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HOMELESSNESS IN INDIA

A State Legislative and Civil Society Perspective

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Introduction

Homelessness is growing in many parts of the world and has become a worldwide pressing phenomenon. Homelessness has a significant impact on communities and individuals in both developing and developed countries.¹ However, India is one of the countries with the world's highest number of homeless people.² Today, there are 1.8 million homeless people in India, with 52% of the homeless population living in metropolitan areas.³ The Indian Census in 2011 highlighted that there were 1.77 million homeless people in the country, accounting for 0.15% of the total population.⁴ According to more recent statistics, India has over 4 million homeless people.⁵ There is currently a shortage of 10 million urban residential units, with another 25 million required by 2030.⁶ The extent and magnitude of homelessness in India have risen enormously in the past few decades. The outbreak of the Covid-19 pandemic has also exacerbated the calamity of homelessness and led to many deaths, owing to the lack of access to health services and adequate shelter.⁷ Despite India's stable economic growth over the past four decades, it is home to a quarter of the world's undernourished people, as the

1 S. Roy, A. Bose, and I. R. Chowdhury, 'Darkness under the City Lights: A Qualitative Study on the Life of Urban Homelessness, Evidence from Siliguri City of West Bengal, India' (2023) 88 *GeoJournal* 2263.

2 N. Singh, P. Koiri, and S. Kumar Shukla, 'Signposting Invisibles: A Study of the Homeless Population in India' (2018) 3 *Chinese Sociological Dialogue* 179.

3 Action, *Housing Is a Human Right. Homelessness Is a Violation of That Right* (Action 2009).

4 K. Goel and R. Chowdhary, 'Living Homeless in Urban India: State and Societal Responses' in C. Zufferey and N. Yu (eds), *Faces of Homelessness in the Asia Pacific* (Routledge 2017).

5 Z. Siffiqui and S. Kataria, 'Some of Us Will Die': India's Homeless Stranded by Coronavirus Lockdown' *Reuters* (1 April 2020).

6 S. Mitra, P. Priya, and A. Venkatesh, *The Bass Model: Demand Forecasting for Affordable Housing in India* (SAGE Publications: SAGE Business Cases Originals 2022).

7 D. Banerjee and P. Bhattacharya, 'Coronavirus Disease 2019 (COVID-19) and Homelessness: Global Perspectives on the "Dual Pandemic"' (2021) *Homelessness and Mental Health* 167.

minimum dietary diversity⁸ has decreased and the gap between the rich and poor has grown.⁹ Over the last two decades, the total number of people living in shanty houses in India has more than doubled.¹⁰ This chapter examines homelessness in India, including statistics, drivers, types of homelessness, challenges, policy and legal provisions, initiatives, and recommendations from the government and from a civil society perspective.

Defining Homelessness

There is no universally accepted definition of *homelessness*. The Indian Census defines a *homeless person* as someone who does not reside in a census house – a census house is a structure with a roof which is either self-rented or owned – but instead lives in a houseless household, for example, on the roadside, on railway platforms; spends nights at transit homes, under staircases or flyovers; or lives in temporary shelters without walls and roofs, in common areas or parks.¹¹ This definition, however, exempts the attribution of adequate housing provided for in the Universal Declaration of Human Rights, making it difficult to record the actual numbers of homeless people in India.

Due to the steady increase in homelessness in India, civil society organizations recently developed a more comprehensive definition of *homelessness* as part of their advocacy for a national policy for the urban homeless to capture previously unrecognized people living in homeless conditions. The homeless are conceptualized to mean such people who, as individuals or families, do not have a house, either self-owned or rented, or do not have a settled place to stay, or live and sleep in park boundaries, over bridges, on flyover edges, on pavements, in railway and bus stations, in places of worship, outside shops, over shop roofs, in Hume pipes, inside flyovers, on road medians, in garbage dumps, on river beds, on river embankments, near cremation grounds or graveyards, in underpasses, in memorials of eminent people, and other places under the open sky.¹²

Under this definition, *homelessness* includes people who live in temporary structures, including under plastic sheets on the roadside or on pavements, also referred to as pavement dwellers in many states, or spend their nights sleeping in places of work, like shops (comprising *dhabas*), factories, construction sites, or spend their nights in or on their means of livelihood, such as hand- or pushcarts, and rickshaw, or spend their nights in night shelters, transit homes, homes for children, or any short-stay home.¹³ All this indicates severely inadequate, insecure, and temporary shelter, which can be classified as homelessness. This is a much broader definition that includes aspects that unequivocally typify homelessness, such as including people who live alongside other family members, but in crudely crowded circumstances.

8 The intake of 4 or more of the 7 food categories to improve dietary quality and fulfil the daily nutritional and energy needs of the 7 suggested food groups like legumes and nuts, roots and tubers, grains, flesh foods, and dairy products.

9 WFP, *UN WFP India Annual Country Report 2021* (WFP 2021).

10 J. F. Keenan and M. McGreevy, *Street Homelessness and Catholic Theological Ethics* (Orbis 2019).

11 Office of the Registrar General and Census Commissioner, *Census India 2011* (2011).

12 Government of India Ministry of Housing and Urban Affairs, *The National Policy for the Urban Homeless* (2021).

13 Ibid.

Statistics on Homelessness: An Indian Outlook

India is a densely populated country. Located in South Asia between Myanmar and Pakistan, India has a population of 1.3 billion people. Mumbai is one of India's most populous cities, having a population density of 20,692 persons per km².¹⁴ The informal sector employs most of Mumbai's population, with an average monthly salary of 6,000 rupees. Due to low income in rural regions, Mumbai's population increased dramatically in the 1970s. Employers prefer migrant workers over local workers because they are less expensive and more willing to work in hazardous conditions for long periods.¹⁵ Approximately 60% of the homeless in Mumbai are migrant labourers.¹⁶ Migrant labourers travel to the city in search of a better way of life, better food, better healthcare, and clean drinking water, as well as to escape the caste-based violence that has deprived them of any chance of making a good living.¹⁷ Living in slums has become a temporary remedy to the otherwise exorbitant expense associated with metropolitan life. Mumbai's slums are home to around 5.5 million people yet occupy only 8% of the overall, total land mass. Squatters reside in filthy, overcrowded conditions with inadequate lighting and power. To address the issue of inadequate housing, particularly in slums, the Maharashtra government created the Maharashtra Slum Areas Improvement, Clearance, and Redevelopment Act in 1971.¹⁸

