



RIGHT TO FOOD AND RIGHT TO SHELTER



**National Human Rights Commission
India**

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**NATIONAL HUMAN RIGHTS COMMISSION
INDIA**

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RIGHT TO FOOD IN INDIA

The right to food is a birthright. It is a universal, fundamental human right without any boundaries. Today, almost a quarter of the world's children, especially in Asia and Africa, do not get adequate food. The right to food is about freedom from hunger. This can be interpreted in two different ways, associated with different readings of the term "hunger". In a narrow sense, hunger refers to the pangs of an empty stomach. Correspondingly, the right to food can be understood, roughly speaking, as the right to have two square meals a day throughout the year. In a broader sense, hunger refers to malnutrition.

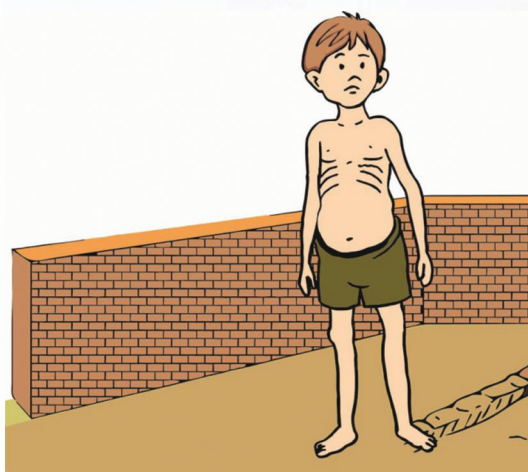


The right to food (i.e. to be free from malnutrition) links with a wide range of entitlements, not only to food itself but also to other requirements of good nutrition such as **clean water, health care, and even elementary education**. In India, only about 20 percent of infants and young children are being fed optimally. Almost half the children under 5 years of age in India suffer from malnutrition. Two million children die before they reach the age of five ¹. Out of that, about one million die before the age of one month and two third of these deaths are related to inappropriate feeding practices.

¹ Unicef India, <https://unicef.in/Story/1124/Nutrition>

In **Global Hunger Index**, 2019 India ranked **102nd** out of 117 qualifying countries. With a score of **30.03**, India suffers from a level of hunger that is **serious**

The causes of undernourishment, death from hunger and malnutrition of children are primarily due to social injustice, political and economic exclusion and discrimination. Millions of undernourished children suffer from political and social exclusion while their right to food is violated. Children's rights are the human rights of children with particular attention to the rights of special protection and care afforded to the young including for their food.



Malnourished child

“Right to food”, in India, has been one of the most contentious and highly debated issues in relation to the right of development of children and most importantly, food security of the poor. With the judicious intervention of the Supreme Court, a rights-based approach to development has emerged putting aside the concept of welfare approach, according to which it is required of the State to fulfill

its promises given to the citizens including children.

The Annapurna Scheme was announced by the **Finance Minister** in his Budget Speech for the year 1999-2000 to provide food security to those indigent senior citizens who were not covered under the targeted Public Distribution System (PDS) and who had no income of their own. Annapurna is a social sector scheme and forms part of the National Social Assistance Programme³ (NSAP) which came into effect from **15th August, 1995**.

² <https://www.globalhungerindex.org/results/>

³ <http://nsap.nic.in/>



A man who is 70 years old has been working as a mason for 40 years. Recently, he had trouble getting Babulal work as he has grown old and weak. He has no family to lean on and he does not have enough savings to provide for himself. Ankur, a social activist, comes to know of this and enlists Babulal in the Annapurna Scheme. The Scheme aims to provide food security for senior citizens above 65 years of age who are not beneficiaries of National Old Age Pension Schemes. Babulal now gets 10 kg of food grains every month, free of cost.

WHAT IS FOOD SECURITY?

Food security has been defined, by the **World Health Organization (WHO)**, 'as a situation when all people at any times have physical and economic access to sufficient and nutritious food that meets their dietary needs and food preference for an active and healthy life'. This implies that 'the lack of a balanced diet minus essential nutrients results in chronic malnutrition'. India ranks **76 out of 113** major countries⁴ in terms of **Food Security Index, 2018**.

