



Homelessness and constitutional law: Legal pathways for addressing social justice issues

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Abstract

Homelessness in India has always been a complex socio-legal challenge shaped by poverty, rapid urbanisation and inadequacies in policy implementation. The paper views homelessness in India through the perspective of constitutional law, focusing on legal pathways for solving long standing social justice problems. It begins with an introduction that explains homelessness as a severe lack of dignity and security, closely linked to fundamental rights guaranteed by the Indian Constitution. The paper defines homelessness clearly, including those without permanent housing and those at risk because they do not have legal rights to their homes. It looks at the various causes of homelessness, such as poverty, urban migration, forced evictions, and social exclusion. The paper highlights the individual rights of homeless persons, especially under Articles 21, 14 and 19, which protect the right to live with dignity, equality, and freedom to live anywhere. It then reviews government initiatives like the Scheme of Shelter for Urban Homeless and Pradhan Mantri Awas Yojana-Urban, explaining their goals, successes, and challenges. The constitutional aspects are discussed alongside laws protecting vulnerable homeless groups such as children, women, the elderly, the disabled, and persons with mental illness. The judicial response to homelessness is also covered, showing how courts have gradually combined these rights and laws to create stronger protections. It identifies ongoing issues such as a lack of good data, limited eligibility, low funding and forced evictions that block the full realisation of homeless persons' rights. The conclusion combines these findings and calls for a united effort of laws, policies and courts to protect homeless persons dignity and rights effectively. The paper suggests better data collection, wider policy reach, stronger legal protections, improved funding, judicial monitoring, and including homeless persons in decision-making. This study offers a clear map of how homelessness connects to constitutional rights and legal reforms, pointing the way to better social justice in India.

Keywords: homelessness, social justice, right to shelter, right to live with dignity, poverty

Introduction

Humanity today is busy planning billion-dollar projects to build homes on Mars and the Moon, a grand vision of life beyond Earth. Yet, while such futuristic dreams capture the imagination, a sobering reality persists much closer to home over 150 million people across the globe remain homeless, and the numbers are steadily rising. This paradox compels us to ask whether our priorities are misplaced, shouldn't the urgent task be to secure shelter for those on Earth before we set our sights on colonising other planets? The question is particularly acute in India, where roti, kapda and makan is still a utopian dream for a large share of population. Homelessness in India reflects a profound social justice deficit that calls for robust constitutional engagement to secure the basic human right to shelter. Under Article 21 of the Constitution of India, the guarantee to life encompasses not merely physical survival but also the right to live with dignity, shelter and security. Judicial pronouncements have affirmed that deprivation of housing gravely undermines human dignity and falls within the ambit of fundamental rights, prompting courts to direct State authorities to establish adequate shelter facilities. Yet, the living reality of those without a permanent roof reveals persistent systemic neglect, wherein the absence of clear accountability mechanisms and resource constraints delay effective implementation^[1]. The article highlights the imperative for a rights based approach that integrates constitutional mandates with administrative policy frameworks and participatory governance, ensuring that homeless persons are recognized as rights holders rather than passive beneficiaries of welfare schemes^[2]. Recent official data on

homelessness in India post 2022 provides a more current understanding of the ongoing challenge of shelter deprivation. According to a 2023 report by the Ministry of Housing and Urban Affairs presented in the Rajya Sabha, the country has established 1,986 shelter homes accommodating over 1.41 lakh urban homeless persons under the Scheme of Shelter for Urban Homeless within the National Urban Livelihoods Mission. The Ministry also reported that over 1.20 crore houses have been sanctioned under the Pradhan Mantri Awas Yojana Urban (PMAY-U), with more than 72 lakh houses completed and delivered to beneficiaries, indicating a significant governmental effort to address housing shortages^[3]. However, despite these initiatives, rapid urbanisation and forced evictions continue to challenge housing security, for instance, data from 2023 reveals that over 5 lakh people were forcibly evicted across India due to demolitions, worsening the homelessness crisis^[4]. These figures reflect the persistent shelter deprivation in both urban and rural settings, underscoring the urgent need for strengthened constitutional and policy measures to ensure the right to dignified housing. The urban homeless population continues to face risks related to inadequate shelter, lack of basic amenities and social exclusion. Thus, it remains crucial to critically analyse legal and administrative pathways that can enhance accountability and implementation efficacy in line with constitutional social justice mandates. This article aims to dissect constitutional and administrative pathways for addressing homelessness through a social justice lens. The core problem statement arises from the disconnect between constitutional guarantees and the ground realities. Millions remain without access to