Despite this and other attempts by the Indian government to improve the homeless situation in metropolitan areas, homelessness remains widespread, owing in part to increasing urban growth.¹⁹ Therefore, the Indian government must exercise extreme caution to guarantee equal opportunity to all residents in line with the Universal Declaration of Human Rights, specifically the right to adequate housing for all. At present, the Indian government is incapable of providing these basic services to all citizens. Another issue is that there is significant social inequality between the oligarchy and the impoverished classes.²⁰ The poverty of the 21st century is unlike any other in Indian history. It is not the result of natural scarcity but of a set of priorities imposed upon the rest of the world by the rich.²¹ Consequently, the modern poor are not pitied but are written off as disposable – essentially as trash.²²

Employers tend to hire only those they believe are suitable or of their class, ignoring those who are less privileged.²³ As a result of unemployment, people are pushed into greater

poverty, which leads to destitution. Prices for food, clothing, and shelter have soared to the point where even the most basic goods are no longer affordable to the poorest in society.²⁴ Furthermore, the have-nots are frequently compelled to choose between two square meals and long-term shelter. Due to the high cost of housing, the homeless are forced to live in a temporary shelter made of scraps than buy or rent a proper home.²⁵ Recent statistics projected that over 20 million houses are needed in India.²⁶ Family migrants, moving to urban areas from rural areas due to loss of property and in search of employment and better opportunities, are frequently left homeless due to high rents (a basic apartment costs around 3,000 rupees) and a lack of houses to accommodate them. When faced with homelessness, these migrants resort to making a shelter out of cardboard, tin, plastic, and wood.²⁷

Difficult circumstances force many impoverished people to reside in shanty houses. A significant number of deaths have occurred because of inadequate protection from the winter season weather. For example, the death of 164 people because of a lack of protection from cold conditions from 2015 to 2016 led to improvements in the night shelter scheme provided by the government of India.²⁸ Due to extraordinarily harsh winter conditions, 200 individuals died in Delhi during the winter season of 2022, because the city's homeless shelters could only house around 9,300 people.²⁹ Shanty houses, makeshift houses, and tenements accommodate 78 million people, accounting for 17% of the global slum population.³⁰ Over the past two decades, the total number of people living in shanty houses has more than doubled in cities across India. According to the Housing and Land Rights Network in India report, which was presented to the United Nations Human Rights Council, some of the cities with the highest numbers of homeless people include Mumbai, which has an approximate population of 200,000 homeless individuals. Another city with a large number of homeless people is Delhi, which has a rough population of 150,000 to 200,000 people, while Ahmedabad has an estimated population of 100,000 homeless persons.³¹

Types of Homelessness in India

There are several types of homelessness recognized in India. There is seasonal homelessness, which consists of regular families who migrate interstate and intrastate for a few months each year in pursuit of work;³² occupational homelessness, which consists of both interstate and intrastate migrant families who migrate for a specific job and, once the task is completed, move on to another area or state; and distress homelessness, which comprises families who have temporarily migrated from the source area because of social ostracization, floods, poverty, and riots that rendered it impossible for them to continue residing in

14 P. Deokar, 'Homelessness in India: Causes and Remedies' *Leagle Samiksha* (19 June 2022) <<https://leaglesamiksha.com/2022/06/19/homelessness-in-india-causes-and-remedies/>> (accessed 1 September 2023).

15 Internal Displacement Monitoring Centre, *Country Profile India* (Internal Displacement Monitoring Centre 2021).

16 M. K. Jha and P. Kumar, 'Homeless Migrants in Mumbai: Life and Labour in Urban Space' (2016) *Economic and Political Weekly* 69.

17 Ibid.

18 Ibid.

19 J. Castaldelli-Maia, A. Ventriglio, and D. Bhugra (eds), *Homelessness and Mental Health* (OUP 2021).

20 C. Olaf Christiansen and S. L. B. Jensen, 'Histories of Global Inequality: Introduction' in C. Olaf Christiansen and S. L. B. Jensen (eds), *Histories of Global Inequality: New Perspectives* (Springer International Publishing 2019).

21 S. Fitzpatrick, G. Bramley, and S. Johnsen, 'Pathways into Multiple Exclusion Homelessness in Seven UK Cities' (2012) 50 *Urban Studies* 148.

22 Castaldelli-Maia, Ventriglio, and Bhugra (n 19).

23 H. Munthe-Kaas, R. Berg, and N. Blaasvæ, 'NIPH Systematic Reviews' (2016) *Report from the Norwegian Institute of Public Health No. 2016-02*.

24 S. Malik and S. Roy, 'A Study on Begging: A Social Stigma – An Indian Perspective' (2012) 18 *Journal of Human Values* 187.

25 Deokar (n 14).

26 Reuters (n 5).

27 S. Valson, *Prevention of Homelessness: How Is the Problem Treated Legally* (2022) <<https://blog.ipleaders.in/prevention-homelessness-problem-treated-legally/>> (accessed 1 September 2023).

28 Factbook, *The World Factbook*.

29 Aljazeera, *In India's Capital, the Homeless Are Suffering a Record Winter* (1 February 2022).

30 Roy, Bose, and Chowdhury (n 1).

31 Housing and Land Rights Network, 2015.

32 Ministry of Housing and Urban Affairs, *The National Policy for the Urban Homeless* (Government of India 2021).

the source area. They may choose to either move out of the source area on a permanent or temporary basis or remain in a city for a short period, making their homelessness more dynamic. Thus, their homelessness is complicated since it is not a cultural transition but rather a manifestation of a lack of accessibility to any place of residence when they travel from one location to another in pursuit of greener pastures.³³

Other forms of homelessness include chronic homelessness, which involves persons who have been homeless for a long period. Chronically homeless people are mostly senior citizens who are unable to work due to physical or mental impairments. Such people make up a small but significant hidden percentage of the homeless population often overlooked in policy initiatives.³⁴ Finally, *episodic homelessness* refers to those who are homeless regularly and have behavioural, physical, and medical issues, as well as persistent unemployment. However, there appears to be a glaring absence in the framing of homelessness of the penniless elderly, those deserted by their spouses, children, or relatives, people with disabilities, and sexual and gender minorities. Since their circumstances differ from those of the rest of the population, these vulnerable groups demand that the concept of homelessness be expanded to include the language of violence, sporadicness, and fluidity.³⁵ This dilemma in policymaking promotes inequality rather than reducing the crippling consequences that it seeks to eliminate.

