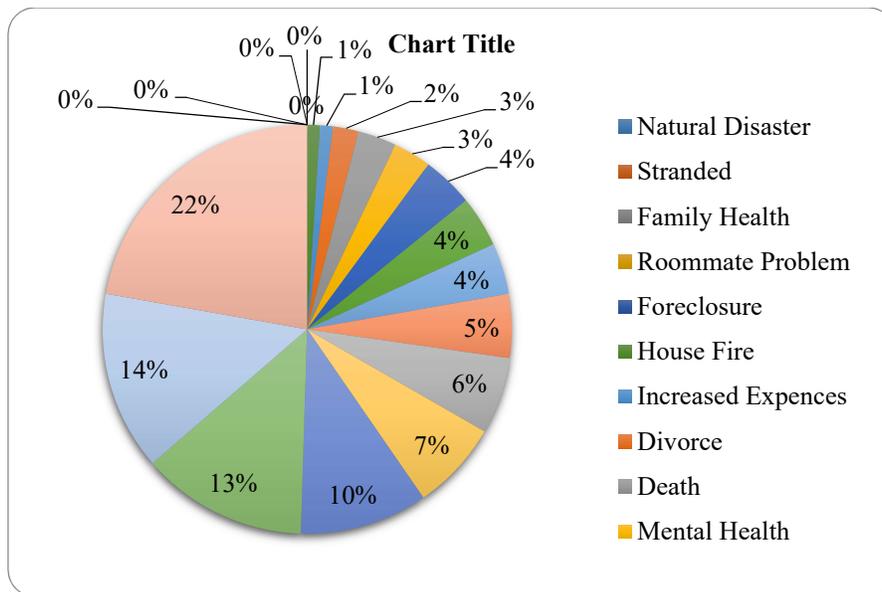
From the above chart, it is apparent that the highest number of homeless people can be found in the state of Uttar Pradesh (18% of Total Population) followed by Maharashtra (12% of Total Population). These figures were compiled prior to the Covid-19 outbreak, and if the number of homeless people is counted now, the total will be much greater.

¹⁷ OECD AFFORDABLE HOUSING DATABASE, <https://www.oecd.org/els/family/H3-1-Homeless-population.pdf> (last visited Oct. 22, 2021).

III. Causes of Homelessness

There are many reasons why people become homeless, and for each individual, the combination of factors leading to homelessness is different. Following are some of the main reasons for homelessness.

Figure 3: Showing Causes of Homeless for Household



Source: The Homeless Resource Network¹⁸

The above figure 3 shows the pictorial representation for the reasons of homeless. Apart from the above reasons, there are some other factors which also contribute to homelessness. They are mentioned below

- Poverty
- Domestic Violence
- Demolitions of Slum and forced evictions sans rehabilitation
- Insufficiency of Law

¹⁸ SOLVING HOMELESSNESS TOGETHER, HOMELESS RESOURCE NETWORK, https://homelessresourcenetwork.org/?page_id=1086 (last visited Oct. 21, 2021).

IV. Common Health Problems Faced by Homeless Persons

The homeless are, by their conditions, vulnerable to ill health. People who are homeless are at higher risk for most adverse health problems than the general population. Some of the health problems especially evident in those with homelessness include the following:

A. Mortality and accidental injuries (bruises, cuts, burns, etc.)

Homeless people have a substantially higher chance of death. Deaths caused by an accidental drug or alcohol overdose, or both, are also popular. Exposure to the environment poses a significant threat.¹⁹

B. Chronic Diseases and Disorders

Many chronic diseases and disorders, such as hypertension and diabetes, are widespread. Homelessness was associated with seizures as well.²⁰

C. Hunger and Nutrition

Malnutrition and hunger is widespread among homeless people. When homeless people are prohibited from working, and their belongings are seized, they are unable to earn their daily income, causing them to go hungry because of their inability to purchase food.²¹

D. Sexual and Reproductive Care

Homeless people tend to have more sexual partners and at younger ages, thus increasing their risk of sexually transmitted diseases. Reaching homeless makes reproductive problems like pregnancy much more difficult, as safety has already been affected and there are no support services available.

¹⁹ The risk of frostbite and hypothermia is high in cold weather, and deaths from freezing are not uncommon. Extreme sunburn and heatstroke can occur in hot weather. Suicides are common among homeless people. Violence is also a determinant of death and injury.

²⁰ ANNY ROUVEL et al. *Epilepsy Among the Homeless: Prevalence and Characteristics*, 16(5), EUR. J. PUBLIC HEALTH 484–486, (2006).

²¹ Poor nutrition over time can lead to a variety of chronic conditions, including short-term problems such as exhaustion including weakness.

E. Skin and Foot Problems

People on the street are especially vulnerable to contracting skin diseases such as cellulite, impetigo, venous stasis, scabies and body lice. Often, the failure to shower regularly and maintain good hygiene leads to existing health issues.²²

F. Infectious Diseases

Homeless people are also at risk for infectious diseases — such as hepatitis A, B, and C, tuberculosis, and HIV / AIDS — due to compromised immune systems, inadequate nutrition and sanitation, and chronic overcrowding in shelters.

G. Respiratory Illness

Bronchitis, chronic obstructive pulmonary disease, emphysema, and other types of respiratory illness are also widespread among homeless people.

H. Mental Health Issues

The prevalence of mental illness among homeless people is higher as compared to the general population.²³ The mental effect of homelessness is a serious breach of the right to health.²⁴ One of the important goal of the National Mental Health Policy (NMHP) in India is to expand access to mental health services to disadvantaged populations, including homeless people.²⁵ In India the new

²² STEPHEN W HWANG et al. *Chronic Pain Among Homeless Persons: Characteristics, Treatment, And Barriers To Management*, 12, 73, BMC FAM. PRACT., (2011). Foot conditions such as onychomycosis, tinea pedis, corn and callous, and immersion foot typically result from insufficient footwear, excessive exposure to moisture, long walking and standing times, and repeated minor trauma.

