

SHAHRI ADHIKAR MANCH: BEGHARON KE SAATH

(URBAN RIGHTS FORUM: WITH THE HOMELESS)

THE TRAJECTORY OF A STRUGGLE

Shahri Adhikar Manch:
Begharon Ke Saath



शहरी अधिकार मंच:
बेघरों के साथ

Urban Rights Forum: With the Homeless

Published by: **Shahri Adhikar Manch: Begharon Ke Saath**
G-18/1 Nizamuddin West
Lower Ground Floor
New Delhi – 110 013
+91-11-2435-8492
shahriadhikarmanch@gmail.com

Text: Jaishree Suryanarayan

Editing: Shivani Chaudhry and Indu Prakash Singh

Design and printing: Aspire Design

March 2014, New Delhi



Printed on CyclusPrint based on 100% recycled fibres

**SHAHRI ADHIKAR MANCH:
BEGHARON KE SAATH**
(URBAN RIGHTS FORUM: WITH THE HOMELESS)

**THE
TRAJECTORY
OF A STRUGGLE**

Shahri Adhikar Manch: शहरी अधिकार मंच:
Begharon Ke Saath बेघरों के साथ



Urban Rights Forum: With the Homeless

Table of Contents

1.	INTRODUCTION	1
1.1	Objective and Methodology of this Study	2
2.	BACKGROUND	3
2.1	Definition and Extent of Homelessness in Delhi	3
2.2	Human Rights Violations Faced by Homeless Persons	5
2.3	Criminalisation of Homelessness	6
2.4	Right to Adequate Housing is a Human Right	7
2.5	Past Initiatives	7
3.	FORMATION AND GROWTH OF SHAHRI ADHIKAR MANCH: BEGHARON KE SAATH	10
3.1	Formation of Shahri Adhikar Manch: Begharon Ke Saath (SAM:BKS)	10
3.2	Vision and Mission of SAM:BKS	11
3.3	Functioning of SAM:BKS	12
4.	STRATEGIC INTERVENTIONS	14
4.1	Strategies Used by SAM:BKS	14
4.2	Intervention by SAM:BKS in the Suo Moto Case in the High Court of Delhi	16
4.3	Media Advocacy	19
4.4	Campaigns of SAM:BKS for Facilitating Access to Entitlements and Realisation of Human Rights	20
5.	THE SUPREME COURT OF INDIA AND THE ISSUE OF HOMELESSNESS	22
5.1	Role of the Office of Supreme the Court Commissioners in the 'Right to Food' Case	22

6. ENGAGING WITH THE DELHI GOVERNMENT	26
6.1 Mission Convergence	26
6.2 Role of Mother NGO and Homeless Resource Centres	27
6.3 Role of Delhi Urban Shelter Improvement Board (DUSIB)	27
6.4 Challenges of Working with the Government	28
<hr/>	
7. SUCCESSES AND CHALLENGES	30
7.1 Successes of the Efforts	30
7.2 Challenges Faced by SAM:BKS	31
<hr/>	
8. LESSONS FOR OTHER CITIES	33
<hr/>	
9. CONCLUSION	35
<hr/>	
ANNEXURES	37
I. List of Members of SAM:BKS	39
II. Vision and Mission Statement of SAM:BKS	40
III. SAM:BKS Press Release, 23 December 2009: Coalition of the Homeless Condemns Demolition of Homeless Shelter in Delhi	43
IV. Article in The Times of India, 'Out in the Cold on Xmas Eve', 25 December 2009	45
V. SAM:BKS Press Release, 4 January 2010: Experts Condemn Government's Callousness towards Delhi's Homeless	46
VI. Article in The Hindu, 'Cold Worsening Plight of the Homeless', 5 January 2010.	48
VII. Letter of the former UN Special Rapporteur on adequate housing to the Chief Justice of the High Court of Delhi, 10 January 2010	50
VIII. Supreme Court Commissioners' letter to the Supreme Court of India, 13 January 2010	54
IX. Supreme Court Commissioners' letter to the Supreme Court of India, 12 March 2010	57
X. Long-term plan to address homelessness in Delhi - submitted by SAM:BKS to the High Court of Delhi and the Delhi government	70
XI. Order of the High Court of Delhi – dated 13.01.2010	81
XII. Order of the High Court of Delhi – dated 22.01.2010	83
XIII. Order of the High Court of Delhi – dated 10.02.2010	86
XIV. Order of the High Court of Delhi – dated 02.05.2011	88
XV. Order of the High Court of Delhi – dated 09.08.2011	90
XVI. Order of the High Court of Delhi – dated 21.12.2011	98
XVII. Order of the High Court of Delhi – dated 04.01.2012	99
XVIII. Order of the High Court of Delhi – dated 01.08.2012	101
XIX. Order of the High Court of Delhi – dated 20.03.2013	102
XX. Order of the High Court of Delhi – dated 07.08.2013	105

1

Introduction

A group of unorganised homeless workers, present at an annual conclave of *Beghar Mazdoor Sangharsh Samiti* (BMSS – Homeless Workers Struggle Committee), an organization of homeless workers, held on April 11, 2013 near a homeless shelter at Mori Gate, Delhi, raise slogans against an inhumane, corrupt and uncaring administration and assert their rights as citizen workers. Their demands include *Rozgar*, *Pehchaan* and *Awaas*, which translates into livelihood, identity and housing. These are homeless workers who are engaged in several kinds of trade and employment, which subsidise the economy by bringing down the production cost due to low wages. Such workers form the majority of the homeless population in any city and Delhi is no exception.¹ What is remarkable is the coming together of these workers in an attempt to mark their presence in the city and fight for their identity, housing and other human rights. Therein is the story of a long and exacting struggle, spread over a period of more than a decade, by Civil Society Organizations (CSOs), individuals and groups of the homeless, to highlight the unconstitutional and inhuman treatment of homeless persons by the state and the denial of their human rights.

A forum of over 20 organizations called *Shabri Adhikar Manch: Begharon Ke Saath* (SAM:BKS – Urban Rights Forum: With the Homeless) has been at the forefront of the struggle to highlight the plight of homeless persons in the capital and the human rights violations faced by them, and to facilitate access to their human rights and entitlements. This forum believes that it is the state's constitutional obligation and moral responsibility to recognise, realise and protect the human rights of homeless persons. Towards this goal, the forum has used various strategies including mobilising homeless persons, engaging in direct action, effective networking and media advocacy, and using the judicial process.

¹ *Workers on the Pavement*, Labour File, Volume 7, Nos. 6 & 7, June-July 2001.



1.1 OBJECTIVE AND METHODOLOGY OF THIS STUDY

The purpose of this document is to analyse the work and experience of *Shahri Adhikar Manch: Begharon Ke Saath* (SAM:BKS)² towards creating an understanding of the work on homelessness in Delhi. SAM:BKS has been effective in carving out short-term and long-term responses to the challenge of homelessness. While there have been significant interventions, many challenges remain. This document is an attempt to collate the lessons from this experience and to highlight those practices that could be used by groups working with homeless people in other cities.

The methodology used is a combination of primary and secondary research, observations and conversations during field visits to select shelters and structured interviews with key individuals, including members of the Executive Committee of SAM:BKS. Informal conversations with some of the more active members of SAM:BKS have provided useful insights. Information and insights gathered by attending bi-monthly meetings of the forum and meetings of the Joint Apex Advisory Committee (JAAC) have been included in this document. The orders of the ongoing case on homelessness in the High Court of Delhi³ and the relevant records of the ongoing case in the Supreme Court of India on the right to food⁴ have been analysed. The information available on the official website of ‘Mission Convergence’ of the Delhi government has been used for the section on ‘Working with the government and its results.’ This document, however, does not provide a critical analysis of Mission Convergence. Such a task would require a separate evidence-based study that is well beyond the scope of this exercise.

² Initially created as *Shahri Adhikar Manch: Begharon Ke Liye*, the collective changed its name to *Shahri Adhikar Manch: Begharon Ke Saath*, soon after its formation.

³ *Court on its own motion v. GNCTD* [W.P. (C) 29/2010].

⁴ *PUCL v. Union of India* [W.P. (C) 196/2001] (‘Right to Food’ case).



Background

2.1 DEFINITION AND EXTENT OF HOMELESSNESS IN DELHI

Census Definition

The Census of India defines ‘houseless people’ as persons who are not living in buildings or ‘census houses’ (a structure with roof), but ‘live in the open on roadside, pavements, in hume pipes, under flyovers and staircases, or in the open in places of worship, *mandaps*, railway platforms, etc’.⁵ The 2001 Census provides data on the size of houseless households for the first time. It enumerated 1.94 million houseless people, of whom 0.78 million live a precarious existence in India’s cities and towns.⁶ At the national level, 18 per cent of the houseless households are single member households. This proportion is only 10.0 per cent in the rural areas and 29.3 per cent in urban areas. 29.1 per cent households have three to four members, 21.9 per cent have five to six, and 18.6 per cent have more than seven members. However, these numbers are likely to be gross underestimates, as the experience in various cities has shown.⁷ According to the Census of 2011, urban India has 9.42 lakh (942,000) homeless people while Delhi has 46,724 homeless residents. Both these figures, however, underestimate the real numbers of the homeless.

Rapid Assessment by Aashray Adhikar Abhiyan

Aashray Adhikar Abhiyan (AAA),⁸ an organization started by the Delhi regional office of ActionAid India to work on the issue of homelessness in Delhi, conducted a rapid assessment in Delhi in 2000 of the geographical locations where homeless persons are largely concentrated – to get an insight in to their lives, problems and aspirations.⁹ This survey was done at night and spread over 10 days. In this survey 52,765 homeless people were counted on the streets of Delhi, with the caveat that for every person counted there was one missed. This caveat was necessary as it was not possible to access all the lanes and by lanes where homeless people sleep. Further, some homeless workers work until dawn at the trading centres in Old Delhi and could not be counted. Therefore, the survey estimated that there are about 100,000 people on the streets of Delhi.

5 Census of India: http://www.censusindia.gov.in/Census_Data_2001/India_at_glance/houseless.aspx

6 Ibid.

7 Singh, Indu Prakash. 2001. (April). ‘Census of the Homeless: A Farce and Assault’, New Delhi: *First City Magazine*. Pp. 56-59.

8 One of the SAM:BKS Executive Committee Members, Indu Prakash Singh, was AAA’s first Director, and led the work from March 2000 – July 2003; and then moved into ActionAid India (Aug 2003 – Oct 2008) to replicate the work in rest of the country.

9 *The Capital’s Homeless: A Preliminary Study*, Aashray Adhikar Abhiyan (Delhi: 2001).

Census – A Farcical Exercise

During the Census of India operations in 2011, the houseless population was to be enumerated on the night of 28 February 2011. In Delhi, the entire process of enumeration by the census enumerators was facilitated and monitored by SAM:BKS. Volunteers from SAM:BKS accompanied the census enumerators, who were reluctant to undertake the exercise of counting the homeless at night and counted 46,724 homeless persons in Delhi (*Source: censusindia.gov.in*). Earlier estimates by civil society organizations indicate a much higher number of about 100,000. Dissatisfied with the official enumeration, SAM:BKS registered its protest with the authorities and issued a press release.

In Chennai city, a civil society survey in 2003 was able to list twice the official estimate of homeless people (i.e. 40,500 persons from 11,000 households) and also revealed that 83 per cent of them are Dalit (members of Scheduled Castes) (*Source: Eighth Report of the Supreme Court Commissioners: A Special Report on the Most Vulnerable Social Groups and their Access to Food, September 2008, in the 'Right to Food' case [W.P. (C) 196/2001]*).

The Census in 2001 too is considered farce by many, as thousands of homeless residents in Delhi were not enumerated (see footnote 7).

Other Surveys on Homelessness

Other surveys, in different cities, were carried out to generate a nuanced understanding of the lives of homeless people engaged in different livelihoods.¹⁰ A survey by Indo-Global Social Service Society (IGSSS) in 2008 found that the number of homeless people in Delhi had increased by more than 60 per cent since the last study conducted in 2000 by AAA. The study also revealed that the condition of homeless people has remained the same and there has not been any improvement in their lives. All government plans and programmes for the urban poor are limited to slum dwellers while the homeless are left to fend for themselves, against all odds.

'Ignored' by policy-makers and 'invisible' to society, men, women, children and families living and sleeping in the open is a common occurrence in our cities with their numbers being visibly on the rise. Contributory factors include the lack of affordable/low cost/ public housing options in cities and towns, a growing agrarian crisis and lack of livelihood options in rural areas, and forced evictions, demolitions and displacement without adequate resettlement. While state policies force people to live on the streets, there are laws which render their very existence and their livelihood on the streets illegal. Systematic evictions of slum dwellers also contribute to growing homelessness in cities and towns. A large number of informal settlements¹¹ were demolished before the 2010 Commonwealth Games in Delhi in a drive to 'beautify' the city. Those considered 'eligible' (a minuscule section) by the state for rehabilitation were resettled in sites far from their places of work/livelihood. Many of those who not considered eligible were rendered homeless overnight, with their livelihoods and children's education being adversely impacted.

10 *Pune's Homeless: Living on the Fringes*, CYDA (Pune: 2004); *Choiceless on Streets*, Bombay Urban Industrial League for Development (Mumbai 2011); *The Unsung Saga of Makers of the City: Report on Homeless Count of Lucknow*, ActionAid, Lucknow Regional Office; *Labour Posts in Lucknow*, Vigyan Foundation and ActionAid; *Invisible CityMakers: An Action Research on Homelessness in Bangalore City*, Bangalore-based NGOs and IGSSS, (Bangalore 2010); *The Unsung CityMakers: A Study of the Homeless Residents in Delhi*, IGSSS (New Delhi 2012); *Living Rough: Surviving City Streets - a study of homeless in Delhi, Chennai, Patna and Madurai*, Centre for Equity Studies (Planning Commission of India, 2008-09).

11 According to a fact-finding report of Housing and Land Rights Network, over 200,000 persons lost their homes in Delhi because of the 2010 Commonwealth Games. See, *Planned Dispossession: Forced Evictions and the 2010 Commonwealth Games*, Housing and Land Rights Network (Delhi: 2010). Available at: <http://www.hic-sarp.org/documents/Planned%20Dispossession.pdf>.

2.2 HUMAN RIGHTS VIOLATIONS FACED BY HOMELESS PERSONS

Not having a home to live in results in the denial of a number of human rights essential to live a life of dignity. While being denied a range of human rights, the most severe violations the homeless face are related to the human rights to adequate housing, food, health, work/ livelihood, education and the right to live with dignity.

Precarious Living

For people who live in secure homes and enjoy all associated rights, it is difficult to comprehend what life will be like without a home. Being homeless means living in the open, in adverse and precarious locations. Majority of the homeless people live, braving police brutality and vagaries of nature, on pavements and sidewalks, under flyovers, under ledges of shops and homes, in market corridors, at bus stands and railway stations, outside places of worship. They are vulnerable to the daily danger to their lives from rash and drunk drivers. In some cities, single women prefer shrines, children prefer bus stands and railway stations and families prefer pavements.¹² This part of the population includes those sleeping without shelter, in constructions not meant for habitation, and in welfare institutions.

Where do Homeless People Live?

Expanding on the 'census definition' of a houseless person, the Supreme Court Commissioners in the Right to Food case have recommended the following definition:

Persons who do not have a house, either self-owned or rented, but instead -

- (i) Live and sleep at pavements, parks, railway stations, bus stations and places of worship, outside shops and factories, at constructions sites, under bridges, in hume pipes and so on;
- (ii) Spend their nights at night shelters, transit homes, short stay homes, beggars' homes {jails} and childrens' homes;
- (iii) Live in temporary structures without full walls and roof, such as, under plastic sheets, tarpaulins or thatch roofs on pavements, parks, nallah beds and other common spaces.

Source: Tenth Report of the Commissioners of the Supreme Court (The National Report on Homelessness for the Supreme Court of India), 2012, in the 'Right to Food' case [W.P. (C) 196/2001]. Available at: <http://sccommissioners.org/Reports/Reports/National%20Report%20on%20Homeless%20Shelters.pdf>

Different Human Rights Violations Faced by 'CityMakers'

The majority of the homeless are employed and contribute to the city's economy in significant ways, but are denied basic human rights, including constitutional rights. This is why SAM:BKS calls them 'CityMakers.'

A large number of homeless persons, largely men, are workers in the unorganised sector who face a range of deprivations and exploitation. They face under employment and manage to get about only 10 days of work in a month. The laws that apply to them such as, *Minimum Wages Act, 1948*, *Inter-state Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979* and *Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996*, are largely violated.

The homeless population also consists of the destitute, handicapped, persons with disabilities, older persons, chemical dependents, and persons with mental illness. Of particular concern are the threats, violence and abuse faced by homeless women and children.

¹² *Living Rough: Surviving City Streets*, Centre for Equity Studies (Planning Commission of India, 2008 - 09).

One of the greatest issues that homeless people struggle with is that of legal identity, as identity is integrally linked to place of residence and determines eligibility for a number of other benefits such as ration cards and voter identification cards. Many of them are not able to even cast their vote, thus violating their fundamental right of citizenship. Their inability to provide any ‘proof’ of identity and residence accounts for homeless persons and their numbers not being reflected in official statistics, thereby resulting in the denial of their very existence by the state. This is manifested in the absence of specific policies and human rights-based interventions for the homeless in India.

Since ‘proof of identity and residence’ is necessary to avail entitlements, homeless persons are unable to access most social welfare schemes. This administrative requirement is one of the biggest hurdles that homeless persons face. Despite the homeless population being among the most vulnerable and disadvantaged, 60 per cent of them are not covered by food schemes or other forms of assistance provided for the ‘below the poverty line’ (BPL) category of the population due to non-ownership of a proof of residence.¹³ Ironically, the homeless are not covered under most schemes that target the urban poor.

2.3 CRIMINALISATION OF HOMELESSNESS

Homeless people live in extreme insecurity, not knowing when they will be beaten by the police or arrested or implicated in false cases. Homelessness is liable to be punished under certain laws prevalent in India. For example, under the *Delhi Police Act, 1978*, the police can apprehend any person found under ‘suspicious circumstances between sunset and sunrise.’ Bathing and living in the open is punishable under municipal laws. Across India, large numbers of homeless people are routinely rounded up by the police. This is done usually to fulfil targets of ‘preventive detention’ as measures to maintain ‘peace’ under Sections 109 and 151 of the *Criminal Procedure Code, 1973*. Homeless people then languish for long periods in jail, because they do not have equal access to legal remedy, and are ignorant, poor and asset-less to secure bail.

Begging and Vagrancy: Crimes in India

Beggary prevention laws, which vary across different states in India, also punish vagrancy. A person can be arrested for begging if it appears that the person cannot subsist except by begging. The *Bombay Prevention of Begging Act, 1959*, which is also applicable to Delhi, defines begging as “soliciting or receiving alms in a public place and includes anyone having no visible means of subsistence and, wandering about or remaining in any public place in such condition or manner, as makes it likely that the person doing so exists by soliciting or receiving alms.” This amounts to criminalising destitution and homelessness and even stigmatises ailments like leprosy. This broad definition allows the police to arrest anyone who looks poor, and unfairly targets the homeless.

Ongoing Efforts to Decriminalise Begging

Popular myths surrounding homeless people, including that they are ‘vagabonds’, ‘dirty’ and ‘criminals’ seem to be the underlying assumption that is permitted even under the law. The *Bombay Prevention of Begging Act, 1959*, which perpetuates such a value system and seeks to punish people for their impoverishment should certainly bother the collective conscience of the nation and should be repealed for being unconstitutional. KOSHISH, a project of the Tata Institute of Social Sciences in Delhi, Mumbai and Patna, is making concerted efforts to decriminalise begging and provide for effective rehabilitation services and livelihood opportunities. The High Court of Delhi has upheld the right to begging in the context of the doctrine of necessity.¹⁴

¹³ Eighth Report of the Supreme Court Commissioners: *A Special Report on the Most Vulnerable Social Groups and their Access to Food*, September 2008, in the ‘Right to Food’ case [W.P. (C) 196/2001]. Available at: http://www.scccommissioners.org/Reports/Reports/SCC8_0908.pdf

¹⁴ *Ram Lakhan v. State 137 (2007)* [DLT173; MANU/DE/9811/2006].

2.4 RIGHT TO ADEQUATE HOUSING IS A HUMAN RIGHT

Denial of Fundamental Rights

The state of homelessness results in extreme deprivations and deprives the homeless person of the most basic human right essential for a human being – the right to life that encompasses the right to live with dignity. This fundamental right is recognised in both international and national laws. Article 21 of the Constitution of India guarantees the right to life to every person. Article 14 guarantees equality before the law. 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.

A homeless person is deprived of the right to life as the human right to adequate housing encompasses within it a range of human rights, including the human rights to food, health, water, sanitation, education, and work/livelihood, which together ensure the right to live with dignity. The right to life has been further evolved by the Supreme Court of India to include several universal and inalienable social and economic human rights, such as, the rights to shelter, clean environment and livelihood. The human right to adequate housing as a human right as well as the responsibility of the government to fulfil that right has been recognised in various court judgements, including by the High Court of Delhi.^{15, 16}

The *International Covenant on Economic, Social and Cultural Rights* (ICESCR), 1966, which was ratified by India in 1979 provides that, “everyone has the right to an adequate standard of living for himself/herself and his/her family including adequate housing, as well as a continuous improvement of his/her living conditions.”¹⁷ The United Nations (UN) Special Rapporteur on adequate housing defined the human right to adequate housing, as “the right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity.”¹⁸

Ensuring the progressive realisation of the human right to adequate housing is thus the legal responsibility of both the central and state governments in India.

2.5 PAST INITIATIVES

Origin of Work on Homelessness in Delhi

On 19 November 1999, the Planning Commission of India convened a meeting to discuss the different dimensions of urban poverty, especially in the context of homelessness. Some of the organizations represented at the meeting along with individuals who attended the meeting began their engagement with the issue of homelessness soon thereafter. Thus the issue of homelessness and the problems faced by homeless persons was first addressed in Delhi in the year 1999, when ActionAid India, a development organization, through its Delhi Regional Office, initiated an intervention called *Aashray Adhikar Abhiyan* (AAA). This brought together a group of individuals belonging to different professions to first unravel the term ‘homelessness,’ gain a comprehensive understanding into the lives of homeless persons, and to devise strategies to address homelessness. The intention was to initiate the work on homelessness in Delhi, and then drawing lessons from the experience in Delhi, to replicate the work in other cities.

15 See judgements of the High Court of Delhi: *Sudama Singh and Others v. Government of Delhi* (February 2010); and *P.K. Koul and Ors. v. Estate Officer* (November 2010).

16 See, *Reaffirming Justiciability: Judgements on the Human Right to Adequate Housing from the High Court of Delhi*, Housing and Land Rights Network (Delhi: 2013). Available at: http://www.hic-sarp.org/documents/Reaffirming_Justiciability_Judgements_on_HRAH_from_High_Court_of_Delhi.pdf

17 Article 11.1, *International Covenant on Economic, Social and Cultural Rights*, 1966.

18 See, report of the UN Special Rapporteur on Adequate Housing, A/HRC/7/16, 13 February 2008.

Role of Aashray Adhikar Abhiyan (AAA)

As mentioned earlier, AAA conducted a survey in 2000. The objective of the study was to understand the problems that the homeless face and what should the intervention points/areas. The survey revealed some startling facts about the problems faced by homeless people with police brutality ranking above the need for shelter, adequate sanitation facilities and health services.

Realising the enormity of the challenges that lay ahead in view of the unchartered course, AAA embraced the principle of networking and reached out to groups working on issues such as, health, legal aid, de-addiction and sensitisation.¹⁹ Together with its partners, AAA began the following interventions:

- A health intervention group for the homeless (HIGH) in Jama Masjid, Old Delhi.²⁰
- Legal aid in the beggar's court.²¹
- Sensitisation of police (through empathetic listening exercises) and civil society.
- Facilitating collective action.

Abdication of Responsibility by the Municipal Corporation of Delhi

The closure, on 11 September 2001, of one of the largest night shelters located in Meena Bazar, Jama Masjid, which could house over 1,000 homeless residents, led to the filing of a public interest litigation (CW 6138/2001) in the High Court of Delhi. A survey of all the night shelters in Delhi by AAA²² enabled the expansion of the scope of the case by bringing the abysmal and inhuman living conditions prevailing in the shelters to the court's attention.

Mr. Manjit Singh, Commissioner, Slum and JJ Department, Municipal Corporation of Delhi (MCD) (now constituted as Delhi Urban Shelter Improvement Board – DUSIB), submitted to the court that since his department was unable to maintain shelters, he was willing to provide funds and resources to Voluntary Organizations to run shelters for the homeless on a model basis. His statement that the Slum and JJ Department could not spare the human resources required for maintaining the shelters, ironically led to the state being absolved of its responsibilities towards its homeless residents. The court directed that shelters should be handed over to non-government organizations (NGOs) with the state providing the funds for maintenance of the shelters.

Voluntary Organizations Come Forward to Manage Shelters

With the state withdrawing its responsibility, the vacuum had to be filled by Voluntary Organizations (VOs)/ non-government organizations (NGOs) who stepped in to run shelters. As on 6 March 2014, 84 permanent and 147 temporary shelters are being run by different NGOs and financed by the government in Delhi. The implications of the handing over of shelters to private organizations under the Delhi High Court order will be discussed in the subsequent section on 'engaging with the government.'

Individual commitment and willingness of organizations to include homelessness in their mandate led to initiatives being undertaken in other cities to understand the complexities of homelessness and to address the same through strategic interventions.

¹⁹ *Art of Partnership*, Aashray Adhikar Abhiyan and Books for Change (Delhi: 2005).

²⁰ *Health Care Beyond Zero: Ensuring a basic right for the homeless*, Aashray Adhikar Abhiyan, Institute of Human Behaviour and Allied Sciences, and Sahara (Delhi: 2003).

²¹ *People Without a Nation – The Destituted People*, Aashray Adhikar Abhiyan (Delhi: 2005).

²² *Basere Ki Kahani*, Aashray Adhikar Abhiyan (Delhi: 2002).



Recognition of Homeless as a Heterogeneous Group

Homeless people do not form a homogeneous group and have varied needs and concerns. Interventions to facilitate the realisation of their human rights and their access to entitlements will depend on the specific needs and conditions of each group. The complex nature of homelessness and the heterogeneous groups of people, who are rendered homeless as a result of diverse reasons, require a holistic approach to address the issue. Such an approach will need to provide for adequate housing for all in the long-term, following the ‘housing continuum’, while focusing on a combination of humanitarian and human rights interventions that would include short-term strategies to enable homeless people to access basic entitlements like shelter, water, sanitation, food, livelihood and social security so that they are able to lead a life of dignity.

Formation and Growth of Shahri Adhikar Manch: Begharon Ke Saath



3.1 FORMATION OF SHAHRI ADHIKAR MANCH: BEGHARON KE SAATH

The last few years have witnessed several initiatives and efforts towards realising the rights of Delhi's homeless. Given the multi-dimensional nature of the problems associated with homelessness, a need was perceived for a stronger and larger coalition including groups of the homeless to deal with the severity of the crisis in Delhi. The scale of work demanded the coming together of many 'hands, heads and hearts.' There was a need for a human rights-based approach to the issue of homelessness. Several organizations thus came together in September 2008 and agreed on the need to work collaboratively on the issue. These discussions led to the creation of *Shahri Adhikar Manch: Begharon Ke Saath* (Urban Rights Forum: With the Homeless).

The vision of SAM:BKS is to promote and protect the human rights of the homeless, as guaranteed by the Constitution of India and international human rights instruments, and to ultimately secure adequate housing for all homeless people. The main purpose of SAM:BKS is to develop a platform to work with and for the homeless people, and ultimately to enable them to lead their own movement and advocate for their own human rights. SAM:BKS is expected to be a facilitator, a network that would support the process of developing an adequate response to the issue of homelessness.

Constituents of SAM:BKS

SAM:BKS is a forum of over 20 organizations working on different dimensions of homelessness, mostly in Delhi. The criteria for membership to SAM:BKS include: (i) the organization or individual must be working on the issue of homelessness; (ii) must prescribe and commit to the principles and vision of the forum,

including the incorporation of a human rights approach; and (iii) must be willing to contribute to the work of the collective.

SAM:BKS members include groups that work at the grassroots level, those that work at the macro-level, and those that engage at both levels.²³ Some of the constituent organizations like *Beghar Mazdoor Sangharsh Samiti* (BMSS) and *Haq* comprise primarily of homeless persons and benefit from the advocacy skills of organizations that are active at the macro-level.

Role of the Executive Committee of SAM:BKS

At the time of the creation of SAM:BKS, members decided to form an Executive Committee²⁴ to facilitate decision-making, to oversee the functioning of the forum, to advise members and guide the activities of the forum, to ensure that members work in a spirit of collaboration and in accordance with the principles of the forum, and to assist with the development of plans to meet the vision of SAM:BKS.

The present members of the Executive Committee are drawn from three organizations – Indu Prakash Singh²⁵ [formerly with Indo-Global Social Service Society (IGSSS) and now Convenor, National Forum for Housing Rights (NFHR)], Miloon Kothari [former United Nations Special Rapporteur on Adequate Housing], Shivani Chaudhry [Executive Director, Housing and Land Rights Network (HLRN)], and Amita Joseph [Executive Director, Business and Community Foundation (BCF)].