Drivers of Homelessness in India

Homelessness in India can be seen as caused by several complex issues, including discrimination, a persistent shortage of affordable housing, family and domestic violence, multigenerational poverty, unemployment, and severe mental illness.³⁶ Independent factors like low academic achievement, employment status, domestic violence, and trauma may increase the likelihood of becoming homeless.³⁷ However, the causes of homelessness may be divided into two broad categories: structural and personal, familial conditions.³⁸ Structural factors include inequality, poverty, limited access to affordable housing motivated by the commodification of housing, forced eviction, lack of social protection, and lack of access to land or financing.³⁹

Personal and familial causes of homelessness include circumstances like chronic sickness, mental illnesses, substance addiction, impairments, or domestic violence, which render individuals and families more prone to homelessness.⁴⁰ Women and children are the most vulnerable demographic, frequently afflicted by a cocktail of structural and personal factors that contribute to homelessness, such as domestic abuse or human trafficking.⁴¹

Breaking the intergenerational cycle of homelessness is critical to rescuing children from the pattern of homelessness and destitution. For example, children who become orphans or lose their breadwinner parents because of homelessness may end up homeless later in their own lives.

Homelessness is not a transient phenomenon caused only by natural disasters. It is the result of several push factors that compel people to leave their homes.⁴² The reasons for homelessness differ according to various segments of the population in India. Studies have indicated that violence is one of the major causes of homelessness among women, as well as social banishment for people belonging to the LGBTQIA community. Similarly, demolitions, forced evictions, communal rights, and lack of proper rehabilitation after big developmental plans are some of the other reasons that cause homelessness. Rapid urbanization, increased living costs, and economic downturns, for example, have all contributed to the increase in homelessness in India.⁴³ Fast human population growth and ongoing migration of individuals from rural to urban areas have worsened homelessness in major cities, particularly among the poor. Big metropolitan cities such as Delhi (31,181,377 people), Mumbai (20,667,655 people), Kolkata (14,974,073 people), and Bangalore (12,764,935 people) are struggling to strike a balance between rapid growth and the substantial pressure to provide commercial and residential infrastructure.⁴⁴

In some cases, government projects are blamed for causing homelessness. For example, evictions throughout urban and rural India in 2017 demonstrated a disturbing reality of state-sponsored de-housing and obliteration of the country's poorest homes and property. In addition, during the Covid-19 pandemic from March 2020 to July 2021, state authorities displaced over 257,000 individuals from their houses in India for different environmental and infrastructural projects.⁴⁵ According to one report⁴⁶ conducted between January and December 2021, around 173,000 individuals were evicted and 36,812 houses were bulldozed across India.⁴⁷

Most of the people who were displaced by infrastructural projects did not receive any rehabilitation or assistance from the government; they had to search for alternative accommodation, rendering them homeless. The way programmes are administered demonstrates insufficiency in terms of respecting people's fundamental human rights, particularly the right to adequate housing, which has been severely harmed by the eviction of residents from their houses, an issue that has been raised and lobbied for by several human rights organizations in India, such as the Housing and Land Rights Network. The reality that

33 Ibid.

34 Valson (n 27).

35 Ibid.

36 A. Steen, 'The Many Costs of Homelessness' (2018) 208 *Medical Journal of Australia* 167.

37 Fitzpatrick, Bramley, and Johnsen (n 21).

38 Ibid.

39 G. Wood and others, *The Structural Drivers of Homelessness in Australia 2001–11* (Final Report No. 238, Australian Housing Urban Research Institute 2015).

40 D. Banerjee and P. Bhattacharya, 'The Hidden Vulnerability of Homelessness in the COVID-19 Pandemic: Perspectives from India' (2021) 67(1) *International Journal of Social Psychiatry* 3.

41 B. A. Lee, K. A. Tyler and J. D. Wright, 'The New Homelessness Revisited' (2010) 36 *Annual Review of Sociology* 501.

42 G. Johnson and others, *Entries and Exits from Homelessness: A Dynamic Analysis of the Relationship Between Structural Conditions and Individual Characteristics* (Final Report No. 248, Australian Housing Urban Research Institute 2015).

43 S. Johnsen, S. Fitzpatrick, and B. Watts, 'Homelessness and Social Control: A Typology' (2018) 33 *Housing Studies* 1106.

44 S. Verma and V. Srivastava, 'Urban Homelessness and Baseras/Shelters: An Evaluative Study Conducted During Winter in NCT Delhi' (2020) 29 *Journal of Social Distress and Homelessness* 110; Statistics Times, 'Population of Cities in India' *Statistics Times* (2021).

45 R. Chitlangia, '257,000 People Evicted during Pandemic, Shows Report by Housing Rights Body' *Hindu-istan Times* (9 September 2021).

46 Forced Evictions in India in 2020: A Grave Human Rights Crisis During the Pandemic, Housing and Land Rights Network, 2021.

47 See Chitlangia (n 45).

is underscored in all this is that being homeless is not a deliberate choice but rather is the result of desperation due to multiple factors, including poverty and violence.⁴⁸

Challenges Faced by Homeless People in India

Homeless people face a variety of challenges, which include healthcare, gender-specific issues, denial of human rights, and mental health conditions. Each of these challenges is discussed in the following subsections.

Healthcare

Access to healthcare in India is incredibly challenging for homeless people. Many homeless shelters do not provide any type of healthcare to their occupants, including women. Homeless people, notably women and the elderly, suffer from a variety of illnesses because of poor living circumstances and inclement weather.⁴⁹ Homeless people are susceptible to heat, rain, and cold and lack adequate clothing and shelter. This lowers their immunity and makes them more vulnerable to a variety of health problems. Often, their illnesses go untreated or are detected too late, leaving them vulnerable to infection and even death.⁵⁰ The scarcity of adequate medical and mental health assistance aggravates homelessness, as many homeless people will go on to develop mental illnesses.

