**Special Rapporteur on the Right to Adequate Housing**

**Questionnaire on Homelessness**

**Response from Housing and Land Rights Network, India[[1]](#footnote-1)**

**Question 1: Please explain how your government defines homelessness in various contexts, for example, when measuring the extent of homelessness or determining eligibility programs and services. Please explain why the definition was chosen and whether it is formally referred to in laws, policies or programs.**

**Answer:**

The Indian government considers the official Census of India definition of homelessness and defines ‘houseless people’ as, persons who are not living in buildings or ‘census houses.’ A census house refers to ‘a structure with roof.’ Hence for measuring the extent of homelessness or determining eligibility programmes and services, the government considers those who ‘live in the open on roadside, pavements, in hume pipes, under flyovers and staircases, or in the open in places of worships, *mandaps* (porch), railway paltforms, etc.’, as houseless people.[[2]](#footnote-2)

The government aims to provide housing or shelter facilities under its social welfare schemes to those who fall in the category of the homeless people identified as per the official Census definition.

**Question 2. How is homelessness measured in your country? What criteria and indicators are used and how is data collected and systematically updated for this purpose? Please provide available data over a period of time on the extent of homelessness in general and among particular groups (for example: children and youth, women, indigenous peoples, persons with disabilities, and others).**

**Answer:**

In India, homelessness is measured according to the Census definition. The Census is a decennial population enumeration exercise carried out in the country. However, it must be noted that for the first time in 2001, Census provided data on homeless households. It counted 1.94 million homeless people in the country.[[3]](#footnote-3) According to the Census of 2011, India has more than 1.7 million homeless persons; 938,384 of them live in urban areas.[[4]](#footnote-4) Independent estimates, however, place the total number of homeless persons in India at about 2.3 million.[[5]](#footnote-5)

**Estimated Number of Homeless People in Different Cities across India[[6]](#footnote-6)**

* Delhi: 150,000 – 200,000
* Chennai: 40,000 – 50,000
* Mumbai: 200,000 (including Navi Mumbai)
* Indore: 10,000 – 12,000
* Visakhapatnam: 18,000
* Bangalore: 40,000 – 50,000
* Hyderabad: 60,000
* Ahmedabad: 100,000
* Patna: 25,000
* Kolkata: 150,000
* Lucknow: 19,000

*[Source: Independent estimates from civil society organizations working on homelessness]*

In the year 2011, Census of India data claim that the two megacities known for their large homeless populations—Mumbai and Delhi—have just 57,416 and 46,724 homeless people, respectively. But these figures have been contested by many housing rights activists and organizations.

There is no central body in India to measure homelessness. Whatever data is available is collected at the local level by civil society organizations and local government departments. For instance, in Delhi the survey of homeless people has been conducted by civil society organizations. There is a vast difference between the survey done by the state department and NGOs. Most of the surveys done by government departments grossly underestimate the population of homeless people in their respective cities.

**Question 3: What population groups are most affected by homelessness in your country? How have their experiences been documented and by whom (whether officially by national or sub national governments, National Human Rights Institutions, or by non-governmental or other organizations, charities, etc.)? If studies exist, please indicate or share a link, a reference or a copy.**

**Answer:**

Homelessness constitutes the worst violation of the human right to adequate housing, and homeless people, especially women, are among the most marginalised, ignored, and discriminated against in the country.[[7]](#footnote-7)

Homeless women, particularly young women, suffer the worst kinds of violence and insecurity, and are vulnerable to sexual exploitation and trafficking. Instances of rape, molestation, and women spending sleepless nights guarding their young adolescent girls are a common feature among homeless women. Accessing health care is a tremendous challenge for homeless people, especially women. There are countless incidents of women being denied treatment and turned away from hospitals.[[8]](#footnote-8)

Shahri Adhikar Manch: Begharon Ke Saath (Urban Rights Forum: With the Homeless)—a collective working on issues of homelessness in Delhi—organized a public hearing on violence against homeless women in Delhi in 2012. The public hearing brought to light the multiple violations of the rights of homeless women and presented recommendations by the jury to the government of Delhi.[[9]](#footnote-9)

**Impact of Homelessness on Children**

There is no national data or comprehensive policy on street children. The human rights of street children to security, adequate housing, education, development, and education, are continually violated. Apart from being malnourished, poverty-stricken and often abused, most street children are unable to attend school. India still does not have data on the number of street children; neither does it have a policy to address their special needs and to protect their rights. In Delhi, the organization Butterflies estimates 50,000 children living on their own, while a survey by Save the Children Fund in 2011, found 50,923 street children in the city.[[10]](#footnote-10)

According to a report published by the United Nations, there are 150 million children aged three to 18 years on Indian streets today, and their numbers are growing fast. Forty per cent of the world’s street children are homeless, the other sixty per cent work on the street to support their families. According to Child Relief and You, about 60 million Indian children under the age of six live below the poverty line. The problem has become particularly acute for homeless children, one-fifth of whom receive no education. Children living on the streets are especially vulnerable to victimization, exploitation, and the abuse of their civil, political, social, cultural and economic rights. Living on the streets adversely affects the mental and physical growth of these children, which is unfortunate for the future of developing India.