²³ RAVISHANKAR RAO, et al. *Mental Healthcare Act, 2017 And Homeless Persons with Mental Illness in India*, 61(10) Indian J. Psychiatry, 768-762, (2019).

²⁴ A substantial percentage of the homeless people have significant mental health issues. "Overall, 30-35% of homeless women and up to 75% of male women were diagnosed with mental illness. 20-25% of homeless people suffer from combined conditions (severe mental illness and addictions). People with serious mental illness are over-in the homeless population because they are often released from hospitals and jails without adequate help from the community. HOMELESS HUB, <https://www.homelesshub.ca/about-homelessness/topics/mental-health> (last visited Oct. 22, 2021).

²⁵ REETINDER KAUR R K, PATHAK, Homelessness and Mental Health in India, 3(6), LANCET, 500-501, (2016).

Mental Health Care Act (MHCA) 2017 has brought a list of rights for the Homeless persons with mental illness (HPMI).²⁶

V. Reasons for Poor Access to Health Care of Homeless

Homeless persons are the most marginalized group who face the biggest obstacles to accessing healthcare. There are certain barriers which prevent them from accessing the health care, they are as follows:

- Poor ability to eat a balanced diet because of lack of food options, storage and cooling
- Eating, sleeping and bathing can be done only in communal places facilitating the transmission of communicable disease
- Lack of health insurance and unable to afford the necessary medicines
- There is no proper place to rest to make recovery easier when they are sick, as most shelters close during the day
- Poor access to basic hygiene, including limited access to toilets, clean clothes and a desire to keep shoes on for a long time out of fear of being stolen
- When living outdoors, exposure to the elements raises the risk of sunstroke, sunburn, frostbite and hypothermia
- lack of continuity of care and insufficient general health awareness
- reluctant to be treated in a hospital because of negative experiences in the public health system
- Health care affordability

VI. Adequate Housing and Land as a Human Right and Human Right Violations of Homeless People

Housing rights are a fundamental human right. This has been documented in a number of international human rights instruments²⁷ and is routinely monitored by the UN and the Council of Europe. The right to adequate housing has been

²⁶ Mental Health Care Act, 2017, Chapter V para18 (7), 19 (1), Chapter XIII 100 (6)(7)

²⁷ Universal Declaration of Human Rights 1948, Art. 25(1); INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS (ICESCR), Art. 11(1); General Comment 4 of the ICESCR; HABITAT MEETING IN ISTANBUL 1996; ISTANBUL AGREEMENT; HABITAT AGENDA para 61.

recognised as an important component of the right to an adequate quality of standard living since the adoption of the Universal Declaration of Human Rights (UDHR) in 1948. The fundamental human right to safe and secure housing has, therefore, been a universal issue. The right to housing includes over forty national Constitutions.²⁸

The right to adequate housing is a human right that cannot be considered in isolation. If the right to adequate housing and land is to be realised and maintained by all groups in society, the full enjoyment of other rights, such as the right to freedom of expression, the right to freedom of association (such as for tenants and other community-based groups), the right to freedom of residence, the right to information and prior informed consent, and the right to participate in public decision-making, is required. As stated by UN Special Rapporteur on Adequate Housing studies, the human right to adequate housing is increasingly being understood to include the human right to land. In establishing the human right to appropriate housing and land, the right not to be subjected to arbitrary or unlawful interference with one's privacy, family, home, or correspondence is also a critical component.²⁹ The States Parties should take the necessary actions to ensure that this right is realised.

The world health organization's health principles of housing 1989³⁰ states that housing is closely connected with hygiene. Suitable housing supports physical and mental health at its finest and provides people with psychological stability, physical connections with their community and culture, and a way to convey their identity.

The WHO has set out six key concepts relating to housing conditions and human health³¹. They are as follows³²:

²⁸Monte Leach, *A Roof is not Enough – A Look at Homelessness World Wide*, September 1998, available at https://www.share-international.org/archives/economics/ec_mlroof.html (last visited Oct.22, 2021).

²⁹ Miloon Kothari, Sabrina Karmali & Shivani Chaudhry, *The Human Right to Adequate Housing and Land*, NATIONAL HUMAN RIGHTS COMMISSION, 2006.

³⁰Regarding the health dimensions of housing, General Comment No. 4 offers the clearest articulation of the minimum standards that are required for housing to be regarded as adequately health security.

³¹ WHO HOUSING AND HEALTH GUIDELINE 2018, <https://www.ncbi.nlm.nih.gov/books/NBK535293/> (last visited Oct. 23, 2021).

1. Protection against communicable diseases³³
2. Protection against injuries poisonings and chronic diseases³⁴
3. Reducing psychological and social stresses to a minimum³⁵
4. Improving the housing environment³⁶
5. Making Informed use of Housing³⁷
6. Protecting People at Special Risk³⁸

Homelessness has emerged as a global human rights crisis. People experiencing homelessness face violations of a wide range of human rights, like violation of basic human rights and dignities, such as the right to adequate housing,³⁹ right to

³² Id.

³³ Communicable diseases can be minimized if housing provides clean water supply, sanitary excreta and garbage disposal, sufficient surface water drainage and facilities essential for household hygiene and proper storage and preparation of foods.

³⁴ Adequate housing provides protection against burns, poisonings, thermal and other pollutants that may lead to chronic disease and malignancies. Specific consideration should be provided to structural features and furniture, indoor air pollution, chemical protection and the use of the house as a place of work.

³⁵ Adequate housing supports social and economic growth for people and decreases the psychological and social pressures associated with the housing climate to a minimum.

³⁶ Adequate housing environments provide access to workplaces, critical services and amenities which promote good health. The health effects' will be beneficial when the housing environment provides for physical protection, friendly surroundings, active social participation, and access to essential resources (educational, health, social) and industrial, cultural and recreational facilities. The circumstances and the results in deprived societies will be just the reverse.

³⁷ Health also depends on how the people use their homes. The best of buildings won't protect or encourage safety if its inhabitants don't use the facilities safely and for safer purposes-or if they don't maintain housing so as to preserve it from health hazards.