Gender

Homeless women and children typically struggle to gain access to basic services, resulting in a feeling of hopelessness. Women and children are frequently classified as hidden homeless, with inadequate housing impacting them twice as much as it does men.⁵¹ Without stable housing, they often rely on informal support networks to avoid sleeping on the street. Homeless women and mothers are usually victims of domestic abuse. Homeless women, particularly young women, face the most severe forms of violence, and they are vulnerable to sexual exploitation and trafficking.⁵² Incidences of rape, harassment, molestation, and women spending restless nights guarding their teenage daughters are all typical among homeless women in India. For example, in India, civil society organizations working on homelessness have estimated that there are between 0.15 and 2 million homeless people in the capital city of Delhi alone, with at least 0.01 million of them being women.⁵³ There have been several reports in India of women being denied care and being sent away from hospitals. As a result, homeless mothers have been forced to deliver children on the roadside, heightening their and their infants' mortality.⁵⁴ Shel-

48 Roy, Bose, and Chowdhury (n 1).

49 Munthe-Kaas, Berg, and Blaasvæ (n 23).

50 Housing and Land Rights Network, *Shelters for Homeless Women: Working Paper with a Focus on Delhi* (Housing and Land Rights Network 2017).

51 Ibid.

52 Action (n 3).

53 Ibid.

54 Keenan and McGreevy (n 10).

ters and places of safety for homeless women, particularly pregnant and breastfeeding mothers, remain scant and inadequate.⁵⁵

Denial of Human Rights

Homelessness violates the principle of human dignity enshrined in Articles 1 and 22 of the *Universal Declaration of Human Rights* and in the *International Covenants on Civil and Political Rights and Economic, Social, and Cultural Rights*. The United Nations special rapporteur on the right to adequate housing has stated that:

Homelessness is a profound assault on dignity, social inclusion, and the right to life. It is a prima facie violation of the right to housing and violates several other human rights in addition to the right to life, including non-discrimination, health, water and sanitation, security of the person, and freedom from cruel, degrading, and inhuman treatment.⁵⁶

The right to adequate housing is also recognized as a fundamental human right under the Indian Constitution. The Supreme Court, on the other hand, has recognized Articles 14, 19, and 21 as decisive criteria in defining a person's dignity. States must safeguard an individual's dignity by providing housing for the homeless.⁵⁷ Despite these legal provisions, homeless people largely remain invisible to society and are not stakeholders in any decision-making processes in India. Their lack of identity and status means that they get little chance to determine aspects of their living conditions. The homeless lack power to such a degree that many are effectively non-persons, without documents, rights, or the right to vote. In India, they are the nearest approximation to being hidden in society.⁵⁸

Mental Health Conditions

Homeless people with mental health conditions constitute one of the most disadvantaged groups in the international health stage.⁵⁹ Homelessness is viewed as both a cause and a result of a psychiatric condition. Although not all homelessness is caused by or results from a mental health condition, when they co-exist, a lack of support makes it more difficult for homeless mentally ill people to break free from the destructive cycle of homelessness.⁶⁰ In a country of around 1.8 billion people, with a mental illness frequency of at least 5% (55 million), and with the number of psychiatrists just slightly above 3,000,⁶¹ the result is a 90% treatment gap. Only 43 government mental institutions are functioning,

55 Action (n 3).

56 UN Special Rapporteur on the right to adequate housing (A/HRC/43/43, 30).

57 Deokar (n 14).

58 M. Mabhala and A. Yohannes, 'Being at the Bottom Rung of the Ladder in an Unequal Society: A Qualitative Analysis of Stories of People without a Home' (2019) 16(23) *International Journal of Environmental Research and Public Health* 4620

59 Ibid.

60 Ibid.

61 V. Patel, 'The Future of Psychiatry in Low-and Middle-Income Countries' (2009) 39 *Psychological Medicine* 1759.

with three psychiatrists for one million people, and psychologists and psychiatric social workers are far fewer. There are, in addition, only 25% or 11 mental health hospitals in rural India, yet rural India is home to more than 70% of the country's population. In the context of the Covid-19 pandemic, homeless persons with mental health conditions were among the most vulnerable people to the disease, and those with medical or psychological problems were more likely to develop Covid-19.⁶² The outbreak of the pandemic has also worsened the pre-existing discrimination of persons suffering from mental illnesses through, for example, the segregated administration of vaccines. Many people suffered from anxiety because of a life devoid of basic needs, prolonged stress, and little hope during the pandemic in India. Homeless people without access to mental health treatments were forced to live on the streets, worsening the challenges presented by homelessness. Homelessness may be either a cause or an effect of mental illness; thus, the link between the two is complex.

Policy and Legal Provisions in India

There exists a variety of fundamental rights, guiding principles of state policy, and treaties that require India to provide appropriate housing for citizens, including homeless children, women, disabled people, refugees, and asylum seekers. To begin, Article 21 of the Indian Constitution explicitly stipulates that '[n]o person shall be deprived of his or her personal liberty except according to procedures established by law'.⁶³ Although Article 21 does not include housing, Indian courts, through various judgements, have found that the right to life encompasses, among other things, the right to housing or shelter, clean water, power, sanitation, and livelihood.⁶⁴ Therefore, any legislation, or administrative action, that violates a person's right to life, such as forcible eviction without the provision of alternative housing, might be challenged in the respective state high courts or the Supreme Court of India through petitions.⁶⁵

In addition, Article 14 of the *Constitution of India* further proclaims that '[t]he state shall not deny to any person equality before the law or equal protection of the laws within the territory of India'.⁶⁶ These clauses are interpreted to mean that every citizen of India is equal before the law and must have access to basic needs of life to ensure the protection of their personal liberty.⁶⁷ The controversy stems from the fact that there is no direct provision in the Indian Constitution for providing adequate housing for citizens, although interpretations of Articles 14 and 21 imply that the right to shelter or decent accommodation is a basic human right derived from the Constitution. Many decisions by the Indian Supreme

62 M. Narasimha Vrandha, J. Ranjith, and P. Shaji Sreelakshmi, 'Reintegration of Homeless Patients with Mental Illness (HPMI) in the Community – Challenges Faced During COVID-19 Pandemic' (2021) 43(3) *Indian Journal of Psychological Medicine* 257.