These members work at different levels, including policy development, and have provided the necessary impetus to expand the scope of the work on homelessness. An erstwhile member of the Executive Committee, Harsh Mander, is the Supreme Court's Commissioner in the right to food case, and all the present SAM:BKS Executive Committee members, were members of the 'Working Group on Urban Poverty' of the National Advisory Council. The acceptance of the Executive Committee by all the members of the network is marked by respect for their experience, seniority and commitment to the issue.

The members of the Executive Committee have leveraged their vast experience to shape the various interventions made by SAM:BKS, especially in assisting the High Court of Delhi and the Supreme Court of India in the ongoing cases related to homelessness, which will be discussed in detail in the following section on 'Strategic Interventions.' In their role as mentors to the network, the members have ensured that the approach of SAM:BKS is embedded within the human rights framework that calls upon the state to respect and protect the rights of all citizens.

3.2 VISION AND MISSION OF SAM:BKS

The human rights approach to the issue of homelessness calls for first addressing the needs and human rights of the homeless. In the short-term, SAM:BKS aims to improve response by the state and CSOs to the crisis of homelessness by ensuring better services for the homeless, including provision of shelters, kitchens, and access to other basic services and livelihood options. The long-term goal is to ensure the provision of adequate and secure housing for all homeless people, by holding the state accountable to its national and international legal commitments. It is essential for the government to integrate and adopt a humanitarian and human rights approach in all its laws, policies, and schemes.

According to the 'Guiding Principles' of SAM:BKS, mentioned in its Mission and Vision Statement,²⁶ it operates on the principle of collective identity and not of the identity of member organizations/individuals. The following principles will guide the work and action of the network:

²³ A list of the members of SAM:BKS is given in *Annexure I*.

²⁴ From September 2008 to mid-2010, the Executive Committee consisted of Harsh Mander (Centre for Equity Studies), late Gerry Pinto (Butterflies), Joseph Sebastian (IGSSS), Miloon Kothari (former UN Special Rapporteur on adequate housing), Indu Prakash Singh (IGSSS), Amita Joseph (Business and Community Foundation), and Dr Amod Kumar (St Stephen's Hospital).

²⁵ Mr. Singh chooses to spell his name with small letters.

²⁶ The Vision and Mission Statement of SAM:BKS is included as *Annexure II*.

- Transparency;
- Participation and inclusiveness;
- Gender equality; and,
- Non-discrimination.

Housing Continuum

Realising the human right to adequate housing involves developing a continuum of housing solutions consisting of three stages:²⁷

1. Shelters for the homeless: immediate solutions need to be developed for those living in emergency conditions and without any shelter.
2. Intermediary housing: this includes short stay homes, working men’s hostels, working women’s hostels, family hostels, care homes, facilities for rehabilitation and recuperation.
3. Permanent housing: the provision of affordable/low cost housing that meets UN standards of adequacy with security of tenure and basic services.

It is important to reiterate that the mere provision of shelters is not the long-term solution to homelessness. It is the first step but one that needs to be urgently implemented given that there is an acute shortage of adequate and habitable permanent shelters for the homeless in Delhi. Addressing homelessness in the long run also involves understanding the root causes of homelessness and developing solutions to address it.

Right to the City

SAM:BKS has been advocating for the ‘right to the city’ for the homeless/CityMakers. The “World Charter on the Right to the City” defines the “right to the city” as, “the equitable usufruct of cities within the principles of sustainability, democracy, equity, and social justice. It is the collective right of the inhabitants of cities, in particular of the vulnerable and marginalized groups, that confers upon them legitimacy of action and organization, based on their uses and customs, with the objective to achieve full exercise of the right to free self-determination and an adequate standard of living.” The movement for the ‘right to the city’ has developed as a response of social groups to ensure equitable access to resources and equal opportunities for everyone living in cities, especially the most vulnerable and deprived sections of city dwellers.²⁸

3.3 FUNCTIONING OF SAM:BKS

Secretariat

Indo–Global Social Service Society (IGSSS) functioned as the Secretariat of SAM:BKS from its inception in September 2008 until November 2013. Since then, Housing and Land Rights Network (HLRN) has been the Secretariat. The role of the Secretariat is to provide a physical space for member interaction, to facilitate meetings, to assist with official communication, and to coordinate the delivery and receipt of mail for the forum.

²⁷ Recommendations made by SAM:BKS to the High Court of Delhi in *Court on its own motion v. GNCTD* [W.P (C) 29/2010], for formulating a short-term and long-term plan to address homelessness in Delhi.

²⁸ See, *Taking the Right to the City Forward: Obstacles and Promises*, Miloon Kothari and Shivani Chaudhry. Available at: http://www.hic-sarp.org/documents/Right_to_the_City_Obstacles_and_Promises_FINAL.pdf

Meetings and Events

SAM:BKS members meet twice a month, generally on the first and third Tuesday of every month. The purpose of these bi-monthly meetings is to *inter alia*, share the work being done by members; to discuss the present situation of homelessness in Delhi; to report on developments related to homelessness in the government; the High Court of Delhi and the Supreme Court of India; to identify challenges; to monitor progress; and to plan strategic interventions. Meetings are held either at the Secretariat or in shelters being managed by SAM:BKS members.

It is during the bi-monthly meetings that decisions to organise actions, such as press conferences, public hearings or other events are taken, in consultation with all members. Minutes of meetings are noted and shared with all members, including those who were not present. This serves an important function in documenting the evolving trajectory of work, and in monitoring decisions and commitments made by the collective.

Shelter Management

In keeping with the mandate of SAM:BKS to provide services for the homeless in the short-term while advocating for protection of their human rights by the state, many of the members of SAM:BKS manage shelters. SAM:BKS believes that a shelter is a centre where homeless persons can interact with fellow homeless residents and mobilise themselves for asserting their human rights. Some members use the shelters that they run innovatively and use the space as centres of learning for children during the day, for example, *Haq* and Labour and Education Society (LEDS). *Haq* uses the shelter at Yamuna Khadar, Chilla Village, as a classroom during the day for children who do not go to any school and as a tuition centre in the evening for children who go to a nearby school run by the Municipal Corporation of Delhi; LEDS uses its shelter at Regarpura as a classroom during the day.

Beghar Mazdoor Sangharsh Samiti

Beghar Mazdoor Sangharsh Samiti (BMSS), a SAM:BKS member, is a part of the Beghar Foundation, which is a registered trust. Started by Ashok Pandey and Mansoor Khan, who were themselves homeless at that time, BMSS now comprises of around 10,700 members who are all workers, but are homeless in the city. The members are engaged in different livelihoods, such as, *rickshaw* pulling, *jhalli* (head loading) work, loading, *beldari* (wage labour), carpentry, plumbing, catering/party work, tent work, *dhakka* (pushing hand carts), *thela* (hand cart) pulling, *dhaba* (informal eatery) work, masonry and painting. BMSS has different livelihood-based collectives within its fold, such as *Rickshaw Chalak Manch*, *Beghar Nirman Mazdoor* and *Jhali Mazdoor*. Membership is now free. Initially, a membership fee of one rupee a day, which was subsequently changed to one rupee annually, was charged.

BMSS works through different committees like the *Ilaquai* committee and the *Nigrani* committee. The former has been constituted for different locations where BMSS is active and functions as a local hub. The *Nigrani Samiti* acts as a conduit between the homeless and BMSS. Its role is to monitor the status of homelessness in the area and keep BMSS informed of developments. Each *Ilaquai* Committee contributes members to the *Karyakarini Samiti* (Working Committee), which has 14 members at present.

With *Pehchan* (identity), *Rozgar* (employment) and *Aawas* (housing) as their slogan, the interventions of BMSS include running three shelters, a mobilisation of homeless workers on the streets, intervening in cases of police brutality, and pre-empting arrest by raiding squads under the Bombay Prevention of Begging Act. The Youth Wing of BMSS (Voice of Youth) has been active in negotiating better wages for some of the daily wage workers by eliminating the role of contractors. The youth members are also active in relief and rescue operations. BMSS has recently established a women's collective called *Beghar Mahila Sangharsh Morcha*, which aims at organising and empowering homeless women to lead their own struggles.

4

Strategic Interventions

4.1 STRATEGIES USED BY SAM:BKS

SAM:BKS has adopted a combination of multiple strategies to address the causes and manifestations of homelessness in Delhi. This has included media advocacy, intervention in court to assist with ongoing cases on homelessness, and bilateral negotiations with the government to improve facilities and services for the homeless.

The strategies used by SAM:BKS include:

- Assisting the High Court of Delhi in cases related to homelessness, and addressing the court, when required.
- Engaging in media advocacy through regular press releases and press conferences.
- Carrying out primary data collection.
- Conducting periodic surveys of shelters to assess the prevailing conditions, accessibility, and adequacy of shelters, and using the investigative survey findings to file informed affidavits in court.
- Carrying out fact-finding exercises using Participatory Reflection and Action (PRA) tools and presenting peoples' versions before the High Court of Delhi through regular affidavits.
- Conducting regular night vigils to assess the living conditions of the homeless across Delhi.
- Engaging in direct action, such as protests and rallies, when required.
- Setting human rights standards for the establishment and management of shelters, in conformity with the human right to adequate housing.
- Using the collective understanding of SAM:BKS to propose a short-term and long-term plan for the Government of Delhi to address homelessness.
- Organising public hearings, such as the Public Hearing on Violence against Homeless Women in Delhi.
- Using the Right to Information Act to access data on homeless deaths and other issues.
- Conducting human rights education workshops for CityMakers.
- Supporting inter-city exchanges of homeless groups.
- Supporting work of homeless organizations in other cities and building alliances between different networks, movements and organizations across the country.

- Advocating with different human rights institutions, including National Human Rights Commission, National Commission for Women, Delhi Commission for Women, National Commission for Protection of Child Rights, and Delhi Commission for Protection of Child Rights.

Chronology of Events and Interventions by SAM:BKS in Delhi

- 22 December 2009: The Municipal Corporation of Delhi (MCD) demolished a temporary homeless shelter at Rachna Golchakkar (Pusa Road roundabout).
- 23 December 2009: SAM:BKS issued a press release condemning the demolition of the shelter at Pusa Road roundabout (*Annexure III*).
- 23 and 24 December 2009: SAM:BKS members facilitated the visit of The Times of India (ToI) journalist, Ms. Ambika Pandit, to the site.
- 25 December 2009: ToI publishes a front-page story on the issue - Out in the Cold on Xmas Eve (*Annexure IV*).
- 31 December 2009: 35-year-old Bhima, one of those rendered shelterless by the demolition, died due to exposure to the cold.
- 4 January 2010: SAM:BKS organised a press conference (See press release in *Annexure V*).
- 5 January 2010: Wide media coverage of the press conference, quoting SAM:BKS members [Cold Worsening Plight of the Homeless (The Hindu, 5 January 2010). *Annexure VI*].
- 6 January 2010: High Court of Delhi issued suo moto notice to the Government of Delhi, based on the media reports of the SAM:BKS press conference.
- 10 January 2010: Former UN Special Rapporteur on adequate housing, Miloon Kothari, wrote a letter to the Chief Justice of the High Court of Delhi (*Annexure VII*).
- 13 January 2010: Supreme Court Commissioners, Harsh Mander and N.C. Saxena wrote a letter to the Supreme Court of India, highlighting the plight of the homeless, their vulnerabilities during winter, and starvation deaths (*Annexure VIII*).
- 20 January 2010: Supreme Court ordered Delhi government to immediately provide shelter and food to the homeless.
- 25 January 2010: the Supreme Court Commissioners again wrote a letter to the Supreme Court, citing IGSSS's study on the homeless (the number of homeless people disaggregated by sex and age in Delhi, and the need for adequate number of shelters - one shelter per one lakh population as per the Master Plan for Delhi 2021) (*Annexure IX*).
- 5 May 2010: Supreme Court issued notices to all states and Union Territories (UTs) seeking information on what they were doing for the homeless. It directed all states and UTs to build at least one well equipped shelter per one lakh (100,000) population and to make these 24-hour shelters, functional throughout the year.
- 2010–14: Several progressive orders from the High Court of Delhi and Supreme Court of India on the issue of homelessness.

4.2 INTERVENTION BY SAM:BKS IN THE SUO MOTO CASE IN THE HIGH COURT OF DELHI

Origin of the Suo Moto Case

On 27 November 2009, then Revenue Secretary, Government of Delhi, Mr. D. M. Spolia, called a meeting to discuss the issues of homelessness. At this meeting, he turned down SAM:BKS and other organizations' demand for over 70 additional homeless shelters and reduced the number to just 17 shelters. He justified his decision with the comment, “*Dilli mein thand padti kahan hain? Thand hoti hain anand lene ke liye.*” (When is it cold in Delhi? Winters are meant to be enjoyed.) This dominant view of the government delayed the establishment of the 17 additional homeless shelters until mid-December 2009.²⁹

During peak winter, on 22 December 2009, the Municipal Corporation of Delhi (MCD) demolished a temporary shelter set up by the Revenue Department of the Government of Delhi, in a park along Pusa Road roundabout, leaving 250 homeless persons out in the cold. In an article on 25 December 2009, Ambika Pandit, a journalist with the Times of India covered this heartless demolition and its adverse impact on the shelter users, who were left out in the open to face the biting cold. On 31 December 2009, 35-year-old Bhima, one of the shelter users, who used to sell balloons for a living, died due to exposure to the cold. Given this situation, on 4 January 2010, SAM:BKS organised a press conference highlighting the various human rights violations of the homeless in Delhi. This resulted, on 6 January 2010, in the Chief Justice of the Delhi High Court, Justice A.P. Shah, taking suo moto notice of the media report and issuing notices to the authorities. MCD was directed to set up a shelter at the spot immediately. SAM:BKS continues to assist the court in the ongoing case.³⁰

As mentioned above, the former Chief Justice of the High Court of Delhi, Justice A.P. Shah took suo moto notice on 6 January 2010 of a media report, that resulted from strategic advocacy efforts of SAM:BKS members, and initiated a case against the Municipal Corporation of Delhi and Government of National Capital Territory of Delhi (GNCTD) for the demolition of a homeless night shelter on 22 December 2009. Thus began a case in the High Court of Delhi,³¹ which has been used by SAM:BKS to promote state accountability, to establish adequate shelters and to provide basic services, as the first step towards the realisation of the human rights of the homeless.

Role of SAM:BKS in the Suo Moto Case

SAM:BKS members, through the *amicus curiae*³² and through direct intervention when required, have played a very supportive role in the case before the High Court of Delhi. This has included expanding the scope of the case to include a range of issues and human rights violations of the homeless, and making the case more relevant. SAM:BKS has ensured that the progress of the case is constantly informed by the reality on the ground.

Through its intervention in the High Court of Delhi, SAM:BKS has brought attention to the following:

- Government responsibility for managing shelters.
- Need for an increase in the number of adequate permanent and temporary shelters with proper amenities.
- Forced eviction at Pul Mithai (an affidavit was filed by Indu Prakash Singh on the eviction and status of Pul Mithai residents).

²⁹ In 2013, Mr. Spolia went on to become the Chief Secretary of Delhi. He was removed from this position, when Arvind Kejriwal took over as the Chief Minister of Delhi on 28 December 2013.

³⁰ *Court on its own motion v. GNCTD* [W.P. (C) 29/2010].

³¹ *Court on its own motion v. GNCTD* [W.P. (C) 29/2010].

³² SAM:BKS is represented by senior advocate Mr. Jayant Bhushan and advocate Ms. Reena George, acting as *amicus curiae*. They have been representing SAM:BKS in this matter since 2010, in over 80 hearings, *pro bono*.

- Police brutality at Rachna Golchakkar (Pusa Road roundabout) – revealed through a Participatory Research and Action (PRA) exercise, the findings of which were filed in the High Court.
- The closure (in 2001) and demolition (in 2003) of the largest shelter for the homeless at Jama Masjid.
- Preventing closure of temporary shelters.
- Fire in two temporary night shelters.
- Police brutality against the homeless, including pregnant homeless women.
- Deaths of homeless persons in Delhi.

Human Rights Standards for Permanent Shelters

Using the elements of ‘adequate housing’ elaborated in the United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 4, ‘The right to adequate housing,’³³ and reports of the UN Special Rapporteur on adequate housing, SAM:BKS has proposed non-negotiable requirements for all permanent shelters in Delhi. These pertain to the parameters of appropriate location, accessibility, habitability, access to basic services, affordability, cultural adequacy, security and privacy, information and participation, freedom from dispossession, and access to remedies. These recommendations have been made by SAM:BKS as short-term and long-term measures to address homelessness in Delhi and submitted to the government and to the High Court of Delhi.³⁴

One Shelter per One Lakh (100,000) Population

SAM:BKS has prepared short-term and long-term plans³⁵ for realising the human rights of the homeless. Standards for establishment and management of shelters have been set, even as the struggle for basic amenities continues. A major step forward has been the High Court’s affirmation of the Master Plan for Delhi, 2021, which provides for the establishment of one shelter per one lakh (100,000) population. This has also been accepted by the Supreme Court of India as the national norm across India.

Revival of the Joint Apex Advisory Committee

Sustained monitoring of shelters and informing the court about the abysmal conditions and lack of provision of basic amenities in shelters by SAM:BKS resulted in the Delhi High Court taking cognizance of the complete absence of coordination between the various civic agencies and departments of the government. Consequently, the court directed the revival of the Joint Apex Advisory Committee (JAAC - which was active in 2002-03), consisting of representatives of the concerned government departments and NGOs managing shelters.

JAAC comprises of all NGOs that have been allotted shelters by DUSIB, officials of DUSIB, Delhi Development Authority (DDA), Municipal Corporation of Delhi (MCD), Delhi Jal Board (DJB), and other concerned officials. The role of JAAC is to provide an interface between the government departments responsible for the provision of different services in the shelters and the NGOs managing the shelters, for dealing with day-to-day concerns in the maintenance of shelters. JAAC is also responsible for better coordination between the various government agencies and departments involved in providing services to Delhi’s homeless. JAAC’s role, however, has not been very constructive in this regard.

³³ *General Comments* are interpretations of relevant articles of the International Covenant on Economic, Social and Cultural Rights. General Comment 4 titled, “The right to adequate housing” (1991), specifically expands the meaning of adequate housing as contained in Article 11(1) of the Covenant

³⁴ In *Court on its own motion v. GNCTD* [W.P. (C) 29/2010].

³⁵ Long-term plan prepared by SAM:BKS, included as *Annexure X*.

Tangible Benefits from the High Court Case

The High Court of Delhi has passed several progressive orders upholding the rights of the homeless and directed the Delhi government to develop permanent shelters and a comprehensive long-term plan to meet its legal and moral obligations. The court has categorically stated that it is the primary responsibility of the state to provide shelters where homeless persons can lead a life of dignity.³⁶ Even though the court has focused largely on micro management of shelters, due to bureaucratic indolence, arrogance and insensitivity, the case has resulted in some tangible benefits, such as:

- Increase in the number of permanent and temporary shelters in Delhi to 84 and 147, respectively.
- Direction from the court to develop a long-term plan to address homelessness and for government agencies to work collaboratively.³⁷
- Direction from the court to use unused and vacant government buildings as shelters.
- Court's affirmation of the Master Plan for Delhi, 2021, which provides for one shelter for every 1 lakh (100,000) population, and a direction to the government to implement the same.³⁸
- Recognition for pregnant and lactating women as a distinct group requiring dedicated shelters.
- Acknowledgement of police brutality against the homeless.³⁹
- Direction from the court preventing closure of temporary shelters.⁴⁰
- Constitution of the Joint Apex Advisory Committee (JAAC) to monitor the management of shelters and establishment of new shelters depending on the need and concentration of homeless people.⁴¹
- Fixing personal responsibility on the Director, Night Shelters, DUSIB, for removal of deficiencies in shelters.⁴²

In another case⁴³ filed by Human Rights Law Network (HRLN) and assisted by SAM:BKS, the High Court of Delhi ordered the Government of National Capital Territory of Delhi (GNCTD) to provide breakfast, lunch and dinner to all the residents of Motia Khan family shelter. The court has also ordered the government to provide for heaters and geysers in this shelter. Health coverage is to be provided too.

Challenges in Implementing Court Orders

MICRO MANAGEMENT OF SHELTERS

Close to four years after the High Court of Delhi first issued notice to MCD to rebuild the demolished tent shelter at Pusa Road roundabout, the case appears to focus more on micro-management of shelters, despite attempts by SAM:BKS to bring in other problems confronting the homeless, such as lack of affordable housing in Delhi, police brutality and forced evictions. The strategy has been to get the court to lay down a short-term and long-term policy on homelessness, with the involvement of NGOs, instead of piecemeal orders. Though progressive orders have been obtained from sensitive benches, the case could potentially get reduced to micro-management of shelters. However, one important achievement has been that SAM:BKS has been able to keep the issues and concerns of homeless people on the agenda of the government, the court, and the media.

³⁶ *Court on its own motion v. GNCTD* [W.P. (C) 29/2010], order dated 13.01.2010, included as *Annexure XI*.

³⁷ *Ibid*, order dated 22.01.2010, included as *Annexure XII*.

³⁸ *Ibid*, order dated 10.2.2010, included as *Annexure XIII*.

³⁹ *Ibid*, order dated 02.05.2011, included as *Annexure XIV*.

⁴⁰ *Ibid*, order dated 09.08.2011, included as *Annexure XV*.

⁴¹ *Ibid*, order dated 21.12.2011, included as *Annexure XVI*.

⁴² *Ibid*, order dated 01.08.2012, *Annexure XVIII*.

⁴³ *Priya Kale v. GNCTD* [W. P. (C) 5913/2010].

APATHETIC AND CALLOUS ADMINISTRATION

Despite the government's apathetic attitude, SAM:BKS has been able to sustain the court's interest in the issue, more from a humanitarian point of view and not always from a human rights perspective. The biggest challenge is getting the orders of the High Court implemented by a callous and indifferent administration. The government is brazenly defiant despite the judges calling upon the government to obey orders or face action for contempt of court.⁴⁴ The government does not even balk at indulging in falsehood to escape from its responsibility of providing for homeless residents. The court has had to resort to a number of strategies at different points of time to arrive at the correct factual position. This has included seeking the assistance of independent experts, the Delhi Legal Services Authority, a committee of lawyers, and a joint inspection by a SAM:BKS Executive Committee member and DUSIB officials to examine shelters and report the prevailing conditions .

MULTIPLICITY OF BODIES

The multiplicity of bodies in Delhi dealing with urban poverty adds to the difficulty in getting the court's directions implemented, with constant 'passing of the buck' between them. The establishment of the Joint Apex Advisory Committee (JAAC) by the Delhi High Court to deal with tissues of management and maintenance of shelters, is a step to resolve this issue. SAM:BKS's tenacious efforts to get even basic amenities like water and toilets provided in shelters, embodies the struggle that working with the government can be, especially where the human rights of the most marginalised are concerned. Corruption further results in funds earmarked for the homeless being siphoned off.⁴⁵

The case is a testimony to the state's attitude towards its poorest citizens, as exemplified by the government's continuous defiance of the court's orders. Despite repeated orders, the conditions in shelters have only marginally improved and the majority of Delhi's homeless are still out on the streets, braving the extreme heat, cold and rain.

4.3 MEDIA ADVOCACY

Constant monitoring of the situation regarding homeless people, engaging with empathetic journalists, and organising regular press conferences and issuing press releases,⁴⁶ have formed part of SAM:BKS's media advocacy.



⁴⁴ Order dated 20.03.13 in *Court on its own motion v. GNCTD* [W.P. (C) 29/2010] – See Annexure XIX.

⁴⁵ *Court ready to look into night shelter funds*, the Times of India, 10.01.13.

⁴⁶ Press Releases issued by SAM:BKS are available at: <http://www.hic-sarp.org/homelessness.html>

SAM:BKS has worked closely with the print and electronic media, including with journalists from *The Times of India*, *The Hindu*, *Hindustan Times*, *The Tribune*, *Deccan Herald*, *The Indian Express*, *Wall Street Journal*, *New York Times*, *Dainik Jagran*, *Nai Duniya*, *Amar Ujala*, *NDTV*, *CNN-IBN*, *Headlines Today*, *Al Jazeera*, *BBC*, *Press TV*, *ABC Radio*, *Channel News Asia TV*, *Doordarshan*, *P-7*, *Rajya Sabha TV*, and *Sahara Samay*. With this proactive media engagement, SAM:BKS has been able to successfully highlight the plight of the homeless, and to draw attention of policy-makers and the judiciary to the multiple dimensions of homelessness and the lack of adequate state response.

The media has played a very important and supportive role in highlighting the issues confronting homeless people, and has covered emergencies and crisis situations promptly. Journalists have also been following the Delhi High Court case and have written about important orders and directions. Apart from this, sensitive reporting has provided a glimpse into the lives of homeless people in the capital, round the year.⁴⁷

Some Media Reports on Homelessness in Delhi during 2011–12

- *In search of shelter*, Sunday Hindustan Times, New Delhi, 16.12.12.
- *High Court Case: try to house homeless in unused government buildings*, The Times of India, New Delhi, 08.12.12.
- *Improving, but more needed*, The Hindu, 02.12.12.
- *Haryana, UP at fault for homeless count: Shiela*, The Times of India, New Delhi, 02.12.12.
- *Government's cold attitude fatal for city's homeless*, The Times of India, New Delhi, 01.12.12.
- *Delhi's homeless to get voter ID cards*, Hindustan Times, New Delhi, 20.11.12.
- *Activists discuss plight of homeless people*, The Tribune, New Delhi, 13.11.12.
- *Homeless death toll alarming*, Deccan Herald, New Delhi, 09.11.12.
- *DDA on the mat for attempt to reduce shelter for homeless*, The Hindu, New Delhi 30.05.12.
- *Provide fans, coolers in tin shelters: HC to government*, Hindustan Times, New Delhi, 01.06.12.
- *Tin houses leave city homeless high and dry*, Hindustan Times, New Delhi, 09.05.12.
- *Number of homeless 3 times more than government figures: NGOs*, Hindustan Times, New Delhi, 20.02.12.
- *Preserve, protect lives of homeless: SC*, Hindustan Times, New Delhi, 18.01.12.
- *Night shelter a fundamental right, says SC*, The Times of India, New Delhi, 24.01.12
- *Railways razes roof over homeless*, The Times of India, New Delhi, 17.12.11.
- *Girl dies in fire at shelter for homeless near CP*, The Times of India, New Delhi, 20.11.11.

4.4 CAMPAIGNS OF SAM:BKS FOR FACILITATING ACCESS TO ENTITLEMENTS AND REALISATION OF HUMAN RIGHTS

The homeless community, as mentioned in the introduction, is deprived of basic human rights as citizens of the Republic of India. The lack of proof of identity and residence results in multiple deprivations. Homeless persons cannot cast their vote; they cannot access the public distribution system; they cannot avail of any benefit under any social security scheme. One of the most important interventions of SAM:BKS has been to facilitate access to human rights and entitlements by using mechanisms to get the required ‘proof of identity and residence.’

⁴⁷ This includes a series by Mallica Joshi in the Hindustan Times titled, *A street called home, sweet, home*, 24.01.11; *For these literates, H is for homeless*, 25.01.11, and *Capital story: no heart, no home*, 26.01.11.

Campaign for Voter's Card

Constant advocacy has resulted in the Election Commission including 'homeless' as a distinct category requiring a different procedure for verification, for purposes of inclusion in the electoral roll. The Delhi State Election Commission regularly deutes verification officers to shelters and if a homeless person is present on three consecutive occasions, the verification process is deemed to be satisfactorily completed. SAM:BKS members were successful in getting election cards for over 7,500 homeless residents before the 2013 Delhi Assembly Elections, and are engaged in an ongoing campaign to enroll homeless persons in the electoral rolls before the 2014 General Elections.

An Avoidable Humanitarian Crisis

Over 6,800 deaths on the streets of Delhi, including those of the homeless and unidentified persons have been reported between 2007 and 2011. This information was provided by the police in reply to a RTI application filed by S.A. Azad, from the campaign for rehabilitation of homeless people and a member of SAM:BKS. A study by the Mother NGO (MNGO) records 92 deaths from January 2011 till December 2012. Tuberculosis, addiction to drugs and alcohol, and respiratory problems are some of the unattended yet treatable illnesses, with the cold acting as a trigger, that are claiming the lives of the homeless.

Source: Government's cold attitude fatal for city's homeless, The Times of India, New Delhi, 01.12.12.

Campaign for Ration Cards and Health Insurance

Some members of SAM:BKS have been able to get voter's card, ration cards, health insurance and labour cards for many homeless citizens. SAM:BKS is also a member of the 'Pension Parishad' which is a network of organizations working for the universalisation of old age pension across the country.

Electoral Card, Labour Card, Health Insurance Card – No Guarantee Against Eviction

Tucked away in a corner of the fertile fields on the Yamuna flood plains, redolent with vegetables, is a temporary shelter that functions as a school during the day. This is Yamuna Khadar, Chilla Village, flanked by the river on one side and the middle class residential colony of Mayur Vihar on the other, with skyrocketing real estate prices owing to the 'developmental work' carried out for the 2010 Commonwealth Games. The residents of this little enclave are all migrants and till the fields for the land-owners. They deal with floods every monsoon and have survived many eviction attempts. The latest threat to their existence comes from the Delhi Metro, and the High Court has ordered their eviction and left them to an unknown fate.