**Question 4: Please provide information and details on the primary systemic and structural causes of homelessness in your country and explain how these are being addressed.**

**Answer:**

A wide array of factors contribute to homelessness in the country. These include:[[11]](#footnote-11)

* Extreme poverty;
* Lack of affordable housing;
* Changes in the industrial economy leading to unemployment;
* Forced eviction /demolition of homes without adequate resettlement;
* Displacement from land/home;
* Inadequate income support;
* The de-institutionalization of patients with mental health problems;
* The erosion of family and social support;
* Physical or mental illness;
* Disability;
* Substance abuse;
* Domestic violence/family abuse;
* Stigmatization of illness;
* Abandonment by family;
* Natural disaster;
* Absence of family; and,
* Need to send money home.

In January 2010, after the eviction of homeless persons by the state government from a homeless shelter, the High Court of Delhi initiated a *suo moto* case[[12]](#footnote-12) on the issue of homelessness in the nation’s capital. After five years, 100 hearings, and over 85 orders from the Delhi High Court, while the city has witnessed significant improvements in the number of homeless shelters (from 17 to 266) and a greater awareness within the government of the special needs and concerns of the homeless, the human rights and quality of life of the city’s homeless, unfortunately, has not improved much.[[13]](#footnote-13)

Through the intervention of special commissioners in 2010, the issue of homelessness was brought into the purview of the ‘right to food’ case (*PUCL v. Union of India and Others*)[[14]](#footnote-14) in the Supreme Court of India. The Court ordered that shelters must be sufficient to meet the need of the homeless, in the ratio of at least one shelter per 100,000 population, in every major urban centre. It also stated that shelters should be functional throughout the year and not as a seasonal facility only during the winters. Despite strong orders from the Supreme Court, the situation in most cities across India is abysmal with regard to provisions for the homeless. Currently, the issue of national homelessness is being reviewed by the Supreme Court in another public interest litigation case.[[15]](#footnote-15)

The National Urban Livelihoods Mission – Scheme of Shelters for Urban Homeless (NULM-SUH) provided policy direction to the Supreme Court’s orders on homelessness. It proposes a standard of 50 square feet per person in a homeless shelter. In most cities, however, the homeless are provided only about 15 square feet per person in a shelter, which is not sufficient to live with dignity. The lack of adequate space also results in overcrowding and congestion, leading to adverse health impacts on shelter residents. There is also an acute shortage of shelters for women, families, women with children, working men, and shelters for people with special needs such as older persons, persons with disabilities, persons living with mental illness or HIV/AIDS, and chemically dependent persons.[[16]](#footnote-16)

The majority of the homeless in India are, thus, left to fend for themselves and suffer from harsh weather and climate conditions. Data from the zonal integrated police network under the union ministry, reveals that 33,518 homeless people died in Delhi between January 2004 and October 2015.[[17]](#footnote-17) No investigation is ever conducted into the cause of the death of a homeless person, and neither is anyone held responsible.[[18]](#footnote-18)

**Question 5: Please provide any information available about discrimination and stigmatization of people who are homeless, including laws or policies that may be used to remove homeless persons from public spaces or to prohibit activities in public spaces such as sleeping, camping, eating, sitting, or asking for money. Please explain whether such discrimination is prohibited by law at national and/or local levels.**

**Answer:**

Homelessness is considered a crime in the country under some laws. For example under the Delhi Police Act 1978, any person found under ‘suspicious circumstances between sunset and sunrise’ can be apprehended by the police. Homeless people are often stigmatized as criminals and/or their mere existence is deemed illegal due to the perceived danger posed by their presence. Their dwellings in public or public spaces, too, are also targeted. Municipal laws consider bathing and living in the open as punishable offence. Homeless people are also rounded up routinely by the police to maintain ‘peace’ under sections 109 and 151 of the Criminal Procedure Code, 1973. Beggary preventions laws such as the Bombay Prevention of Begging Act, 1959, applicable in 18 states of India, also punish vagrancy. All these laws allow the police to detain or arrest anyone who are poor or homeless.[[19]](#footnote-19)

Other laws that criminalize the urban homeless include Tamil Nadu Prevention of Begging Act, 1945 and The Juvenile Justice Act, 2006, which provide for arrest, incarceration and custodialisation for sleeping or loitering on the streets, for merely having ‘no ostensible means of livelihood’ or even for simply being a child ‘in care of need and protection.’

There is no law that prevents discrimination against homeless people in the country.