63 Article 21 of the Constitution of India.

64 High Court Cases on the Human Right to Adequate Housing: Compendium and Analysis of Important Judgments.

65 Action (n 3).

66 Article 14 of the Constitution of India.

67 P. Bhattacharya and K. Priya, 'Stakeholders Facilitating Hope and Empowerment Amidst Social Suffering: A Qualitative Documentary Analysis Exploring Lives of Homeless Women with Mental Illness' 68(4) *International Journal of Social Psychiatry* 908.

Court testify to the linkage between the right to housing and the right to life, as contained in Article 21, but an unambiguous provision is required.

At the international level, India is a signatory to several international human rights laws relating to the right to adequate housing and land. For example, India ratified binding international instruments, such as the *Universal Declaration of Human Rights* 1948 Article 25[1], which states that:

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care, and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.⁶⁸

Moreover, India accepted Article 14 [2] of the 1979 *Convention on the Elimination of All Forms of Discrimination Against Women*, which states that:

States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right: [a] To participate in the elaboration and implementation of development planning at all levels . . . [h] To enjoy adequate living conditions, particularly in housing, sanitation, electricity and water supply, transport, and communications.⁶⁹

Aside from these international legal instruments, India has ratified various guidelines and declarations on homelessness. These include the United Nations General Assembly Resolution 43/181; United Nations Global Strategy for Shelter to the Year 2000; housing and property restitution in the context of refugees and other displaced persons, Sub-Commission on Human Rights Resolution 2002/7; the Right to Adequate Housing Article 11 [1] of the Covenant, Commission on Human Rights Resolution 2005/25; and the United Nations Declaration on the Rights of Indigenous Peoples 2006.

Begging and Destitution: The Rights, Laws, and the State

Notwithstanding India's tremendous economic progress, begging has existed in the country since the dawn of human civilization and continues to exist even after government attempts to eliminate it through a variety of laws.⁷⁰ Beggary regulations are still in place in Indian law, despite any proof of exploitation and with no assumption of criminal behaviour among an already-vulnerable part of society. It is concerning that the unjustified limitation on begging imposed by anti-begging legislation in India deprives the homeless who

68 Universal Declaration of Human Rights 1948 Article 25(1).

69 Convention on the Elimination of All Forms of Discrimination Against Women 1979 Article 14 (2).

70 S. Shivansh, *Beggary Laws in India: A Constitutional Analysis*, (2022) *Legal Service India E-Journal* <www.legalserviceindia.com/legal/article-1367-beggary-laws-in-india-a-constitutional-analysis.html (accessed 1 September 2023).

rely on begging as their only source of livelihood and violates their fundamental human rights.⁷¹ Begging is a growing social and legal issue that exists practically all over the globe. Every country has its unique begging population, and persons in beggary are a familiar occurrence in India today.⁷² The problem cannot be reduced to a mere state of deprivation, or exclusion, but must also be viewed as a refusal of citizenship, the right to live in dignity, and the ability to work.⁷³

The *Bombay Prevention of Begging Act* of 1959 is one of the major laws against beggary which was established to change the mindset of the individuals begging. However, the major flaw of the provisions is their penalizing nature on people who either do not make conscious decisions to be beggars or who have no other choice.⁷⁴ No one chooses to be living in poverty. In that regard, this aspect of the law violates the right to freedom of speech granted by Article 19 [1] of the Constitution, as well as the right to life and liberty provided by Article 21 of the Constitution. The following is an extract from a victim of the anti-begging legislation that demonstrates the extent of the repercussions for victims who are penalized because of the government's incompetence and failure to fulfil its constitutional duty of providing basic needs to its citizens. When asked about his detention under the *Bombay Prevention of Begging Act* of 1959, Daya Rathore (pseudonym), 65, expressed his helplessness. Knowing that arrest is a legal step taken against criminals, he pondered why he had been arrested since he had done nothing wrong:

[I] have been sentenced to 1 year of detention? My children abandoned me a few years ago and since then I have been living on the streets. I do odd jobs for my survival, I do not know why I was arrested.⁷⁵

What is evident from this paragraph is that incarceration has induced mental illness in an already-vulnerable individual. The notion of poverty as a cause of crime is within the purview of the law. In this case, the impoverished bear the blame for their poverty, which becomes an offence.⁷⁶ The most serious feature of homelessness is that it violates fundamental human rights such as freedom of expression and assembly, as well as access to food. The shocking reality is that, because of this controversial punitive legislation, state governments appear to be targeting the poor, particularly those experiencing homelessness. This is made evident by the legislative structure in place to address homelessness and poverty, especially in urban areas.

Most Indian states have anti-begging legislation, which can be viewed simply as a legal instrument to punish poverty.⁷⁷ This includes states like Punjab, Chandigarh, and Hary-

ana – even appearing poor in these states is enough to have you detained on the basis that begging is considered a crime.