Haq has been involved with this community and other precariously housed communities, such as the predominantly Dalit settlement in Pul Mithai, Old Delhi. Abdul Shakeel, the force behind *Haq*, is an active member of SAM:BKS and has leveraged state processes to facilitate access to entitlements, such as electoral cards, labour cards and health insurance cards for the homeless. *Haq* runs a few shelters and its main strength is that it is able to motivate members of the homeless community to take up their cause themselves. Some of the community workers are employed as caretakers in shelters.

The network of homeless community workers in different locations that *Haq* works in do all the ground work for mobilising people for accessing basic entitlements, for resisting eviction, for resisting police brutality, and resorting to judicial processes for seeking justice and redress. They do all the primary documentation in case of forced eviction, as in Baljeet Nagar, West Delhi, so that a case can be filed in a court. They fill in the required forms, submit them at the concerned office and follow up till the document is procured.



The Supreme Court of India and the Issue of Homelessness

5.1 ROLE OF THE OFFICE OF THE SUPREME COURT COMMISSIONERS IN THE 'RIGHT TO FOOD' CASE

The Supreme Court appointed Dr. N.C. Saxena and Mr. S.R. Sankaran as “Commissioners”⁴⁸ for the purpose of monitoring the implementation of all orders relating to the ‘right to food’ case.⁴⁹ (After Mr. Sankaran retired, Mr. Harsh Mander was authorised to assist Dr. N.C. Saxena as “special commissioner.”) The Commissioners are empowered to enquire about any violations of these orders and to demand redress.

Commissioners Write about the Plight of the Homeless to the Supreme Court

The urgency and severity of the plight of the homeless living in the open in Delhi in the winter of 2010 moved the Commissioners (at that time Harsh Mander was a member of the SAM:BKS Executive Committee) to bring their condition to the attention of the Supreme Court. A letter dated 13 January 2010⁵⁰ was written by the Commissioners bringing to the notice of the Supreme Court the severe violations of the right to food and housing of people living on the streets of Delhi, especially in the context of the extreme cold weather, which constituted a threat to their fundamental right to life. It was pointed out that people were dying in the streets of Delhi not only because they were hungry but also because they were homeless. A human being requires more food to remain healthy when the temperature decreases. This makes homeless people, who already have low levels of access to nutritional food and high malnutrition rates, very vulnerable to cold weather.

The Supreme Court took urgent notice of this letter and directed the Government of Delhi to immediately provide shelter to the homeless and to improve facilities in existing shelters. The court ordered that shelters should provide basic amenities such as blankets, water and mobile toilets. The state government was also directed to issue *Antyodaya Anna Yojana* (AAY) ration cards to all homeless people in Delhi with a validity of at least two years; the cards were to be renewed if they remained homeless in the city.

48 Interim orders dated 8.5.2002 and 2.5.2003 in *PUCL v Union of India and others* [W. P. (C) 196/ 2001].

49 *PUCL v Union of India and others* [W. P. (C) 196/ 2001].

50 Annexure VIII.

Expansion of the 'Right to Food' Case to include Homelessness

A follow up report dated 25 January 2010 prepared by the Supreme Court Commissioners on the right to life of urban homeless people was treated as an Interlocutory Application by the Supreme Court. The Commissioners sought a direction to all state governments/Union Territories (UTs) in India to build and run 24-hour shelters for the urban homeless with adequate and appropriate facilities. The court ordered that shelters must be sufficient to meet the need of the homeless, in the ratio of at least one shelter per lakh (100,000) population, in every major urban centre. (This is the ratio prescribed by the Delhi Master Plan 2021). All shelters should be functional throughout the year and not as a seasonal facility only during the winters.

The report contained suggestions regarding the steps that are imperative to safeguard the right to food and life of homeless people. The Commissioners proposed a phased plan in which, in the first phase it 'should be mandatory for cities with population above one million, and other cities and towns identified by the Government of India to be of special social, historical, tourist or political importance, to provide permanent 24-hour homeless shelters with adequate facilities for the homeless. A total of 62 such cities have been identified under the Jawaharlal Nehru National Urban Renewal Mission (JnNURM). These shelters should be operational latest by 31 March 2011.'

The Supreme Court concurred and issued notice to all state governments to respond on facilities that they were providing to the urban homeless. As a result, the matter of services to the homeless was taken up at the highest levels of the administration in various state governments for the first time.

Supreme Court Directions

The major guidelines issued by the Supreme Court on provision of shelter (orders dated 20 January 2010 and 5 May 2010) are:

- All cities covered under JnNURM and having a population above 5 lakh (500,000) to have one homeless shelter with a capacity of 100 persons for every one lakh (100,000) population; the shelters should be open for 24 hours and be operational throughout the year.
- There should be basic amenities provided in the shelters, including mattresses, bed rolls, blankets, clean drinking water, functional toilets, first aid, facilities for primary health, and de-addiction and recreation facilities.
- 30 per cent of the shelters should be special shelters (for women, old and infirm persons) and recovery shelters.
- The state government should undertake a detailed survey of the homeless and respond to their entitlements accordingly.
- The state government should formulate comprehensive policies protecting the human rights of the homeless.

In response to the notice issued by the Supreme Court, all states filed their respective affidavits to inform the court about the status of homelessness in their states and the measures taken by the state governments to address the same. SAM:BKS members played a very significant role in analysing and presenting the data pertaining to Delhi and other states to the Supreme Court.

Role of Regular Monitoring and Reporting by the Supreme Court Commissioners

Through a team of state-based advisors led by the National Advisor to the Commissioners, the Commissioners undertake regular field visits to all states. With support from local CSOs and activists working with the homeless, they undertake regular monitoring and review of compliance with the periodic orders of the Supreme Court. The National Advisor's office also periodically meets the concerned officials of the state governments in pursuance of these orders and files periodic reports based on these visits. Such periodic reports are filed before the Supreme Court in the ongoing 'right to food' case and are a valuable source of primary data on the status of homelessness in the country.

Two reports submitted by the Commissioners pertain to the issue of homelessness. The Eighth National Report on Homelessness⁵¹ presents a comprehensive update regarding compliance by the state governments in implementing orders of the Supreme Court to establish sufficient numbers of permanent homeless shelters, with essential services, in all major cities. From the information gathered, it was found that no government of any state or UT reported good or satisfactory compliance. Delhi, Tamil Nadu, and Uttar Pradesh reported average compliance, while Andhra Pradesh, Bihar, Chattisgarh, Gujarat, Jharkhand, Karnataka, Madhya Pradesh, Odisha, Rajasthan, and Uttarakhand reported poor compliance. Maharashtra was the worst and continues to be the worst, as it has not opened a single shelter for the homeless in Mumbai, to date.

The Commissioners were further asked by the Supreme Court to undertake joint inspections of shelters with the representatives of the state governments in ten selected states covering almost 80 cities to assess the situation and efforts undertaken by the respective state government.⁵² The key indicators for the inspection were identified as: the actual number of existing permanent shelters, location of shelters - whether shelters are located in zones of homeless concentration, capacity of shelters, average occupancy, and amenities provided. The Joint Inspection Report⁵³ provides a thorough analysis of the status of implementation of the court's orders and reports the poor conditions in shelters in almost all states, despite the court's intervention.

The Supreme Court Commissioners have also developed a 'shelter manual' to serve as reference for stakeholders. Many of the SAM:BKS Executive Committee members contributed in the preparation of this 'shelter manual.' The manual presents the minimum requirements for running a good shelter. It includes standards for establishment of a homeless shelter, its operationalisation and management, mobilisation of resources for financial sustainability, monitoring and evaluation.

Writ Petition (C) No. 572/2003

A public interest litigation on the issue of homelessness across India filed in 2003 came up for hearing in the Supreme Court in 2013. One of the SAM:BKS Executive Committee members is a petitioner in the case, which is currently before the court. Since 2012, interim orders in the 'Right to Food' case have not dealt with the matter of homelessness. This case has helped bring back the attention of the Supreme Court to the issue at a national level. Members of SAM:BKS and the National Forum for Housing Rights (NFHR) are providing information and data from different cities to support this case.

51 Eighth Report of the Commissioners of the Supreme Court: *A Special Report on the Most Vulnerable Social Groups and their Access to Food*, September 2008. Available at: http://www.sccommissioners.org/Reports/Reports/SCC8_0908.pdf

52 Order dated 23.01.12 in *PUCJ v. Union of India and others* [W. P. (C) 196/2001].

53 *State of Shelters for Homeless*, Report of Joint Inspections of Homeless Commissioners, February 2012. Available at: <http://sccommissioners.org/Reports/Reports/Homeless%20Joint%20Inspection%20Report.pdf>

Recommendations of the Supreme Court Commissioners

Direct the state government to act with utmost priority in implementing the directions of the Supreme Court, which are the following:

- a) Plan for and undertake construction of the required numbers of day and night, permanent shelters in accordance with the norms laid out by the Supreme Court – one shelter with space for 100 persons (or two with space for 50 persons each) per one lakh urban population.
- b) Reserve a minimum of 30 per cent of shelters for the vulnerable category of the homeless, including aged persons, mentally and physically challenged persons and persons with special needs, such as those with addictions/chemical dependency. Such shelters should provide for special counseling, care, and recovery facilities.
- c) Undertake rapid mapping of homeless concentrations in all cities, at the earliest. Involve the state advisor's office in the above task and complete it with utmost urgency.
- d) Locate the shelter within close proximity to the areas of concentration of homeless persons, and in no case beyond a 2 kilometre radius.
- e) Ensure appropriate communication campaigns and outreach to groups of homeless persons and wider society, on the availability, purpose and facilities at such shelters. This will also help in addressing the societal resistance to shelters for the homeless.
- f) Provide specific facilities and amenities at each shelter, such as adequate space, beds, blankets, mattresses, lockers, electricity and lighting, adequate ventilation, heating arrangements, adequate number of toilets and bathrooms, kitchen and food facilities, space for recreation, health referral services, identity cards, Public Distribution Services (PDS) coverage, linkage to cremation services, etc.
- g) Ensure separate shelters for homeless women, with provision of adequate security, crèche and child care facilities, and counseling services.
- h) Ensure that homeless persons are not required to furnish any proof of identity to enter and use such shelters, and are not levied user fees for staying in shelters or using toilets.
- i) Develop a system of periodic social auditing under Section 4 (b) of the Right to Information Act.
- j) Set up an institutional arrangement under the aegis of the Urban Development Ministry / Department to implement and manage the shelters and provide adequate financing for the one time construction and refurbishment costs and annual operational costs for each shelter.
- k) Set up a process to sensitise and build capacities of representatives of Urban Local Bodies, Municipal Authorities, local police and railway police personnel and representatives of other concerned departments with reference to implementation of this programme.
- l) Upscale the innovative model of joint management of shelters in Delhi (through the mechanism of the Joint Apex Advisory Committee) to other cities, while ensuring that primary responsibility and accountability of the programme for shelter lies with the government.
- m) Upscale the innovative practice of rescue services that are critical to ensure survival of the critically ill on the streets to other cities of the country.



Engaging with the Delhi Government

Several Delhi government agencies and departments have made attempts to address the issue of homelessness. These efforts, however, have been largely sporadic, uncoordinated and not sustainable. As a forum working to improve the lives of Delhi's homeless, SAM:BKS has engaged at multiple levels and on various issues with different government agencies.

6.1 MISSION CONVERGENCE

Mission Convergence or *Samajik Suvidha Sangam* is a much touted flagship programme of the Government of the National Capital Territory (NCT) of Delhi and is projected as a progressive and inclusive administrative measure to provide a 'single window' institutional mechanism for around ten departments⁵⁴ of the government for unifying social policies impacting the poor and for delivery of services to the poor. The main tasks of the Mission are to, "identify and recommend the welfare services which can be provided in consultation and co-ordination with the converging departments and to rationalize and streamline the implementation of the schemes related with social services."⁵⁵

Mission Convergence is implemented through District Resource Centres (DRCs), which are district level structures located at the office of the Deputy Commissioner of each district and are a single window for the community for welfare entitlement/schemes.

Acknowledging that the "nearly one hundred thousand homeless people are among the most vulnerable citizens of Delhi",⁵⁶ and are the "most heterogeneous, unorganized and voiceless community,"⁵⁷ *Samajik Suvidha Sangam* has been given the mandate to "reach out and serve this vulnerable population."⁵⁸

54 These include: Health and Family Welfare Department; Education Department; Women and Child Development Department; Social Welfare; Food and Civil Supplies; Labour; Urban Development; Information Technology; Scheduled Caste and Scheduled Tribe /OBC/Minority/ Backward Class Welfare Department and Corporation; and Municipal Corporation of Delhi (MCD), New Delhi Municipal Council (NDMC) and Delhi Development Authority (DDA), Technical Training Education.

55 Mission Convergence, Government of Delhi: <http://www.missionconvergence.org/vision-mission.html>

56 <http://www.missionconvergence.org/homeless.html>

57 Ibid.

58 Ibid.

6.2 ROLE OF MOTHER NGO AND HOMELESS RESOURCE CENTRES (HRCs)

The Governing Council of *Samajik Suvidha Sangam* in its meeting on 14 November 2008 constituted a Special Empowered Committee to bring convergence of schemes and services for the homeless in Delhi. The members of the committee were drawn from the various departments of GNCT of Delhi, MCD, New Delhi Municipal Council (NDMC) and subject experts working in this field. The Special Empowered Committee felt the need for a separate mechanism and structure to address the issues of homeless persons under the *Samajik Suvidha Sangam* structure. It was decided to have one Mother NGO (MNGO) and 5-6 NGOs for providing services for the homeless. The Committee also decided to constitute a three-member team consisting of Secretary, Social Welfare; Mission Director, Samajik Suvidha Sangam, and Harsh Mander⁵⁹ to develop the modalities for selection of organizations.

The committee drew up terms of reference, process for selection and the budget for the MNGO, and selected four NGOs for running five Homeless Resource Centres (HRCs).⁶⁰ The Community Medicine Department of St. Stephen's Hospital⁶¹ was selected to function as the MNGO, which started operating from August 2009.

The MNGO is supposed to be the interface between the implementing field NGOs (FNGO) and the concerned government departments. The functions of the MNGO include coordination with the FNGOs and provision of technical assistance to them through regular trainings and orientations. The FNGOs are supposed to submit reports to the MNGO periodically and the latter is supposed to compile them in a uniform format and evaluate and maintain a computerised archive for follow-up. Any FNGO observed to be incompetent or adopting fraudulent means can be recommended for removal or blacklisting by the MNGO to the government.

The provision of services for the homeless by HRCs include provision of “basic health and life support services, entitlements under government schemes, vocational training to develop livelihood skills, restoration and protection of dignity, hope and self esteem of the homeless, and mainstreaming of the homeless to help them come out of homelessness.”⁶²

SAM:BKS has engaged with the MNGO on various occasions and the experience has ranged from that of constructive dialogue and cooperation to serious differences in ideology and approach.

6.3 ROLE OF DELHI URBAN SHELTER IMPROVEMENT BOARD (DUSIB)

Delhi Urban Shelter Improvement Board (DUSIB), the agency which has taken over from the erstwhile Slum and *Jhuggi Jhopri* (JJ) wing of the Municipal Corporation of Delhi is primarily responsible for carrying out improvement in slum settlements as per its mandate under the DUSIB Act. One of the activities that DUSIB has to perform is the establishment of night shelters with all the basic amenities. Eighty-four permanent shelters and 147 temporary shelters are currently being financed by DUSIB and maintained by different NGOs in Delhi.

DUSIB needs to plan for and undertake construction of adequate number of 24-hour permanent shelters in accordance with the norms laid down by the Supreme Court – one shelter with space for 100 persons (or two shelters with space for 50 persons each) per one lakh (100,000) urban population. The results of the

⁵⁹ Harsh Mander was a member of the Executive Committee of SAM:BKS at that time.

⁶⁰ Indo-Global Social Service Society (IGSSS) was selected for North District, New Delhi and Central Districts for running two HRCs. Subsequently IGSSS withdrew because of ideological differences with the MNGO on the Unique Identification (UID) project. The other HRCs were run by Society for Promotion of Youth and Masses (SPYM) for South District; Nirmana for North-West District; and Humana People to People India for East District.

⁶¹ Mission Convergence, Government of Delhi. <http://www.missionconvergence.org/homeless.html>

⁶² Ibid.

rapid concentration mapping of the homeless population and resource mapping carried out by the Supreme Court Commissioners' Office and CSOs in Delhi to determine the locations of such shelters can be used for this purpose.

SAM:BKS's engagement with DUSIB has consisted of meetings and communication related to establishing sufficient and adequate shelters for Delhi's homeless, implementing standards of operation for shelters, providing basic services, including water, sanitation and healthcare in shelters, and releasing funds to pay caretaker salaries. DUSIB in turn has met SAM:BKS's efforts with hostility, which has also resulted in intimidation and refusal to cooperate.

6.4 CHALLENGES OF WORKING WITH THE GOVERNMENT

Ambiguity in the Role of the MNGO

Creation of HRCs under Mission Convergence as an institutional mechanism for providing various entitlements to homeless people has not resulted in the professed objectives being realised. The role of the MNGO is ambiguous, as the question of accountability is unclear. SAM:BKS has encountered several difficulties in its engagement with the government processes under Mission Convergence, which are attitudinal, ideological and structural. Despite the intended role of the MNGO to function as an interface between the government and NGOs, SAM:BKS has had to rely on the court to get even payments towards salaries of caretakers released for maintenance of shelters (several caretakers are homeless residents).

Ideological Differences

SAM:BKS and its members abide by the principle 'cooperate when you can and resist when you must.' In keeping with this, some of SAM:BKS's members actively involved themselves in the processes initiated under Mission Convergence with IGSSS, and a member of SAM:BKS, IGSSS, was made in charge of two HRCs. Ideological differences over HRCs being made the hub for UID/Aadhar cards for homeless people led to IGSSS withdrawing from the HRC.



Absence of a Spirit of Equal Partnership and Antagonism

Working with DUSIB is plagued with problems and is symptomatic of the issues that need to be tackled while working with the government. The approach of DUSIB is marked by a deep distrust of NGOs and absence of the spirit of an equal partnership. The ongoing case before the High Court of Delhi has helped to make DUSIB a little more accountable, but not without a lot of resistance, as manifested in willful defiance of court orders. DUSIB even resorted to questioning the credibility and integrity of SAM:BKS and some of its Executive Committee members were subjected to constant harassment by the Director, Night Shelters by raising questions about the source of funds that are being used by SAM:BKS to pay lawyer's fees and publish communication material. Again, the Court had to step in and issued notice to the Director, Night Shelters for contempt of court, terming his action in questioning SAM:BKS as, "interference in the course of administration of justice."⁶³

Attitudinal Issues

Despite the gradual realisation among some government officials that NGOs occupy the crucial position of equal partners in development work, the mindset of officials remains patronising, confrontationalist, and not conducive to collaboration. The role of human rights groups in a democracy includes monitoring and assessing the government's work and priorities. The government should not view this as confrontational, but should engage in active collaboration on development and implementation of programmes and policies. The arrogance and apathy of certain officials, however, makes effective partnership difficult, especially when also accompanied by corrupt practices. The method of government functioning is such that decisions are not taken in consultation with concerned stakeholders. For example, DUSIB unilaterally took a decision to impose a six-rupee user charge for temporary shelters. Reliance on the courts to make DUSIB and the other departments of the government accountable, is not ideal or sustainable.

Lack of Coordination and Delivery of Services

Despite the institutional mechanism of JAAC created by the High Court of Delhi, coordination for purposes of supervision and maintenance of shelters has not improved. The Core Committee of JAAC, constituted by DUSIB, under the orders of the High Court needs to meet regularly. Facilities in shelters have improved only marginally. Government health vans and health camps have not reached many of the shelter areas. In several shelters, where electrification was not possible and solar panels of greater capacity were promised, they have not arrived yet. The absence of drinking water, sanitation facilities and toilets continue to be a great source of worry for the homeless at many places.

⁶³ See, *Annexure XIX* for order of the High Court of Delhi dated 20.03.2013 and *Annexure XX* for order dated 07.08.2013.



Successes and Challenges

7.1 SUCCESSES OF THE EFFORTS

Human Rights Approach

One of the biggest contributions of SAM:BKS to the work on homelessness in Delhi has been that it has brought the language and spirit of human rights to the discourse on homelessness, and views the human rights of homeless persons as being grounded in the human right to adequate housing. SAM:BKS, therefore, believes that it is the state's constitutional, legal and moral obligation to respect, realise and protect the human rights of homeless persons. In the human rights approach to the issue, the 'housing continuum' assumes importance, and the provision of welfare services in the short-term, while moving up the continuum in the long-term is as important as respecting the human rights of homeless persons. These services include shelters for men, women, children, families and aged persons, community kitchens, health camps and rehabilitation centres for victims of substance abuse. SAM:BKS has stressed on the adoption of a combination of a humanitarian and human rights approach to address the issue of homelessness in India, and has successfully used the 'right to the city' to counter the government's antipathy towards migration of the poor to cities.

Public Hearing on Violence against Homeless Women in Delhi

Homeless women in Delhi face acts of violence on a daily basis, however, the media generally fail to report such atrocities and public authorities ignore their complaints. The plight of these women always seems to be unheard. In order to highlight the issues of violence faced by homeless women and girls, *Shahri Adhikar Manch: Begharon Ke Saath* organised a public hearing on 13 August 2013.

Twelve homeless women and girls testified in front of a jury consisting of Justice Leila Seth (former Chief Justice of the High Court of Himachal Pradesh), Justice A. P. Shah (former Chief Justice of the High Court of Delhi), Mr. Miloon Kothari (former UN Special Rapporteur on adequate housing), Ms. Ambika Pandit (a senior journalist with The Times of India), and Ms. Madhu Mehra (Director, Partners for Law in Development). More than 200 homeless men and women, representatives from CSOs, the media, and the general public attended the hearing.

The jury strongly condemned the acts of violence against homeless women in Delhi and proposed a series of recommendations for different actors to address the issue.

Accessing Entitlements

The efforts of SAM:BKS continue to be informed by the vast and rich experience of its member organizations and individuals, and the continuous generation of primary data. This has been utilised to assist the court and to set human rights standards for the establishment and maintenance of shelters. SAM:BKS has been able to increase the number of shelters in Delhi and improve the conditions in existing shelters. Advocacy for an inclusive agenda, building linkages with other cities, generation of primary data, getting voter cards, ration cards and labour cards, monitoring of shelter maintenance, and promoting accountability of government institutions, are areas where SAM:BKS has made considerable progress.

Strength in Numbers and Transparent Functioning

Mutual understanding and faith in each other and the cause that the network is fighting for taking precedence over differences on some issues has helped SAM:BKS to consolidate its efforts and achieve significant success on many fronts. The strength of a network like SAM:BKS is that each of the 20 member organizations brings a different perspective. SAM:BKS has been able to build on the strengths that the members possess. Regular meetings, open and transparent communication, and sharing of information and documents mark the functioning of the network.

Emergence of a National Movement on Homelessness

The experience and outreach of SAM:BKS with organizations and homeless groups working in other cities has led to the growth of a national movement on homelessness. The inclusion of the issue of homelessness by the Supreme Court in the 'right to food' case also has been used by the Commissioners and CSOs and individuals working on human rights across the country to strengthen linkages and platforms working on homelessness. SAM:BKS also co-hosted, along with the Supreme Court Commissioners' Office, Human Rights Law Network, IGSSS, and Housing and Land Rights Network, a national convention on homelessness in December 2011. This meeting also led to the decision to revive the National Forum for Housing Rights (NFHR).

SAM:BKS, through its active members, has also been promoting inter-city exchange visits of homeless groups, to better understand issues and learn of strategies being used in different parts of the country. This has led to the strengthening of the national movement on homelessness and in the issue of homelessness being addressed in a more holistic manner nationally.

7.2 CHALLENGES FACED BY SAM:BKS

Structural Issues

It is an inherent aspect in the functioning of such networks that some members will be more active than others. While the functioning of the network is marked by mutual respect and lack of ego tussle, more ownership and participation by inactive members is desirable. A coordinating team with clearly defined responsibilities has been created to manage the day-to-day functioning and activities of SAM:BKS. The effective functioning of this team will help guide and steer the network in the desired direction, will instill greater clarity and cohesion in the efforts, and will enable better coordination and communication.

Strategic Issues

The need to run good shelters which offer care, rehabilitation and support for the most vulnerable citizens has motivated many groups to come forward to run shelters, although the number of shelters needs to be scaled up. However, a shelter is not a destination but the first step in the journey towards ensuring that

the most marginalised are able to realise their human rights as citizens and workers in the city, and access their entitlements. A strategy for transition from one step to the next in the housing continuum is required, especially in the context of a huge deficit in housing for economically weaker sections (EWS). The policies and government actions that result in an acute housing shortage for the urban poor and the continued practice of forced evictions without adequate resettlement of the evictees need to be questioned. Good quality grassroots work and policy advocacy are not mutually exclusive, and both are needed in equal measure.

Mobilisation of the Homeless

Greater efforts are required for community outreach work and mobilisation. Shelters can be the points on which networks, of not only NGOs but also the homeless residents themselves, can be formed, so that they come together in their struggle. A consistent steering group is required. More community-based organizations of homeless persons need to be encouraged. Alliances with other groups in the city such as rag-pickers, construction workers, *rickshaw* pullers have been forged and could be strengthened further.

Training of Personnel for Shelter Management and Accountability of NGOs Managing Shelters

Another area of concern is the maintenance of shelters as per the standards that SAM:BKS has recommended to the court and the government. At times, the organizations running the shelters too are responsible for the poor conditions in the shelters. Incidents of violence, refusals for entry into the shelter, and use of abusive language by certain caretakers are prevalent. Limited understanding of the issue itself, unpreparedness for the job, pressure, lack of payment of salaries, biases, apprehensions about homeless persons and even irritation, are among the factors that influence the attitude and behaviour of caretakers. The issue of accountability of NGOs managing shelters needs to be addressed.

The detailed principles and guidelines for establishment and maintenance of shelters need to be established, along with orientation and training for personnel. However, in no instance can the general responsibility and accountability of the shelters be shifted away from the government.

All organizations should try and engage more students in the process. The youth need to understand and learn about the challenges faced by people on the streets. The presence of young people in the shelters will create a positive environment and will help in developing them into conscious and caring citizens.

Lack of Coordination and Resources

SAM:BKS and MNGO personnel carry out emergency work on the streets of Delhi for rescuing critically ill and abandoned persons. Such rescue work is a critical component of protecting the right to life. There is, however, need for a robust rescue team coordinated by the concerned government agency and allocation of adequate resources. Widely publicised helplines must also be set up for this purpose.

Participation of Women

A consistent effort of SAM:BKS, since its inception, has been to promote women leaders in the network and to bring in more women members. This has consisted of organising several workshops for homeless women on human rights and encouraging them to join the network. The SAM:BKS Executive Committee and Coordinating Team, both consist of 50 per cent women. Homeless women and girls are extremely vulnerable to abuse and violence. In a public hearing organised by SAM:BKS on violence against homeless women in Delhi (August 2013),⁶⁴ many homeless women narrated their painful experiences of living without shelter and suffering violence on the streets. Greater participation by women members in SAM:BKS, especially homeless women, will give greater visibility to the specific concerns of homeless women and strengthen their struggles.

64 For a report of the public hearing and statement of the jury, see:

http://www.hic-sarp.org/documents/Public_Hearing_on_Violence_against_Homeless_Women_in_Delhi_Report.pdf



Lessons for Other Cities

The efforts of SAM:BKS and other groups working with homeless persons in Delhi have yielded some successes as discussed above, but many challenges still remain. Due to relentless advocacy by SAM:BKS through the media and at the policy level, homelessness has emerged as a national issue that needs to be addressed by the government. The state government has been coerced in to performing its constitutional obligation of providing for the most vulnerable sections of people. The ongoing campaigns being conducted by SAM:BKS - for enrolment of homeless persons in the electoral rolls and to get them voter cards, ration cards and health insurance cards - are some instances of forcing the government to provide basic entitlements to homeless persons.

The situation is quite dismal for homeless persons in other parts of the country. In the ‘right to food’ case, the responses of many state governments, to the notice issued by the Supreme Court asking respective state governments to inform the court about the situation in their state regarding homeless people and measures being taken by the government to address the same, reveal the callous attitude of governments and the utter disregard for the human rights of the homeless.

Organizations working with homeless persons in major cities can benefit from the experience of SAM:BKS. Some valuable lessons that can be culled out from the above narrative are as follows:

- **Formation of a network based on mutual respect and transparent functioning**
 - Develop a network of groups and individuals working on the issue of homelessness and related issues of urban poverty, with a representative executive committee to steer the network and provide mentorship. A Secretariat, a Convenor/Coordinating Team and consistency in the membership of the Executive Committee is useful. While members of the network will have their own individual interventions and programmes, there should be a common minimum understanding in the group on certain non-negotiables.
 - Forge alliances with groups working with other marginalised and vulnerable communities on related issues of urban poverty.