⁴ <https://foodsecurityindex.eiu.com/Index>

INTERNATIONAL INSTRUMENTS CITING RIGHT TO FOOD:

The right to adequate food and the fundamental right to be free from hunger are recognized by international law, and many countries have food-related rights in their constitutions. According to the United Nation's committee on economic, social and cultural rights "the right to adequate food is indivisibly linked to the inherent dignity of the human person and is indispensable for the other human rights enshrined in the International Bill of Human Rights. It is also inseparable from social justice, requiring the adoption of appropriate economic, environmental and social policies at both the national and international levels, oriented to the eradication of poverty and the fulfillment of human rights for all. The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement."

The Committee on Economic, Social and Cultural Rights (CESCR) has concluded that the "core content" of the right to adequate food implies ensuring: Availability, Adequacy and Accessibility of food.

Universal Declaration of Human Rights (UDHR)⁵, Article 25 (1) says; "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."

International Covenant on Economic, Social and Cultural Rights-Article 11says;

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
2. The States Parties to the present Covenant, recognizing the

⁵ <https://www.un.org/en/universal-declaration-human-rights/>

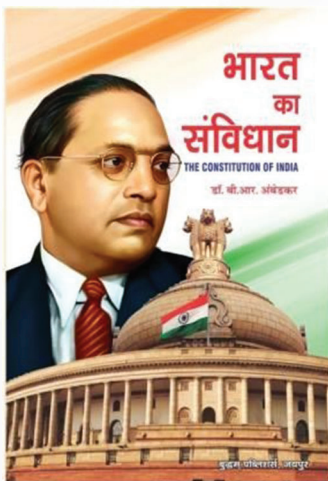
fundamental right of everyone to be **free from hunger**, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

- a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
- b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.”

Other Instruments: Other international legal instruments that India has ratified and that further articulate the *right to food* in **Article 24 and Article 27 of the *Convention on the Rights of the Child*** and **Article 12(2) of the *Convention on the Elimination of All Forms of Discrimination against Women***.

Eradicating extreme poverty and hunger is one of the major objectives of the **Sustainable Development Goal⁶** of the United Nations, set in September, 2000.

CONSTITUTIONAL GUARANTEE:



*Right to Food is inherent to a life with dignity, and **Article 21** of the Constitution of India which guarantees a fundamental right to life and personal liberty.

***Article 39(a)** of the Constitution, enunciated as one of the Directive Principles, fundamental in the governance of the country, requires the State to direct its policies towards securing that all its citizens have the right to an adequate means of livelihood.

***Article 47** spells out the duty of the State to raise the level of nutrition and standard of living of its people as a primary responsibility.

⁶ <https://sustainabledevelopment.un.org/?menu=1300>

SUPREME COURT OF INDIA ON RIGHT TO FOOD:

Supreme Court extrapolated “**Right to Food**” expanding the scope of **Article 21** when it observed that ‘right to life does not merely mean ‘animal existence’ but living with ‘human dignity’ which include the right to the basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human self in **Francis Coralie v. Union of Territory, Delhi** (AIR1981 SC 746).

The Supreme Court in **Chameli Singh v. State of Uttar Pradesh** (AIR 1996 SC 1051) held that the need for a decent and civilized life includes the right to food, water and decent environment.

The Supreme Court of India has established itself as a champion of food security and committed itself to the realization of the right to food in India. Through its landmark decision in, **People’s Union for Civil Liberties v. Union of India & Others** popularly known as the **right to food case** {*Writ Petition(Civil) No.196 of 2001*} SC explicitly established a constitutional human right to food and determined a basic nutritional floor for India’s impoverished millions.

NATIONAL HUMAN RIGHTS COMMISSION (NHRC) **ON RIGHT TO FOOD.**

The NHRC has taken the view that there is a fundamental right to be free from hunger and that starvation constitutes a gross denial and violation of this right. Holding ‘mis-governance’ – resulting from acts of omission and commission on the part of public servants, to be the reason for starvation deaths occurring in different parts of the country – the Commission has stated that these are of direct concern to it under the provisions of the Protection of Human Rights Act, 1993.