Hundreds of individuals face the prospect of incarceration across the country, wherever beggary law is in effect. In what could be easily understood as a mockery of human rights and constitutional guarantees, many states in the country have anti-begging legislation that criminalizes homeless people. Beggary laws illustrate how law can be created, sustained, and practised in circumstances in which the constituency affected by those laws is defenceless, because of the unlawfulness that the law imposes on them, the gap between privilege and poverty, and the state's failure to fulfil its obligations.⁷⁸

Article 41 of the Indian Constitution provides that the state shall 'make effective provision for securing the right to work, education, and public assistance in case of unemployment, old age, sickness, and disablement'.⁷⁹ However, what most states have adopted is completely contrary. Instead of securing people's rights, all that states do is criminalize these contexts of vulnerability. These state laws are, broadly, versions of the *Bombay Prevention of Beggary Act* 1959, which grant powers to officials to detain people presumably engaged in begging in government-run custodial centres.⁸⁰

Although there are government schemes, including pensions, for the welfare of groups like the elderly, persons with disabilities, and widows, people in beggary rarely get any access to these programmes due to the legal identity of a beggar being constructed under the beggary law.⁸¹ In fact, some of these schemes, like the Pension Scheme in Delhi, contain a clause that if any action has been taken against a person under the beggary law, then the person is not eligible to receive a pension under the scheme.⁸² Even a wrongful arrest would amount to action and therefore mean disqualification from the much-needed scheme. Emphasizing this exclusion based on the assumption of crime, Tarique and Raghavan argue that 'a central assumption underlying and legitimising the penal treatment of the poor [by the State] is that most people who beg are part of organised gangs and criminal networks'.⁸³

The Law and Its Coverage

The *Bombay Prevention of Begging Act* of 1959, though a state law, is a piece of legislation that has been adopted and adapted more widely by several other states.⁸⁴ So it is appropriate and sufficient to use and analyze this piece of legislation as a way of understanding the nature and coverage of the anti-beggary laws in India more broadly. The Act defines 'beggary' in such a manner that a homeless person with mental illness, a small-time vendor, a person wandering about, or even an elderly person can legally be considered a beggar. While defining *beggary*, Section 2 [I](d) of the Act says: '[H]aving no visible means of subsistence and wandering about or remaining in any public place in such condition or manner,

71 Ibid.

72 B. Kaushik and M. Gupta, 'An Analysis of Anti-Begging Policy in India' (2022) 43(1) *Specialusis Ugdyms* 7965.

73 A. Goel, 'Indian Anti-Beggary Laws and Their Constitutionality Through the Prism of Fundamental Rights, with Special Reference to Ram Lakhan V. State' (2010) 11 *Asia-Pacific Journal on Human Rights and the Law* 23.

74 S. Menka and T. Hassan, 'Begging Is a Curse on Society: An Empirical Study' (2013) 2(7) *International Journal of Advanced Research in Management and Social Sciences* 44; Shivansh (n 70).

75 Goel (n 73).

76 U. Ramanathan, 'Ostensible Poverty, Beggary and the Law' (2008) 43(44) *Economic and Political Weekly* 33.

77 Shivansh (n 70).

78 Ramanathan (n 76).

79 India Constitution Article 41.

80 V. Raghavan and M. Tarique, 'Penalising Poverty: The Case of the Bombay Prevention of Begging Act 1959' (2018) 53(22) *Economic & Political Weekly* 27.

81 Kaushik and Gupta (n 72).

82 Menka and Hassan (n 74).

83 Ibid.

84 Ibid; Shivansh (n 70).

as makes it likely that the person doing so exist soliciting or receiving alms.⁸⁵ This clause alone is enough to make a large section of the population vulnerable under the law. Several groups in India have traditionally engaged in activities such as fortune-telling, singing, dancing, and street shows. All such communities are equally susceptible to falling foul of this draconian legislation.⁸⁶

While the way beggary has been defined technically renders every homeless person a potential beggar, it also gives extreme powers to the police, as there is a lot of discretionary power provided under the law.⁸⁷ Surprisingly, there is no strict necessity for a warrant for imprisonment to take place. There is no requirement of proof for the offence to be made out in court. On the contrary, the accused must demonstrate that he or she earns a living other than by begging. The trial court will send the accused on remand for the investigation to be completed. If charges against the person are not proven, then the person would be released. There is no need to be concerned about a breach of a person's liberty. If the allegations of beggary are proven, the individual can be imprisoned for one to three years for a first offence, and up to ten years for a second offence.⁸⁸

What is vital to understand in the context of human rights is how implementation has been designed. The law grants powers to state agencies to keep any person in detention for a period between one and ten years as punishment for beggary, which could arise from nothing more than merely a situation of destitution.⁸⁹ The implications of this law need to be understood from the context of the structure of an offence and how *beggary* has been defined. Since the definition of *beggary* includes different vulnerable circumstances, punishing begging is equivalent to punishing those circumstances. This is a most extreme example of the poor being punished by the state for its failure to protect or provide for its poor citizens.⁹⁰ Let us examine a few more sections of this law here. Section 9 of the Act says that the 'court may order the detention of persons wholly dependent on beggar'.⁹¹ This makes family members who may not have begged themselves as vulnerable as the person committing the offence. Furthermore, there is a section that provides for indefinite detention. Section 10 provides that the state has the power to detain the person for an indefinite period – after the completion of ten years of detention.⁹² Though there is a clause and certain procedural requirements governing this, the fact remains that a person accused of beggary can be detained for an indefinite period.

Government of India Programs to Eradicate Homelessness

The Indian government has implemented several initiatives to help homeless people in the country. Despite frightening homelessness statistics, India is making progress in combating homelessness and poverty. It is said that 44 individuals are lifted out of homelessness every

day because of government programmes.⁹³ The Indian government is currently working to establish affordable, low-cost homes. The Jawaharlal Nehru National Urban Renewal Mission (JNNURM) is one such policy to deal with the problem of inadequate shelter in cities. This policy aims to ensure efficiency in urban infrastructure and service delivery systems, community involvement, and parastatal institution accountability to people.⁹⁴ In addition, the government is desiring to reduce traffic congestion in Indian cities and give universal access to essential services. The JNNURM necessitates that densely populated towns demand essential utilities such as sanitation and power from their landowners.

To combat homelessness, one of the JNNURM's priorities was to create cheap housing for the urban poor, shanty dwellers, and those from poor backgrounds. This initiative was able to construct several dwellings, yet the condition of the shelters was criticized for not reaching appropriate housing standards. The Indian government has spent Rs 21,482 crores⁹⁵ on housing for the urban poor during the last decade. The JNNURM built 224,000 of the 238,448 unoccupied dwellings, while the Rajiv Awas Yojana built the other 14,448.⁹⁶ This means that 93.9% of the houses lying vacant were built under the JNNURM. Since these dwellings lack adequate facilities, the urban poor were unwilling to relocate. It is also because these residences were constructed in places where employment was limited. Poor people cannot afford to commute longer distances due to low income levels.