- Conduct regular meetings, and promote open and transparent communication and sharing of information and documents, as these are essential to keep all members of the network informed of developments.
- **Develop a human rights framework to address homelessness**
 - Develop and adopt a human rights framework to address the issue of homelessness and the needs and entitlements of homeless persons, with a strategy to move up in the ‘housing continuum.’
 - Establish and maintain sufficient number of shelters that adhere to human rights standards.
 - Provide facilities for sections of the homeless with special needs, such as, de-addiction, counseling, medical care, rehabilitation, which could be referral-based.
 - Combine welfare and social security measures, and work within the realm of human rights to ensure that people do not die on the streets.
 - Question policies that render people homeless. Structural causes of homelessness, including distress migration and absence of low cost/social housing in India need to be addressed. Use any window of opportunity to engage in policy dialogue while working on the ground.
 - Develop campaigns to facilitate access to entitlements like enrolment in the electoral rolls, and provision of health insurance, ration and social security benefits.
 - Provide emergency response facilities to address the needs of critically ill and abandoned persons. Provide and publicise adequate helplines for the purpose.
 - Undertake human rights education (of the homeless, NGOs, government and judiciary).
- **Use judicial and quasi-judicial mechanisms**
 - Use the judicial process to seek redress for all acts of omission and commission by the state and its agencies in respect of the human rights of the homeless, and for enforcing the human rights of the homeless.
 - Use alternative mechanisms, such as the Right to Information Act, National/State Human Rights Commissions, and other Commissions with mandates pertaining to specific sections of the population such as Scheduled Castes, women, children, and minorities.
- **Conduct ongoing primary research and documentation and integrate the understanding into planning strategies and interventions**
 - Develop an understanding on the lives of homeless persons and their vulnerabilities, the structural causes of homelessness, and the human rights violations of homeless persons. This will help in clearing the myths surrounding the homeless, identifying their critical needs, designing interventions and planning strategies for advocacy at the policy level. Ongoing research projects should be undertaken to generate this understanding.
- **Sensitisation of society, especially the youth, and human rights education**
 - The younger generation, who have the potential to be the ‘change makers’ in society, need to understand and learn about the challenges faced by homeless people. While it is easy to form opinions and develop prejudices, they need to see the hardships people go through. Sensitisation of students by engaging with them in the different activities of an organization working with the homeless is necessary. The presence of young people in shelters will create a positive environment and will help in developing them into conscious and caring citizens.



Conclusion

The struggle over more than a decade in Delhi, which has had its ripple effects in other states, has definitely ensured that the homeless cannot be ignored any more – by the state, politicians, bureaucrats and civil society. Homeless concentration areas in Delhi are dotted with blue structures that are temporary shelters. Permanent structures with boards proclaiming '*Aashray Griha*' (homeless shelter) too dot the landscape. Homeless persons march to the DUSIB office to demand basic amenities in shelters, which have not been provided despite the Delhi High Court's orders.

Some amongst the homeless have identity and entitlement documents, such as, electoral cards, ration cards, labour cards and health insurance cards. Some homeless people are employed as caretakers in shelters and as community workers in NGOs. Sensitive and regular reporting by mainstream journalists reveals the multiple aspects of the life of homeless people and their struggles to survive on the city's streets despite all odds. While the movement still has miles to go, these tangible results provide the inspiration to go on.

After more than a decade, Delhi is ahead of the rest of the country in being aware of the existence of homeless people amongst them; in recognising their contributions as CityMakers, and in the provision of basic services to the homeless. This is due to the untiring efforts of CSOs and some individuals amongst the homeless under the umbrella of Shahri Adhikar Manch: Begharon Ke Saath.

Homelessness is but a manifestation of extreme impoverishment, with state processes and laws playing an active role in marginalising people, resulting in multiple deprivations. The flow can be stemmed only by relentless questioning of macro-level economic and developmental policies, not only at the national level, but also globally. Use of state power and resources for the greater common good can only be achieved by formation of cohesive forces that will place the common citizen's concerns in the forefront of all policies and actions and demand that the Constitution of India and international human rights law is implemented - in letter and spirit.

Annexures

Annexure I

LIST OF MEMBERS OF SAM:BKS

1. ActionAid India
2. Beghar Mazdoor Sangharsh Samiti
3. Business and Community Foundation
4. Butterflies
5. Centre for Equity Studies
6. Green Flag
7. Haq
8. Housing and Land Rights Network
9. Humana People to People
10. Human Rights Law Network
11. Indo-Global Social Service Society
12. Janpahal
13. Labour and Education Development Society
14. Mahila Pragati Ki Ore
15. Mandala
16. Nari Uthan Samithi
17. National Forum for Housing Rights
18. Nazdeek
19. Paigam
20. Prasar
21. Sharan
22. The Child Trust
23. Voice of Youth – BMSS

Annexure II

VISION AND MISSION STATEMENT OF SAM:BKS

Homelessness is both a result of inadequate state policies and response. Rising property and housing prices, land speculation, the lack of affordable and public housing options in cities and towns, lack of livelihood options in rural areas, and demolitions and displacement without adequate resettlement force many men, women, children and entire families to live on the streets. While there is no official government data on homelessness in India, the number of homeless people is on the rise.

A homeless person is considered to be someone who is not living in a “census house” and found living in adverse locations and precarious conditions such as on the roadside, pavements, drainage pipes, under staircases, in temples, and on railway platforms. Of particular concern are the threats faced by homeless women and children. The homeless population also consists of the destitute, handicapped, persons with disabilities, older persons, persons with mental illness, as well as workers of the unorganized sector. The majority of the homeless are employed and contribute to the city’s economy but are denied the basic rights of city dwellers.

While being denied a range of human rights, the most severe violations the homeless face are related to the human rights of:

- Adequate housing
- Food
- Health
- Work and livelihood

One of the greatest issues that homeless people struggle with is that of legal identity, as identity is integrally linked to place of residence and determines eligibility for a number of other benefits such as ration cards, voter identification cards and access to Integrated Child Development Services (ICDS) centres.

Origin

The last few years have witnessed several initiatives and efforts towards realizing the rights of Delhi’s homeless. Recently, a need was however perceived for a stronger and larger coalition consisting of groups and movements of the homeless to deal with the severity of the homelessness crisis in Delhi.

The Indo-Global Social Service Society (IGSSS) recently completed a survey in which it found that the number of homeless people in Delhi has increased more than 60 per cent since the last study conducted in 2000 by *Aashray Adhikar Abhiyan* (AAA). The study also revealed that the condition of homeless people has remained the same and there has not been any improvement in their lives. All government plans and programmes for the urban poor are limited to slum dwellers while the homeless are left to fend for themselves, against all odds.

Even the number of temporary shelters for the winter months has remained static over the period, and the condition of the aged, women, handicapped and children has worsened. A large numbers of families have been rendered homeless due to displacement and demolitions and are living out in the open. While government response has been inadequate, the number of non-government organizations working with the homeless is also insufficient.

Several organizations thus came together in September 2008 and agreed on the need to work collaboratively on the issue of homelessness as the problems are multi-dimensional. These discussions led to the creation of SHAHRI ADHIKAR MANCH: BEGHARON KE SAATH (*Urban Rights Forum: With the Homeless*).

The main purpose of this Manch is to develop a platform to work with and for the homeless people and ultimately to enable them to lead their own movement and advocate for their own rights.

Vision

To promote and protect the human rights of the homeless, as guaranteed by the Indian Constitution and international human rights instruments, and to ultimately secure adequate housing for all homeless people.

Mission and Objectives

- To work on the issue of homelessness in solidarity with the homeless and organizations concerned about them for protecting their human rights;
- To develop stronger networks and links between homeless people and government and non-government agencies.
- To include involved stakeholders to act as facilitators on this issue.
- To develop and support strategic actions to strengthen and expand partnerships for the cause.
- To make government schemes accessible to the homeless.
- To ensure the participation of the homeless in government policies and programmes;
- To empower the homeless to advocate for their own rights.
- To facilitate health and livelihood training options, and promote social security for the homeless.
- To focus on specific issues of homeless women and children
- To set up mechanisms at state and city levels to monitor the conditions of the homeless and the effectiveness of interventions targeting them.
- To promote human rights education around issues of homelessness and rights of homeless people.
- To assist the homeless in gaining recognition of their identity.

In the short-term, the Manch aims to improve response to the crisis of homelessness by ensuring better services for the homeless, including through the provision of shelters, kitchens, and access to other basic services and livelihood options. The ultimate long-term goal is to ensure the provision of adequate and secure housing for all homeless people by holding the state accountable to its national and international legal commitments.

Guiding Principles

The Manch will operate on the principle of collective identity, not of the identity of member organizations/ individuals. The following principles will guide the work and action of the Manch:

- Transparency
- Participation and inclusiveness
- Gender equality
- Non-discrimination

Action Points

To achieve the Vision and Mission of the Manch, the following immediate action points have been planned:

- Focus initially on the four entitlements of: housing/shelter, food, identity and health.
- Initiate dialogue with the government for more and improved shelters and health facilities.
- Strengthen links between government and non-government agencies to improve service delivery.
- Focus on increasing the number of temporary shelters in winter and increase the number of permanent shelters.
- Create separate shelters for women, children, and medical support shelters.
- Start meal kitchens for the homeless.
- Make medical facilities accessible to the homeless.
- Start a helpline for the homeless.
- Secure ration cards and Voter ID cards for the homeless.
- Facilitate the formation of community-based organizations (CBOs), including women's CBOs, of the homeless.
- Initiate capacity building and training programmes for homeless people.
- Advocacy with the media to highlight the problems being faced by the homeless.
- Networking with institutions like National Human Rights Commission (NHRC), National Commission for Women (NCW), National Commission for Protection of Children's Rights etc. for the basic rights of the homeless.
- Sensitizing the general public, civil society and government officials in order to counter myths about the homeless.
- Engage the corporate sector and other sectors of society to join the campaign and contribute to measures towards ameliorating the crisis of homelessness.

Shabri Adhikar Manch has been created in a spirit of participation and inclusion to strengthen the movement of the homeless in their struggle for their own rights and to address the structural causes of homelessness. Over 20 organizations and individuals have resolved to work together, in whatever capacity they can, to tackle the homelessness crisis in Delhi. The Manch invites interested and concerned organizations and individuals committed to the issue to join and help build the movement.

For more information, please contact: shabriadhikarmanch@gmail.com

PRESS RELEASE



Coalition of the Homeless Condemns Demolition of Homeless Shelter in Delhi

New Delhi, 23 December 2009: On the afternoon of 22 December, at 2 p.m., the Municipal Corporation of Delhi (MCD) demolished a temporary night shelter for the homeless on Pusa Road, near Jaypee Siddhartha Hotel.

The shelter, which had been set up by the Government of National Capital Territory (NCT) of Delhi only a week ago provided some respite from the bitter cold winter nights for around 250 homeless people, ranging from newly born infants (3 days old) to immobile elderly persons (85 years).

The incident is all the more alarming given that the number of shelters for Delhi's over 100,000 homeless people is grossly insufficient and inadequate. Despite the increase in the number of homeless people, the number of shelters has fallen from 46 in 2008-09 to just 24 in 2009-10; an occurrence for which the government has no explanations. The current shelters cater to only 3 per cent of Delhi's homeless population.

With complete disregard for the dignity and rights of the people in the Pusa Road shelter, the MCD officials destroyed the tent and confiscated all the blankets. People were barely able to salvage their meager possessions, and since then have been up all night in fear of the police and civic authorities. More than 15 children below the age of one year and a total of around 20-30 children do not have adequate warm clothes and woollens, and only fall asleep after sunrise as they are unable to sleep at night due to the bitter cold.

Shahri Adhikar Manch: Begharon ke Liye (Urban Rights Forum: For the Homeless)—a coalition of over 30 Delhi-based organizations and homeless people—strongly condemns this act of the MCD, which violates the human rights of Delhi's homeless. Such actions are also a direct contravention of the Indian Constitution and international human rights law.

The stated reason for the demolition of the shelter was to grow grass as part of the “beautification” drive in the run up of the Commonwealth Games. It is shocking that the government prioritises growing grass over providing shelter and protecting the human rights of the city's most marginalised.

At the time of the demolition of the shelter, most adults were at work; it was mainly women, children and elderly persons who were present and had to face the onslaught of the authorities and abuse of the police force.

Shahri Adhikar Manch took up the matter with the administrative officials who said that they were aware of the situation, but seemed to be helpless, as they were caught between the competing demands of the MCD and Government of NCT of Delhi. Worse still, the homeless were threatened to vacate not just the shelter but

also the neighbourhood, failing which they were threatened with police action. The Revenue Department, in charge of setting up the shelters has not responded, despite being contacted several times.

Shahri Adhikar Manch categorically condemns this hostile attitude of the state towards Delhi's homeless population, and urgently calls upon the Delhi government to:

- immediately set up an alternative night shelter in the same vicinity;
- increase the number of homeless shelters in Delhi as per the requirement submitted to the Government of NCT of Delhi;
- urgently make available the various vacant government buildings, community centres and other unused premises as night shelters;
- conduct a comprehensive survey and needs-based assessment of homeless people in Delhi; and,
- set up permanent night shelters for the homeless, including for homeless women and children.

For more information, please contact: shahriadhikarmanch@gmail.com

THE TIMES OF INDIA, NEW DELHI
FRIDAY, DECEMBER 25, 2009

Out in the cold on X-mas eve

MCD Demolishes Night Shelter Put Up By Delhi Govt To 'Beautify' Park For 2010 Games

Ambika Pandit | TNN

New Delhi: Under a dark winter sky, Tara shivers as she battles to save her two-month-old daughter Nirmala from the cold. With the mercury plunging, the only protection the infant has are sheets of plastic which keep

out the dew but can't prevent cold from seeping in. Tara and Nirmala

are among 250-odd homeless people who have just lost their secure cover for the winter — a temporary night shelter at Pusa Road put up by Delhi government last week but demolished by MCD on Tuesday afternoon.

MCD's logic: The park has to be "beautified" for the Commonwealth Games. Besides, it says, the shelter

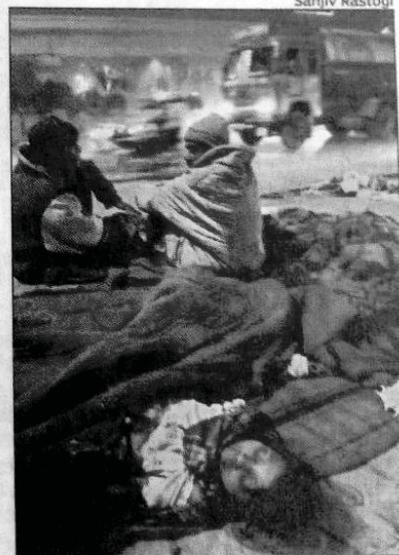
was an "encroachment" leading to unsanitary conditions and a traffic hazard. MCD seems to have woken up to the "problem" rather late, since the city government has been putting up the shelter at the same spot every winter for the past three years.

There were at least 15 infants among those who used the shelter — the youngest being just three days old.

When TOI visited the spot on Wednesday night, these hapless people were spending the chilly night in the open, crouching along the grills aligning the park near the busy Pusa Road roundabout. Many said they had developed fever due to exposure.

► Shelter built illegally: MCD, P 7

UK broadcaster warns DD over Games deal: P 13



NOWHERE TO GO: Over 250 people, including at least 15 infants, have lost their only shelter from the winter chill

PRESS RELEASE



Experts Condemn Government Callousness towards Delhi's Homeless

- Only 24 shelters for Delhi's over 1 lakh homeless; only 1 night shelter for city's 10,000 homeless women
- Despite increase in homeless population, number of shelters lower than last year (from 46 to 24)
- MCD destroys homeless shelter in Pusa Road, despite bitter cold conditions and plummeting temperatures; 35 year old dies from the cold
- No comprehensive government policy to address the root causes of homelessness
- Human rights violations of Delhi's most marginalized, especially homeless women & children

New Delhi, 4 January 2010:

At a press conference organized by the *Shahri Adhikar Manch: Begharon Ke Saath (Urban Rights Forum: With the Homeless)*, homeless residents of Delhi and leading human rights experts strongly criticized the apathy and irresponsibility of the various government departments in addressing the crisis of homelessness in the capital. In a city that prides itself on its aspirational “world-class” status, it is a national shame and glaring failure of the state that so many people continue to be forced to live on the streets without any available recourse. Despite persistent civil society efforts, media attention, and pressure on the municipal and state governments to address issues related to homelessness and be prepared to handle the exacerbation of the crisis in the winter, the situation only seems to get worse with each year.

The lack of coordination between the Municipal Corporation of Delhi (MCD), the New Delhi Municipal Council (NDMC), and Departments of Social Welfare and Revenue of the Government of National Capital Territory (NCT) of Delhi, results in no agency claiming responsibility, with each one passing the buck to the other. Tragically, it is the homeless who suffer from this unfortunate bureaucratic impasse.

According to **Miloon Kothari**, former United Nations Special Rapporteur on adequate housing, “The government needs to be held accountable for the persistent human rights violations against the homeless. There is an urgent need for a combined human rights and humanitarian approach to uphold the rights of men, women, youth and children to adequate housing, security of the person, water, health, food and work. Failure to take these steps indicates a clear violation of India's commitments under constitutional and international law.” He elaborated that a human rights approach to addressing homelessness would involve dealing with the structural causes of homelessness—including the lack of an effective comprehensive policy

to address the housing rights of Delhi's poor, non-existence of low cost and public housing options; large scale eviction drives and slum demolitions without adequate livelihood-based rehabilitation; shift in land use towards intensive infrastructure development—and taking immediate measures to ensure that all city inhabitants are able to live in homes that are safe and secure and adequately serviced. The severe winter, however, calls for an immediate and focused humanitarian response in the form of adequate, warm, and clean shelters that provide all basic services and are located close to people's sources of livelihoods. The city, tragically, has failed on this front as well. From 46 shelters in 2008-09 in Delhi, the number of homeless shelters in 2009-2010 has fallen to 24 (16 temporary), despite an increase in the number of homeless people.

Indu Prakash Singh, homeless rights activist mentioned that, “in compliance with the Delhi Master Plan 2021, the government should be working towards the establishment of 150 night shelters, while on the contrary the government is bringing down the number of shelters, which is further pushing the homeless into destitution.” He also spoke about the skewed priorities of the government as it routinely violates people's human rights to ensure that the targets of the Commonwealth Games are met.

The recent demolition of the Pusa Road night shelter on 22nd December, 2009, reflects not just an abrogation of legal obligations of the MCD but is linked to the government's policy to further marginalize and criminalize the city's poor and homeless. The MCD, for example, has shockingly stated that growing grass in the city's open spaces is more important than ensuring shelters for the homeless. Its claim that the shelter was illegal is entirely baseless, given that it was set up by the Department of Revenue, Government of NCT of Delhi. Despite earnest requests to provide immediate relief to the homeless of Pusa Road along with an alternative temporary shelter, the government did not respond for two weeks. Speakers strongly condemned state inaction which led to the tragic death of a 35-year old balloon seller who was among the 250 rendered shelterless by the MCD. **Usha Ramanathan**, a senior law researcher, said that, “There is an appalling disrespect for the lives of the poor. When people die because they are exposed to the elements, it is not a natural death. It is death caused by neglect and reckless disregard of the responsibility of the state to protect the lives of the poor. It is as if the poor do not matter. As if they have to keep paying for their poverty, even with their lives.” She also mentioned the unjust *Bombay Prevention of Beggary Act 1959*, which is routinely used to round up and detain the poor and homeless.

Mansoor Khan of the *Beghar Mazdoor Sangharsh Samiti* – a movement of the homeless, highlighted the plight of homeless women and children. He also made several demands from the government on behalf of *Shabri Adhikar Manch* – a broad-based coalition of organizations and the homeless in Delhi. These include: the immediate setting up of adequate shelters where the homeless are; provision of basic services; better coordination among government departments; accountability of government officials; opening of vacant government buildings, community centres and unused premises for the homeless; and establishing permanent night shelters for the homeless, including for homeless women and children. An urgent action plan to tackle homelessness with defined timelines and prioritized intervention needs to be determined by the State.

The Indian government is bound by constitutional and international human rights law to respect, protect and fulfill all human rights. The UN Committee on Economic, Social and Cultural Rights in 2008 also called upon India to address the issue of rising homelessness, including the need for disaggregated data on the homeless. There is a critical need for all government departments to consolidate efforts and take urgent measures to protect the rights of Delhi's homeless. Continued failure to take the required measures is nothing short of criminal negligence of Delhi's poor, and dereliction of duty of elected and appointed officials at all levels of government.

For more information, please contact: shahriadhikarmanch@gmail.com

Annexure VI

Tuesday, Jan 05, 2010

COLD WORSENING PLIGHT OF THE HOMELESS

Smriti Kak Ramachandran



Photo: AFP

Nowhere to go: Homeless people on roadsides making do with blankets to protect themselves from the biting cold in Delhi on Monday.

NEW DELHI: As the mercury continues to slide down further and icy winds gather momentum, over a hundred thousand people across the Capital are struggling to stay alive. No roof over their heads to shield them from the biting cold and not enough woolens to keep them warm, the homeless people in Delhi have been literally left out in the cold, alleges Shahri Adhikar Manch: Begharon Ke Liye, an urban rights forum for the homeless.

Charging that two persons have already succumbed to the severity of the cold wave, the forum -- a coalition of 30 non-government organizations -- now intends to file public interest litigation in the Delhi High Court and petition international forums like the United Nations to direct the Central and State Governments to step in and provide shelter to the homeless in Delhi.

Addressing media persons on Monday, Mansoor Khan of Beghar Mazdoor Sangharsh Samiti narrated the plight of the homeless and the conditions that night shelters run by the government are in.

He said the recent demolition of a temporary night shelter on Pusa Road that left more than 200 people affected was a glaring example of government “apathy”.

“The Government demolished a night shelter in Jama Masjid on the basis of a statement of a religious head that terrorists come and stay there. In Fathepuri the shelter is used as a jail for Bangladeshi nationals. Despite our efforts and the directions of the court, we have not been able to procure ration cards and voter identity cards,” he said.

Blaming the “bureaucratic set-up” where the State Government and the Municipal Corporation of Delhi have been unable to converge on the issue of rehabilitation of the homeless, Miloon Kothari, former UN Special Rapporteur on Adequate Housing, said the Government needs to be held responsible for the human rights violations of the homeless.

“From 46 night shelters in 2008-09, the number of homeless shelters in Delhi in 2009-10 has fallen to 24, of which 16 are temporary, despite an increase in the number of the homeless. Two deaths have already been reported. It is clear that the Commonwealth Games is the Government’s priority and not the vulnerable poor in the city. The Government should call off the Games and use the infrastructure for the development of the people,” he said.

Also, accusing the Government of failing to protect the rights of the poor, Usha Ramanathan, international expert in jurisprudence of law, poverty and rights, said the two deaths that have been reported should not be treated as “natural”.

“Deaths in the cold are not natural death. This happens year after year. It’s a situation that the Government needs to be prepared for and these are avoidable deaths. These deaths are no less a crime, they are a result of neglect and deliberate omission on the part of the Government,” she said.

Pointing out that the Government has failed to secure the rights of the poor, she said: “The poor have always been seen as encroachers on public spaces and land; they are not seen as human beings. The State has been actively making sure that the poor cannot acquire any rights.”

Ms. Ramanathan criticised the Bombay Prevention of Beggary Act of 1959 that treats beggars as criminals.

Indu Prakash Singh, who works for the rights of the homeless, said: “As per Delhi’s Master Plan-2021 the Government was to have one shelter per one lakh people, which means there should have been 140 shelters in the city. There is gross neglect by the Government on its own plan.”

Annexure VII

LETTER OF THE FORMER UNITED NATIONS SPECIAL RAPPORTEUR ON ADEQUATE HOUSING TO THE CHIEF JUSTICE OF THE HIGH COURT OF DELHI

Miloon Kothari

Former United Nations Special Rapporteur on Adequate Housing

B-23 Nizamuddin East

New Delhi – 110 013

miloonkothari@vsnl.net

Honourable Justice A.P. Shah
Chief Justice, Delhi High Court
9, Akbar Road
New Delhi

10 JANUARY 2010

Respected Justice Shah,

As former Special Rapporteur on the right to adequate housing with the United Nations Human Rights Council, I would like to congratulate you on the *suo moto* case you initiated against the Municipal Corporation of Delhi for its demolition of a temporary night shelter for the homeless at Pusa Road. Your initiative and action is truly commendable, and offers much hope for the homeless as well as those of us advocating on their behalf. The order issued by your bench is extremely timely and important and I wholeheartedly welcome it, particularly the stress placed by you on the responsibility of the MCD to protect Delhi's homeless people and the need to provide shelters during the winter.

As UN Special Rapporteur (2000 – 2008) and subsequently, I have been closely following the issue of homelessness across the world, with a special focus on Delhi, as I live here. Being homeless for anyone is a cruel reality. In Delhi it is even worse as we unfortunately live in a hostile city. New Delhi's high crime rate and unsafe streets make homeless women and children especially vulnerable to sexual assault, rape, abuse, and oppression. What is particularly alarming in Delhi is the fact that despite the existence of several government bodies that are charged with responsibility for addressing the issue of homelessness, the situation on the ground is only worsening. The continued lack of coordination between the Municipal Corporation of Delhi (MCD), the New Delhi Municipal Council (NDMC), and Departments of Social Welfare and Revenue of the Government of National Capital Territory (NCT) of Delhi, results in no agency claiming responsibility, with each one passing the buck to the other. Tragically, it is the homeless who suffer from this unfortunate bureaucratic impasse. This is evident in the case of the recent demolition of the Pusa Road temporary night

shelter by the MCD. The MCD claims that the shelter was illegal and the people were encroachers, when in fact the shelter had been set up by the Department of Revenue, Government of NCT of Delhi. This, once again, reflects lack of coordinated action between the agencies, and major lapses in governance in Delhi.

Delhi's harsh winter makes the crisis of homelessness even more acute, with three homeless people already succumbing to the cold in this season on Delhi's streets. Bhima, a 35-year old balloon seller died on 31 December 2009 at Pusa Road after the shelter was demolished by the MCD, and a young rickshaw puller died on 8 January 2010 of the cold in Yamuna Pushta. I have just learnt that yesterday (9 January), a 60-year old man succumbed to the cold at Hanuman Mandir, Connaught Place. Such deaths are not natural but preventable. They further provide evidence of state negligence and apathy. Instead of taking emergency measures to provide immediate adequate shelter to the homeless who face the worst brunt of the cold, the government is evicting them from the places where they work and sleep. Such state-sponsored actions are highly condemnable, and are also a direct contravention of the Indian Constitution and international human rights law.

As you might already know, the number of shelters for Delhi's over 100,000 homeless people is grossly insufficient and inadequate. Despite the increase in the number of homeless people this year, the number of temporary night shelters has fallen from 46 in 2008-09 to just 24 in 2009-10; an occurrence for which the government has no explanations. The current shelters cater to only 3 per cent of Delhi's homeless population. The majority of the homeless are out in the open, left to fend for themselves in the severe cold.

For instance, in Old Delhi, Chandni Chowk, the walled city area, and across other localities in Delhi, such as Bhogal, Kamla Market, Hanuman Mandir, R. K. Puram, on any given night, one can find hundreds of homeless women, men, children, and elderly persons sleeping out in the freezing cold, lying in rows upon rows on cold pavements and under bridges and flyovers. There are, however, no attempts by the government to assess the number of homeless in Delhi or to provide shelters where the homeless are located. This is the reason why several shelters, including the only women's shelter located in Sarojini Nagar, are not fully occupied. Furthermore, the terribly inadequate conditions in the shelters, including lack of blankets, hygiene, warmth and safety, results in many homeless people not frequenting them. It is not enough for the government to state that shelters are not occupied to full occupancy levels, but to understand the reasons for low occupancy. If adequate, warm, safe and clean shelters that provided basic services were located close to people's places of work, the homeless would definitely use them. This is evident from my sustained interactions with homeless people in Delhi. Homeless groups have also identified areas where shelters are most needed. This priority list of 44 temporary night shelters, I learn, has been submitted by them to the concerned government departments, but there has been no official response or effort to instate shelters in these areas of high concentrations of homeless people.

There are several provisions for the homeless in local laws and policies too, which the government is also violating. The *Delhi Master Plan 2021* clearly calls for the provision of night shelters, one shelter for one lakh of the population. Instead of working towards the establishment of 150 night shelters as per the Master Plan, the government on the contrary has reduced the number of shelters, thus further pushing the homeless into destitution. The *Delhi Municipal Corporation Act 1957* also stipulates the "construction and maintenance of poor houses and provision of shelter and relief for destitute persons."

Despite your progressive order to the MCD, prohibiting evictions of the homeless in the winter on humanitarian grounds, I am extremely disturbed to hear of yesterday's violent eviction of over 400 homeless people, including men, women and over 100 children at Pul Mithai, Sadar Bazaar, by the Railway Protection Force and Delhi Police, along with officials of the MCD. What is shocking is that the police used *lathis* to beat women and children and also burnt and destroyed their meagre belongings. A complaint was filed by the victims in the local police station but the police have still not registered an FIR. I have been told that 60 of the evicted families are Dalits. The displaced are still sitting out in the freezing cold with their salvaged belongings, with nowhere to go. Many of them are apparently construction workers employed for the Commonwealth Games. Instead of providing them housing and basic services, the government is evicting them from their places of work and confiscating their few possessions. I find this trend of rising

state discrimination and violence against the poor a matter of deep concern, as I'm sure you do. As you also mentioned in your order, the marginalisation of the city's poor and homeless for the Commonwealth Games and "city beautification," is alarming.