³⁸ Some groups living conditions position them at unique health risks, making them highly vulnerable to numerous health hazards. The inhabitants of inner-city slums and peri-urban shanty towns and squatter settlements as well as the homeless, transient and refugee communities are prominent among these groups. Due to their biological vulnerability and increased exposure to hazards in the household, the health of children and women within these and all other classes is of exceptional concern. Across both nations, the elderly, the mentally ill, and the disabled have special welfare conditions across relation to their accommodation.

³⁹ Art. 11(1), ICESCR; Art.27, CONVENTION ON THE RIGHTS OF THE CHILD (CRC) 1989; Art. 5(e) INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD) 1969; Art. 5(e), CONVENTION ON THE ELIMINATION

Life, Liberty and Security of the Person,⁴⁰ right to health,⁴¹ the right to freedom from discrimination⁴², the right to privacy,⁴³ the right to be free from Cruel inhuman or degrading treatment or punishment,⁴⁴ right to education,⁴⁵ the right to freedom of expression,⁴⁶ the right to adequate standard of living⁴⁷, the right to vote,⁴⁸ the right to freedom of association⁴⁹ and the right to social security⁵⁰.

OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) 1979, Art. 25, UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR).

⁴⁰Art. 9(1), INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) 1976.

⁴¹Art. 12, INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS (ICESCR) 1976; Art. 24, CONVENTION ON THE RIGHTS OF THE CHILD (CRC) 1989; Arts. 12, 14(2) CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) 1979.

⁴² Art. 17 & 26, INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) 1976; Art. 2(2), INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS (ICESCR); Art. 5(d) INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD) 1969; Art 2, CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) 1979.

⁴³ Art. 17 International Covenant on Civil and Political Rights (ICCPR) 1976; art. 16, CONVENTION ON THE RIGHTS OF THE CHILD (CRC) 1989.

⁴⁴Art. 7, INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) 1976; Art.7, CONVENTION ON THE RIGHTS OF THE CHILD (CRC) 1989.

⁴⁵Art. 13, INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS (ICESCR); Art. 28, CONVENTION ON THE RIGHTS OF THE CHILD (CRC) 1989; Art. 11, CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) 1979; art.5 (e), INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD) 1969.

⁴⁶ Art. 19(2) and (3) INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR) 1976; art. 5(d), INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD) 1969.

⁴⁷Art 11(1), INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS (ICESCR); Art.27, CONVENTION ON THE RIGHTS OF THE CHILD (CRC) 1989; Art.5(e) International Convention on the Elimination of All Forms of Racial Discrimination (CERD) 1969; Art. 14(2), CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) 1979; Art. 25, UNIVERSAL DECLARATION OF HUMAN RIGHTS 1948.

⁴⁸ Art. 25(2), International Covenant on Civil and Political Rights (ICCPR) 1976; Art. 7, CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) 1979; Art. 5(d) INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD) 1969.

Furthermore, in the American Declaration in Article XI, the right to housing is seen as the part of the protection of the right to health.⁵¹ The condition of homelessness is making people vulnerable to, or at least particularly prone to, violations of these human rights and freedoms mentioned above. For the purpose of this study, more importance is given to the right to health aspect.

VII. Violation of Right to Health of Homeless Person

Every person has the right to enjoy the highest possible standard of health. The right to health can be found in many international human rights instruments.⁵² However, homelessness can lead to severe and permanent violations of this basic human right. Despite lack of adequate accommodation, the right to health is undoubtedly one of the most clearly violated human rights of homeless. CESCR recognizes that health is proportional to the biological conditions of a person and the States available resources.⁵³ In addition, General Comment No. 4⁵⁴ articulates 7 Health Principles of Housing, like,

- a. legal tenure security;
- b. availability of services, materials, facilities, and infrastructure;
- c. affordability;
- d. habitability;
- e. accessibility;

⁴⁹ Arts. 12 and 22(1), International Covenant on Civil and Political Rights (ICCPR) 1976; ICCPR, Art. 15, CONVENTION ON THE RIGHTS OF THE CHILD (CRC) 1989; Art. 5(d), INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD) 1969.

⁵⁰Art. 9, International Covenant on Economic Social and Cultural Rights (ICESCR); Art. 26, Convention on the Rights of the Child (CRC) 1989; arts. 10 and 14(2), CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) 1979; Art. 5(e) INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION (CERD) 1969.

⁵¹Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.

⁵² Art. 12(1), ICESCR; Art 25(1), UDHR; Art.16, AFRICAN CHARTER; Art.24, CRC; Arts. 12 & 14(2), CEDAW.

⁵³ General Comment 14, The Right to the Highest Attainable Standard of Health, UN Doc E/C.12/2000/4, 11 August, 2000.

⁵⁴ Para 8 CESCR General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant), Dec. 13, 1991, (E/1992/23).

- f. location;
- g. cultural adequacy

Among these elements, habitability and accessibility touch most closely on the health issue. Adequate housing must be habitable to provide adequate space for the occupants and to protect them from air, humid fire, rain, wind or other environmental, structural hazards and disease vectors. Further, deficient and inadequate housing and living conditions are certainly linked to higher mortality and morbidity rates.⁵⁵ Accessibility requires accessible housing for people with disabilities, including physically disabled people, terminally ill people, HIV-positive people, people with chronic medical problems and people with mental illness.

The UN-Habitat study titled "The Right to Adequate Housing" lays out the duties that States that have ratified the ICESR and other human rights treaties must immediately implement. This includes the states' 'protection commitment.'⁵⁶

VIII. International Judicial Decisions

Courts in various countries played a decisive role in realization of the right to shelter in connection with right to health. Following are the cases which is relevant in this context.

In SERAC and CESR v. Nigeria,⁵⁷ the Nigerian State destroyed homes and villages by killing and attacking people in response to the people's protest in Ogoniland.⁵⁸ The African Commission also held that the implicit right to housing (including protection from forced eviction), resulting from the specific right to property, health and family, was violated by the destruction of housing

⁵⁵ Id.