dignified housing, facing severe deprivation, health hazards and social exclusion. Addressing this gap demands a holistic legal approach that transcends episodic judicial directives or ad hoc welfare schemes, instead embedding a sustained rights-based framework that compels State and other actors to fulfil their social justice obligations and secures the inalienable right to shelter for all.

Homelessness in India: Causes and Protection of Individual Rights

Homelessness in India refers to the condition where individuals or families lack a permanent, safe, and adequate place to live. There is no definition available for the word 'Homeless' in the census, however, there is mention of houseless population which are such persons as those who do not reside in Census houses but occupy pavements, roadsides, railway platforms, staircases, temples, streets, drains, or other open spaces without legal or formal shelter^[5]. This definition incorporates both the absence of housing and the lack of secure tenure or protection from eviction, thus encompassing those who live without basic shelter as well as those vulnerable to forced displacement. Homelessness is not just a physical state of having no roof but a deprivation of dignity, security, and access to essential services. *The Universal Declaration of Human Rights* and the Indian Constitution recognise the right to adequate housing as integral to the Right to Life under Article 21, which includes living in conditions that allow for physical and mental well-being. The Supreme Court of India in the case of *Chameli Singh v. State of Uttar Pradesh*^[6], held that the right to shelter is part of the fundamental right to life and personal liberty guaranteed under Article 21 and the right to residence under Article 19(1)(e). This case established the legal recognition that homelessness violates basic constitutional rights, necessitating state action to provide adequate housing^[7]. The causes of homelessness in India are complex, multifaceted, and rooted in structural socioeconomic inequalities. A primary cause is poverty, which limits access to affordable housing and basic livelihood opportunities. Rapid urbanisation and rural to urban migration increase the demand for housing in cities, often exceeding supply and forcing many to reside in informal settlements or on the streets. Displacement due to development projects, natural disasters, and eviction without adequate rehabilitation contributes to sudden homelessness for many communities. Other significant factors include unemployment, low income, mental illness, substance abuse, and family breakdown. An emerging cause of homelessness in India is also developing through forced evictions and large-scale demolitions taking place. The magnitude of such actions has reached such critical proportions the Apex Court had to intervene on multiple occasions to reiterate that a reasonable notice, adequate hearing and proper inquiry must be ensured^[8]. Previously, during the G20 overhaul of the Delhi City, a significant population dwelling in slums was also rendered homeless. Women, children, and elderly persons face significant higher risks due to gender discrimination, abandonment, and lack of social support.

The National Policy for Urban Homeless, 2022 emphasises that homelessness is not merely an individual hardship but a structural outcome of systemic failures in housing, health, and social security systems. The persistence of inadequate rehabilitation measures following forced evictions further

entrenches homelessness and poverty cycles in India^[9]. Homeless persons in India are entitled to all fundamental rights guaranteed under the Constitution, including right to life, equality, and freedom of movement. Article 21 guarantees the right to life with dignity, which courts have interpreted to include adequate shelter, nutrition, and access to basic facilities. Article 14 protects homeless persons against discrimination and ensures equal protection before the law. Additionally, Article 19(1)(e) guarantees the right to reside and settle in any part of India without restriction. Despite these constitutional guarantees, homeless persons often face exclusion from social benefits and protection due to a lack of identity documents and societal stigma. Judicial interventions have sought to uphold these rights. In *Dr. Ashwani Kumar v. Union of India*^[10], the court directed the setting up of shelters complying with minimum standards as a measure to protect the right to life of urban homeless persons, reinforcing State accountability. The Supreme Court has time and again emphasised that evictions must not result in homelessness without provision of alternative accommodation, establishing a legal duty on State authorities. Furthermore, the Mental Healthcare Act, 2017, mandates care and rehabilitation for homeless persons with mental illness, reinforcing the State's obligation to uphold dignity and health rights. Ensuring the effective realisation of these rights continues to be a challenge requiring comprehensive legislative and policy reforms aligned with constitutional norms and social justice^[11].