**Question 6: Has homelessness been recognized as a human rights violation by courts or by national human rights institutions in your country, and if so, on the basis of which human rights (for example: right to adequate housing, right to life, etc.)?**

**Answer:**

The Indian apex court in its interpretation of the Article 21 of the Constitution that guarantees right to life and personal liberty has recognized homelessness as a human rights violation. In *PUCL v. Union of India and Others* (mentioned earlier)*,* the Supreme Court has addressed the issue of homelessness and ordered that sufficient shelters should be provided for the homeless. The Delhi High Court has also recognized the human rights violations of homelessness in several orders.[[20]](#footnote-20)

Also in 2010, the High Courts of India passed two important judgements—*Sudama Singh and Others vs. Government of Delhi and Anr.*, and *PK Kopul vs. Estate Officer and Anr. And Ors.*—to address the issue of homelessness and upholding right to adequate housing.[[21]](#footnote-21)

India has certain constitutional provisions and laws that make it obligatory for the state to uphold the human right to adequate housing for all its citizens. The Constitution of India is firmly grounded in the principles of liberty, fraternity, equality and justice. In the Constitution of India, Article 21, the right to life, has also been interpreted to recognize the right to shelter, while Article 14 guarantees equality before the law. Article 15 prohibits discrimination; Article 19 guarantees the right of all citizens to freedom of movement and freedom to reside and settle in any part of the territory of India.

It is thus the legal responsibility of the Indian government to respect, promote and fulfil the human right to adequate housing for all its citizens, as guaranteed in both national and international law. Though India has ratified several international human rights instruments and is also bound by national case law, the human right to adequate housing still eludes a large number of Indians, especially the homeless.

**Question 7: What legal or administrative procedures are available to challenge actions or inaction by governments or private actors on the grounds that they lead to or fail to address homelessness?**

**Answer:**

Poor homeless families have limited access to remedy and largely depend on civil society groups or activist lawyers to take on action or inaction by government or private actors to address the issue of homelessness. The grievance redress mechanisms and helplines to assist poor homeless persons in need are not effective. In Delhi, the High Court initiated a suo moto case on homelessness, while the cases in the Supreme Court have been filed as public interest litigations. Human rights defenders in several other states have also taken up the issue of homelessness in state courts, including in Rajasthan. In Tamil Nadu, collaboration between the state and civil society organizations has resulted in positive outcomes, including an improvement in shelters for the homeless.

**Question 8: Please provide information about any strategies or legislation in place at the national, sub-national or local levels to reduce or eliminate homelessness, explain any goals or timelines that have been adopted for this purpose, describe how progress is monitored and provide information on results to date.**

**Answer:**

Since it assumed office in May 2014, the National Democratic Alliance government at the centre has announced multiple schemes related to housing and land, and to address the issue of homelessness, especially to the economically weaker sections of society. Attempts have been made to phase out and replace programmes of the last government. Many of the new schemes have been launched as ‘missions’ including Pradhan Mantri Awas Yojana (Housing for All – 2022) and Smart Cities Mission with large budgetary allocations, but has no specific guidelines on addressing the issue of homelessness, and no adequate indicators for implementation. Since they are schemes and not policies, mechanisms for enforcement, monitoring, and accountability are also missing. Some of the new schemes related to housing and land are described below:[[22]](#footnote-22)

**National Urban Livelihoods Mission – Scheme of Shelters for Urban Homeless**

The National Urban Livelihoods Mission – Scheme of Shelter for Urban Homeless (NULM–SUH) was launched by the Ministry of Housing and Urban Poverty Alleviation in 2014. It aims to provide permanent shelter and essential services to the urban homeless population in the country. The Scheme sets specific norms and standards for the distribution, location, and design of permanent and all-weather shelters for the urban homeless,[[23]](#footnote-23) who presently have no access to shelter or public services such as health, education, food, water, and sanitation. Further, the Scheme specifies that the requirements for vulnerable homeless groups vary, and hence, the nature of the homeless population in a location should dictate the type of shelter that should be constructed there. This includes separate shelters for men, women, families, and special shelters for older persons without care, persons with mental illness, recovering patients and their families. The Scheme also provides for convergence of service delivery and provision of entitlements including social security, food, education and healthcare, including as well as identity proof, address proof, pension, BPL cards, ration cards, Integrated Child Development Services (ICDS) centres, free legal aid, and admission to government schools and public hospitals for urban homeless residents.

NULM-SUH like other policies/schemes, does not address structural causes of homelessness; neither it is based on human rights. The policy response is always to construct temporary shelters for the homeless, not to enable them to access permanent housing.