The continued failure of the Delhi government to provide shelter for the homeless is also a gross violation of a range of internationally recognized human rights, in particular, their rights to adequate housing, livelihood, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement.

The issue of homelessness in India, as you probably know, has also received international attention. In October 2004, following the eviction of around 100 homeless women and children from the Palika Hostel night shelter by the New Delhi Municipal Corporation (NDMC) in Delhi, I had issued a public statement calling attention to the plight of homeless women in Delhi. In that statement I had called for: government bodies to immediately provide alternative housing for the displaced women and children in an adequate shelter, close to the original location; the creation of more shelters and adequate housing that provide basic amenities and are located close to livelihood sources of the poor and homeless; and for relevant authorities to take necessary steps to investigate alleged human rights violations, including excessive use of force in the eviction.

The UN Committee on Economic, Social and Cultural Rights in May 2008, in its Concluding Observations on India, called upon the Indian government to address the issue of rising homelessness, including the need for disaggregated data on the homeless. In particular, it mentioned:

30. The Committee is concerned about the lack of a national housing policy, which particularly addresses the needs of the disadvantaged and marginalized individuals and groups, including those living in slums who are reportedly growing in numbers, by providing them with low-cost housing units. The Committee also regrets that sufficient information was not provided by the State party on the extent and causes of homelessness in the State party.

70. ...The Committee also requests the State party to provide, in its next periodic report, detailed information on homelessness in the State party and the extent of inadequate housing, disaggregated by, *inter alia*, sex, caste, ethnicity and religion.

The number of cold related deaths in North India is on the rise. With plummeting temperatures and dense fog conditions, the cold wave is likely to get worse. The homeless are the most threatened by this severe cold. It is not just the MCD but all departments and agencies of the government that need to prioritise the issue of homelessness and consolidate efforts to provide basic services as well as adequate and permanent shelters for Delhi's homeless.

I would like to take this opportunity to make the following suggestions for action from all responsible government bodies:

- Conduct a comprehensive survey of the homeless in Delhi, collect disaggregated data and identify where shelters are needed;
- Immediately set up more temporary night shelters for the homeless (as per demands submitted by civil society organizations and the homeless) that provide basic amenities and services like blankets, toilets, water and sanitation, and are located close to their livelihood sources;
- Provide separate shelters for homeless women and children, and families;
- Urgently make available the various vacant government buildings, community centres and other unused premises as homeless shelters;

- Create permanent, year-round shelters for the homeless, as the crisis of homelessness does not only exist in the winter but is a perennial one;
- Prosecute those responsible for the evictions of the homeless, especially those using force against women and children;
- Develop a comprehensive policy to address the housing rights of Delhi's poor.

The human right to adequate housing is protected by international human rights and humanitarian law. The Universal Declaration of Human Rights recognizes the right of everyone “to a standard of living adequate for the health and well-being of himself and of his family.” The International Covenant on Economic, Social and Cultural Rights, in Article 11, paragraph 1 specifically enumerates the right of everyone to an adequate standard of living, including adequate housing. The Committee on Economic, Social and Cultural Rights, which monitors the implementation of the Covenant, has defined the core content of the right to adequate housing in its General Comment No. 4 while specifically condemning forced evictions as a gross violation of human rights in its General Comment No. 7. As State Party to the Covenant, the Indian government is legally bound to adhere to the Covenant, and to use the interpretive standards formulated by the Committee, such as the relevant General Comments, as a basis in formulating its laws and policies.

The *UN Basic Principles and Guidelines on Development-based Evictions and Displacement* (which I presented in my 2007 report to the Human Rights Council) stipulate that evictions can only take place under “exceptional circumstances” and provide detailed operational guidelines mandating due procedure and adherence to international human rights law prior to, during, and after evictions.

Justice Shah, I once again would like to express my appreciation of your proactive action in protecting the rights of Delhi's homeless residents. It is greatly encouraging to know that the judiciary has judges like you who are sensitive to the interests of the poor and marginalized of this country. I commend your order and sincerely hope that the hearing on 13 January in your court on this case will result in a favourable long-term outcome for Delhi's homeless.

If there is any way that I could be of assistance, please do not hesitate to contact me.

Justice Shah, please be assured of my highest consideration.

Best regards,

Miloon Kothari

Former Special Rapporteur on Adequate Housing

United Nations Human Rights Council

Annexure VIII

DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001

January 13th, 2010.

To

The Registrar

Supreme Court of India

New Delhi.

**SUBJECT: RELIEF FOR HOMELESS PEOPLE LIVING ON THE STREETS OF DELHI, IN THE
CONTEXT OF COLD-WAVE RELATED DEATHS**

Dear Sir,

The Commissioners of the Supreme Court would like to bring to the notice of the Hon'ble Supreme Court the appalling conditions of the right to food and shelter of people living on the streets in Delhi, especially in the current context of extreme cold weather. There have been several reports in the media in the last few days regarding deaths of homeless people as a result of the very low temperatures experienced by Delhi this year. These deaths could have been avoided had there been proper implementation of directions of the Hon'ble Supreme Court of India (in CWP 196/ 2001) with regard to the food schemes on the food including the ICDS, MDMS, PDS, NREGA, Antodaya Yojana, NOAPS, NFBS and NMBS in the state of Delhi and further, provision of shelter for people living on the streets.

Vulnerability of Homeless People

It must be realized that malnutrition and hunger are the underlying causes making people susceptible to extreme weather conditions. There is ample scientific evidence that shows that due to an increase in the basal metabolism rate (BMR) with a fall in temperature, higher calories are required by the body to maintain body temperature. For instance a report of the World Health Organization (WHO) on Nutritional Needs in Emergencies states, "A cold environment increases an individual's energy expenditure—especially if shelter, clothing and/or heating are inadequate. Current convention uses an average temperature of 20°C as a base, adding an allowance of 100 kcal for every 5° below 20°C as shown in the box below:

Adjustments to energy requirement mean daily temperature	
20° C	—
15° C	+ 1 0 0 k c a l
10° C	+ 2 0 0 k c a l
5° C	+ 3 0 0 k c a l
0° C	+ 4 0 0 k c a l

Source: The management of nutrition in major emergencies. WHO. Geneva, 2000"

Therefore, people require more food to remain healthy, as the temperature decreases. This makes homeless people who already have low levels of access to nutritional food and high malnutrition rates¹, vulnerable to cold weather.

¹ For more information on conditions of living of homeless people, especially in relation to their access to food and nutrition please see the Eighth Report of the Commissioners. A copy of the chapter on the Urban Homeless from this report, is also enclosed here.

Further, studies have also shown that the limited resources available with homeless people are spent on keeping themselves warm when there is a major dip in temperatures, resulting in a shift of expenditures away from food and other essential items. This again is one of the reasons why, homeless people require additional nutritional support, especially during severe weather conditions².

Negligence by Delhi Government

While Delhi this year is witnessing some of the coldest temperatures in the last decade, the Government of Delhi has not taken the required steps to protect the people living on the streets from this extreme weather. While during last year, there were 46 shelters during winters, which included 17 permanent shelters and 29 temporary shelters, this year the number has been reduced to 33 (17 permanent + 16 temporary shelters). Further, out of these 16 shelters, one was demolished. It is imperative that the Government of Delhi responds to this situation immediately by setting up more shelters and protecting homeless people from the cold.

Further, in spite of repeated reminders from the Supreme Court Commissioners, the Government of Delhi is yet to distribute ration cards to homeless people in Delhi for nearly 3 years after these directions. The Commissioners had directed the Delhi state government in its letter dated March 2007 to cover all homeless populations by AAY cards in six months from the date of instruction. The Delhi government decided in the deliberations of the cabinet that the homeless families would be identified among the poorest of the poor, or Antyodaya. In compliance with these decisions and instructions, the Commissioner of Food and Civil Supplies, Government of Delhi, undertook with the help of civil society organizations a massive survey over the seven months of homeless families in many corners of the city. Up to now, it completed the survey of around 15,000 urban homeless families. While some of these people were symbolically given ration cards by the Chief Minister in a public function on August 15th, 2009, none of them have yet been able to lift any rations using these cards. Further, most of those identified by the survey are yet to even receive ration cards.

Orders of the Delhi High Court on the issue of shelter for the homeless

The issue of recent deaths of people living on the streets due to lack of shelter and protection from the cold and eviction of people from existing shelters in Delhi was brought to the notice of the Delhi High Court by some civil society groups. The High Court of Delhi took cognizance of this and has issued interim orders to the following effect on 13 Jan 2010:

- The Municipal Corporation of Delhi (MCD) has been directed to provide shelter for everyone in the long run and in the short run the High Court has ordered the immediate installation of adequate tents and blankets at Pusa Road, to accommodate all the people who were earlier there.
- The High Court has stated that no further evictions should be allowed anywhere in Delhi during the winter.
- The MCD has also been asked to provide its policy on night shelters.
- The High Court has also asked the MCD for its plan to meet the requirements of the Master Plan of providing 140 shelters in Delhi.

Accountability of the Government and Chief Secretary

As per the direction of this Hon'ble Court in CWP 196 of 2001 dated 08.05.2002 and 29.10.2002 it has been clearly stated that the accountability of any starvation deaths lies with the Chief Secretary. It has also been mandated by this Hon'ble Court that the Chief Secretary will be responsible for any persistent default in compliance with the orders. In the context of Delhi, with multiple authorities, this responsibility must include the Municipal Commissioner of the Municipal Corporation of Delhi, Chairperson of New Delhi Municipal Corporation and CEO of the Cantonment Board. This Hon'ble Court had directed the undersigned

² A study in Kyrgyzstan by HelpAge International found that vulnerable households prioritised heating over nutrition in the winters (Report of the UN Office for the Coordination of Humanitarian Affairs for the Kyrgyz Republic)

to monitor the implementation of its orders and make representations wherever necessary to the concerned State Government. On a number of occasions said representations have been made to the State Government, but to no avail.

Further, this Hon'ble Court has categorically stated that one of the prime responsibilities of the government whether Central or State is prevention of hunger and starvation³. It has further laid down in detail⁴ that the Gram Sabhas are mandated to conduct social audits and ensure the implementation of the orders of this Hon'ble Court and the various schemes of the Government.

Further, by refusing to provide ration cards to the homeless in Delhi and by reducing the number of night shelters that are utilized by the homeless especially in the present weather conditions the Government of NCT of Delhi has violated the fundamental rights of the homeless persons guaranteed under Chapter III of the Constitution of India. Specifically, the right to life guaranteed under Article 21 has been infringed by the Government of NCT of Delhi. The state government has violated the right to access to food read under the right to life that has been guaranteed before and is also specifically being sought in the present case before this Hon'ble Court, the right to shelter a guaranteed by this Hon'ble Court in *Olga Tellis v. UOI*. The right to live with human dignity, includes the right to the basic necessities of life such as adequate nutrition, clothing and shelter, and also the right to carry on such functions and activities as constitute the bare minimum expression of the human self as guaranteed by this Hon'ble Court in *Francis Coralie v. Administrator, UT of Delhi and Ors*. It is on these grounds that the following directions are being sought.

Directions Sought

It is proposed that the following steps are immediately undertaken to ensure state accountability for the food and shelter rights of the homeless people in the state of Delhi:

1. Direct the Government of Delhi, the Municipal Corporation of Delhi, the New Delhi Municipal Corporation and Cantonment Board to set up at least 100 temporary shelters for people living on the streets within the next one week.
2. Direct the Government of Delhi, the Municipal Corporation of Delhi, the New Delhi Municipal Corporation and Cantonment Board to set up at least 140 permanent shelters for people living on the streets by December 2010.
3. Direct the Government of Delhi to set up at least 500 community kitchens across the city, providing nutritious and cheap cooked food.
4. Issue AAY ration cards for all homeless people in Delhi, with a validity of at least two years, renewable if they remain homeless in Delhi, latest by March 31, 2010.
5. Direct the Government of Delhi, the Municipal Corporation of Delhi and the New Delhi Municipal Corporation and Cantonment Board to file an affidavit in the Supreme Court on the steps undertaken to protect the food and shelter rights of homeless people in the city, by 15th February 2010.

Sincerely,

Dr. N. C. Saxena Harsh Mander

Office of the Supreme Court Commissioners

B-68, Second Floor, Sarvodaya Enclave New Delhi 110017 Telefax: +91-11-41829631; phone: +91-11-26851335/339;
Email:sc.commissioners@gmail.com, website: www.sccommissioners.org

³ Order of the Supreme Court dated 20th August 2001 in CWP 196 of 2001

⁴ Order of the Supreme Court dated 8th May 2002 in CWP 196 of 2001

Annexure IX

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

March 12th, 2010

To
The Registrar
Supreme Court of India
New Delhi.

Subject: Right to life with dignity of urban homeless people.

Dear Sir,

The Supreme Court of India on 20th January, 2010 intervened to issue urgent directions to the Government of Delhi, MCD, and NDMC, to undertake immediate steps to set up night shelters for homeless people, who were exposed to extreme cold temperatures of an unusually cold winter, pursuant to the letter dated 13th January 2010 of the Commissioners of the Supreme Court. These government agencies joined hands to more than double the number of shelters in just two days. Further, as per directions of the Supreme Court, the shelters were provided basic amenities such as blankets, water and mobile toilets. This major intervention of the Hon'ble Supreme Court led to the saving of precious lives of the most vulnerable citizens of the capital city who were exposed to the winter cold.

The High Court of Delhi also took up suo moto the matter of the rights of Delhi's homeless people to shelters and other services (Court on its own Motion vs. Govt. of NCT of Delhi and Anr. ; CWP 29/2010). It is proposed that henceforward, the Supreme Court lays down guidelines to uphold the right to life with dignity of urban homeless people for the entire country, and the specific concerns of the homeless people of Delhi should now be dealt with and monitored by the High Court of Delhi.

As mentioned by the Commissioners in their second letter to the Supreme Court dated 25th January 2010, we propose that the Supreme Court kindly considers the appalling conditions of severe denials of the right to food and shelter of people living on the streets in all cities throughout the country, which constitutes a grave and persisting threat to their fundamental right to life with dignity.

In this context, we reiterate and elaborate our suggestions given in our earlier communications on this subject dated 13th January and 25th January, 2010.

1. Shelters for Urban Homeless People

The first set of directions which the Commissioners seek from the Hon'ble Supreme Court are for sufficient numbers of permanent shelters for urban homeless people, in all urban areas, beginning with 62 identified major cities and towns across India. For reasons which we will elaborate below, these homeless shelters need to open 24 hours in all seasons, and should have basic amenities to enable a life with dignity.

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

Whereas winter is a period of severest crisis for homeless people, in that it is directly life-threatening, all seasons pose threats to homeless people, especially the rainfall. Homeless people are subject to continuous violence and abuse. Living in the open with no privacy or protection for even for women and children, is a gross denial of the right to live *with dignity*. It is for this reason that the Commissioners are convinced that similar directions as per passed for Delhi to deal with winter need to be passed for the entire country for all seasons, for sufficient numbers of permanent shelters, to defend and uphold the right to life with dignity, and the rights to food and shelter of all urban homeless men, women and children across the country.

Many occupants of shelters are engaged in work during the nights (e.g. head loaders), and thus need shelters to sleep during the day. Casual workers also often do not get employment on a daily basis, and therefore again often need shelters during the days and not just at night. Therefore, entry to the shelters should be open to homeless all through the day and night.

The shelter should at minimum provide for basic facilities such as beds and bedding, toilets, potable drinking water, lockers, first aid, primary health, de-addiction and recreation facilities, which are listed in further detail in Annexure 2. The strength per shelter should be a minimum of 100 occupants, because the services will not be viable and optimal with smaller populations. Locations should be close to homeless concentrations and work sites. Some shelters can be established by redeploying existing unused or under-utilised buildings. Others may require new buildings which can be permanent structures or in porta cabin type low cost temporary structures. As stated earlier, the shelters should be permanent, running throughout the year, and open round the clock, because many homeless persons find work in the nights. The minimum space provided per person in each of these shelters should be 3.5 square metres, a standard which we draw from the United Nations High Commission for Refugees (2007) for temporary shelters for refugees.

The Commissioners therefore seek a direction to all state governments/UTs in India, to build and run 24 hour shelters for urban homeless people, with adequate and appropriate facilities. The shelters must be in sufficient numbers to meet the need, in the ratio of at least one per lakh of population, in every major urban centre. (This is the ratio prescribed by the Delhi Master Plan). As explained, all shelters for homeless people should be functional all through the year, and not as a seasonal facility only during the winters.

Whereas over time these services need to be provided in all urban areas, in the first phase it is proposed that the directions of the Supreme Court should be mandatory for cities with population above one million, and other cities and towns identified by the Government of India to be of special social, historical, tourist or political importance. A total of 63 such cities have been identified under the Jawaharlal Nehru National Urban Renewal Mission (JNNURM), as listed in Annexure 1. It is proposed that the central and state governments be directed, as a minimum, to provide permanent 24 hour homeless shelters in these 62 cities

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

in the first phase within a period of one year from the order, in a minimum ratio of one shelter of capacity 100 persons for every one lakh of urban population. These should be operational latest by March 31st, 2011.

The Commissioners have found that sufficient funds are available under existing provisions for this to be accomplished. There are sufficient funds available for this purpose under the JNNURM programme of the Government of India, under its sub-mission called the Basic Services for the Urban Poor (BSUP). At present, significant allocations under this programme are being unutilised every year.

One of the mission components listed under the BSUP scheme is *'Projects involving development/improvement/maintenance of basic services to the urban poor'*. It is undeniable that the most vulnerable segment of the urban poor are the urban homeless women, children and men; therefore undertaking the development, improvement and maintenance of shelters for these groups is permissible, and indeed should be of very high priority under the programme. The National Housing Policy has identified footpath dwellers as a priority group for coverage, and in fact from 1992 to 2005, the Government of India ran a programme called 'Shelter and Sanitation Facilities for Foot Path Dwellers in Urban Areas'. This scheme was withdrawn as a centrally sponsored scheme because most state governments did not utilise the funds for the scheme. The Director (UPA), Ministry of Housing and Poverty Alleviation, Government of India, in his letter dated 2 March 2010 to the Commissioners, himself affirms that the Ministry has emphasised to the state governments that they need to pay attention to the plight of homeless people.

It is clear from the above that although constructing and maintaining shelters for the urban homeless is stated by the central government to be a high government priority, and there are sufficient funds available for this purpose, state governments have not undertaken this task, presumably because of the powerlessness and voicelessness of the urban homeless populations. Therefore, we believe that the right to life with dignity of this most vulnerable population must be upheld by the Supreme Court, with binding instructions to the central and all relevant state governments to provide under JNNURM within one year, fully equipped shelters for the homeless in the ratio and with minimum services and standards as proposed in this order. This order should cover in the first phase the 62 major cities identified under JNNURM. In subsequent stages, other cities and towns can also be covered.

2. Special Shelters for Most Vulnerable Populations Among Urban Poor:

In general, around 30% of the permanent shelters established in every city should be designated and designed for the most vulnerable groups within the homeless populations such as (a) Single women, (b) families, (c) aged, (d) disabled, (e) mentally challenged, (g) recovery shelters for homeless. Actual break-up would depend on local particularities, and size of the city, and total numbers of shelters.

In addition to the general features common to all shelters, the special features for each of the vulnerable categories are summarised below:

Women and their dependents

Some of the special features of a women's shelter include:

- it must be a 24 hour shelter, and not just a night space, because women need protection and privacy at all times;
- the shelter should not separate the women from their dependent minor children;
- the shelter should have child care services, as well as services to prepare children to enter regular mainstream schooling;
- the shelter should have strong services for psycho-social support and counselling for mental health and substance abuse issues of women;
- there should be activities for recreation and activities, to counter a climate in which badly broken women of very low morale
- there is need also for an effective component of livelihood support, training and placement in marketable occupations;
- the attempt should be for a 'revolving door' shelter, which is not the final destination, but instead a place of protection, healing and livelihood preparation, to enable the women to move out at most three years in the shelter, into independent housing, working women's hostels, or old people's homes, in accordance with her aspirations.

Families

There should be some shelters for homeless family units, which permit homeless family units to stay. They would have the features of ordinary shelters, except that if possible there could be small separating screens to afford privacy. The child care and support services for homeless women should also be available here.

Recovery Shelters

Many homeless people suffer from severe and debilitating ailments like TB, heart ailments or injuries on limbs etc. They have no place to rest and recuperate before and after hospitalisation. The recovery shelters should provide the space for recovery of these patients. They would need para-nursing staff to provide bedside care, medicines and linkage with a public health facility, with regular visits from doctors.

Aged, Disabled, Drug Users and Mentally Challenged

Homeless shelters for the aged, disabled, drug users and mentally challenged would similarly have specialised services and accessibility for these vulnerable groups.

3. AAY Ration Cards for all urban homeless people:

In the 8th Report of the Commissioners to the Supreme Court of India, we pointed out that the urban homeless have been excluded from all the welfare schemes for BPL persons, even though they are the most vulnerable and marginalized citizens in the cities of India. The difficulty faced by the homeless is that they are routinely denied ration cards and all benefits of various schemes, because they do not have fixed proofs of residence. In our 8th Report, we have argued therefore that food security schemes should operate notwithstanding the fact that a family does not have a home or a place of residence or a permanent address. On the contrary, these are the most vulnerable groups that need to be serviced. The Maharashtra Government issued an order several years ago permitting ration cards to be issued to homeless people on their identification by NGOs and about 2500 homeless people were issued ration cards. Such orders must be issued across the country and the benefits of all schemes extended to cover all homeless people.

It is therefore the strong recommendation of the Commissioners that all state governments in India should ensure that all rural and urban homeless people in the country should be given AAY ration cards within a maximum of 6 months of this order, and these cards should be for the same validity and provide the same entitlements as AAY cards issued to any other segment of the population..

4. Community Kitchens

Homeless populations in cities consistently face the anxiety of attempting to access at least one affordable meal every day. Being rendered houseless, also implies that these populations are mostly unable to even cook and organize food for themselves. In our research with homeless populations, we found that most earning homeless populations are forced to spend about 30% of their daily income to purchase two very basic square meals a day. Most of the cheap food usually available to homeless people is unhygienic and nutritionally inappropriate, which severely endangers their health, giving them frequent bouts of gastroenteritis and food poisoning as also high blood pressure and cholesterol due to the high calorie and fatty contents of the food, apart from low nutritional standards. One of the most urgent demands from the homeless is for community kitchens that supply low-cost nutritious and hygienic hot cooked meals.

Community kitchens (known as 'soup kitchens' in western countries) constitute an integral part of the urban landscape in many modern cities across the world. There are significant models of such initiatives even within India such as the Hamal Panchayat trade union run Kashtachi Bhakar in Pune, the Annapurna Dal Bhat Yojana (meal for five rupees for the poor) by the Chhattisgarh government and so on. The Government of Delhi initiated programme 'Aapki Rasoi' serves a nutritious balanced meal for the homeless people at about 13 distribution centres across the city. This is a laudable initiative. However, this caters to only about 5% of the homeless. Such a model has the potential to become a most important intervention to raise the nutrition status of urban homeless women, men and children, and would also free a lot of their current daily incomes which they are forced to invest in relatively expensive street food which is typically sadly low on

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

nutrition and hygiene. Affordable and nutritious food for the earning able bodied homeless population and free food for destitute populations such as the old, infirm and disabled, who are unable to earn any income should be set up by the government.

All state governments should be directed to ensure community kitchens at the ratio of at least one per 20,000 urban population. Wholesome and hygienic meals should be provided within 10 rupees per meal to all working male homeless people, at 5 rupees for women, and free for children, the aged, infirm and destitute.

All community kitchens community kitchens should meet the following minimum criteria:

- Balanced food providing sufficient nutrients
- Affordable pricing
- Dignity for the served
- Clean and hygienic operation
- Scaleable and replicable
- Self-management by the homeless
- Minimum necessary dependence on state or private subsidy

5. Residential Schools for Street Children

Street children suffer from many denials and vulnerabilities: these include deprivation of responsible adult protection; coercion to work to eat each day; work in unhealthy occupations on streets like rag-picking, begging and sex work; abysmally poor sanitary conditions; inadequate nutrition from begging, foraging and food stalls; a range of psycho-social stresses; physical abuse and sexual exploitation; and exposure to hard drug abuse. A very tiny fraction of these children are reached out to by state and non-state actors, and even those reached are provided services of sometimes indifferent or inappropriate quality. There are, for instance, an estimated 50,000 street children in Delhi. Only around 1200 are reached by custodial juvenile homes of the state government, and 1500 by all NGOs (but very few provide mainstream education). Therefore residential homes for street children, especially those without any adult protection, should be set up so that their food, health, education and care needs are met. This recommendation has also been endorsed by the Chairperson, National Commission for Protection of Child Rights (NCPCR).

In our 8th Report to the Supreme Court, we have pointed out that street children form a significant component of homeless people with some reports estimating the figure at 18 million. For street children we have recommended the setting up of residential homes by converging the Sarva Shiksha Abhiyan with the Women and Child Development Department's night shelter programmes for hostels for street kids. The Delhi Government has already begun implementing as a pilot project, four residential schools in Delhi and this project has been successfully implemented for the last 3 years. Many such homes are needed across Delhi

to reach out to all the street children in the city. We estimate that 300 such residential schools would be required in Delhi. We propose that all state governments be directed to open at least one high-quality residential school for homeless street boys and girls, on the lines of Kasturba Gandhi Vidyalayas for every 50,000 of urban population.

6. Deaths of Homeless People

There are a number of deaths on the streets in cities across the country that are unaccounted for and where the cause of death is not investigated. While some of these are caused by accidents or disease, many are also because the poor living on the streets are malnourished and do not have access to sufficient and nutritious food. Any death occurring on the streets and any unclaimed body, not resulting from an accident, must be treated as a possible starvation death unless proved otherwise and stringent punitive action taken for the same along with compensation to next of kin. A mandatory inquest as per CrPC by an executive magistrate, a verbal autopsy by recognised NGOs, and a post mortem by doctors, to ascertain whether death was caused by severe food deprivation should be mandated.

7. Administrative and monitoring arrangements:

The administrative and monitoring arrangements that are proposed include:

- The conditions in different cities in various states varies widely with regard to climate, availability of land and buildings, and the nature and numbers of urban homeless populations. Therefore within the broad scheme outlined in terms of entitlements of urban homeless people to shelter and food, as enunciated by the Supreme Court, each state government would develop detailed schemes based on the specifics of the state and city.
- Central government should designate a nodal department – ideally Ministry of Housing and urban Poverty - for convergence of all services for the homeless, to coordinate the work of departments of Urban Poverty, Housing, Food and Civil Supplies, Social Justice and Empowerment and School Education. It should also provide appropriate administrative support (including funds) to the Office of Commissioners to the SC in the Right to Food case to monitor and report on the implementation of these orders.
- All state governments should, within 2 months, establish a special agency and structure, to deal with all matters relating to the urban Homeless, preferably using Delhi government's state-society partnership Samajik Suvridha Sangam model.
- All state governments should conduct, within 6 months, survey in all identified 62 major cities and towns, to identify the urban homeless, with the help of civil society groups which work with the urban homeless. The distribution of AAY Cards to identified homeless should be converged with the survey.

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

- Commissioners of the Supreme Court will be responsible for reporting to the Supreme Court on implementation of these orders. They will file quarterly and annual reports to the Supreme Court. To enable this:

- All state governments will send quarterly reports on service provision to Commissioners of the Supreme Court.

- State government will put in place effective governance mechanisms in each city / district to provide oversight over functioning of services for the urban homeless. Governance committees shall be set up, made up of representatives of relevant government departments, service providers, representatives of users of services, prominent NGOs working with urban homeless, social work professionals and eminent personalities, and state advisors of Commissioners of the Supreme Court. This body will meet every quarter to oversee functioning of facilities and programmes, and report to state government and Commissioners of the Supreme Court.

- Reports of the governing committees will be supplemented by reports of social audit of each facility (residential homes, community kitchens, residential the Supreme Courthools) and city-level provision of food-grain to the urban homeless. These audits will be organised by state governments, but driven by users of the services with their large and active participation. Commissioners of the Supreme Court state advisors will be actively involved in these.

- Commissioners of the Supreme Court will also organise on its own, sample evaluation studies of services for urban homeless in each state.

- Commissioners of the Supreme Court will use all these reports to assess state performance on provision of services for the urban homeless, and submit reports to the Supreme Court, along with recommendations for problem solving.