The Indian government has also launched Night Shelter programmes to offer temporary accommodation to the country's homeless. The Housing and Urban Development Corporation initially implemented Night Shelters between 1992 and 1997.⁹⁷ The scheme aimed to provide communal night shelters with a water supply and sanitary facilities for the people who are homeless in metropolitan areas and other big cities on a pay-and-use basis. Following that, in 1992, the Ministry of Urban Development launched a scheme called Shelter and Sanitation Facility for street dwellers in metropolitan areas to provide night shelters to the completely homeless habitats in major cities until they were qualified for low-cost housing provided by any of the state-level schemes.⁹⁸ However, most shelters were found to be vacant of homeless people. The government and non-governmental organizations conducted several studies, which found a lack of basic facilities and shelter upkeep, resulting in impoverished people abandoning shelters.⁹⁹ Since then, provisions have been changed, and the names of schemes have been changed from Shelter and Sanitation Facilities to Night Shelters for the Urban Shelterless. These programmes had inadequate implementation at the state level as a result of poor administration and mismanagement of funds.¹⁰⁰

85 The Bombay Prevention of Begging Act of 1959 Section 2 [I] (d).

86 Goel (n 73).

87 Raghavan and Tarique (n 80).

88 Ibid.

89 Kaushik and Gupta (n 72).

90 Ibid.

91 Shivansh (n 70).

92 Goel (n 73).

93 S. Chari, 'A View into Homelessness in India' *The Borgen Project* (2020) <<https://borgenproject.org/homelessness-in-india/>> (accessed 1 September 2023).

94 M. Moiz, 'Homelessness in India' *Cauf Society* (2023) <<https://caufsociety.com/homelessness-in-india/>> (accessed 1 September 2023).

95 Equivalent to USD 2,541,468.3.

96 Shanu, 'All You Need To Know About JNNURM' *Makaan IQ* (1 July 2016) <www.makaan.com/iq/news-views/all-you-need-to-know-about-jnnurm> (accessed 1 September 2023).

97 P. Ghosh, G. Goel, and M. Ojha, 'Homeless Shelters in Urban India: Life Sans Dignity' (2018) 13 *International Journal of Housing Markets and Analysis* 4.

98 Ibid.

99 Ibid.

100 Ibid.

Initiatives by Civil Society Organizations to Support the Homeless in India

Various civil society organizations are partnering with the government to assist homeless people in India. For example, the Society for Promotion of Youth and Masses (SPYM) runs government-funded night shelters in Delhi City and provides basic amenities such as drinking water, toilet facilities, and bedding to the homeless. They also have provisions for basic health services.¹⁰¹ Other civil society organizations have been founded specifically to assist homeless women. The URJA Trust in Mumbai is one among them. The URJA Trust is an organization dedicated to protecting the rights of homeless women. The organization has helped more than 400 women transition from homelessness to safe environments, provided mental health services to over 300 women, and promoted public awareness of women's homelessness.¹⁰²

The URJA Trusts have also made great strides in providing shelters specifically for women who have escaped domestic violence, as often state agencies providing accommodation rarely consider the plight of women fleeing from domestic violence. Homeless women are housed in a shelter when they come in but are later shifted to group homes as soon as they start becoming financially independent. The URJA non-profit organization houses roughly 50 women and girls each year and has successfully rehabilitated 250 women in the last four years.¹⁰³

Some civil society organizations are striving to assist homeless children who are vulnerable to a variety of issues such as abuse and a lack of shelter. For instance, Salaam Baalak Trust, located in New Delhi and Mumbai, is a non-profit organization that helps homeless children. The group runs several programmes aimed at improving the lives of homeless children, such as educational activities. So far, they have helped a total of 108,014 young people in India. The Salaam Baalak Trust has been in operation in Delhi since 1989 and runs four community centres that are available 24 hours a day, seven days a week, and can house up to 220 children at any given time.¹⁰⁴ Salaam Baalak Trust has consistently provided free clothing, food, education, and rehabilitation services to homeless children in India.

Moreover, the Tata Institute of Social Sciences in Mumbai founded Koshish, a civil society organization, to combat the illegality of poverty under beggary legislation. Koshish focused on developing a comprehensive framework to help individuals get out of poverty by addressing numerous vulnerabilities.¹⁰⁵ Started in Mumbai in 2006, the initiative was expanded to Delhi in 2009 and to Bihar in 2012. The initiative was implemented in conjunction with state governments in each of these states. Koshish is sceptical of and resistant to the state's response to poverty and destitution, yet as an institution, it also recognized that the solution must come from the state and hence is working closely with the government to abolish the criminalization of beggars.¹⁰⁶

Koshish created national-level coalitions and collaborated with many organizations working on issues of urban poverty to create a support structure for the wider Indian community.¹⁰⁷ The overarching objective has been to replace the punitive approach with a non-punitive one. Koshish developed a solid community-level preventative campaign to accomplish this.¹⁰⁸ As part of the community-based framework, several concerns including mental health difficulties, family repair, vocational training, supporting livelihoods, education, and questioning the conventional acceptability of vagrancy are all addressed.¹⁰⁹ A special focus was also given to children's education. These are the children from the communities that have traditionally had recourse to begging or to vocations that are considered as begging under the law, like selling small articles or rag picking. Koshish provides close handholding and support to these children and seeks to prepare them to understand and resist the historical discrimination that these communities have long faced.¹¹⁰ Today, more than 90% of the children in each of the communities in which Koshish works go to school. This has led to extremely positive changes in their parents, as most parents desire for their children to avoid the risks and vulnerabilities the streets present.