⁵⁶ AASTHA SONI, *The Lost Right to Housing in COVID-19: A Case for the Marginalized*, (Feb. 20, 2021) <https://www.lawctopus.com/academike/right-to-housing/> (last visited Oct. 23, 2021).

⁵⁷ SERAC and CESR v. Nigeria, Communication No. 155/96 (2002)

⁵⁸ Id at, Para 69

and the abuse of residents who returned to restore their homes⁵⁹ thereby violated 4, 14, 16, 18 and 24 of the African Charter.⁶⁰

In a landmark case *Social and Economic Rights Action Centre v Nigeria Communication*⁶¹ The SERAC has submitted a case before the African Commission on Human and Peoples ' Rights concerning the militarized, forced displacement of some residents of the Lagos State, Nigeria. In this case the applicant alleged that:

- The evictee's health condition after the eviction was abysmal.
- Numerous hospitals and other health-care facilities were bulldozed during the demolition.
- Many of the evictee's suffered physical and psychological trauma and succumbed to various illnesses following the demolition violence and subsequent group dislocation.
- Most of the places they searched for shelter were vulnerable to malaria, typhoid and other infectious diseases.
- In these places, there is almost no access to healthcare of any kind.
- Finally, continuing evictions and demolitions have left many Maroko evicted homeless, subjecting them to illness and leaving many vulnerable to violent crimes, particularly women and children.⁶²

In this case the commission noted that Nigeria's government has committed a major infringement of the right of Maroko evictee's to health by:

- i. destroying the healthcare facilities on which the community depended,
- ii. creating or failing to remedy the unsafe, sickly living conditions for those who had been left homeless by the destruction, and
- iii. Alleged to resettle some community members in a dangerous and unhygienic situation⁶³

⁵⁹Id at, Para 60

⁶⁰ Which recognize the African peoples' right to life, right to property, right to physical and mental health, right to family and for women and children to be free of discrimination, and right to a satisfactory environment for development, respectively.

⁶¹ *Social and Economic Rights Action Center v. Nigeria*, available at <http://www.hlrn.org/img/documents/SERAC%20v%20%20Nigeria%20Communication.pdf> (last visited Oct, 24 2021).

⁶² Id. at Para 25

In *Free Legal Assistance Group and Others v. Zaire, Comms*,⁶⁴ the Commission has held that Article 16 of the Charter imposes a substantive duty on the part of States to provide essential elements for public health. Therefore, a government failure to provide basic services such as safe drinking water and electricity and medication shortages constitutes a violation of Article 16.

In *Purohit and Moore v. The Gambia*,⁶⁵ (finding that the right to health includes the right to health facilities) the Commission noted that "the enjoyment of the human right to health is essential to all aspects of a person's life and well-being, and is crucial to the realization of all other fundamental human rights and freedoms." At its most fundamental level, this requirement includes statements to "reject direct threats."

For these reasons, from the international perspective of human rights as well as from the case laws it is clear that the right to insufficient housing affects many other human rights such as the right to property, the right to food and the right to health.

IX. Rights of Homeless People in Indian Legal Framework

In India, certain constitutional and legal provisions make it mandatory for the government to provide all citizens with suitable housing. The following is a list of constitutional provisions that affect the right to appropriate housing, including the rights of women and children:

A. Fundamental Rights

- Article 14: Equality before law
- Article 15(1): Non-discrimination on grounds of religion, race, caste, sex, place of birth
- Article 15 (3): Special provisions in favour of women and children based on the principle of protective discrimination
- Article 16: Equality of opportunity in matters relating to employment or appointment of any office under the State

⁶³Id. at Para 64

⁶⁴*Free Legal Assistance Group, Et Al. v. Democratic Republic Of Congo*, (1995) 25/89, 47/90, 56/91, 100/93 (ACHPR1995), 9th Annual Activity Report, 47.

⁶⁵ *Purohit And Moore v. The Gambia*, (2003), Comm. 241/2001 (ACHPR 2003), 16th Annual Activity Report, 80

- Article 19(1)(d): Freedom to move freely throughout the territory of India
- Article 19 (1) (e): Freedom to reside and settle in any part of the territory of India
- Article 19 (1) (g): Right of all citizens to practice any profession, or to carry on any occupation, trade or business
- Article 21: Right to life and personal liberty

Certain Directive Principles of State Policy such as State policy to be directed to securing for both men and women equally, the right to an adequate means of livelihood (Article 39 (a)); State policy to be directed to ensure equal pay for equal work for both men and women (Article 39 (d)); State policy to be directed towards securing that the health and strength of workers, men and women and children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength (Article 39 (e)); State policy to secure equal justice and free legal aid to ensure that opportunities of securing justice are not denied to any citizen (Article 39-A); Provisions to be made by the State for securing just and humane conditions of work and for maternity relief (Article 42)); State to secure a Uniform Civil Code for the citizens (Article 44); Duty of the State to raise the level of nutrition and the standard of living and to improve public health (Article 47); State shall endeavour to foster respect for international law and treaty obligations in the dealings of organized peoples with one another (Article 51 (c))

Constitutional Provisions vis a-vis Right to Shelter

In Indian scenario, several key decisions have clarified the relationship between the right to housing and the right to life given by Article 21 because the Indian Constitution does not expressly include the right to housing. The Supreme Court of India through many decisions has established that the right to shelter or adequate housing is a fundamental human right. In *U.P. Avas Evam Vikas Parishad v. Friends Coop. Housing Society Ltd*⁶⁶, the Court held that, the right to shelter is a fundamental right derived from Article 19(1)(e) and Article 21 of the Indian Constitution.

⁶⁶ 1995 Supp (3) SCC 456,

In *Francis Coralie v. Union Territory of Delhi*⁶⁷ the Court held that: We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing one-self in diverse forms, freely moving about and mixing and commingling with fellow human beings.

In the case of *P. G. Gupta v. State of Gujarat*, a three-judge panel considered the mandate of the human right to shelter and included it into Article 19(1)(e) and Article 21 of the Indian Constitution to ensure the right to residence and settlement.