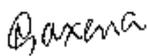
Summary of Directions Sought:

1. *Direct the central government and all state governments/UTs in India, to build permanent 24 hour shelters for the urban homeless, with appropriate facilities, to enable them to enjoy their fundamental right to life with dignity. The shelters must be adequate in numbers, in the ratio of at least one per lakh of population in all 62 major urban centre identified under JNNURM, by March 31st, 2011. The remainder cities above one lakh population should be also covered by this programme in 3 years. All shelters for homeless people should be functional all through the year, and not as a seasonal facility only during the winters. Entry to the shelters should be open to homeless all through the day and night.*

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

2. *Direct the central government and all state governments/UTs that 30% of the shelters in every city should function as specialized shelters catering to particularly vulnerable populations such as women, aged, disabled, mentally challenged, and recovery shelters for homeless patients etc.*
3. *Direct the central government and all state governments/UTs in India to ensure that all rural and urban homeless people in the country should be given AAY ration cards within a maximum of 6 months of this order.*
4. *Direct the central government and all state governments/UTs to ensure community kitchens at the ratio of at least one per 20,000 urban population, with 6 months of this order. Wholesome and hygienic meals should be provided within 10 rupees per meal to all working male homeless people, at 5 rupees for women, and free for children, the aged, infirm and destitute.*
5. *Direct the central government and all state governments/UTs to open at least one high-quality residential school for homeless street boys and girls, on the lines of Kasturba Gandhi Vidyalayas for every 50,000 of urban population within one year of this order.*
6. *Direct the central government and all state governments to issue detailed instructions and guidelines to ensure that any death occurring on the streets and any unclaimed body, not resulting from an accident, must be treated as a possible starvation death unless proved otherwise, entailing mandatory inquest as per CrPC by an executive magistrate, a verbal autopsy by recognised NGOs, and a post mortem by doctors, to ascertain whether death was caused by severe food deprivation. In the event of the death being proved to be by starvation, stringent punitive action taken for the same along with compensation to next of kin should be ensured.*
7. *Direct all State Governments and Union Territories to conduct a comprehensive survey and identify the Urban Homeless within 6 months.*
8. *Direct the Commissioners of the Supreme Court to monitor the progress on compliance of these orders, and report on these to the Supreme Court every quarter.*

Sincerely,



Dr. N. C. Saxena



Harsh Mander

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

ANNEXURE-1: List of Identified Cities/Urban Agglomerations (UAs) under Sub-Mission on Basic Services to the Urban Poor (BSUP)

City	Name of the State
a) Mega Cities/UAs	
1. Delhi	Delhi
2. Greater Mumbai	Maharashtra
3. Ahmedabad	Gujarat
4. Bangalore	Karnataka
5. Chennai	Tamil Nadu
6. Kolkata	West Bengal
7. Hyderabad	Andhra Pradesh
b) Million-plus Cities/UAs	
8. Patna Bihar	Bihar
9. Faridabad	Haryana
10. Bhopal	Madhya Pradesh
11. Ludhiana	Punjab
12. Jaipur	Rajasthan
13. Lucknow	Uttar Pradesh
14. Madurai	Tamil Nadu
15. Nashik	Maharashtra
16. Pune	Maharashtra
17. Cochin	Kerala
18. Varanasi	Uttar Pradesh
19. Agra	Uttar Pradesh
20. Amritsar	Punjab
21. Visakhapatnam	Andhra Pradesh
22. Vadodara	Gujarat
23. Surat	Gujarat
24. Kanpur	Uttar Pradesh
25. Nagpur	Maharashtra
26. Coimbatore	Tamil Nadu
27. Meerut	Uttar Pradesh
28. Jabalpur	Madhya Pradesh
29. Jamshedpur	Jharkhand
30. Asansol	West Bengal
31. Allahabad	Uttar Pradesh
32. Vijayawada	Andhra Pradesh

**DR. N. C. SAXENA, COMMISSIONER AND
HARSH MANDER, SPECIAL COMMISSIONER OF THE SUPREME COURT
IN THE CASE: PUCL v. UOI & Ors. WRIT PETITION (Civil) No. 196 of 2001**

33. Rajkot	Gujarat
34. Dhanbad	Jharkhand
35. Indore	Madhya Pradesh
c) Identified cities/UAs with less than one million population	
36. Guwahati	Assam
37. Itanagar	Arunachal Pradesh
38. Jammu	Jammu & Kashmir
39. Raipur	Chhattisgarh
40. Panaji	Goa
41. Shimla	Himachal Pradesh
42. Ranchi	Jharkhand
43. Thiruvananthapuram	Kerala
44. Imphal	Manipur
45. Shillong	Meghalaya
46. Aizawal	Mizoram
47. Kohima	Nagaland
48. Bhubaneswar	Orissa
49. Gangtok	Sikkim
50. Agartala	Tripura
51. Dehradun	Uttarakhand
52. Bodh Gaya	Bihar
53. Ujjain	Madhya Pradesh
54. Puri	Orissa
55. Ajmer-Pushkar	Rajasthan
56. Nainital	Uttarakhand
57. Mysore	Karnataka
58. Pondicherry	Pondicherry
59. Chandigarh	Punjab & Haryana
60. Srinagar	Jammu & Kashmir
61. Haridwar	Uttarakhand
62. Mathura	Uttar Pradesh
63. Nanded	Maharashtra

Annexure 2: Minimum Facilities for Night Shelters:

- i. **Drinking water:** All the shelters whether run by NGO's or the state authorities must be required to be providing purified and regular supply of clean drinking water. Arrangements that are made should be sufficient to meet the requirements of the number of people using the shelter.
- ii. **Beddings:** Shelters are supposed to be providing clean, regularly laundered and adequate beddings, sheets and blankets to all its users.
- iii. **Lighting and Coolers:** Every shelter should have sufficient lighting and coolers in cities which have hot summer climate.
- iv. **Lockers:** There must be the provision of keeping the belongings with the care taker in the store or personal lockers. Lack of storage facility would mean frequent issues of stealing of one's belongings, difficulties in washing and cleaning the clothes etc.
- v. **TV/Indoor Games:** Every shelter should have television/ some indoor games as the form of recreation and entertainment.
- vi. **Medical facilities:** Every shelter must have basic medical set up and linkages with hospitals for times of severe illnesses. Falling ill brings with it a host of related problems for homeless people. Falling sick means also loss of work. As most of them are daily wages earners, absence at work, often means 'no food'.
- vii. **De-addiction services:** Though we propose separate de- addiction centre or shelters for drug – dependents, all shelters should be linked with those specialized shelters.
- viii. **Small savings / Banking services:** At present, there is no mechanism for storing savings with the shelters. People are required to either deposit the money with the places where they work, or carry the money on them all the time. Both these situations are quite risk prone and very often result in people losing their money.
- ix. **Post Box:** Absence of any permanent address deprives them of permanent work. It is recommended that Shelters serve as the postal address to receive letters by post for its users. People should be allowed to give the address of the shelter as their postal address.

- x. **Counselling facilities:** Not in terms of illness or mental instability only but also to assist people in planning their future. Like guiding in vocational trainings, on need to save, chalking out plans for long term planning with regard to work, family etc. This could possible lead them coming out of state of homelessness.
- xi. **Small reading room/library kind of facility with newspapers, magazines etc:** Every shelter must have its own library or small reading room with subscriptions of daily newspapers as well as weekly or monthly magazines of people's choice. This facility should be run by users themselves.
- xii. **Small room or place to meet guests/visitors etc:** As shelters are the only places that homeless people can call as their own, it is suggested that every shelter also has a room or some independent space to serve as guest lounge or visitor's place etc. There could be apprehensions about misuse of this place by people forming groups or sitting there without work or for wrong reasons, this facility may be extended only to the regular users of the shelter.
- xiii. **Access:**
- Available to all urban homeless single men who seek access.
 - At price Rs. 6-10 for able bodied workers
 - Free for women and vulnerable groups. And for all during the winter months.
- xiv. **Management:**
- To be managed only by staff that are trained to be respectful to the homeless
 - Local management committee with representatives of users selected every 3 months
 - Users should have a say in periodic assessment of local staff.

LONG-TERM PLAN SUBMITTED BY SAM:BKS TO THE HIGH COURT OF DELHI AND THE DELHI GOVERNMENT



Protecting the Human Rights of Delhi's Homeless: Need for a Comprehensive, Rights-based Long-term Plan

I. HUMAN RIGHT TO ADEQUATE HOUSING

The human right to adequate housing is guaranteed in both national and international law. It is thus the legal responsibility of the State to respect, promote and fulfil the human right to adequate housing for all its citizens.

The International Covenant on Economic, Social and Cultural Rights (ICESCR), provides in Article 11.1 that, “everyone has the right to an adequate standard of living for himself/herself and his/her family including adequate housing, as well as a continuous improvement of his/her living conditions.”¹

In the Constitution of India, Article 21, the right to life, has also been interpreted by the Hon’ble Supreme Court of India to recognize the right to shelter and housing while Article 14 guarantees equality before the law. Article 15 prohibits discrimination on the grounds of religion, race, caste, sex or place of birth; 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.

Recent judgements of the Hon’ble High Court of Delhi in the cases *Sudama Singh and Ors. vs. Government of Delhi and Anr.* (February 2010) and *P.K. Koul vs. Estate Officer and Anr. and Ors.* (November 2010) clearly recognise the right to adequate housing as a human right as well as the responsibility of the government to fulfill that right.

The UN Special Rapporteur on adequate housing defined the human right to adequate housing, as: “The right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity.”²

The situation of homelessness is one of the worst violations of the human right to adequate housing. The absence of even the most basic form of shelter, let alone housing, exposes homeless people to numerous human rights violations. The homeless³ are forced to live in grossly inadequate conditions at extreme risk to their safety, security, and health. While violation of the human right to adequate housing is the most obvious, the homeless also face violations of their rights to health, water, food, security, and most of all the right to live with dignity.

The absence of housing leads to the inability to obtain other basic services. Lack of nutritious food and safe and adequate water for drinking and washing purposes and the absence of sanitation facilities exposes homeless people, especially children and women, to numerous health hazards. The absence of a secure living environment is instrumental in making homeless people, especially women and children vulnerable to physical abuse and sexual violence. The psychological traumas associated with living without a home are often responsible for affecting the mental health of homeless people, especially of homeless women.

The lack of ‘proof of residence’ and ‘identity documents’ denies them access to most social services and welfare schemes of the government, including ICDS, PDS, and access to healthcare, education, social security, and equal employment opportunities. As the majority of homeless people do not have voter cards and do not feature on the electoral rolls of their city of residence, they are unable to vote and are therefore rendered politically voiceless.

Further, the human rights of children to survival, protection, development, education and participation are continually violated in the case of street children. Apart from being malnourished, poverty-stricken and often abused, most street children are unable to attend school. Clearly, homeless people and among them the women, children, persons with disabilities, the mentally unwell, and the elderly, form some of the most vulnerable and marginalised sections of our society.

II. HOMELESSNESS IN DELHI

Several studies on homelessness in Delhi have been done over the last 15 years, which map and discuss the characteristics of the city’s homeless population.⁴ This document does not, therefore, intend to provide these details.

It is however important to mention that homelessness results from several structural and systematic factors. The most critical among these are:

- the absence of low-cost/affordable housing for the urban poor;⁵
- uncontrolled real estate speculation and growth of the land mafia, which makes housing entirely unaffordable for the urban poor;
- an increase in slum demolitions and forced evictions due to mega events like the Commonwealth Games, ‘city beautification’ and ‘urban renewal’ projects, and slum clearance drives. In the absence of adequate resettlement, many are rendered homeless;
- systematic discrimination;
- shift in land use towards intensive infrastructure development such as highways and shopping malls;
- the unavailability of financial schemes for poor and marginalised communities; and,
- the lack of a comprehensive human-rights based national housing law.

While several surveys of Delhi’s homeless have been carried out,⁶ civil society estimates place the number of Delhi’s homeless between 100,000 – 150,000. It is estimated that for every homeless person counted, one is left out. Homeless women constitute around 15 – 20 per cent of the homeless population. While relatively fewer in number, single women constitute a significant portion of Delhi’s homeless. Many are victims of domestic violence, including widows and elderly women who have been evicted from their homes.

Delhi, like all other cities in India is also home to a large number of homeless or ‘street children’. Most of these children live on the streets and find subsistence work ranging from polishing shoes at railway platforms to selling newspapers, and from working in small hotels and shops to cleaning cars.

The homeless population of Delhi is not a homogenous group but consists of a range of communities, all of

who are homeless for a different reason. Their needs have to be addressed accordingly. The major homeless groups include: seasonal and migrant labourers, children, the mentally ill, unsupported senior citizens, victims of crime, post-imprisonment convicts, rickshaw pullers, head loaders, hand cart pullers, nomadic tribes, social outcasts, victims of substance abuse and violence, and displaced persons.

The majority of the homeless are employed and contribute to the city's economy and services through their subsidised labour and hard work. But still, they continue to be denied an equal 'right to the city' and their Fundamental Rights guaranteed by the Constitution of India. Delhi's homeless also suffer from police brutality, violence from officials, and discrimination. Laws such as the *Bombay Prevention of Begging Act, 1959*, are used to criminalise the homeless and arbitrarily arrest and detain them.

III. RESPECT, PROTECTION, AND REALISATION OF THE HUMAN RIGHT TO ADEQUATE HOUSING: THE 'HOUSING CONTINUUM' APPROACH

The Government of Delhi must take comprehensive measures to provide adequate housing for all under its national and international legal obligations. It is also essential for the government to integrate and adopt a human rights approach in all its laws, policies, and schemes. The human rights approach also calls for first addressing the needs and rights of the most marginalised, which includes the homeless.

Realising the human right to adequate housing involves developing a continuum of housing solutions consisting of three stages:

1. *Shelters for the homeless*: immediate solutions need to be developed for those living in emergency conditions and without any shelter.
2. *Intermediary housing*: this includes short stay homes, working men's hostels, working women's hostels, family hostels, care homes, facilities for rehabilitation and recuperation.
3. *Permanent housing*: the provision of affordable/low cost housing that meets international standards of adequacy with security of tenure and basic services.

The first priority of the government must be to ensure that each and every homeless citizen is taken care of and given adequate shelter. In addition, the government must take specific steps to protect the human rights of all homeless persons.

It is important to reiterate that the mere provision of shelters is not the long term solution to homelessness. It is the first step but one that needs to be urgently implemented given that there is an acute shortage of adequate, inhabitable, permanent shelters for the homeless in Delhi.

Addressing homelessness in the long run also involves understanding the root causes of homelessness and developing solutions to address it.

IV. INTERIM ORDERS OF THE HON'BLE HIGH COURT OF DELHI AND SUPREME COURT OF INDIA ON THE ISSUE OF HOMELESSNESS

Responding to a *suo moto* case (W.P. (C) 29/2010) initiated on 6 January 2010 by the former Chief Justice of the High Court of Delhi, Justice A.P. Shah, against the Municipal Corporation of Delhi for the demolition of a homeless night shelter on 22 December 2009, the Delhi High Court has passed several progressive orders upholding the rights of the homeless and calling for the Delhi government to develop permanent shelters and comprehensive plans to meet its legal and moral obligations.

The Hon'ble Supreme Court of Delhi in the case *PUCL vs. Union of India*, in response to letters of the Supreme Court Commissioners linking homelessness with the right to food, has also issued a series of strong orders calling for state measures to protect the rights of the homeless.

In particular, the High Court of Delhi and the Supreme Court of India have used the provision in the Master Plan for Delhi and called for the government to set up one homeless shelter per one lakh population – across the country.

The Delhi High Court order dated 13.01.2010, cites the Master Plan requirement and stresses the responsibility of the government towards the homeless:

“...We are making these observations and directions because any civilized society, especially in modern times, is required to take care of all of its citizens. No citizen should have to die because he or she is poor and does not have roof over his or her head and because of cold or heat and other weather conditions. **It is the prime responsibility of the State to provide shelter for the homeless and we are only issuing directions so as to remind the State of this responsibility** (*emphasis added*).”

The Delhi High Court order of 9.08.2011 while reiterating former orders that have so far not been implemented, also strongly calls upon the government to protect the rights of the homeless and take primary responsibility for setting up and managing permanent shelters for the homeless in Delhi:

“The State Government is under obligation to have permanent shelter homes...

When there is an obligation to do certain things, it has to be done and there cannot be any kind of shirking or escape on the ground that certain amount is expended unnecessarily.

It is the duty of the State Government and the Board to see that shelter homes are established, run and maintained and the NGOs can only assist, they cannot dictate.”

V. NEED FOR A LONG-TERM PLAN ON HOMELESSNESS IN DELHI

The Delhi High Court order dated 22.01.2010 calls for the development of a long-term plan to address homelessness in Delhi:

“... all the agencies have today expressed agreement and assured us that they will work in unison in the aforesaid direction and that the Chief Secretary shall monitor and ensure the implementation of the Master Plan qua the night shelters.

A long term plan has to be evolved for the aforesaid purpose. Only stop-gap arrangements have been made till now.

We direct all the agencies as well as the Govt. of NCT of Delhi to, in consultation with each other, evolve a strategy for the long term, also defining the role of each agency.”

Building on the progressive orders of the Hon’ble Supreme Court of India and the High Court of Delhi, *Shabri Adhikar Manch: Begharon Ke Saath* – a coalition of over 30 organizations and homeless groups in Delhi – would like to reiterate the demand of the High Court of Delhi for a long-term plan, and propose that the Government of Delhi develops a comprehensive, human rights-based plan on homelessness in Delhi for the next five to ten years to address different dimensions of homelessness and to respond to the specific needs of different groups of the homeless population.

This long-term plan should consist of two components:

- a. **Meeting the acute homelessness crisis** – through the immediate provision of permanent shelters and other emergency response systems such as a 24-hour help centre and medical aid and hospital facilities for the homeless.
- b. **Meeting the urban housing shortage and affordable housing crisis** - through the development of low cost/affordable housing and upgrading of existing slums/informal settlements.⁷

VI. REQUIREMENTS FOR THE LONG-TERM PLAN ON HOMELESSNESS

i. Must incorporate a human rights approach

The human rights framework provided by international law and the Constitution of India, especially the right to adequate housing framework should be incorporated into the long-term plan for homelessness in Delhi. The approach towards the homeless cannot be one of mere charity; the government must realize that it is its constitutional and international legal duty to ensure that the rights of the homeless are protected and that they are able to live with dignity and security in adequate conditions.

ii. Should prioritise the creation of year-round, 24-hour, permanent shelters for the homeless

Temporary tents cannot be viewed as the answer to Delhi's homelessness crisis. They are merely transitional arrangements and do not provide adequate facilities or protection from the elements for the homeless. The focus of the government should be to ensure that all temporary shelters are converted in to adequate permanent shelters.

To this effect, the High Court of Delhi order dated 9.08.2011 asserted that:

“The State Government is under obligation to have permanent shelter homes... A shelter home is expected to give adequate shelter and has to be made habitable where of the conditions must be acceptable to a person to live with dignity. Fixing a tent is a very marginal per centage of infrastructure, however, making provisions for stay in an acceptable dignified manner in a shelter home is the warrant.

While improving the conditions in the temporary shelter homes due attention is required to be given to the permanent shelter homes so that the requisite permanent homes are constructed to serve the people in need of night shelters.”

Since the Master Plan for Delhi 2021 calls for one shelter per one lakh population, given that the population of Delhi is around 150 lakh, the government needs to immediately set up 150 permanent shelters with a minimum capacity of 100 each. If the capacity of shelters is less than 1000, more than 150 shelters will be needed to accommodate Delhi's 150,000 homeless.

This was emphasised in the Delhi High Court order of 22.01.2010:

“We also note that in paragraph 4.3 of the Master Plan the provision for night shelter has been specifically mentioned. In fact the requirement of night shelters has been indicated to be one shelter per one lac population. We would require the concerned authority to indicate as to what steps have been taken with respect to this objective indicated in the Master Plan....

All permanent shelters must be ready and completed with all facilities by **1 December 2011**.

The order of the Hon'ble Supreme Court of India on 20 January 2010 stated that permanent shelters were to be ready by December 2010:

“Direct the Government of Delhi, the Municipal Corporation of Delhi, the New Delhi Municipal Corporation and Cantonment Board to set up *at least 140 permanent shelters for people living on the streets by December, 2010.*”

The permanent homeless shelters that are developed must conform with international standards of 'adequacy' [details provided in the next section of this document].

iii. Should be based on accurate mapping of the homeless and collection of disaggregated data (including by gender, caste, age)

Accurate surveys and mapping exercises, which identify the areas of concentration of homeless people in Delhi as well as in depth analyses of the needs of the homeless, should form the basis of the development of the long-term plan.

The recent exercise and report by the One Delhi Team maps Delhi's homeless and identifies areas of concentration where shelters should be created.

- iv. **Should have clear goals and targets and a well-defined timeline and schedule** for completion of tasks and achievement of outputs.
- v. **Should be developed in consultation with homeless people and civil society organizations** working on their behalf. Their participation should be ensured at every stage of the development and implementation of the plan.
- vi. **Should clearly establish the role and responsibility of each government department/ agency.** This is important in order to ensure coordination and to prevent confusion, duplication of efforts, and contradictory actions.
- vii. Should provide for the creation of a **grievance redress mechanism for the homeless.**
- viii. Should focus on **providing identity cards to the homeless**, including voter identity cards and ration cards. This should be independent of the Aadhar/UID cards.
- ix. Should provide for the creation of schemes for the government to provide **skill training and livelihood development** opportunities for the homeless. Special schemes for easy loans/subsidies for entrepreneurship by the homeless should also be introduced. Free hawking/vending zones should be created in the city for the homeless.
- x. Should include provisions which ensure that homeless citizens are **eligible for social security** and allowed to access government schemes such as ICDS, PDS, Sarva Shiksha Abhiyan, and hospitals and other healthcare facilities.
- xi. Should call for the creation of a mechanism to **report periodically on the progress in implementation of court orders/judgements** on homelessness - of the Hon'ble High Court of Delhi and Supreme Court of India.
- xii. Should call for the establishment of an **Independent Monitoring Committee.**

This body should include experts and representatives of civil society and the homeless to assess and report on the conditions of services for the homeless, including shelters, as well as the progress made in achieving targets set out in the long-term plan.

To this effect, the High Court of Delhi, in its order dated 9.08.2011 stated:

“The Board has to constitute a Committee which can look after the shelter homes in proper perspective so that the facilities for human beings to live are available and no one should harbour a feeling that he is treated as an unperson and asked to stay like an animal in a temporary shelter home.”

VII. HUMAN RIGHTS STANDARDS FOR PERMANENT SHELTERS FOR THE HOMELESS

Using the elements of 'adequate housing' elaborated in the United Nations Committee on Economic, Social and Cultural Rights, General Comment No. 4, 'The right to adequate housing,'⁸ and reports of the UN Special Rapporteur on adequate housing, *Shahri Adhikar Manch* would like to propose the following non-negotiable requirements for all permanent shelters in Delhi.

Legal Basis: Human Right to Adequate Housing	Shelter Requirement
A. Appropriate Location	<ol style="list-style-type: none"> 1. Shelters must be situated at appropriate locations, i.e. in areas where the homeless live; and in areas that are acceptable to them.⁹ 2. Shelters must be located in places where people are able to access them easily, and do not feel threatened or afraid. For example, shelters for women should be located in areas where they feel safe. <i>High Court of Delhi order dated 22.01.2010:</i> “Regard be had to the fact that the persons for whom the [night] shelters are intended are not likely to travel long distances to avail the same.” 3. Shelters must be located close to places of work and livelihood, schools, healthcare facilities/hospitals. The integral link between housing and livelihood must be recognised. 4. The location must not pose risks to or threaten health or life; they must not be located on polluted land or close to sources of pollution or near hazardous sites. 5. While being located in appropriate locations, the shelters should be sufficient in number to cater to the entire population of Delhi’s homeless. Currently there exist only 64 permanent shelters in Delhi. There is no permanent shelter in the NDMC area. The present number of temporary and permanent shelters accommodate only around 15 - 20% of Delhi’s homeless population. <i>High Court of Delhi order dated 22.01.2010:</i> “... in paragraph 4.3 of the Master Plan the provision for night shelter has been specifically mentioned. In fact the requirement of night shelters has been indicated to be one shelter per one lac population.” “... it is noticeable that as per the Master Plan for Delhi, 2021, night shelters for 1,00,000 to 1,50,000 homeless persons are required to be provided and the measures taken till date were essentially short term measures. The Bench had observed that only stop-gap arrangements had been made.” <i>Supreme Court of India order dated 20.01.2010:</i> “Direct the Government of Delhi, the Municipal Corporation of Delhi, the New Delhi Municipal Corporation and Cantonment Board to set up <i>at least 140 permanent shelters for people living on the streets by December, 2010.</i>”
B. Accessibility	<ol style="list-style-type: none"> 1. Shelters must be accessible to all persons without discrimination on the basis of caste, class, community, profession, religion, language, sex, birth, social status, marital status, and political or other opinion. 2. In particular, all shelters must be accessible to: older persons/senior citizens, persons with disabilities, persons with mental illness, children, minorities, women, especially pregnant and lactating women, single women, and women-headed families. 3. Separate specialised shelters must be created for: <ul style="list-style-type: none"> ▪ Families; ▪ Children; ▪ Single women and women with children; ▪ Working men; ▪ Persons with disabilities; and ▪ Persons needing special care – including the unwell, injured, mentally ill, elderly, destitute, chemical dependents (with adequate treatment and rehabilitation facilities). 4. All government schemes (central and state) should be accessible for homeless people.

Legal Basis: Human Right to Adequate Housing	Shelter Requirement
	<p>5. For permanent shelters, the state should:</p> <ul style="list-style-type: none"> ▪ Use existing unutilized buildings (list available with relevant government departments). ▪ Utilise unused floors / spaces in existing buildings. ▪ Construct another floor on existing buildings such as community centres. ▪ Construct new buildings where required. <p>To this effect, the order of the High Court of Delhi, dated 25.05.2011 states:</p> <p>“Since provision for night shelters necessarily requires land and building, the land owning agencies be also involved...”</p> <p>“... the Board should come with a plan for new construction and simultaneously take over “un-used” buildings in the “MPCC” category lying vacant / unoccupied under various departments.”</p>
C. Habitability	<p>All shelters must:</p> <ol style="list-style-type: none"> 1. Provide protection from elements – heat, rain, cold, dampness, wind (they should be suitable for all weather conditions). 2. Be constructed of durable and adequate material (non-toxic, suitable to climatic conditions, safe). 3. Be designed to promote space and privacy; 4. Provide effective protection against fire, flood, risks of collapse or other threats to health and life; 5. Provide adequate space for storage of personal items as well as livelihood-related items (such as rickshaws/thelas/carts etc.); and, 6. Include provisions for secure lockers where people can store their personal belongings.
D. Access to Basic Services	<p>Shelters must ensure equal access of all residents to:</p> <ol style="list-style-type: none"> 1. Potable water. 2. Clean bedding – mattress, sheets, pillow with cover. 3. Blankets. 4. Bathing facility with hot water in winters. 5. Electricity – lights, fans, coolers, heaters. 6. Sanitation, waste disposal, dustbins. 7. Washing facilities (with clean water). 8. Regular change and washing of bedding. 9. Mosquito repellents. 10. Clean toilets (1 toilet for 10 people): <ul style="list-style-type: none"> ▪ Separate, sufficient and secure toilets for women; 11. First aid facilities. 12. Crèches and adequate play areas for children. 13. Educational facilities: <ul style="list-style-type: none"> ▪ All children in shelters should be covered under the Residential Bridge Course programme of <i>Sarva Shiksha Abhiyan</i> (SSA). ▪ All adult shelters should have adult literacy units. 14. Phone connection. 15. Sufficient fire extinguishers. 16. Television, radio, newspapers.