Government Initiatives for Homelessness in India

The Government of India has implemented several comprehensive initiatives to address homelessness and housing deficits across the country through systematic policy frameworks that prioritize constitutional mandates for shelter and dignity. The primary initiative is the Scheme of Shelter for Urban Homeless (SUH) under the Deendayal Antyodaya Yojana National Urban Livelihoods Mission (DAY-NULM), which aims to provide permanent all-weather shelters equipped with essential services to the urban homeless population. Under this scheme, the Government has established normative requirements for permanent community shelters at a ratio of one hundred beds per one lakh urban population, with provisions for 24x7 accessibility, basic infrastructure facilities including water supply, sanitation, electricity, cooking spaces, and security arrangements. The SUH guidelines mandate convergence with various social security entitlements, including public distribution system benefits, healthcare services, education facilities, skill development programs, and financial inclusion measures, to ensure holistic support for shelter residents. Special provisions are made for vulnerable segments, including dependent children, elderly persons, disabled individuals, mentally ill persons, and those recovering from serious illnesses, through dedicated sections within shelters and specialised service linkages. The scheme has achieved tangible outcomes with 1,986 shelter homes accommodating over 1.41 lakh urban homeless persons established across the country by December 2024, representing significant progress in providing dignified accommodation for those without permanent housing^[12].

Complementing the shelter initiative, the Government has launched the Pradhan Mantri Awas Yojana-Urban^[13] (PMAY-U and PMAY-U 2.0) as a flagship mission to

address broader housing requirements and prevent homelessness through affordable housing provision. PMAY-U operates through four distinct verticals Beneficiary Led Construction, Affordable Housing in Partnership, In-Situ Slum Redevelopment and Credit Linked Subsidy Scheme to provide comprehensive housing solutions to economically weaker sections, low-income groups, and middle-income groups. The scheme has achieved remarkable progress with more than 1.18 crore houses sanctioned and over 85.04 lakh houses completed and delivered to eligible beneficiaries across urban areas. PMAY-U incorporates special focus on women empowerment by making ownership registration mandatory in the name of female heads of households, thereby enhancing gender equity in housing rights. Additionally, the Government has initiated Affordable Rental Housing Complexes as a sub scheme under PMAY-U to provide dignified rental accommodation to urban migrants and poor workers close to their workplaces, addressing the housing needs of those engaged in informal economy sectors. Research studies demonstrate that PMAY has generated significant economic benefits, including employment generation in construction and allied industries, increased demand for building materials, and multiplier effects throughout the economy, while simultaneously improving living standards, health outcomes, and educational access for beneficiary households ^[14].

It has been observed that a considerable proportion of government-allocated housing in India has been either sold or sub-let by the intended beneficiaries. Such practices not only dilute the welfare objective of providing secure shelter to marginalized groups but also expose significant gaps in policy design and implementation. Consequently, the very purpose of these schemes to ensure stable and dignified housing for vulnerable populations remains undermined, thereby raising serious concerns regarding their sustainability and long-term effectiveness.

Constitutional Laws and Legislative Protections Securing the Rights of Homeless Persons

The constitutional framework in India provides a strong foundation for protecting the rights of homeless persons through the expansive interpretation of Article 21 of the Constitution, which guarantees the right to life and personal liberty. The Supreme Court has held that the right to life is not confined to mere physical existence but includes the right to live with human dignity, which inherently encompasses access to adequate shelter and protection from eviction ^[15]. This broad view places a positive obligation on the State to ensure that its citizens have access to basic needs, including housing, sanitation and essential services. Articles 14 and 19 of the Constitution complement Article 21 by guaranteeing equality before the law and the freedom to reside and settle anywhere in the country, respectively, thereby prohibiting arbitrary discrimination against homeless persons or restrictions on their movement, which can often exacerbate their marginalisation. The constitutional emphasis on dignity thus mandates a proactive role for the State to legislate and enforce measures that uphold social justice, protect vulnerable populations from homelessness, and facilitate their inclusion within the urban and rural fabric of the nation ^[16]. Article 19 of the Constitution of India guarantees certain fundamental