In *Chameli Singh v. State of U.P.*, Minimum human rights include food, shelter, and clothing. The government has made big housing initiatives a priority in its economic agenda. The right to assign residences built by the Housing Board to the weaker sections, lower income group persons under the Lower Income Group Scheme was held to be a constitutional policy, an economic programme undertaken by the State, and that the weaker sections are entitled to allotment as per the scheme.⁶⁸

The Supreme Court of India held in *State of Karnataka v. Narasimhamurthy* that the right to shelter is a basic right under Article 19(1) of the Constitution.

In a landmark case of *Olga Tellis v. Bombay Municipal Corporation*⁶⁹ (Payment Dwellers Case) the Supreme Court of India for the first time decided that the Right to shelter and livelihood as being an important element of right to life. There were then numerous cases reaching the Supreme Court which vigorously followed the case of *Olga Tellis*.⁷⁰ The court in many cases observed that the duty of the government's to provide shelter and other amenities to its citizen

⁶⁷ AIR 1981 SC 746, at 753

⁶⁸ *Chameli Singh v. State Of U.P* (1996) 2 SCC 549

⁶⁹ *Olga Tellis & Ors v. Bombay Municipal Council*, 1985 SCR Supl. (2) 51.

⁷⁰ *Shantistar Builders v. Narayan K Totame* (1990) 1 SCC 520; *Chameli Singh v. State of UP* 1995 Supp (6) SCR 827; *Ahmedabad Municipal Corporation v Nawab Khan Gulab Khan*, (1997) 11 SCC 123; *Sudama Singh and Others v. Delhi and Anr* *Sudama Singh and Others v. Government of Delhi and Anr.*, W.P. (C) Nos. 8904/2009, 7735/2007, 7317/2009 and 9246/2009, High Court of Delhi, 11 February 2010; *Government Judges, and PK Kopul v. Estate Officer, and Anr.*

under the Constitution of India.⁷¹The role of the judiciary in identifying and resolving homelessness and creating strain on the state to distribute has been important over the years. Recently in *Rajesh Yadav vs. State of UP*⁷²the court held that “Right to life guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter. Right to shelter is a fundamental right guaranteed under Article 19(1)(e) read with Article 21 of the Constitution of India”

The apex court also took Articles 14 (Equality before law), 15 (All citizens shall have the right of all citizens to freedom of movement and freedom to reside and settle in any part of the territory of India) and 19(1)(e) (All citizens shall have the right of all citizens to freedom of movement and freedom to reside and settle in any part of the territory of India) into consideration in order to accept them as a deciding factor in an individual's dignity. The States have a duty to uphold an individual's integrity by providing a home for the homeless. Along with these provisions, some of the Directive principles of State Policy also provide for the protection of homeless persons.⁷³ In some of the cases that affirmed the right to shelter, the Court looked at distinguishing between a mere animal-existence and a decent human existence⁷⁴, thus emphasizing the need for a life of dignity⁷⁵. In some other cases, the Supreme Court ruled that the right to shelter was a constitutional right secured by Articles 19 and 21 of the Indian Constitution.⁷⁶

⁷¹ *PUCL v. Union of India and Others*, 2004(12) SCC 104; *E R Kumar and Anr. V Union of India*, (2017) 12 SCC 784 (1); *Deepan Bora v Union of India*, (2017) 12 SCC 792; *The Court on its Own Motion v. Govt. of Delhi and Anr.*, W.P. (C) 29/2010.

⁷² 2019 SCC OnLine All 2555.

⁷³ Article 39 (1): State policy to be directed in order to secure for both men and women, equal right to an adequate means of livelihood. Article 42: Provisions to be made by the State for securing just and humane conditions of work and for maternity relief. Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

⁷⁴ *Shantistar Builders v. Narayan Khimalal Totame*, AIR 1990 SC 630.

⁷⁵ *Chameli Singh v. State of U. P.*, 1995 Supp (6) SCR 827.

⁷⁶ *U.P. Avas Evam Vikas Parishad v. Friends Cooperative Housing Society Ltd.*, 1995 Supp (3) SCC 456, para 8; *State of Karnataka v. Narasimhamurthy*, (1995) 5 SCC 524, *Chameli Singh v. State of U.P.*, (1996) 2 SCC 549, and *Ahmedabad Municipal Corpn. v. Nawab Khan Gulab Khan*, (1997) 11 SCC 121.

In India under some legislation, homelessness is considered a crime within the country, like the the Delhi Police Act 1978,⁷⁷ Homeless people are often stigmatized as offenders and, because of the perceived threat posed by their appearance; their very existence is also considered as illegal. Their residences are often targeted in public or public spaces. Recently, in *Harsh Mander & Anr v UOI & Ors*⁷⁸ the Delhi High Court delivered a landmark judgment decriminalizing begging in the national capital. The High Court also ruled the provisions of the Bombay Prevention of Begging Act, 1959, to be unconstitutional as applicable to the begging of the National Capital.⁷⁹ The State must ensure that the homeless persons are not criminalised, penalised, or punished as a result of curfew or confinement measures, and put an end to law enforcement activities that marginalise people who are homeless, such as the seizure of personal items or street ‘sweeps.’⁸⁰

India's housing and land regulatory system consists of laws and many policies at the central and state levels. There are several schemes in India to protect the homeless people.⁸¹ But many of the schemes are not implemented in a proper manner. The United Nations Special Rapporteur⁸² on Housing argued that, “The housing and living conditions [of slum dwellers and homeless people] are often

⁷⁷See Delhi Police Act 1978:Tamil Nadu Prevention of Begging Act, 1945 and the The Juvenile Justice Act, 2006 person found under ‘suspicious circumstances between sunset and sunrise’ can be apprehended by the police

⁷⁸ [2018 SCC OnLine Del 10427](#).

⁷⁹ Id., para 31: Criminalizing begging is a wrong approach to deal with the underlying causes of the problem. It ignores the reality that people who beg are the poorest of the poor and marginalized in society. Criminalizing begging violates the most fundamental rights of some of the most vulnerable people in our society. People in this stratum do not have access to basic necessities such as food, shelter and health, and in addition criminalizing them denies them the basic fundamental right to communicate and seek to deal with their plight.