Since 2006, the Koshish-Tata Institute of Social Sciences (TISS) Field Action Project on Homelessness and Destitution has been working with several state governments to raise the problem of criminalization under the Beggary Prevention Laws.¹¹¹ Gradually, states like Maharashtra and Delhi have begun discussing the possibility of decriminalizing beggary through amendments to the law. Both states constituted committees to recommend amendments to the law. The state of Rajasthan also brought in a pilot scheme in two districts of the state where rehabilitation was the central focus. In a progressive development, the state of Bihar launched a pilot intervention in 2012 where, for the first time, the amendment to the Beggary Prevention Laws was made. This flagship programme by the Social Welfare Department in the state is known as 'Mukhya Mantri Bhikshavriti Nivaran Yojana'.¹¹²

The Way Forward for Homelessness in India

Homelessness is a major challenge affecting millions of people globally, with a substantial proportion of those impacted in India, a nation that has so much potential. Homeless people in India encounter abuse, discrimination, and starvation. Although having minimal resources and power, civil society organizations play an important role in addressing homelessness in India. They campaign for the rights of the homeless and work to better their lives. The government is also involved in tackling India's homeless dilemma. The government intends to provide homes for every citizen in India within the next few years. While these initiatives may or may not be as successful as one wishes, they do give some optimism that the deplorable state of homeless Indians may be remedied.

101 S. Ghosh, 'Understanding Homelessness in Neo-Liberal City: A Study from Delhi' (2020) 55(2) *Journal of Asian and African Studies* 285.

102 Ibid.

103 Gayatri Manu, *This Garment Factory Turned Shelter Home Has Supported More Than 250 Women in the Past 4 Years* (2016) <https://www.thebetterindia.com/72883/urja-trust-mumbai-homeless-women-runaway/>.

104 S. Gardner, 'Homelessness during India's Rainy Season' *The Borgen Project* (2020) <<https://borgenproject.org/homelessness-during-indias-rainy-season/>> (accessed 1 September 2023).

105 S. P. K. Jena, *Homelessness: Research, Practice, and Policy* (Taylor & Francis 2020).

106 Raghavan and Tarique (n 80).

107 R. Thara, 'NGOs and Mental Health: Initiatives and Progress' in J. Kumar Trivedi and A. Tripathi (eds), *Mental Health in South Asia: Ethics, Resources, Programs and Legislation* (Springer 2014).

108 A. Mitra, 'Food security in South Asia: A Synthesis Paper' (2010) <<https://hdl-bnc-idrc.dspace.org/bitstream/handle/10625/45094/131551.pdf?sequence=2&isAllowed=y>> (accessed 1 September 2023).

109 A. L. Hall and J. Midgley, *Social Policy for Development* (Sage 2004).

110 Kaushik and Gupta (n 72).

111 M. Malik, 'Street Begging in Delhi: A Study of Anti-Begging Act and Institutional Arrangements for Homeless People' (Researching Reality Summer Internship Working Paper, Centre for Civil Society 2012).

112 Hall and Midgley (n 109).

Despite the promising initiatives implemented by the Indian government and civil society organizations to address the country's homelessness problem, however, the emphasis has been primarily on providing emergency temporary accommodation, for decades, to alleviate the plight of millions of people who are homeless in urban and regional areas. The Indian government has recently focused its efforts on providing permanent shelter to the homeless, but the state has failed to offer the facilities considered necessary for decent shelter. Underlying the problem is the state's failure to develop effective systems for maintaining the facilities after they are built.

The long-term solution to India's homelessness problem, which has existed for decades, is to plan for the provision of permanent housing for the homeless with adequate facilities so that the housing provided will be occupied permanently by homeless people. Since the homeless are unable to access many services due to a lack of documentary proof such as residence and birth certificates, shelter should serve as a hub for various social security programmes, and all homeless people living in government-arranged housing must be given priority access to food, health, and social security entitlements. Increased housing investment has proved to be a significant solution to keeping up with population growth in crowded cities like Delhi and Mumbai. However, increased investment must be accompanied by accountability in the use of resources to ensure the success and timely completion of projects, as these are just some of the challenges crippling the government's attempts to reach its aim of providing adequate housing for all.¹¹³

On the other hand, housing governance in India has usually concentrated on national initiatives. Policy guidance and technical aid at the national level are critical, but there is an urgent need to scale up sub-national assistance. This requires determining what kind of housing delivery systems have been established by governmental institutions to address local housing requirements. To carry out such initiatives, there is a need for reliable and disaggregated data on people who are homeless to develop and implement context-appropriate and holistic strategies, as well as to assess whether those solutions are effective in achieving the desired outcomes. This would also help achieve the Sustainable Development Goals, with the objective that everyone have access to appropriate and adequate housing by 2030, with priority given to the most vulnerable in society. This is consistent with the UN-Habitat Convention Resolution mandating member states and local governments to develop integrative programmes and policies spanning multiple sectors such as physical and mental health, housing, and employment, as well as measures ensuring access to digital technology and finance.¹¹⁴ Sustainable homelessness practices that should be recommended include preventative policies aimed at addressing the fundamental causes of homelessness, such as better access to affordable housing, greater social protection measures, and discrimination prevention.¹¹⁵ India must also standardize the measurement, collection, and disaggregation of statistics on homelessness, which is crucial, given the paucity of accurate data on the homeless population in the country.

In terms of the *Bombay Prevention of Begging Act* of 1959, the primary law on destitution, there is no doubt that unless the Act is repealed and criminalization is eliminated,

little will change. Vulnerable people will continue to be punished for their poverty.¹¹⁶ To solve this problem, all stakeholders must unite and work together. Reviewing the draft bill created by the Ministry's special committee and enacting it as law might be one significant step toward systemic change. Effective collaboration between the state and civil society, as well as a shift in the government's attitude towards the urban poor, may be harnessed by signing the *Persons in Destitution Model Bill* into law. Until impoverished people are acknowledged as equal citizens and their rights are respected in the spirit and essence of constitutional provisions, as they are for all other citizens, India will continue to be haunted by legislation like the 1959 *Bombay Prevention of Begging Act*. Affirmative action from states is desperately needed to help people who are already entangled in the vortex of homelessness and misery. As things stand today, the government's ability to accomplish this is not just constrained but nearly non-existent. Homeless people in India, as in other countries, must be regarded as citizens equal with all others and as people deserving of the necessary support and assistance to ensure they can stabilize their circumstances and pursue meaningful lives.

113 Ghosh, Goel, and Ojha (n 97).

114 UN-Habitat, *Priorities 2022-2023: Adequate Housing, Cities and Climate Change, and Localising the Sustainable Development Goals* (UN-Habitat 2022).

115 Ibid.

116 Menka and Hassan (n 74); Kaushik and Gupta (n 72).