Legal Basis: Human Right to Adequate Housing	Shelter Requirement
	<p>17. Facilities for cooking / community kitchens:</p> <ul style="list-style-type: none"> ▪ <i>Aap ki Rasoi</i> should be made mandatory in all shelters for women, children, the destitute, mentally ill, and elderly. <p>18. Adequate healthcare and counselling facilities, including female doctors and healthcare providers for women:</p> <ul style="list-style-type: none"> ▪ 'Smart Cards' should be issued for all homeless citizens as Health Insurance (Rs. 1 lakh cover per person), which should be accepted by all government and private hospitals. ▪ Special facilities should be provided for pregnant and lactating women. <p><i>To this effect, the order of the High Court of Delhi, dated 25.05.2011 states:</i></p> <p>"It will be an anathema to Article 21 of the Constitution of India if the people in need and in abject poverty, who are required to survive and live in shelter homes, are not provided with drinking water and fans.... people should live with dignity and in acceptable comfort. Needless to say, there has to be a provision for light as the people who take shelter in these homes cannot remain in darkness...."</p> <p>"... it will be appropriate that the shelter homes have at least two toilets so that the people are not compelled to go to a "Sulabh Sochalaya" and stand in the queue to defecate. This is the most essential requirement that the Board should have earlier conceived of and we hope that the Board shall rise to the occasion and make the aforesaid provision available within a period of ten days hence. The persons who are in the helm of affairs in the Board shall see to it that toilets are kept and maintained in a hygienic and clean condition."</p> <p>19. There must be regular maintenance of all shelter facilities, and all costs of running a shelter must be borne by the government.</p> <p>Order of the High Court of Delhi, dated 25.05.2011:</p> <p>"... a joint and concerted effort is required to be undertaken by all the stakeholders and that certain more facilities have to be made available to the people for whom the night shelters have been made..."</p> <p>"It is the duty of the State Government and the Board to see that shelter homes are established, run and maintained and the NGOs can only assist, they cannot dictate."</p> <p>20. All homeless persons must be provided, on a priority basis, with:</p> <ul style="list-style-type: none"> ▪ Voter identity cards; ▪ AAY ration cards with a validity of at least two years, renewable if they remain homeless in Delhi, latest by 31 March 2010. <p>Order of the Honourable Supreme Court of India on 20 January 2010:</p> <p>"Issue AAY ration cards for all homeless people in Delhi, with a validity of at least two years, renewable if they remain homeless in Delhi, latest by March 31, 2010."</p> <p>21. Banking facilities (including saving schemes / accounts), should also be made available at shelters.</p>
E. Affordability	<p>Shelters must be made affordable and financially viable for the homeless. Accessing shelters must not place excessive financial burdens on the homeless or prevent them from using shelters due to the criteria of unaffordability.</p> <ol style="list-style-type: none"> 1. Emergency and specialised shelters for women, children, older persons, the destitute, mentally ill, and chemical dependents (as listed above in B.2) should be free. 2. Other permanent shelters should charge nominal affordable fee, in accordance with the income / earning of the homeless residents.
F. Cultural Adequacy	<p>Use of materials, structures and space organization must be in accordance with the inhabitants' cultural requirements and preferences.</p>

Legal Basis: Human Right to Adequate Housing	Shelter Requirement
G. Security and Privacy	<p>Shelters must provide:</p> <ol style="list-style-type: none"> 1. Safety. 2. Protection against violence, especially for women and children. 3. Privacy, especially for girls and women, including separate spaces for women and children/women with children. 4. Secure space for storing personal items and locker facilities. 5. Trained shelter managers/caretakers. A management committee for each shelter should be set up.
H. Information and Participation	<ol style="list-style-type: none"> 1. Adequate and timely information must be provided on location and capacity of shelters to the homeless. 2. There should be participation of homeless people in the design, location, and management of shelters, as well as in the development of plans /schemes for the homeless. 3. Information should also be provided on the nearest hospital, police station, ration shop, and all other available government schemes and services. This should also include connecting homeless people with the schemes and services in order to ensure that they are able to access them. This should include connecting homeless people with all available schemes and services, and also connect them to existing Homeless Resource Centres as well as Gender Resource Centres. This must be the responsibility of all shelter managers/caretakers. 4. All homeless people should have access to information on legal rights. Human rights education should be provided. <p><i>High Court of Delhi, order dated 9.08.2011:</i></p> <p>“There has to be a galvanized effort to see that the people who rot on the streets know about the shelter homes, the facilities available therein and are motivated to stay therein. As rightly suggested by the Committee, a concerted effort has to be made.”</p> <p>“There has to be awareness camps which have to be organized by the Board by involving responsible non-government organizations so that the people come to the shelter homes and the same to be home for all seasons, be it summer, rainy or winter.”</p>
I. Freedom from Dispossession	<p>Homeless people must be protected against evictions and any threat of eviction.¹⁰</p> <p><i>High Court of Delhi order dated 13.01.2010:</i></p> <p>“We have also been informed that certain persons have been evicted from other shelters in Delhi by the authorities. We are of the view that till further orders and in the absence of alternative arrangements no person should be evicted from a temporary or a permanent night shelter.”</p>
J. Access to Remedies	<ol style="list-style-type: none"> 1. Provision must be made for access to legal remedies, especially when homeless people face abuse by the police, government officials, landlords, landowners, or any other party responsible for violating their rights. 2. Where infringements occur, public authorities (and other independent institutions) should act to preclude further deprivations as well as guarantee access to judicial and other forms of redress.

NOTES:

- 1 India ratified the Covenant on 10 April 1979. The Committee on Economic Social and Cultural Rights is the body responsible for monitoring State compliance with the International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.
- 2 See report of the UN Special Rapporteur on Adequate Housing, UN Doc. No.: A/HRC/7/16, 13 February 2008.
- 3 The Census of India defines ‘houseless people’ as persons who are not living in ‘census houses.’ The latter refers to ‘a structure with roof.’ The majority of homeless persons in India are found living in places such as roadsides, pavements, drainage pipes, under staircases, or in the open, temple-mandaps, platforms and the like’ (Census of India, 1991: 64). This part of the population includes those sleeping without shelter, in constructions not meant for habitation and in welfare institutions (United Nations 1999). See study for the Planning Commission of India, entitled, *Living Rough: Surviving City Streets*, by Harsh Mander (2008 - 09).
- 4 These include *The Capital’s Homeless*, Aashray Adhikar Abhiyan (2001), *Living Rough: Surviving City Streets*, by Harsh Mander (2008 - 09), and others.
- 5 At the end of the Tenth Five Year Plan, the urban housing shortage in India was 24.7 million dwelling units, of which 99 per cent pertained to the Economically Weaker Sections and Low Income Groups. During the Eleventh Plan it was estimated at 26.53 million. In Delhi, the housing shortage is 1.13 million dwelling units.
- 6 These include surveys by Aashray Adhikar Abhiyan (2000), Indo Global Social Service Society (2008), Mother NGO (2010).
- 7 This could be linked with the implementation of Rajiv Awas Yojana in Delhi.
- 8 *General Comments* are interpretations of relevant articles of the International Covenant on Economic, Social and Cultural Rights. General Comment 4 titled, “The right to adequate housing” (1991), specifically expands the meaning of adequate housing as contained in Article 11(1) of the Covenant.
- 9 Also see section on ‘Security and Privacy’ of this document (Section G). Some of the areas in Delhi where concentrations of homeless citizens can be found include: Jama Masjid, Paharganj, Nizamuddin, Bangla Sahib, and Nigambodh Ghat. Also see results of the mapping exercise done by the One Delhi team.
- 10 For more information, see: *UN Basic Principles and Guidelines on Development-based Evictions and Displacement*, 2007.

Annexure XI

Order of the High Court of Delhi – dated 13.01.2010

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 29/2010

COURT ON ITS OWN MOTION Petitioner

Through: Mr. A.K. Aggarwal and Ms. Anshumalee Sood, Advocates.

versus

GOVT. OF NCT DELHI and ANR. Respondents

Through: Ms. Meera Bhatia and Ms. Amit Arora, Advocate for R-1/GNCT.

Ms. Maninder Acharya, Advocate for MCD with Mr. Rakesh Mehta, Asstt.

Commissioner, MCD, Karol Bagh Zone.

Mr. O.P. Saxena Advocate for Slum and JJ Deptt.

Ms. Seema Mishra and Mr. Bijoylshmi Das, Advocates for Shahri Adhikar Manch.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

13.01.2010

In so far as the shelter at Pusa Road Roundabout is concerned, we are informed that a temporary shelter has been set up after its demolition which was carried out on 22nd December, 2009. The said shelter as of now, apparently houses about 40 to 50 persons. This is as per the report submitted by the Secretary, Delhi High Court Legal Services Committee on 12th January, 2010.

According to the said report, it is also apparent that there are about 150 persons who require the facility of night shelter and therefore the present accommodation is inadequate. Ms. Maninder Acharya, learned counsel appearing for the MCD assures this court that today itself the entire Roundabout would be covered with a tent and that would in all probability house all 150 persons. The provision shall be made today itself so that no person would have to spend the night out without a cover over his or her head. This is, ofcourse, a temporary measure which would continue for another ten days. In the meanwhile, the concerned authorities i.e., MCD as well as the Govt. of NCT of Delhi would provide alternative night shelters in a nearby place.

We also note that in paragraph 4.3 of the Master Plan the provision for night shelter has been specifically mentioned. In fact the requirement of night shelters has been indicated to be one shelter per one lac population. We would require the concerned authority to indicate as to what steps have been taken with respect to this objective indicated in the Master Plan. A complete status report be filed within three days. We are making these observations and directions because any civilized society, especially in modern times, is required to take care of all of its citizens. No citizen should have to die because he or she is poor and does not have roof over his or her head and because of cold or heat and other weather conditions. It is the prime

responsibility of the State to provide shelter for the homeless and we are only issuing directions so as to remind the State of this responsibility.

The learned counsel appearing for the MCD as well as of Govt. for NCT of Delhi state that in these shelters blankets and bedding is provided and we hope that this is so in reality also. The Governmental agencies shall ensure that this is carried out in letter and spirit. We have also been informed that certain persons have been evicted from other shelters in Delhi by the authorities. We are of the view that till further orders and in the absence of alternative arrangements no person should be evicted from a temporary or **apermanent** night shelter.

Renotify on 19th January, 2010.

Dasti under the signature of court master.

BADAR DURREZ AHMED, J

RAJIV SAHAI ENDLAW, J

January 13, 2010

Annexure XII

Order of the High Court of Delhi – dated 22.01.2010

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 29/2010

COURT ON ITS OWN MOTION

Petitioner

Through: Mr. A.K. Aggarwal and Mr. Anshumalle Sood, Advocates.

Ms. Reena George, Advocate for Aashray Adhikar Abhiyan, Shahri Adhikar

Manch: Begharon Ke Liye, IGSSS and St. Stephen's Hospital.

Mr. Raj Bhushan, Advocate for Shahri Adhikar Manch.

Mr. A.K. Singh, Advocate for Delhi Commission for Protection of Child Rights.

versus

GOVT. OF NCT OF DELHI and ANR.

Respondents

Through: Mr. A.S. Chandhiok, ASG with Mr. Atul Nanda and Ms. Meera Bhatia, Advocates for the UOI.

Mr. Najmi Waziri, Standing Counsel for GNCT of Delhi with Mr. Shoaib

Haider, Advocate.

Mr. Rajiv Bansal, Advocate for DDA

Mr. O.P. Saxena, Advocate for the MCD

Ms. Maninder Acharya, Advocate.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

22.01.2010

The ASG as well as the counsel for the Delhi Government inform that pursuant to the order dated 19th January, 2010 of this Court, a meeting was held in the office of the Chief Secretary. A copy of the minutes of the said meeting along with annexures thereto has been handed over in Court and is taken on record. As per the said minutes and annexures thereto, night shelters (permanent and temporary) with the capacity for 5665 persons already existed in the city of Delhi. It is informed that pursuant to the orders of this court, as a temporary urgent measure, new night shelters for accommodating further 5420 persons have been made functional/are being made functional w.e.f. 21st / 22nd January, 2010. It is further assured that all the said night shelters are provided with beddings, blankets, amenities of water and electricity. Upon the same being controverted by the counsels appearing for the NGOs, Mr. Najmi Waziri assures us that upon grievance/ complaints being made, the deficiencies if any will be removed.

The aforesaid measures undertaken are but a drop in the ocean. As per the Master Plan for Delhi? 2021, night shelters for 1,00,000 to 1,50,000 homeless persons are required to be provided. The aforesaid measures taken till now are essentially short term measures made necessary on account of the emergency situation arising because of the dip in the night temperature. The learned ASG and the counsel for different agencies have assured us that all the temporary night shelters as aforesaid would remain in place till 31st March, 2010 and in fact will be removed only after seeking permission of this court. In the minutes of the aforesaid meeting, it is recorded that it is the function of the local bodies to provide night shelters; the Revenue Department of the Govt. of NCT of Delhi provides night shelters during the winter months only to supplement the work of the MCD. It is further noted that there is a duality of approach in as much as MCD does not come directly under the Delhi Administration and coordination is normally done at the level of the Chief Secretary from time to time. The minutes record that from the administrative perspective, it is desirable that such duality is removed. However all the agencies have today expressed agreement and assured us that they will work in unison in the aforesaid direction and that the Chief Secretary shall monitor and ensure the implementation of the Master Plan qua the night shelters.

A long term plan has to be evolved for the aforesaid purpose. Only stop-gap arrangements have been made till now. We direct all the agencies as well as the Govt. of NCT of Delhi to, in consultation with each other, evolve a strategy for the long term, also defining the role of each agency. It is also informed that several NGOs, primarily Aashray Adhikar Abhiyan, Shahri Adhikar Manch (Begharon Ke Liye) Indo-Global Social Service Society and St. Stephen's Hospital (Beghar Foundation) provide assistance to the homeless. Since the said NGOs directly interact with the homeless, it is necessary that inputs from the said NGOs be also taken. The counsel appearing for the various agencies are agreeable to the same. The said NGOs appearing through their counsels are directed to give their inputs directly to the Chief Secretary within one week from today. We direct that a meeting of the Chief Secretary with all the agencies involved be held on 4th February, 2010 at 5.00 p.m. The said date and time has been fixed in consultation with the counsel for the parties. If it is felt that participation of the NGOs in the said meeting would be fruitful, the Chief Secretary may allow them to participate in the same. The said meeting shall also consider conducting a survey, if not already done as to the locations of congregation of the homeless and the capacity required of the night shelters at such locations. Regard be had to the fact that the persons for whom the night shelters are intended are not likely to travel long distances to avail the same. Since provision for night shelters necessarily requires land and building, the land owning agencies be also involved in the said meeting and though they are not represented before us but we expect them to fully cooperate in the exercise. We had, on 13th January, 2010, directed that the night shelter at the Pusa Road traffic island be maintained for some time. This was to be a temporary measure as we were informed by all counsel that it is a traffic hazard. We are informed that two floors of the building at Motia Khan, with respect to which directions had been issued by us on 19th January, 2010, are now functional as night shelters. The NGOs operating in that area should ensure that persons using the said temporary night shelter at Pusa Road traffic island are relocated in the said night shelter at Motia Khan. The counsel for the MCD assures us that if there is a need for more capacity, the other two floors of the said building would also be made habitable for the said purposes. If any of the NGOs make a complaint/representation with respect to facilities/amenities at the said night shelter, the Addl. Commissioner (Slum and JJ) shall take immediate remedial measures.

The homeless persons who were evicted from Pul Mithai Sadar Bazar by the Railway Authorities are required to be rehabilitated immediately. It is informed that a community centre temporarily converted into night shelter is available nearby. The authorities as well as the NGOs shall take steps in that direction so.

The counsel for the Delhi Government has informed that NDMC's night shelter at Gwalior Pottery, I-Block, Sarojini Nagar remains unused. The counsel for the NGOs have complained that there is a need for a family night shelter. All the counsel agree that the Sarojini Nagar night shelter could be converted/treated as a family night shelter. The Chairperson, NDMC is directed to take requisite steps in that direction.

We have also handed over, to the counsel appearing for the various agencies, copies of the letter received by this court from Mr. Miloon Kothari, a reference to whose suggestions was made in the order dated 19th January, 2010.

Mr. Najmi Waziri states that a report submitted by Mr. Kothari is already under consideration of the Government.

Renotify on 10th February, 2010.

BADAR DURREZ AHMED, J

RAJIV SAHAI ENDLAW, J

JANUARY 22, 2010/pp

W.P.(CRL) 29/2010

Annexure XIII

Order of the High Court of Delhi – dated 10.02.2010

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 29/2010

COURT ON ITS OWN MOTION Petitioner

Through: Mr. A.K. Aggarwal with Mr. Anshumalee Sood and Mr. Somnath Bharti,
Advocates.

Ms. Reena George, Advocate for Shahri Adhikar Manch: Begharon Ke Liye,
Indo Global Social Service Society, Beghar Foundation

Versus

GOVT. OF NCT DELHI and ANR Respondents

Through: Mr. N. Waziri, Standing Counsel, Ms. Meera Bhatia and Mr. Roshan Kumar,
Advocates for GNCTD.

Mr. Atul Nanda, Advocate for UOI.

Mr. O.P. Saxena, Advocate for the MCD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

10.02.2010

Mr. N. Waziri has handed over in the Court minutes of the meeting held by the Chief Secretary on 29th January, 2010 in pursuance to our previous order dated 22nd January, 2010. The representatives of Indo-Global Social Service Society and Beghar Foundation attending the said meeting had submitted that as per Master Plan, 140 Night Shelter are required to be set up.

However, the Director (MP) of DDA present in the meeting took a stand that as per Govt. Notification the night shelter have to be set up for 5,00,000 persons per shelter and each shelter of 1000 sq. meter area i.e. to cater to 500 persons in 5,00,000 population; taking the population of Delhi to be 1,50,00,000, it was stated that only 30 shelters with a capacity of 500 each i.e. for only 15,000 persons are required to be provided as per the Master Plan-2021. In spite of the said position being controverted by the representatives of the NGOs present in the meeting, the minutes record that the various government departments have to go by the notification of the government.

We find the aforesaid very disturbing. We had in our order dated 13th January, 2010 noted that as per paragraph 4.3 of the Master Plan, one shelter per 1,00,000 population has to be provided. Again as per our order dated 22nd January, 2010, the stand of the ASG on that date was that night shelters with capacity of 5665 persons already exist and new shelter for accommodation of further 5420 persons had been made functional w.e.f. 21-22nd January, 2010; we had again, referring to the Master Plan-2021, observed that night shelter for 1,00,000 to 1,50,000 homeless persons are required to be provided. In spite of our aforesaid categorical orders, we fail to understand as to how the DDA could in the meeting aforesaid take a stand that the Master Plan-2021 provide for night shelters for 15,000 persons only. The notification on the basis whereof it was so claimed was not produced at the time of hearing. We as such directed the Director of the

DDA who was present in the meeting and has stated so to appear before us. Ms. Bawa, Director (MP), DDA has appeared before us. She has clarified that there is no notification of the Government of India as recorded in the said minutes. She has however drawn our attention to para 13.9 of the Master Plan-2021 where-under table 13.18 of the planning norms and standard for other community facilities is given.

We are not satisfied with the aforesaid explanation. We do not find table 13.18 in the Master Plan-2021 to be providing for night shelter for 15,000 persons only. Para 4.3 of the Master Plan is clear in this regard. The Master Plan visualizes one night shelter for 1,00,000 population. Even if table 13.18 is understood as providing for one night shelter of 1000 sq. meter for 10,00,000 population, the same cannot override the substantial provision in para 4.3 of the Master Plan-2021. The interpretation of the DDA of the Master Plan is not found to be correct by us.

We had in our order dated 22nd January, 2010 directed a survey to be undertaken. We have enquired whether any survey has been done to determine the number of homeless persons requiring night shelter in the city of Delhi. No such survey appears to have been done. We reiterate that a survey should immediately be undertaken, including to determine the requirement of night shelters.

The counsels for the NGOs appearing before us have also complained that our earlier orders have not been complied with. This issue was also raised in the meeting (supra). No status report has been filed as to compliance of our directions. The said status report be filed before the next date of hearing. The concerned authorities to in the meanwhile ensure compliance of our orders in letter and spirit and to provide the basic amenities in the existing night shelters. The counsels for the NGOs have handed over a tabulation specifying the directions of this Court not complied with. A copy of the same has been handed over to the counsels for the respondents. They are directed to, while filing the status report cover the aspects in the said tabulation also. The counsels for the NGOs have also sought a direction for allowing the families using the Sarojini Nagar night shelter which in terms of our order dated 22nd January, 2010 was converted into a family night shelter, to be occupied/used by the said families during the day time also. It is contended that the families using the said night shelters pursuant to our last order are evicted therefrom in the day time to the inconvenience of the women and children. Permission is also sought for allowing cooking therein.

Considering the inconvenience, we direct that till the next date of hearing, the Sarojini Nagar night shelter be permitted to be occupied / used by the families inhabiting the same at all time of the day and night. As far as permission to cook therein is concerned, Mr. Waziri states that the feasibility thereof be got examined from the Delhi Fire Service. We accordingly direct the GNCTD to have the same examined and to report thereon on the next date. Subject to the same, we are inclined to allow cooking therein as an interim measure. Mr. Miloon Kothari, Former Special Rapporteur, United Nations Human Rights Council is also present. He has also submitted that no long term plan as required in the Master Plan-2021 exists for the night shelters. We are also of the opinion that the working and jurisprudence of the night shelters needs to be threshed out. Whether to provide shelter to the families in the night only and if so till what time and where the said families with their frugal belongings are to go in the day time will fall for consideration. The said vexed questions do not appear to have been addressed till now. We accordingly deem it proper to involve the Delhi Legal Services Authority to assist in the litigation. Ms. Asha Menon, Member Secretary of Delhi Legal Services Authority is requested to visit the existing shelters and to meet the inhabitants / occupants thereof and report thereon including on conditions prevailing therein and compliance of our orders with respect thereto. The NGOs involved to also inform Ms. Asha Menon, Member Secretary (DLSA) of their grievances. The official of the various governmental agencies are directed to involve Ms. Asha Menon, Member Secretary (DLSA) in the long term plan for the night shelters as directed to be drawn up in terms of our earlier orders. List this matter now on 17th February, 2010. A copy of this order be forwarded to the Member Secretary, DLSA.

Copy of this order be given dasti to counsels for parties.

CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J

FEBRUARY 10, 2010

Annexure XIV

Order of the High Court of Delhi – dated 02.05.2011

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) 29/2010

COURT ON ITS OWN MOTION Petitioner
Through Ms. Reena George, Advocate
Mr. Jagdeep Bakshi and Mr. Abhishek Mohan Sinha, Advocates in CMA No.1396-
97/2010

versus

GOVT. OF NCT DELHI and ANR Respondents
Through Ms. Zeenat Masoodi for Mr. Najmi Waziri, Standing counsel for GNCTD
Mr. Ketan Madan, Advocate for Railways
Mr. Ajay Verma, Advocate for DDA
Mr. Arjun Pant, Advocate for NDMC
Ms. Meera Bhatia, Advocate for UOI
Mr. O P Saxena and Mr. Mithilesh Kumar, Advocates for DUSIB

CORAM:

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER
02.05.2011

On the basis of our earlier order an additional affidavit has been filed on behalf of the Commissioner. A copy of the said affidavit has been served on Ms. Reena George. Learned counsel for the petitioner prays for some time to file her response.

At this juncture, we may note with profit that an affidavit has been filed along with some documents by Sh. Indu Prakash Singh. In the said affidavit a number of allegations have been made against the atrocities of police authorities on the streets. Paragraphs 8 and 11 of the said affidavit read asunder:

8. Annexure 1 is a PRA (Participatory Reflection and Action) exercise conducted with Homeless Citizens at Rachna Golchakar with homeless citizens. The citizens came forward to share their horrific stories of police brutalities.

The findings include:

Nature of harassment:

They detailed out the brutalities/harassment faced at the hands of police personnel as follows:

1. The police don't allow them to sell balloons.
2. The (sic) are implicated on false charges of theft and put behind bars. The police then demand money for their release.
3. Police personnel take away their personal belongings.

4. They also spoil/throw away their food.
5. Women are abused/taunted when they bathe.
6. They are not allowed to set up shops anywhere.
7. The tyres of men's cycle rickshaws are deflated.
8. The women are asked to supply young girls to police personnel.
9. ????????
10. ????????
11. Annexure 4 is a report on police atrocity cases on children dealt by Butterflies (an NGO working with street children). Findings include forceful eviction, harassment on streets, beating and unlawful arrests and detention.

We would like the learned counsel for the State to file a response to the same. While calling for a response we would like the Commissioner of Police to look into the said allegations. On a perusal of the said allegations we are of the prima facie opinion that it is absolutely inhuman and cannot be thought of in a civilized society. If these allegations are true it will not be a hyperbole to say possibly it is the death nail of a cultured, civilized and sensitive society. The authorities who are at the helm of power are supposed to have control keeping in view the principle that the rule of law has to rule over them.

Let an affidavit be filed by Commissioner of Police himself within 10 days hence. We may further hasten to add that directions given on earlier occasions shall be followed in letter and spirit and temporary shelter homes shall be given all facilities that have already been directed and there should not be any kind of deviancy therefrom. Mr. O P Saxena, learned counsel appearing for Delhi Urban Shelter Improvement Board shall impress upon the authorities so that they remain alert and active with regard to the inmates of the shelter homes. Mr. Bakshi has filed an application no. 1396-97/2010 alleging that at a wrong place a shelter home has been established. The said application shall be taken up on the next date of hearing.

Call on 25th May, 2011.

CHIEF JUSTICE

SANJIV KHANNA, J.

MAY 02, 2011

Annexure XV

Order of the High Court of Delhi – dated 09.08.2011

IN THE HIGH COURT OF DELHI AT NEW DELHI

Order Reserved on: 20 July, 2011

Order Pronounced on: 9 August, 2011

WP(C) No. 29/2010

COURT ON ITS OWN MOTION Petitioner

Through: Ms. Reena George, Adv.

Versus

GOVT. OF NCT DELHI & ANR. Respondents

Through: Mr. N. Waziri, Standing Counsel with Ms. Neha Kapoor, Adv. for GNCTD.

Mr. A.S. Chandhiok, ASG with Ms. Meera Bhatia, Adv. for UOI.

Mr. O.P. Saxena, Adv. for DUSIB.

Mr. Arjun Pant, Adv. for NDMC.

Mr. Jagdeep Bakshi and Mr. Abhishek Mohan Sinha, Advs. for applicant in CMP Nos.1396-97/2011 & 10301/2011.

Ms. Geetanjali Mohan and Mr. Ketan Madan, Advs. for Railways.

Mr. Ajay Verma, Adv. for DDA.

Ms. Manmeet Singh, Superintendent Delhi Legal Services Authority.

Ms. Shobhna Takiar, Adv.

Ms. Jyoti Singh, Sr. Adv.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether reporters of the local papers be allowed to see the judgment? Yes
2. To be referred to the Reporter or not? Yes
3. Whether the judgment should be reported in the Digest? No

DIPAK MISRA, CJ

CM Nos.1396/2011, 1397/2011, 5295 /2011, 6876/2011 and 8614/2011

CM No.1396/2011 has been filed on behalf of the Hanuman Road Residents Association (for short, the Association) for its impleadment and for issuance of an appropriate order or direction for restraining the respondents from changing the user of the “Hanuman Road Park” from it being an ornamental park or in any way interfering in the quiet user and enjoyment of any portion of the park in the hands of the members of the petitioner and to restrain the respondents from setting up any permanent structure in the said park and to forthwith remove the temporary night shelter illegally set up therein.

CM No.1397 /2011 has been filed by the Association for shifting the night shelter to an appropriate alternate site.

CM No.5295/2011 has been filed on behalf of the learned Amicus Curiae for converting the temporary shelters for homeless people into full fledged permanent shelters and to command the respondent to comply with and act in terms of the order dated 22.1.2010 and to develop a long term plan for the homeless people in Delhi. It is further prayed that directions be issued to the respondents to submit a report in accordance with Clause 4.3 of the Master Plan for Delhi, 2021 for homeless people and to provide all the necessary facilities to the temporary shelters.

CM No.6876/2011 has been filed by the Delhi Urban Shelter Improvement Board (for short, “the Board”) for closing down the night shelters whose occupancy is nil or less than 10 persons. It is asserted in this petition that the Board has found that in many night shelters the occupancy is nil or is low. A chart showing the occupancy during the period 15.3.2011 to 10.4.2011 has been brought on record as Annexure “A” to the said petition.

CM No.8614/2011 has been filed by the Department of Revenue, GNCTD, seeking modification of the order dated 25.5.2011 stating, inter alia, that the said order requires to be modified to curb wasteful government expenditure as the occupancy rate in the temporary night shelters is abysmally low in the non-winter months. A prayer has been made to permit the accommodation of the homeless in permanent night shelters being run by the Board which have facilities of water, toilet and electricity so that these permanent night shelters are optimally utilized and public funds are prudently spent.

CM No.1396 /2011

This is an application for impleadment to protect the interest of the association. In our considered opinion, the association should file an independent writ petition as the controversy has a different contour.

With the aforesaid observations, the application stands disposed of.

CM No.1397 /2011

As we have already opined that the association should file an independent writ petition seeking redressal of the grievance, no order need be passed on the present application.

The application is accordingly disposed of.

CM Nos.5295 /2011, 6876/2011 and 8614/2011

These three applications, being interlinked and interwoven, are dealt with by a common order. As has been stated earlier, an application has been filed by the GNCTD to modify the order dated 25.5.2011 and grant permission to close certain shelter homes which have less occupancy.

The other application has been filed by the learned Amicus Curiae for providing facilities to the temporary shelter homes and further to establish permanent shelter homes and command the GNCTD to file its response indicating what steps have been taken for providing shelter to homeless people as mandated in the Master Plan for Delhi, 2021.

Before we proceed to deal with the said order, it is appropriate to refer to the relevant part of the order dated 13.1.2010. It reads as follows:

“We also note that in paragraph 4.3 of the Master Plan the provision for night shelter has been specifically mentioned. In fact the requirement of night shelters has been indicated to be one shelter per one lac population. We would require the concerned authority to indicate as to what steps have been taken with respect to this objective indicated in the Master Plan. A complete status report be filed within three days. We are making these observations and directions because any civilized society, especially in modern times, is required to take care of all of its citizens. No citizen should have to die because he or she is poor and does not have roof over his or her head and because of cold or heat and other weather conditions. It is the prime responsibility of the State to provide shelter for the homeless and we are only issuing directions so as to remind the State of this responsibility.

The learned counsel appearing for the MCD as well as of Govt. for NCT of Delhi state that in these shelters blankets and bedding is provided and we hope that this is so in reality also. The Governmental agencies shall ensure that this is carried out in letter and spirit. We have also been informed that certain persons have been evicted from other shelters in Delhi by the authorities. We are of the view that till further orders and in the absence of alternative arrangements no person should be evicted from a temporary or a permanent night shelter.”

On 19.1.2010, this Court, in its order, took note of the submission of Mr. N. Waziri, learned counsel for the GNCTD, that the Chief Secretary will call a meeting of all concerned officials to evolve a short term action plan for providing night shelters to the homeless and destitute.

Thereafter, on 22.1.2010, this Court had passed the following order:

“The ASG as well as the counsel for the Delhi Government inform that pursuant to the order dated 19th January, 2010 of this Court, a meeting was held in the office of the Chief Secretary. A copy of the minutes of the said meeting along with annexures thereto has been handed over in Court and is taken on record. As per the said minutes and annexures thereto, night shelters (permanent and temporary) with the capacity for 5665 persons already existed in the city of Delhi. It is informed that pursuant to the orders of this court, as a temporary urgent measure, new night shelters for accommodating further 5420 persons have been made functional/are being made functional w.e.f. 21st /22nd January, 2010. It is further assured that all the said night shelters are provided with beddings, blankets, amenities of water and electricity. Upon the same being controverted by the counsels appearing for the NGOs, Mr. Najmi Waziri assures us that upon grievance/complaints being made, the deficiencies if any will be removed.