**Draft Rajasthan State Policy for the Urban Homeless**

The Government of Rajasthan has recently drafted a policy to provide shelter to the homeless in the state. Though claimed as the first state in the country to draft a homeless policy after the Supreme Court order and to implement the NULM–SUH scheme, the policy allegedly falls short on many counts including rental housing provision, affordability, and provision for shelters for homeless women and persons with disabilities.[[24]](#footnote-24)

1. Housing and Land Rights Network, New Delhi, India. [www.hlrn.org.in](http://www.hlrn.org.in) [↑](#footnote-ref-1)
2. Census of India 2011. Document available at: <http://censusindia.gov.in/Data_Products/Data_Highlights/Data_Highlights_link/concepts_def_hh.pdf> [↑](#footnote-ref-2)
3. Census of India: <http://censusindia.gov.in/Census_Data_2001/India_at_glance/houseless.aspx> [↑](#footnote-ref-3)
4. Primary Census Abstract, Houseless Population, Census of India 2011, Ministry of Home Affairs, Government of India. Available at:

   <http://www.censusindia.gov.in/2011-Documents/Houseless%20PPT%2005-12-2013.pdf> [↑](#footnote-ref-4)
5. ‘The Human Rights to Adequate Housing and Land in India: Report for the United Nations Human Rights Council,’ Housing and Land Rights Network, September 2015. Available at: <http://hlrn.org.in/documents/UPR_Recommendations_Housing_and_Land_India_HLRN_Sept_2015.pdf> [↑](#footnote-ref-5)
6. Ibid. [↑](#footnote-ref-6)
7. ‘The Human Rights to Adequate Housing and Land in India: Report for the United Nations Human Rights Council,’ Housing and Land Rights Network, September 2015. Available at: <http://hlrn.org.in/documents/UPR_Recommendations_Housing_and_Land_India_HLRN_Sept_2015.pdf> [↑](#footnote-ref-7)
8. *Violence and Violations: The Reality of Homeless Women in India*, Shivani Chaudhry, Amita Joseph, and Indu Prakash Singh, March 2014, New Delhi. Available at: <http://hlrn.org.in/documents/Violence_and_Violations_Homeless_Women_in_India_2014.pdf> [↑](#footnote-ref-8)
9. The report of the public hearing and the statement of the jury are available at: Delhi can be accessed at: <http://hlrn.org.in/documents/Public_Hearing_on_Violence_against_Homeless_Women_in_Delhi_Report.pdf> [↑](#footnote-ref-9)
10. See supra note 5. [↑](#footnote-ref-10)
11. Compiled from various sources, including the website of the Office of Supreme Court Commissioners: http://www.sccommissioners.org/ [↑](#footnote-ref-11)
12. *The Court on its Own Motion v. Govt. of Delhi and Anr.*, W.P. (C) 29/2010. [↑](#footnote-ref-12)
13. See supra note 5. [↑](#footnote-ref-13)
14. *PUCL v. Union of India and Others*, W. P. (C) 196/ 2001. [↑](#footnote-ref-14)
15. *E. R. Kumar and Anr. v. Union of India and Ors.*, W.P. (C) 55/2003. [↑](#footnote-ref-15)
16. See supra note 5. [↑](#footnote-ref-16)
17. ‘33,000 homeless people died on Delhi streets since 2004: Government report,’ *The Times of India*, 18 October 2015. Available at: <http://timesofindia.indiatimes.com/india/33000-homeless-people-died-on-Delhi-streets-since-2004-Government-report/articleshow/49442688.cms> [↑](#footnote-ref-17)
18. See supra note 5. [↑](#footnote-ref-18)
19. The Trajectory of a Struggle, Shahri Adhikar Manch: Beharon Ke Saath, March 2014. Available at: http://hlrn.org.in/documents/SAM-BKS\_The\_Trajectory\_of\_a\_Struggle.pdf [↑](#footnote-ref-19)
20. See supra note 11. [↑](#footnote-ref-20)
21. See, *Reaffirming Justiciability: Judgements on the Human Right to Adequate Housing from the High Court of Delhi,* Housing and Land Rights Network, New Delhi, 2013. Available at: <http://hlrn.org.in/documents/Reaffirming_Justiciability_Judgements_on_HRAH_from_High_Court_of_Delhi.pdf> [↑](#footnote-ref-21)
22. See supra note 5. [↑](#footnote-ref-22)
23. National Urban Livelihoods Mission – Scheme of Shelters for Urban Homeless (Operational Guidelines), Ministry of Housing and Urban Poverty Alleviation, December 2013. Available at:

    <http://mhupa.gov.in/NULM_Mission/docs/NULM-SUH-Guidelines.pdf> [↑](#footnote-ref-23)
24. ‘Rajasthan could become the first state to draft a homeless policy. Here's how it could get it right,’ *Scroll.in*, 24 November 2015. Available at: <http://scroll.in/article/765938/rajasthan-could-become-the-first-state-to-draft-a-homeless-policy-heres-how-it-could-get-it-right> [↑](#footnote-ref-24)