

Constitutional Rights of Homeless Women and Children

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Abstract

It has come to the finding that there has been large number of migrants rise in India and their portion of homeless population has searched to a greater extent. Despite having municipal laws to protect their right to life developing country like India is facing shortage in housing its population. To safeguard homeless women and child it is essential to protect them from any form of exploitation for instance violence has been one of the major challenges for these homeless population. It is essential to practice access to justice keeping in mind our constitutional mandate. Article 21 plays a vital role in protecting the homeless population. There is an urgent need to provide adequate shelter, livelihood, health camps to maintain a better quality of life. Though we have domestic violence act and laws for protection of women and child. It is important to have proper implementation of the laws. This paper will try to analyze to what extent the human rights of homeless people are affected and what could be done to combat the violation of human rights. Homelessness leads to a variety of consequences of indulging in criminal acts which leads to societal fear. To strike a balance, the government must take necessary steps to ensure that homeless people get access to basic human rights.

Keywords: Human Rights, Constitutional Law, Fundamental Rights, Fundamental Duties, Homeless Women, Homeless Children

Introduction

Homelessness is a socio legal concern worldwide. There are several states that have adequate resources to address the issue of statelessness. Homelessness leads to violation of several rights along with indicating states failure to guarantee access to safe, affordable and adequate housing for all.

Homeless people are not stable, safe, and lack adequate housing. Definition of Homeless used by UN Habitat “one of the most acute forms of material deprivation. Homelessness refers to the inability of people to enjoy a permanent accommodation.”²

As per the report of the Secretary General on affordable housing and social protection systems for all to address homelessness. The definition of Homelessness is not merely a lack of physical housing, but it is also a loss of family, community, and a sense of belonging. It is a failure to access a lot of other human right to grow economically and live a safe and decent life. it is described as a condition, a situation where an individual or household lacks house with a sense of security of tenure, rights, and ability to enjoy social relations including safety and includes a

² Homelessness and Human Rights available at: [OHCHR | Homelessness and human rights](https://www.ohchr.org/en/press-releases/2019/04/ohchr-homelessness-and-human-rights)

variety of people who experience homelessness like people living on streets, open spaces, slums etc.,

The Universal Declaration of Human Rights (UDHR) as adopted by the UN General Assembly defines a “Homeless as those who do not live in a regular residence or pakka houses due to lack of adequate housing, safety, and availability.”

India defines the situation of homeless as those individuals who do not live in the houses but rather are found on streets, pavements, underground crossings on the platforms in railway station, the stairs of temple, or any open area.

The census of India 2011 defines houseless household as households who do not live in buildings or census houses but live in the open on pavement, roadside, railway station, staircase of temple etc. According to 2011 census India has around 1.77 million homeless. 52% of which live in urban areas of the country. This number is also not the exact number, and the actual number can be more double. In India 68 million people are living in an informal settlement in our country.³

Constitutional Rights of Women

There are a lot of rights that surround Right to Life and personal liberty under the Constitutional of India. These rights are expressly stated under various articles, but it was very much implied in the person since the day it takes it first breathe in the world. Our constitution has adopted various provisions from various countries and the fundamental rights have been made in line with the UDHR. Women in India has ample of rights which will be discussed in detail:

1. Article 15(1) of the Constitution of India gives a direction to the state not to discriminate against any native of India on the grounds of sex. Further in the same article 15(3) the state is obliged to make special provision for women. It must make some special provision to further their growth.⁴

2. In Article 16(2) it is specifically directed to state that the citizen will not be segregated based on sex.⁵

3. In Article 39(e) under the Directive Principles of State Policy DPSP the state is responsible to ensure that the strength of women workers is not abused and that they are not obliged by economic necessity to enter avocation unsuited to their strength.⁶

4. Article 39(a) directs the state to ensure to secure for men and women equally the right to an adequate means of livelihood.⁷

5. The Constitution under Article 39(d) directs and mandates the state to secure equal pay for equal work for men and women. It tries to ensure that both men and women have access to adequate livelihood.

6. Article 23(1) provides every citizen with the fundamental right as human trafficking and forced labour.

³ Housing and Land Rights Network available at: [HLRN](#)

⁴ The Constitution of India, 1948 Article 15

⁵ The Constitution of India, 1948 Article 16

⁶ The Constitution of India, 1948 Article 39 (e)

⁷ The Constitution of India, 1948 Article 39 (a)

The Directive Principle of State Policy under article 42 puts a responsibility on the state to make provision to ensure just and humane conditions for work and maternity relief. This is in no way a instrument of social transformation also give forth measures and institutional mechanisms to ensure equal participation of women in the society.

Constitutional Provisions for Children

The Universal Declaration of Human Rights and the International regime. A child includes every human being under the age of 18 years. The definition is provided in the United Nations Convention on the rights of children. The key points thus universally accepted regarding the childhood:

1. All children under the age of 18.
2. Every human being has come through the age of childhood.
3. Children have different experiences as they mature.
4. It is the state who needs to protect children from abuse and exploitation.

Childhood is the beginning of the journey of life. If the children are subjected to any abuse in this age. It may have a lasting impact on the child's character. This sort of exploitation of any kind stifles the proper development of the child's personality. Children are at high risk of becoming vulnerable to mental or physical attack on them. It is natural that in this age they may not be able to distinguish and identify the acts of abuse and exploitation. Even in this scenario when children could not identify the acts, they fail to bring the attention of the guardians. It is the sole responsibility of the governing to ensure that the rights of children should be protected, and a sense of security needs to be given to them. This security could be ensured by providing them with shelter for them where they are living in a safe environment. These children will not be sleeping in the open and would at least have a sense of warmth and a house where their basic rights are provided. The directive principles of state policy although gives the state a little freedom in respect to matters of legislation. Although Fundamental Rights and the Directive Principles of State Policy are a support to each other, and the Fundamental Rights are enforceable in the court whereas DPSP is not enforceable in the court. DPSP is a kind of guideline that aims to ensure the proper implementation of Fundamental Rights. Article 21A⁸ right to free and compulsory elementary education for all children in the age group of 6-14 years. The right to education was before the 86th Amendment Act was implicit in the right to life and personal liberty, but this provision was expressed in the constitution in 2002 and the Supreme Court for the first-time recognized education as the most indispensable part of the right of life.

The Article 45⁹ of DPSP right to early childhood care and education to all children until they complete the age of six years this article stressed on the importance of state sponsored compulsory elementary education to children upto 14 years of age. To ensure safety article 24 prohibits the employment of children in factories etc. This article specifically provides the right to be protected from any hazardous employment till the age of 14 years.

Conclusion

The government needs to have certain provisions which could help combat vulnerability of Homeless Women and Children to ensure that the basic human rights of individuals. This would

⁸ The Constitution of India, 1948

⁹ The Constitution of India, 1948

protect the rights and would also at the same time help in Lessing up crime in Delhi. It would ensure them with proper environment which would lead to healthy growth of children. Childhood is an age where the child needs proper care and attention of parents. In this age the child needs a safe environment which furthers his growth in right direction. It is important to provide homeless people with a housing facility where they can shelter themselves and ensure that their right to life and to live with dignity can be ensured.