freedoms to all citizens, which are essential for ensuring dignity, equality, and democratic governance. Among the six freedoms guaranteed under Article 19(1), clauses (d) and (e) are particularly relevant to addressing homelessness. Clause (d) guarantees the right to move freely throughout the territory of India, while clause (e) guarantees citizens the right to reside and settle in any part of the country. These rights ensure that homeless individuals, like all citizens, cannot be arbitrarily restricted or displaced without lawful justification, thereby protecting their freedom of movement and choice of residence. The significance of these clauses lies in safeguarding vulnerable populations from forced eviction or discrimination based on geographic or social factors. Reasonable restrictions can only be imposed by law in the interests of public order, morality, or the protection of Scheduled Tribes, ensuring a balance between individual freedom and societal welfare. This constitutional guarantee thus forms a key legal safeguard against unlawful displacement and social exclusion faced by India's homeless. Article 19 protects against arbitrary eviction practices and upholds the right of individuals to seek shelter and live with dignity. For instance, homeless persons often face forced evictions from public spaces or informal settlements without alternative housing arrangements, undermining their fundamental rights. Article 19(e) emphasises the freedom to "reside and settle" anywhere in India, highlighting that restrictions must be reasonable and legally sanctioned, respecting principles of natural justice and fairness. The right to move and reside freely under Article 19 complements Article 21's guarantee of the right to life with dignity, together constituting a constitutional basis for State responsibility in ensuring housing security and social inclusion. This constitutional framework imposes a duty on the government to prevent homelessness by regulating eviction practices and providing mechanisms for rehabilitation and affordable housing. Consequently, any policy or legal intervention addressing homelessness must be analysed through the lens of these fundamental freedoms to secure social justice for homeless individuals ^[17]. In addition to constitutional guarantees, India's legislative framework provides practical mechanisms and regulatory tools to address homelessness through a range of acts and policies relevant to different vulnerable groups. The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, includes provisions for the care and protection of elderly persons who are often at risk of becoming homeless due to abandonment or economic hardship ^[18]. The Juvenile Justice (Care and Protection of Children) Act, 2015, safeguards homeless and street children by establishing rehabilitation homes and mandated care provisions. The Rights of Persons with Disabilities Act, 2016, and the Mental Healthcare Act, 2017, address the needs of homeless persons with disabilities and mental illnesses, ensuring their right to health, rehabilitation, and social support under statutory frameworks. The Protection of Women from Domestic Violence Act, 2005, recognises the right to shelter and safety for women who are homeless due to violence or familial conflict ^[19]. This legislative ecosystem emphasises the State's duty not only to prevent homelessness but also to restore dignity and rights to those who lack adequate shelter, marking a substantial progress in legal recognition and social welfare.

Judicial Intervention Addressing Homelessness in India

The judicial response to homelessness in India has been significant in progressively recognising the right to shelter as a critical facet of the constitutional right to life and dignity. There have been notable judgments of the court in regards to the homeless population in India. In *Olga Tellis*, the rights of homeless population were reiterated by the court, further, in *Avas Evam Vikas Parishad* [20], the court affirmed that the right to shelter constitutes a fundamental right, deriving its basis from the right to residence guaranteed under Article 19(1)(e) and the right to life enshrined in Article 21 of the Constitution. Similarly, in *Francis Coralie* [21] the court once again reaffirmed that the right to life extends beyond mere existence and encompasses the right to live with dignity, which necessarily includes access to adequate nourishment, clothing, and shelter. In *Sudama Singh* [22] case, the court underscored the intrinsic connection between adequate housing, human well-being, and development. It observed that adequate housing constitutes a foundational condition for human flourishing, integrating concerns of ecology as well as sustained and sustainable development. In *Samarpal v. Union of India* [23], the Delhi High Court took a broad and humanitarian stance by granting rehabilitation to long-term residents of Shahid Basti despite technical or formal limitations. The Court emphasised that the right to shelter under Article 21 must be interpreted with reference to the Directive Principles of State Policy, particularly Articles 38 and 39, which promote social justice and the welfare of the marginalised. Balancing infrastructure development with individual rights, the Court mandated rehabilitation as a constitutionally mandated minimum protection, thus reinforcing judicial commitment to social equity by protecting homeless populations against exclusion due to stringent policy interpretations.