⁸⁰ COVID-19 Guidance Note Protecting those living in homelessness Leilani Farha Special Rapporteur on the right to adequate housing Updated 28 April 2020.

⁸¹ Deendayal Antyodaya Yojana – National Urban Livelihoods Mission, NULM (National Urban Livelihoods Mission) Pradhan Mantri Awas Yojana (housing for all) and the Swachh Bharat Abhiyan (clean India scheme).

⁸² LEILANI FARHA, (Special Rapporteur On The Expulsion On The Right To Adequate Housing), Info Note on the Homelessness And Human Rights, U.N. Doc. A/HRC/31/54 (Dec. 30, 2015).

inhumane, and an affront to human dignity – the essence of the right to adequate housing.” One of the major recommendation from that report is that Homelessness is the unacceptable consequence of failure by states to enforce their right to adequate housing which needs an effective and immediate human right approach from the International and National level.

X. Human Right Impact of Covid-19 for the People Experiencing Homelessness

On March 11, 2020, the World Health Organization (WHO) formally announced the spread of COVID-19 virus to be a global pandemic. To flatten the pandemic curve and reduce Coronavirus infection rates, governments around the world have implemented "stay at home," "self-isolate," "physical distance," and "wash your hands" measures. These policies are based on the notion that everyone has access to a home with acceptable sanitation. This is not the case for the 800 million or so people who are homeless around the world. Homeless people live in conditions conducive to an outbreak of disease and may not have daily access to basic hygiene supplies or shower facilities, which may promote transmission of the virus. Being a vulnerable group, their potential exposure to COVID-19 may adversely affect their ability to be housed and mental and physical well-being. Comparing to other group of people in society, homeless people are at risk of SARS-Cov-2 infection because of the possibility of transmission in shared accommodations, comorbidities, and a poorer immune response due to poor nutrition and food instability.⁸³ Furthermore, this medically vulnerable group suffers disproportionate health issues and high rates of respiratory sickness, making them more vulnerable to disease, including the novel virus.⁸⁴ The COVID-19 pandemic has highlighted the importance of housing as a social determinant of health, prompting a re-evaluation of present approaches to treating homelessness.⁸⁵

⁸³ A. MOHSENPOUR et al. *SARS-Cov-2 Prevalence, Transmission, Health-Related Outcomes And Control Strategies In Homeless Shelters: Systematic Review And Meta Analysis*, 38 *ECLINICALMEDICINE* 1 (2021).

⁸⁴ LEILANI FARHA, (Special Rapporteur On The Expulsion On The Right To Adequate Housing), *Info Note on the Homelessness And Human Rights*, U.N. Doc. A/HRC/31/54 (Dec. 30, 2015).

⁸⁵ MELISSA PERRI, et al., *COVID-19 and people experiencing homelessness: challenges and mitigation strategies*, 192,26 *Can. Med. Assoc. J.* E716–E719 (2020).

In India, daily wage workers, primarily migrant labourers or beggars, make up the majority of the homeless population (excluding the street children or those with mental illness). The majority of them have been made penniless as a result of the lockdown, with no opportunity to return to their own towns or villages. Thousands of such migrant workers are stuck along India's roadsides.⁸⁶

Homelessness, regardless of nationality or legal status, is a *prima facie* violation of human rights, particularly during a crisis. The primary rights guaranteed by the right to shelter, as well as the rights to health and food, are so important to human dignity and the preservation of life that they can never be interrupted, even in an emergency. In addition, there is a lack of access to health and social services. Individuals experiencing homelessness may have had reduced access to screening and treatment services such as primary care clinics.

Homeless people are already at a greater risk of contracting the COVID-19 virus due to their poor health and lack of nutrition. In India, as a result of the pandemic, homeless people living on the streets were forcibly relocated to schools and community halls, which were designated as temporary shelters. This move was often imposed without previous notice, consultation, or approval. As a result of these rash actions, some homeless people have lost possessions and essential documents, as well as been separated from family members in certain situations.⁸⁷ Several Indian states, have established emergency shelters for homeless people with food provisions. During the lockdown, the government also gave free lunch and dinner to existing homeless shelters and temporary shelters. Despite these precautions, many homeless individuals faced a severe hunger crisis during the lockdown due to their distance from food distribution centres, long wait times for meals, and the lack of breakfast, tea, and milk for children. Many of these issues were remedied in

⁸⁶ DEBANJAN BANERJEE, PRAMA BHATTACHARYA, *The Hidden Vulnerability of Homelessness in The COVID-19 Pandemic: Perspectives from India*, 67, INT J SOC PSYCHIATR, (2021).

⁸⁷ SUBMISSION TO THE SPECIAL RAPPOREUR ON THE RIGHT TO ADEQUATE HOUSING FROM HOUSING AND LAND RIGHTS NETWORK COVID-19 AND THE HUMAN RIGHT TO ADEQUATE HOUSING IN INDIA, <https://www.ohchr.org/Documents/Issues/Housing/COVID19/CivilSociety/HLRNIndia.docx> (last visited Oct, 24, 2021).

part by state governments during the lockdown, thanks to advocacy from civil society organisations. Following the relaxation of lockdown rules, those who are homeless continue to be unable to find job, putting them at risk of hunger and misery.⁸⁸ Homeless people with chronic illnesses, such as HIV and tuberculosis, as well as older people, people with disabilities, and pregnant women, encountered additional difficulties during the lockdown due to their lack of access to medical facilities and services.⁸⁹

Furthermore, homeless households frequently lack the requisite documents to get relief with food, shelter, health, cleanliness, and livelihood. Furthermore, because they have little money, they have become vulnerable to the infection. In addition, insufficient testing has been reported among them, resulting in under-detection and neglect.⁹⁰

Vaccine for the Homeless: A Challenge

The bulk of the homeless may not be able to afford treatment if they become infected due to a lack of public health infrastructure.⁹¹ The Centre sent a letter to all states on May 13, 2021, ordering them to make COVID-19 immunisation easier for occupants of urban homeless shelters, especially those without identification. The letter also argues that homeless people are one of society's most vulnerable groups, and that they should be given vaccines as soon as possible. For the same, Standard Operating Procedures (SOPs) have been created.⁹²

While India has made immunisation available to anybody over the age of 18, vaccine availability is now based on an online registration system, which is likely to be a barrier for the homeless who do not have access to digital technology or technological know-how. Furthermore, if authorities do not

⁸⁸ Id.