The aforesaid measures undertaken are but a drop in the ocean. As per the Master Plan for Delhi - 2021, night shelters for 1,00,000 to 1,50,000 homeless persons are required to be provided. The aforesaid measures taken till now are essentially short term measures made necessary on account of the emergency situation arising because of the dip in the night temperature. The learned ASG and the counsel for different agencies have assured us that all the temporary night shelters as aforesaid would remain in place till 31st March, 2010 and in fact will be removed only after seeking permission of this court.

In the minutes of the aforesaid meeting, it is recorded that it is the function of the local bodies to provide night shelters; the Revenue Department of the Govt. of NCT of Delhi provides night shelters during the winter months only to supplement the work of the MCD. It is further noted that there is a duality of approach in as much as MCD does not come directly under the Delhi Administration and coordination is normally done at the level of the Chief Secretary from time to time. The minutes record that from the administrative perspective, it is desirable that such duality is removed. However all the agencies have today expressed agreement and assured us that they will work in unison in the aforesaid direction and that the Chief Secretary shall monitor and ensure the implementation of the Master Plan qua the night shelters.

A long term plan has to be evolved for the aforesaid purpose. Only stop-gap arrangements have been made till now. We direct all the agencies as well as the Govt. of NCT of Delhi to, in consultation with each other,

evolve a strategy for the long term, also defining the role of each agency. It is also informed that several NGOs, primarily Aashray Adhikar Abhiyan, Shahri Adhikar Manch (Begharon Ke Liye) Indo-Global Social Service Society and St. Stephen's Hospital (Beghar Foundation) provide assistance to the homeless. Since the said NGOs directly interact with the homeless, it is necessary that inputs from the said NGOs be also taken. The counsel appearing for the various agencies are agreeable to the same. The said NGOs appearing through their counsels are directed to give their inputs directly to the Chief Secretary within one week from today. We direct that a meeting of the Chief Secretary with all the agencies involved be held on 4th February, 2010 at 5.00 p.m. The said date and time has been fixed in consultation with the counsel for the parties. If it is felt that participation of the NGOs in the said meeting would be fruitful, the Chief Secretary may allow them to participate in the same. The said meeting shall also consider conducting a survey, if not already done as to the locations of congregation of the homeless and the capacity required of the night shelters at such locations. Regard be had to the fact that the persons for whom the night shelters are intended are not likely to travel long distances to avail the same. Since provision for night shelters necessarily requires land and building, the land owning agencies be also involved in the said meeting and though they are not represented before us but we expect them to fully cooperate in the exercise.

We had, on 13th January, 2010, directed that the night shelter at the Pusa Road traffic island be maintained for some time. This was to be a temporary measure as we were informed by all counsel that it is a traffic hazard. We are informed that two floors of the building at Motia Khan, with respect to which directions had been issued by us on 19th January, 2010, are now functional as night shelters. The NGOs operating in that area should ensure that persons using the said temporary night shelter at Pusa Road traffic island are relocated in the said night shelter at Motia Khan. The counsel for the MCD assures us that if there is a need for more capacity, the other two floors of the said building would also be made habitable for the said purposes. If any of the NGOs make a complaint/representation with respect to facilities/amenities at the said night shelter, the Addl. Commissioner (Slum and JJ) shall take immediate remedial measures.

The homeless persons who were evicted from Pul Mithai Sadar Bazar by the Railway Authorities are required to be rehabilitated immediately. It is informed that a community centre temporarily converted into night shelter is available nearby. The authorities as well as the NGOs shall take steps in that direction also.

The counsel for the Delhi Government has informed that NDMC's night shelter at Gwalior Pottery, I-Block, Sarojini Nagar remains unused. The counsel for the NGOs have complained that there is a need for a family night shelter. All the counsel agree that the Sarojini Nagar night shelter could be converted/treated as a family night shelter. The Chairperson, NDMC is directed to take requisite steps in that direction.

We have also handed over, to the counsel appearing for the various agencies, copies of the letter received by this court from Mr. Miloon Kothari, a reference to whose suggestions was made in the order dated 19th January, 2010. Mr. Najmi Waziri states that a report submitted by Mr. Kothari is already under consideration of the Government."

On a scrutiny of the aforesaid order, it is noticeable that as per the Master Plan for Delhi, 2021, night shelters for 1,00,000 to 1,50,000 homeless persons are required to be provided and the measures taken till date were essentially short term measures. The Bench had observed that only stop-gap arrangements had been made.

The order dated 25.5.2011, which is sought to be modified, reads as under:

2. During the course of hearing of this petition, certain aspects have emerged which require immediate delineation. Mr. Rakesh Tiku, learned senior counsel appearing for intervener submitted that at Hanuman Road Park a temporary shelter home has been put, whereas it should not have been put at the said location. To the aforesaid submission canvassed by Mr. Tiku, it is urged by Mr. O.P. Saxena that a decision dated 8th April, 2011 has been taken by the Urban Shelter Improvement Board (for short "the Board") that this shelter home shall be shifted to an appropriate alternative site. Mr. Arjun Pant, learned counsel appearing for the NDMC fairly stated that the NDMC shall make a place available where the shelter home presently situated at Hanuman Road Park can be shifted. The same shall be done in consultation with the Board within a

period of three weeks from today. Till the new shelter home is ready, the shelter home at Hanuman Road Park shall continue.

3. At this juncture, we have been apprised by Gautam Talukdar, learned counsel and Mr. Indu Prakash Singh, who has been assisting this Court, that there are no fans in shelter homes and drinking water is not provided as a consequence of which the occupancy rate has declined drastically. It will be an anathema to Article 21 of the Constitution of India if the people in need and in abject poverty, who are required to survive and live in shelter homes, are not provided with drinking water and fans. Regard being had to the said submission, it is directed that the Board shall provide drinking water and make available fans in the shelter home forthwith. If any assistance of the Delhi Jal Board is required, they will respond to the request of the Board immediately. The authorities cannot ignore their responsibilities and they must meet basic requirements. It is expected that all authorities shall work in harmony. As far as fans are concerned, Mr. Saxena fairly stated that at least two fans shall be provided. Mr. Waziri, learned standing counsel for GNCTD stated that if the Board seeks assistance of GNCTD, the same shall be rendered immediately as the GNCTD feels that people should live with dignity and in acceptable comfort. Needless to say, there has to be a provision for light as the people who take shelter in these homes cannot remain in darkness.

4. We have also been apprised by Mr. Indu Prakash Singh that there are no toilets in the shelter homes. Mr. Saxena has submitted that the occupants are entitled to use "Sulabh Sochalaya" in the proximity. Be that as it may, it will be appropriate that the shelter homes have at least two toilets so that the people are not compelled to go to a "Sulabh Sochalaya" and stand in the queue to defecate. This is the most essential requirement that the Board should have earlier conceived of and we hope that the Board shall rise to the occasion and make the aforesaid provision available within a period of ten days hence. The persons who are in the helm of affairs in the Board shall see to it that toilets are kept and maintained in a hygienic and clean condition."

In the application for modification filed by the GNCTD, it is put forth that in December, 2010, 84 temporary night shelters were set up and the same were in addition to 64 permanent night shelters already available which are maintained by the Board. It is set forth that all the permanent shelter homes have the requisite facilities. The relevant paragraphs of the said application are as follows:

5. That the setting up of the temporary night shelters each year is a coordinated exercise. This exercise is coordinated by DUSIB, Department of Revenue, Mission Convergence, Mother NGO and other NGOs associated with managing temporary night shelters. Sites are identified and tents are erected in consultation with these concerned agencies. A number of such shelters are often set up under flyovers, in and around public parks on the basis of detailed mapping of concentration sites of the shelterless and review of existing shelters by the Mother NGO, which recommends where the temporary shelters are to be provided.

6. The occupancy rate of the temporary night shelters is abysmally low in non-winter months. In many cases, since March this year, the shelters have remained unoccupied for weeks on end, while in some others the occupancy per centage is as low as 2 per cent. The immense installed capacity of over 90-95 per cent is wasted every day. Evidently the temporary night shelters are not required at all. The Average Occupancy Chart attached herewith as Annexure – 1 would bear out these facts. It has been noticed that temporary night shelters and sometimes even permanent shelters are not preferred by the shelter-less during the non-winter months.

7. Many shelters are not being visited by homeless or destitute persons for the past 12 to 14 weeks. Yet the government is constrained to continue with the provision of temporary night shelters in view of the Hon'ble Court's earlier orders which has prohibited the closure of any of these shelters without prior permission of this Hon'ble Court. In so far as some of the night shelters are not at all required, it would be administratively prudent to curtail such expense and to put such monies to better use."

Be it noted, on 25.5.2011, this Court had appointed a Committee consisting of three learned members of the Bar to inspect and verify the condition of the shelter homes and the facilities available therein. The Committee has submitted report dated 19.7.2011 before this Court and has reported the facilities and

deficiencies of various temporary and permanent night shelters. The recurring deficiencies highlighted by the Committee with respect to temporary night shelters mostly pertains to maintenance and basic amenities such as water, toilets and hygiene. The permanent shelters were, however, reported to be installed with all basic amenities. Further, the Committee gave a list of recommendations for improving the conditions of such night shelters and facilities thereof which are as follows:

- “1. The number of users in shelter is dipping in summers. Therefore, the government to consider actively the viability of tent shelters in summers.
2. The prospective users need to be motivated/ directed more and more to use pucca shelters where the amenities can be created/improved.
3. The Government and NGOs should make efforts to publicise the availability of pucca shelters.
4. The tents are at risk of fire, accidents / injury related to heavy rain and thunderstorm. Therefore, a high level committee may be constituted to examine this facility.
5. According to the DUSIB officials, tents are very expensive and causing enormous losses as the govt. is paying a hefty rental for daily usage to a private tent company. The tents cannot be the permanent solutions. The same funds can be used for creating / upgrading facilities of pucca shelters.
6. The NGOs have hired homeless persons as caretakers of the tent accommodations. The government (DUSIB) has no control over such caretakers. Most caretakers need skill formation, professional safety/ emergency training and empowerment for a professional delivery of services.
7. The Delhi Fire Services may conduct fire safety trainings at each premise on regular basis and provide installations, not just guidelines.
8. The DUSIB to map the “homeless prevalence” area wise and identify the possibility of declaring some pucca shelters in the vicinity as their referral shelters.
9. If there is a need of more pucca shelter space, the DUSIB to come out with a plan for new construction and also may simultaneously take over “un-used” buildings in the “MPCC” category lying vacant/un-occupied under various departments, such a PWED, Flood Control, Labour Department, MCD etc. The DUSIB may take over all such un-used portions of Community Halls, lying vacant at various locations of the city. If there is still a deficit, DUSIB may propose construction of more night shelters under the Jawahar Lal Nehru Urban Renewal Mission, funded by the Government of India, for the urban poor under the Ministry of Urban Development and Poverty Alleviation, located at Nirman Bhawan.
10. The permanent night shelters being maintained by DUSIB have provision of basic facilities. However, some of the centres would require a fresh coat of paint and some more attention towards hygiene and regular water supply. However, the facility could be used optimally if the provision of night shelters are sufficiently advertised through electronic and print media, but more particularly through the network of NGOs and police. Proper visible signage need to be provided for all the shelters, so that the needy could reach or to be reached to them. A joint and concerted effort would need to be made by all stakeholders and experts to achieve the objective of filling the available capacity for the benefit of the targeted needy persons. Evidently a system will have to be devised so as to ensure that these night shelters do not become permanent dwelling units for families but are used solely for the purpose of interim night shelters by the destitute and homeless.
11. Apki Rasoi Program should be run by Delhi Govt. in each and every night shelter.

On a perusal of the suggestions given by the Committee, it is luminescent that the temporary shelter homes lack certain facilities and there is a risk factor; that the Board has no control over the caretakers; that there is need for making people aware and create motivation to use pucca shelter homes where the amenities can be created/improved; that the Board should come with a plan for new construction and simultaneously take

over “un-used” buildings in the “MPCC” category lying vacant/unoccupied under various departments; that a joint and concerted effort is required to be undertaken by all the stakeholders and that certain more facilities have to be made available to the people for whom the night shelters have been made.

As urged by Mr. Waziri, learned standing counsel for the GNCTD, the maintenance of temporary night shelters has become extremely costly and such a burden on the state exchequer is totally unwarranted. A submission was canvassed that there are 84 shelters and such a high number is not required as one shelter home is required for a population of 5 lacs. Mr. Bhushan, leaned Amicus Curiae, per-contra, would contend that it is contrary to the tenor of the order passed on 13.1.2010 as it has been clearly laid down, therein, after placing reliance on the stipulations in the Master Plan that for one lac population, one shelter home is the requisite. As we perceive, the Division Bench had scrutinized the Master Plan 2021 and had expressed the said view and ergo, the submission put forth by Mr. Waziri on this score has no substance.

The heart of the matter is whether temporary night shelters are to be closed solely because there is expenditure despite a stipulation in the Master Plan 2021. That apart, this Court had passed many orders wherein it has been held to be the need and necessity. It has been canvassed with immense conviction, if we allow ourselves to say so, that the people do not come to shelter homes and, therefore, the establishment of shelter homes is an exercise in futility. The State Government is under obligation to have permanent shelter homes. True it is, we have been apprised that there have been some permanent shelter homes and some are running in temporary tents. A shelter home is expected to give adequate shelter and has to be made habitable where of the conditions must be acceptable to a person to live with dignity. Fixing a tent is a very marginal per centage of infrastructure, however, making provisions for stay in an acceptable dignified manner in a shelter home is the warrant. There has to be a galvanized effort to see that the people who rot on the streets know about the shelter homes, the facilities available therein and are motivated to stay therein. As rightly suggested by the Committee, a concerted effort has to be made. The Board has a sacrosanct duty to perform. When there is an obligation to do certain things, it has to be done and there cannot be any kind of shirking or escape on the ground that certain amount is expended unnecessarily.

We will be failing in our duty if we do not take note of the submission of Mr. Waziri, learned standing counsel for the GNCTD, that the mother advising NGO has already intimated the State Government that there is need to close shelter homes. In our considered opinion, the mother NGO cannot have the final say over a matter of this nature and the State Government should not immediately concede to it. It is the duty of the State Government and the Board to see that shelter homes are established, run and maintained and the NGOs can only assist, they cannot dictate.

In view of the aforesaid analysis, while disposing of these interim applications, we record our conclusions and directions in seriatim as follows:

- (i) The prayer for closure of the temporary night shelters is unacceptable and, accordingly, the same stands rejected.
- (ii) The Board has to constitute a Committee which can look after the shelter homes in proper perspective so that the facilities for human beings to live are available and no one should harbour a feeling that he is treated as an unperson and asked to stay like an animal in a temporary shelter home.
- (iii) There has to be awareness camps which have to be organized by the Board by involving responsible non-government organizations so that the people come to the shelter homes and the same to be home for all seasons, be it summer, rainy or winter.
- (iv) If any particular NGO has not acted with responsibility and accountability, it is open to the State Government and to the Board to take appropriate action against it or discontinue to engage it, but that would not be a ground for closing the shelter homes.

- (v) While improving the conditions in the temporary shelter homes due attention is required to be given to the permanent shelter homes so that the requisite permanent homes are constructed to serve the people in need of night shelters.

Let the matter be listed for further hearing on 5th October, 2011.

CHIEF JUSTICE

SANJIV KHANNA, J.

AUGUST 9, 2011

Annexure XVI

Order of the High Court of Delhi – dated 21.12.2011

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 29/2010 and CM Nos.10301/2011 and 13506/2011

COURT ON ITS OWN MOTION Petitioner

Through: Mrs. Reena George, Adv. for 'Shahri Adhikar Manch Begharon Ke Saath'.
Mr. A.K. Singh, Adv. for 'Prayas'.

Versus

GOVT. OF NCT DELHI and ANR Respondents

Through: Mr. Najmi Waziri, Adv. for GNCTD.
Mr. A.S. Chandhiok, ASG with Ms. Meera Bhatia, Mr. Bhagat Singh,
Mr. Vidit Gupta and Mr. Vikrant Goyal, Advs. for UOI.
Ms. Geetanjali Mohan, Adv. for Railways.
Mr. Mukesh Kumar and Mr. Ajay Verma, Advs. for DDA.
Mr. Vaibhav Sethi and Mr. O.P. Saxena, Adv. for DUSIB.
Mr. Arjun Pant, Adv. for NDMC.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

21.12.2011

We have heard at length counsels/representatives of certain NGOs as well as Mr. Najmi Waziri, Advocate appearing for Government of NCT of Delhi. Many suggestions are mooted during the course of hearing to address various issues and difficulties which are being faced in running these night shelters. It is agreed by all the parties concerned that they will have joint meeting today and tomorrow to work out the solutions to address the difficulties being faced and a report on that shall be prepared and which will be presented to the Court on the next date of hearing.

List on 23rd December, 2011.

ACTING CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J

DECEMBER 21, 2011

Annexure XVII

Order of the High Court of Delhi – dated 04.01.2012

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 29/2010

COURT ON ITS OWN MOTION Petitioner

Through: Ms. Reena George, Adv.

versus

GOVT. OF NCT DELHI and ANR Respondents

Through: Mr. N. Waziri, Adv. for GNCTD.

Mr. A.S. Chandhiok, ASG with Ms. Meera Bhatia, Adv. Mr. A.K. Singh, Adv. for Prayas.

Ms. Geetanjali Mohan, Adv. For Railways.

Mr. Arjun Pant, Adv. for NDMC.

Ms. Jayshree Satpute, Adv.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

04.01.2012

1. Last when this matter was taken up on 21st December, 2011, during the course of hearing many suggestions were mooted to address various the course of hearing many suggestions were mooted to address various issues and difficulties which were being faced in running the night shelters. On that date, it was agreed by all the concerned parties that they would have a joint meeting to work out the solutions to address those difficulties and a report shall also be prepared and presented to the Court.
2. Mr. Waziri has filed status report dated 4th January, 2012 which is taken on record. As per this status report, meeting was held on 26th December, 2011 under the Chairmanship of CEO, DUSIB wherein representatives of various NGOs and government officials were present; during the course of meeting, it was decided to constitute a Joint Apex Advisory Committee consisting of members of NGOs engaged in Operation and Maintenance of Night Shelters, officers of the Government of NCT of Delhi and of other Central Government Agencies concerned; the task assigned to this Committee includes effective utilization of existing night shelters, establishment of additional night shelters as and when required, providing necessary infrastructure in the night shelters for humane living of the homeless people of Delhi etc; it was also decided that this Apex Committee would constitute a Core Committee to look into day to day management and to sort out problems being faced by the homeless people of Delhi. The Core Committee was thereafter constituted consisting of Director (Night Shelter) DUSDIB, Executive

Engineer CD-III, Incharge of Control Room and members from certain NGOs. It is also stated in the status report that specific mandate to the Core Committee was given and the Core Committee went ahead as per the said mandate. Two teams for carrying out the various functions as assigned were constituted and they have achieved substantial progress in resolving various issues in the running of these NGOs. New signages, approximately 200 in number, have already been put up for guiding the needy to the night shelters. Mr. Waziri has also shown photographs of some of the temporary night shelters and submits that night shelters of very good quality have been constructed which are provided with all necessary amenities like proper beds, water, electricity, venial flooring and even television in some of these centres. Five special homes have been set up specifically for children with additional amenities with informal educational facilities as well.

3. Mr. Waziri however points out that the total capacity of these night shelters is 12,200 but the occupancy as on 2nd January, 2012 was only of 4,500 and therefore still a vacancy of about 7,700 beds in the night shelters exists.
4. It should not be difficult to take care of this issue in as much as it cannot be denied that the persons on streets in Delhi are much more in numbers. If for certain reasons these persons are not utilizing these night shelters, the NGOs in cooperation with the said authorities should be able to work on this front and to also create proper awareness among these homeless persons who could utilize these shelters.
5. We would like to point out that no doubt the State officials have also to work in this direction, larger responsibility in this behalf should be that of NGOs. Since Joint Apex Advisory Committee as well as Core Committee have been constituted, these committees will address this issue as well so that these night shelters are used by maximum persons.
6. Ms. Reena George has submitted that some deaths of the persons on streets have been reported in past few day. According to her, the authorities have accepted that these deaths were due to starvation. Though this is not within the scope of present writ petition, at the same time since it is a public interest litigation and we are dealing with the problem of homeless persons who need night shelters during winters, this becomes a related issue and therefore we expect the Joint Apex Committee to look into this problem as well.
7. The government shall expedite the construction of remaining temporary night shelters and the schedule in this respect shall be presented on the next date of hearing.

List on 18th January, 2012.

ACTING CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J JANUARY 04, 2012 Pp.

W.P.(C) 29/2010

Annexure XVIII

Order of the High Court of Delhi – dated 01.08.2012

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 29/2010

COURT ON ITS OWN MOTION

..... Petitioner

Through: Mrs. Reena George, Adv.

versus

GOVT. OF NCT DELHI and ANR

..... Respondents

Through: Mr. Najmi Waziri with Ms. Neha Kapoor Khanna, Advs. for GNCTD.

Mr. Rajeev Mehra, ASG with Ms. Meera Bhatia, Mr. Kunal Kahol,
Mr. Madhusudan and Mr. Aditya Malhotra, Advs. for UOI.

Ms. Geetanjali Mohan with Ms. Mansi Gautam Advs. for Railways.

Mr. Anil Amrit, Adv. for NDMC.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER 01.08.2012

1. Mr. N. Waziri, Advocate appearing for Delhi Urban Shelter Improvement Board (DUSIB), GNCTD has filed the Status Report wherein steps taken for setting up 84 temporary shelters in pucca and tin structures have been spelled out. The Status Report also details further facilities which are provided in these shelters. On the other hand, Ms. Reena George, Advocate submits that many of these shelters are in dilapidated conditions. She has produced photographs of some of these shelters to demonstrate the same. It is also mentioned that in 17 shelters there are poor sanitation facilities and in 21 shelters either there are no fans or are not working. There is no light in 10 shelters. No electricity in 24 shelters. There is erratic drinking water supply in 18 shelters. No health facilities in 17 shelters. No toilets/choked toilets in 20 shelters. Damaged roof in 18 shelters and damaged floor in 26 shelters.
2. Mr. Waziri assures to look into the same and take remedial measures immediately. He informs that it is the responsibility of the concerned NGOs who are running these shelters to provide for the aforesaid facilities and appropriate steps shall be taken in this behalf.
3. We are of the opinion that the Director (Night Shelter), DUSIB should personally look into the matter and ensure either through DUSIB or the said NGOs that all the irregularities and deficiencies which are found as stated by the learned counsel for the petitioner, are removed before the next date of hearing. We make it clear that it would be the personal responsibility of the Director (Night Shelter), DUSIB to remove these deficiencies. Status report in this behalf shall be filed before the next date.

List on 12th September, 2012.

ACTING CHIEF JUSTICE

RAJIV SAHAI ENDLAW, J

AUGUST 01, 2012

Annexure XIX

Order of the High Court of Delhi – dated 20.03.2013

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) No.29/2010

COURT ON ITS OWN MOTION Petitioner

Through: Mr. Jayant Bhushan, Sr. Advocate (Amicus Curie) along with Mrs. Reena George, Adv.

VERSUS

GOVT. OF NCT OF DELHI AND ANR. Respondent

Through: Mr. Najmi Waziri along with Ms. Neha Kapoor Khanna, Advs. for DUSIB/GNCTD/Delhi Police.

Mr. Parvinder Chauhan, Adv. for R-4.

Mr. Anil Amrit along with Mr. Rohit Dhingra, Advs. for NDMC.

Mr. Ajay Verma, Adv. for DDA.

Ms. Geetanjali Mohan along with Ms. Mansi Gautam, Advs. for Railways.

Ms. Meera Bhatia, Adv. for UOI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V.K. JAIN

ORDER

20.03.2013

The Court on its own motion took up the grievances of the people who were in dire need of temporary night shelter and permanent shelter particularly during the winter season.

Various orders have been passed by this Court and the respondent/ Delhi Urban Shelter Board is making efforts to comply with those orders, though still there are many shortfalls. The last such order was passed on 13.2.2013.

Our attention has been drawn by Mr. Jayant Bhushan, learned Sr. Counsel who is assisting the Court, to a communication dated 14.02.2013 sent to Shahari Adhikar Manch: Begharon Ke Sath by Mr. A.K. Sharma, Director (Night Shelter) and addressed to Mr. Joseph Sebastian. The said letter reads as under:

No.F-06/NS/DUSIB/141/2013/D-1169 Date:14/02/2013

Subject: Regarding Status of the Shahari Adhikar Manch-Begharon ke saath

Dear Shri Joseph Sebastian ji,

It is known to all that you are the member of the Executive Committee of Shahari Adhikar Manch: Begharon Ke Saath. You are requested to give following information about this organization.

1. Name of the Chairman of the Executive Committee
2. The registration no. of this organization registered with registrar of society under society act.

It is also learnt that this organization has been appearing before the Hon'ble High Court in case no. WP (C) 29/2010, Court on its own motion v/s GNCTD since the hearing of this case started in the Hon'ble Court. An advocate is also appearing in the Court on every date on behalf of Shahari Adhikar Manch: Begharon ke Sath. The payment of fee might have also been made either through cash or cheque and from the account of this organization. This information may also be provided. In the absence of the information, it shall be presumed that payment of fee to the Advocate is being paid unsystematically by this Organization. This organization is also providing some books, document and other information through printing material from the source of black money.

If this organization is not registered with Registrar of Society then this organization shall be treated as an Organization that has no legal sanctity and you are representing on behalf of this Organization which has no legal sanctity and is an unregistered organization.

The above information shall be forwarded to appropriate authority for appropriate action in this case in the absence of your reply.

Sd/-

(A.K. SHARMA)

Director (Night Shelter)

Sh. Joseph Sebastain,

28, Institutional Area,

Lodhi Road, New Delhi-03.

We have perused the above communication. In fact, we noticed that the above communication is in the nature of notice to the organization questioning the authority of the said organization to present the people, who are in need of temporary night shelters/permanent night shelters before this Court. We also noticed that the said organization was permitted to represent those people before this Court and has been periodically assisting the Court in its endeavour to make provision for temporary night shelters as well as permanent night shelters.

In our opinion, the above communication per se amounts to interference in the course of administration of justice and would amount to criminal contempt. For that reason, we are inclined to initiate contempt

proceedings against Mr. A.K. Sharma, Director (Night Shelter) and issue notice to him. Mr. A.K. Sharma, Director (Night Shelter) is also present in this Court and we direct him to take notice and explain as to why proceedings should not be initiated against him for criminal contempt. He shall file his response by 10th April, 2013. As far as the temporary night shelters are concerned, the respondents shall maintain status quo as on today.

Call this matter on 10th April, 2013.

CHIEF JUSTICE

V.K. JAIN, J.

MARCH 20, 2013

Annexure XX

Order of the High Court of Delhi – dated 07.08.2013

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 29/2010 and CM No. 10301/2011

COURT ON ITS OWN MOTION

..... Petitioner

Through: Ms Reena George, Advocate

versus

GOVT. OF NCT DELHI and ANR

..... Respondents

Through: Ms Sangeeta Sodhi, Advocate for GNCTD

Mr Manish Srivastava, Advocate for BSES/NDPL

Mr Vibhor Garg, Advocate for AIIMS

Mr Ajay Arora, Advocate for EDMC

Ms Meera Bhatia, Advocate for UOI

Ms Geetanjali Mohan and Ms Mansi Gautam, Advocates for Railways

Mr Sunil Satyarthi, Advocate for respondent No. 10

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED, ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

07.08.2013

The learned counsel appearing on behalf of Mr A.K. Sharma shall file the proof of having deposited the cost of 5000/- with the Delhi High Court Legal Services Committee within a week. The learned counsel appearing for the DUSIB shall state on affidavit as to how many persons in Delhi are without a shelter. He shall also state on affidavit as to how many shelters are provided by DUSIB in Delhi and how many persons can be accommodated in that shelter. The affidavit shall further state whether there are separate shelters for women and children, for disabled, for senior citizens, for families and for adult males. The figures of shelterless people should be given category wise. If the figures for the categories are not readily available, the affidavit in respect of the total numbers would be filed in any event within two weeks. The petitioners may also file any additional affidavit that they may like to file with regard to the above. The learned counsel for the DUSIB shall also indicate as to why the temporary shelters at Shakurpur Basti and Yamuna Bazar have not yet been re-established.

The learned counsel for the Government of NCT of Delhi shall file an affidavit indicating the steps taken in respect of the alleged brutalities committed by the police on the shelterless people, particularly, women. The said affidavit be filed within two weeks.

Renotify on 30.10.2013.

BADAR DURREZ AHMED, ACJ

VIBHU BAKHRU, J AUGUST 07, 2013 SU



Shahri Adhikar Manch: शहरी अधिकार मंच:
Begharon Ke Saath बेघरों के साथ



Urban Rights Forum: With the Homeless

Shahri Adhikar Manch: Begharon Ke Saath
G-18/1 Nizamuddin West, Lower Ground Floor
New Delhi – 110 013
+91-11-2435-8492
shahriadhikarmanch@gmail.com