In *E. R. Kumar and Anr* [24], case, the Apex Court directed the establishment of a committee to study the condition of homelessness in India and to review the implementation of the Scheme of Shelters for Urban Homeless under the National Urban Livelihoods Mission. Pursuant to these directions, a committee was constituted under the chairmanship of Justice Kailash Gambhir to undertake physical inspections of shelter homes. The committee assessed compliance with operational guidelines, examining issues of allocation and possible misuse of funds, and ensuring adherence to time-bound directives, particularly with respect to the provision of basic facilities during the winter months. The committee also conducted a comprehensive review of statistical data relating to homelessness across States and Union Territories, the number of shelters constructed, and subsequently made recommendations for policy improvement.

In *Shakarpur Slum Union v. DDA* [25], the Court stayed demolitions to protect residents from sudden displacement without forewarning or alternatives, invoking Article 21's guarantee to life and dignity. However, it refrained from ordering comprehensive rehabilitation beyond residents already included in official lists under DUSIB guidelines. This decision highlights judicial caution, acknowledging the limits of court power in policy execution and reflecting the tensions between upholding fundamental rights and deferring to institutional land management and urban development concerns. It exposed gaps in legal protections where many homeless individuals remain excluded from

formal rehabilitation benefits, illustrating the challenge of translating constitutional rights into effective social welfare on the ground. Judges have also responded sternly to unlawful demolitions, exacerbating homelessness. The Supreme Court in *Zulfiqar Haider v. State of Uttar Pradesh* [26], condemned the Prayagraj Development Authority for bulldozing six homes with less than 24 hour notice as "high-handed" and "inhuman." It held such actions violative of Article 21 and natural justice, ordering Rs 10 lakh compensation per appellant. The judgment reaffirmed due process requirements, emphasising that demolitions impacting shelter rights must comply with strict procedural safeguards and that state agencies cannot circumvent lawful enforcement simply by claiming administrative convenience. This ruling reinforces constitutional protections preventing arbitrary state action and highlights the courts' role in curbing executive excesses threatening homeless persons' fundamental rights. Further illustrating judicial balancing between development and social justice, the Uttarakhand High Court in *Ravi Shankar Joshi v. Union of India* [27], ordered the eviction of unauthorised residents on railway land, citing safety concerns, but the Supreme Court stayed this to insist on 'humane' eviction procedures and rehabilitation surveys, reflecting concern for the human cost of displacement. In a recent case, the Supreme Court's suo moto directions further institutionalised safeguards against arbitrary demolitions, mandating prior notice, hearing, proportionality, and alternative measures to avoid mass homelessness, thus framing eviction controls within the constitutional right to dignity [28]. Together, these decisions chart a judicial trajectory upholding homelessness as a constitutional and social justice issue. They strengthen legal pathways demanding that the State respect human dignity through rehabilitation, safeguards, and due process while recognising practical state interests. Courts have evolved from merely preventing evictions to actively shaping rights-based frameworks, balancing development with the protection of the vulnerable, making homelessness a core subject of constitutional adjudication. However, the foremost challenge lies in according the homeless population a 'right to housing' as a fundamental right under Part III of the Constitution. Despite the judiciary's expansive interpretation of Article 21 to include facets of life and dignity, the right to housing remains judicially acknowledged but not explicitly enshrined, thereby creating a persistent gap between constitutional rhetoric and enforceable entitlement.

Legal and Policy Challenges in Addressing Homelessness

1. Lack of reliable and current data hampers targeted interventions since the most recent comprehensive survey dates to 2023, leaving policymakers without accurate information on the scale and distribution of homelessness across States.
2. Eligibility criteria under the Shelter for Urban Homeless scheme are narrowly defined, excluding many long-term informal settlers who lack formal proof of residence, thereby limiting access to rehabilitation.
3. Procedural requirements for rehabilitation under DUSIB guidelines involve multiple clearances and documentation, creating legal hurdles that delay provision of alternate accommodation and prolong vulnerability.