⁸⁹ HINDUSTAN TIMES, https://www.hindustantimes.com/delhi-news/at-delhi-s-shelter-homes-inmates-complain-of-no-medicine-while-doctors-battle-multiple-threats/story-ygEUDEqBpmztdr3t5xF51L_amp.html (last visited Oct. 23, 2021).

⁹⁰ THE WIRE, <https://thewire.in/uncategorised/homelessness-amid-covid-19-miseries-untold-and-promises-shattered> (last visited Oct. 23, 2021).

⁹¹ Id.

⁹² CHITRA V RAMANI, Vaccination Of Homeless Not In Shelters A Challenge, HINDU, June 07, 2021 <https://www.thehindu.com/news/national/karnataka/vaccination-of-homeless-not-in-shelters-a-challenge/article34750453.ece> (last visited Oct. 22, 2021)

effectively administer and manage vaccination centres, they may become super spreader places in their own right. High-risk populations may find it difficult to cross these packed settings and may be turned away after waiting hours for their immunisation.⁹³

XI. Obligation of Government to Guarantee the Right to Housing During COVID 19

The Indian Government is obliged by international human rights law to respect, protect, and fulfil the right to housing. The Indian government also has a responsibility to ensure that the right to housing is realised "without discrimination of any sort,⁹⁴" just as it is with other human rights.⁹⁵

A. The Obligation to Respect

The obligation to respect means that the government must refrain from interfering with the existing enjoyment of a right by rights-holders when using its public functions.⁹⁶ For example, obligations not to demolish existing housing or to prevent attempts by individuals or communities to replace lost dwellings are included in the right to housing.

B. The Obligation to Fulfil

This appropriate housing "involves the establishment by a State of institutional machinery required for the fulfilment of rights" as well as direct housing assistance for people who are unable to meet their own housing needs.⁹⁷ This, for example, necessitates the establishment of a sufficient number of appropriately resourced shelter homes for those who need accommodation and essential services such as sanitation, water, and food. India, on the other hand,

⁹³ IDINSIGHT, <https://www.idinsight.org/article/the-challenges-of-indias-vaccination-drive/> (last visited Oct.24 2021).

⁹⁴ ICESCR, Article 2.

⁹⁵ COVID-19 PANDEMIC IN INDIA: THE RIGHT TO HOUSING A BRIEFING PAPER, *International Commission of Jurists*, (June 2020)

⁹⁶ INTERNATIONAL COMMISSION OF JURISTS, PRACTITIONERS GUIDE 8: <https://www.icj.org/wp-content/uploads/2015/07/Universal-ESCR-PG-no-8-PublicationsPractitioners-guide-2014-eng.pdf> (last visited Oct. 23, 2021).

⁹⁷ *Id.* at page 61.

lacks enough shelters for homeless people and stranded migrant labourers. They do have some, but they are overcrowded and often lack basic amenities.⁹⁸

C. The Obligation to Protect

The Indian government also has an obligation to monitor the right to adequate housing. It is required to prevent third parties from interfering with people's right to dwelling under this requirement. As a result, the duty to protect often necessitates States proactively enacting legislation and policy and ensuring its implementation in order to prevent violations of the right to housing.

The measures taken by the Indian government in response to COVID-19 do not appear to have taken into account the right to adequate housing, and thus do not fully meet the obligations to respect and fulfil it, particularly for those from "economically weaker sections," as defined by the Supreme Court and the legislature. On March 24, the Ministry of Home Affairs issued the first Order prohibiting internal migratory employees from returning to their permanent residences. In light of the COVID-19 pandemic, the existing temporary accommodation in their places of work, which was sometimes overcrowded and lacking in basic amenities, became even more inadequate. The result was that they were unable to return to their permanent residences on the one hand, and that they were not given enough time to acquire a more suitable place to live where they were temporarily stationed (or to provide such accommodation directly) on the other.⁹⁹

At this point, concerted efforts from all relevant stakeholders – government, civic society, and civil society organisations – are critical for the basic rights of the homeless. Affordable housing, social housing, job creation, and the elimination of prejudice could all help to prevent homelessness. The government should not only focus on building physical infrastructure and securing basic services, but also on enhancing, maintaining, and monitoring those that already exist. It is also vital for the government to obey the Supreme Court's directives and follow the appropriate recommendations regarding the homeless.¹⁰⁰

They should be given to more thorough testing. Quarantine, as well as frequent medical examinations at shelters and homeless hotspots, is essential. It is

⁹⁸ *Supra* note 92.

⁹⁹ *Id.*

¹⁰⁰ *Supra* note 87.

necessary to address livelihood restoration, financial aid, and the provision of nutritional meals for homeless children, the elderly, women, and the disabled.¹⁰¹

XII. Findings

- Compared to other marginalized groups like women, children, indigenous and old-age people, homeless are the most vulnerable category who face many human rights violations especially the health and social inequalities.
- Homeless people do not have sufficient documentation evidence to prove their identity; they are excluded from the benefits that government initiative schemes offer to economically weaker sections of society including health, food, water, and housing.
- Homelessness is the most obvious human rights abuse; without a shelter, sanitation services, no bed to sleep of their own and definitely no prospect of long-term housing options. They are exposed to unimaginable abuse, discrimination, criminalization and stigmatisation, with life expectancies much lower than the population that is housed.
- People who are homeless are unable to receive basic medical care easily due to lack of funds or insurance to cover the expenses and the inability to plan and keep appointments. As a result, their restorative needs and inadequate hygienic treatment have not been met.
- As per the direction from the Supreme Court of India, the Indian Government has formed new policies and programmes for affordable housing, but most of the people who are in need of the service are not properly getting the benefits.
- Most notably, there are hardly less legislative and regulatory frameworks that protect homeless people's rights and this situation needs to be improved.
- People who are homeless have been particularly hard hit by the pandemic, making isolation, hand washing, and social distancing all the more difficult.

¹⁰¹ *Id.*

XIII. Solutions

- State and lawmakers must prioritize immediate and rapid assistance to unsheltered people in providing safe and resourced housing.
- There is an immediate need to build permanent, 24-hour shelters for homeless people in both towns and villages as mentioned by the Supreme Court
- The government have to initiate low-cost housing and public housing schemes with special initiative for the homeless.
- The state ought to guarantee access to affordable services such as electricity, water, heating, as well as access to education, employment and health facilities to the homeless.
- Homeless persons should be provided with adequate health insurance.
- Ensure emergency health-care coverage and chronic illness management.
- Better treatment should be provided to homeless people suffering from mental health issues
- Government must make national laws and policies on homeless people's health care in compliance with international human rights law, and the Indian Government must try to meet its international legal obligations.
- A country that has signed and ratified the international instruments concerning the right to shelter has the legal responsibility to respect, promote and fulfill this right to all its citizens and also needed to take concrete steps towards the realization of all economic and social rights, to the extent of its available resources.
- As the lockdown has depleted the resources available to the homeless, various official and non-governmental programmes have been launched to give them with shelter and food, but this will not prevent the virus from spreading. It will take a coordinated effort from all parties – government, community mental health services – as well as partnership with homeless-focused organisations.¹⁰²
- To stop the spread of COVID-19, make sure emergency accommodations provide for physical separation, self-isolation,

¹⁰² *Supra note 83.*

quarantine, and any other health recommendations published by the World Health Organization.

- Make sure that the women, children, and youth who are forced to leave their homes due to domestic violence do not become homeless and are provided with adequate alternative accommodations that ensure their safety and provide access to water, sanitation, food, social support, health services, and COVID-19 testing.
- Provide a safe location to remain for homeless people who are exhibiting virus symptoms or who have tested positive for corona virus, as well as timely medical attention, food, and any additional medical or other help they may need to cope with quarantine or self-isolation.
- It is necessary to conduct more tests on persons who have been recognised as vulnerable. Those who test positive must be detained for the duration of the quarantine and get proper medical care. Testing should be stressed to them and their families on a regular basis.
- Provide immediate shelter to all homeless people living 'rough' or on the streets, with the goal of converting them to permanent homes so that they do not return to homelessness once the pandemic has passed. This may necessitate the acquisition of hotel or motel rooms, as well as the repurposing of buildings such as army barracks or abandoned hospitals. Privately held unoccupied housing or secondary residences should be made available by public agencies.¹⁰³
- Governments must refrain from taking any actions that could lead to individuals becoming homeless, such as evictions. Ensure that individuals, families, or communities that have experienced homelessness or have been evicted into homelessness and are seeking effective remedies have access to justice.¹⁰⁴
- People who are homeless should be educated and made aware of their situation. Community activities are needed to increase knowledge, attitudes, and practises. It is necessary to communicate necessary preventive measures in their language and to clarify any concerns. All

¹⁰³ LEILANI FARHA, (Special Rapporteur On The Expulsion On The Right To Adequate Housing), Info Note on the Homelessness And Human Rights, *U.N. Doc. A/HRC/31/54* (Dec. 30, 2015).

¹⁰⁴ *Id.*

Universal Human Rights and basic self-dignity apply to them, and they must be protected in every way feasible.

XIV. Conclusion

The current research demonstrated that there is a high prevalence of many diseases among homeless people and handling this vulnerable population is a major challenge. It is apparent from this study that homelessness is a palpable violation of the basic human rights. The right to health is perhaps one of the most clearly violated human rights for those who are homeless. There are health disparities among members of the homeless population with multiple chronic conditions as discussed above in this paper. Such compounding risk factors also result in adverse health effects, and need to be resolved in order to promote the ability to find and maintain stable housing. The tragic example of the failure of democracy and the idea of 'welfare state' is highly evident in the extent of homelessness, one of the by-products of poverty and one of the worst forms of social vulnerability. For any so-called welfare state to have its people lying right on the streets and exposed to all sorts of social deprivation and vulnerability is an alarming state of affairs. Adequate housing will provide these vulnerable groups to achieve stability; improved health; lift individuals and families out of poverty; and encourage participation in society.

Pandemics aren't merely medical emergencies. They have far-reaching psychosocial consequences that influence the entire population. During previous pandemics of SARS and Influenza, it has been proven that the homeless population offers distinct risks to both individuals and the general public. The government should learn from health disasters like Covid-19, as well as other man-made or natural disasters like mass displacement, accidents, and even earthquakes, and include homelessness in "disaster management practises" and devise action plans for it, which will only be possible if the state engages in smart planning and judicious spending of funds. The focus of these vulnerable people is the hunt for food rather than the care for these diseases. Newer approaches to diagnose and treat this specific population are required.

In most of the countries the issues surrounding homelessness and the health care system of such people have not been documented properly. The primary protections offered by the right to shelter, as well as the rights to health and food, are so important to human dignity and the preservation of life that they can never be interrupted, even in an emergency. In this scenario, governments must fulfill the housing needs of homeless persons as soon as possible in order

to assure their equitable protection from the virus and the safety of the general population. This will entail mutual support and aid between national and state governments in order to ensure that all pandemic-fighting measures are effective.

Policymakers must recognise and address the disparities faced by the homeless people and the government have a duty to work vigilantly to provide prompt solutions that protect the health, safety, and well-being of all. Meanwhile, affordable housing for large swathes of the country remains out of control. The present Indian Government foresees that by 2022 no Indian shall be left homeless; however, this is a very tough and ambitious target which the government is trying to achieve. This dream can be fulfilled by doing the right kind of planning, judicious funding of expenditure and framing new legislations by the Government of India.