4. Resource allocation remains insufficient as budgetary provisions under DAY-NULM and PMAY-U fall short of covering the normative shelter bed ratio, constraining the establishment of mandatory facilities in many urban local bodies.
5. Forced evictions continue under state development projects without due process or adequate notice, leading to abrupt homelessness and violating Article 21's guarantees of dignity and procedural fairness.
6. Stigmatisation of homeless persons as encroachers or security risks undermines their constitutional rights, often resulting in discriminatory policing of public spaces and denial of basic services.
7. Judicial interventions, while protective, are reactive and case-specific, lacking a coherent judicially overseen mechanism to ensure uniform application of shelter rights and prevent future violations across jurisdictions.
8. The tendency of beneficiaries to sell or sub-let government-allocated housing, thereby undermining the sustainability and intended objectives of such welfare schemes.

Conclusion

In conclusion, addressing homelessness through the lens of constitutional law in India reveals a crucial intersection of human dignity, social justice, and State responsibility. The constitutional guarantee of the right to life under Article 21, interpreted expansively by the judiciary, underscores shelter as fundamental to living with dignity and security. This right is fortified by complementary provisions such as Articles 14 and 19 that guarantee equality and freedom of residence and movement, further placing positive obligations on the State to uphold social welfare and protect vulnerable populations from arbitrary displacement. The legislative framework complements these constitutional guarantees, with statutes targeting the welfare of diverse vulnerable groups, including the elderly, children, women and persons with disabilities, thereby laying a multi-dimensional legal foundation for tackling homelessness. Judicial interventions have significantly shaped legal pathways for social justice by balancing State developmental imperatives with protections against homelessness. Courts have increasingly moved toward rights-based adjudication, mandating rehabilitation, enforcing due process in eviction scenarios, and condemning overreach by authorities in demolition drives. Landmark rulings exemplify the judiciary's role as a major arbiter ensuring State compliance with constitutional values while maintaining social equity amid urbanisation pressures. Despite these advances, challenges such as insufficient data, restrictive policy eligibility, resource inadequacy and persistent forced evictions highlight the gap between legal protections and lived realities. Addressing this disconnect requires comprehensive policy reforms, proactive governance and robust judicial oversight to translate constitutional ideals into substantive benefits for homeless populations. Ultimately, homelessness in India is not merely a socio-economic issue but a constitutional challenge demanding a holistic approach marrying rights, legislation, and judicial engagement. The legal pathways forged thus far provide a foundation for integrating dignity, equity and justice into urban housing governance. Sustained commitment from all branches of government alongside civil society is indispensable to upholding these

constitutional promises and achieving substantive social justice for those deprived of shelter and security. Continued research, advocacy and legal reforms will be vital to bridging the gap between constitutional vision and the lived experience of homelessness in India.

Recommendations

1. Constructing night shelters or slums have proven to be a temporary fix to the issue of homelessness in India, the need of the hour is a systemic overhaul bringing policies to provide the homeless some sort of houses for permanent stay.
2. The government should ensure comprehensive and up to date data collection on homelessness to enable evidence-based policymaking, which is essential for targeted interventions and resource allocation across states and urban-rural divides.
3. Policy eligibility criteria must be expanded to recognise informal settlements and long-term residents without formal tenure, ensuring access to shelter and rehabilitation for all vulnerable homeless populations under the Shelter for Urban Homeless scheme.
4. Strengthening procedural safeguards against forced evictions by mandating prior notice, reasoned orders, and accessible grievance mechanisms will protect homeless persons' constitutional rights and prevent abrupt displacement.
5. Adequate budgetary allocation is crucial to meet the normative shelter bed targets under Day-NULM and Pradhan Mantri Awas Yojana, enabling urban local bodies to build sufficient permanent shelters with essential facilities.
6. Certain recommendations of the Kailash Gambhir Committee warrant implementation, including measures to enhance transparency and the conduct of city-wise surveys to ascertain the actual homeless population.
7. Under the welfare policies of awarding homes, provisions shall be made to ensure that the intended beneficiary of such scheme or policy is the actual beneficiary. The policy/scheme must contain provisions to curb the practice of selling or sub-letting the awarded houses so that in some time later, they do not end up homeless again.
8. Judicial oversight should be institutionalised to regularly monitor state compliance with constitutional mandates on homelessness, ensuring timely enforcement of shelter rights and addressing violations through proactive court interventions.

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