The Supreme Court did not only reconfigure through the **Right to Food** case specific government food schemes into legal entitlements, setting out in detail minimum allocations of food grains and supplemental nutrients for India’s poor, but also clearly articulated how those Government schemes are to be implemented and identified which public officials to hold accountable in the event of non-compliance. The Supreme Court held that the right to food is a

justifiable, reviewable, expandable, legally enforceable, constitutional and inviolable - right opened up new avenues both for political discourse and for concrete action. **Right to Food** case renewed the discourse on right to food.

GOVERNMENT SCHEMES ENSURING RIGHT TO FOOD IN INDIA

Public distribution system – 1943/44 Applied Nutritional Programme (ANP), 1963

Integrated Child Development Services Schemes (ICDS), 1975 Wheat Based Nutrition Programme (WBNP), 1986

National Nutritional Policy (NNP), 1993 Mid-Day Meal Scheme, 1995

National Maternity Benefits Schemes- August, 1995 National Old Age Pension Scheme- 1995

Below Poverty line benchmark, 1995 Above Poverty line benchmark, 1995

Targeted Public Distribution Scheme (TPDS), 1997 Annapurna Scheme – April, 2000

Antyodaya Anna Yojana (AAY) – December, 2000 Emergency Feeding Programme, 2001 Sampoorna Grameen Rozgar Yojana (SGRY), 2001

Scheme for Supply of Food Grains to SC/ST/OBC Hostels Welfare Institutions, 2002 Nutritional Programme for Adolescent Girls, 2002-03

Village Grain Bank Scheme, 2004 Kishori Shakti Yojana (KSY), 2007 National Food Security Mission, 2007 Scheme for Adolescent Girls, 2010

Pradhan Mantri Matru Vandana Yojana (PMMVY), 2016 POSHAN Abhiyaan (National Nutrition Mission), December 2017

The **Mid-day Meal Scheme** is a school meal programme of the Government of India designed to better the nutritional standing of school-age children nationwide. The programme supplies free lunch on working days for children in primary and upper primary classes in government, government aided, local body, Education Guarantee Scheme, and alternate innovative education centres, *Madarsa* and *Maqtab*s supported under Sarva Shiksha Abhiyan, and National Child Labour Project schools run by the ministry of labour.

Divya and Shankar are marginal farmers who have five children. Due to the scarcity of rainfall, the crops haven't done well, and there's not enough to feed everyone at the house. Shankar decides to enroll the children into the government school nearby so that they can at least get one proper meal a day under the Mid-Day Meal Scheme launched by the government of India. It reduces pressure on the family and the children get education as well which will help them in making their standard of living better.

PUBLIC DISTRIBUTION SYSTEM:

The **Public Distribution System (PDS)** in India facilitates the supply of food grains and distribution of essential commodities to a large number of poor people through a network of Fair Price Shops at a subsidized price on a recurring basis.



The primary policy objective of the **Department of Food & Public Distribution** is to ensure food security for the country through timely and efficient procurement and distribution of food grains. This involves procurement of various food grains, building up and maintenance of food stocks, their storage, movement and delivery to the distributing agencies and monitoring of production, stock and price levels of Food grains

Antyodaya Anna Yojana (AAY)⁷ is a Government of India sponsored scheme to provide highly subsidised food to members of the poorest families. This scheme was the brain-child of then Union Food and Civil Supplies minister, Shanta Kumar. It was launched by the NDA government on 25 December 2000 and first implemented in the Indian state of Rajasthan.



Ketki, who is a mother of three, has been living a life of distress ever since her husband passed away. Working in people's homes, she can barely earn enough to feed herself and her three children properly. She's afraid the children will succumb to malnutrition. She reaches out to her Gram Sabha and comes to know of Antyodaya Anna Yojana. She completes all the formalities and applies for the scheme. She receives a special ration card that allows her to buy wheat at Rs 3/kg and rice at Rs 2/kg from the village ration shop. With her food security ensured, Ketki can now look forward to a better future for her children.

⁷ <https://dfpd.gov.in/history.htm>

The focus is on incentivizing farmers through fair value of their produce by way of Minimum Support Price mechanism, distribution of food grains to Below Poverty Line (BPL) families and covering poor households at the risk of hunger under Antyodaya Anna Yojana (AAY), establishing grain banks in food scarce areas and involvement of Panchayati Raj Institutions in Public Distribution System (PDS).

TARGETED PUBLIC DISTRIBUTION SYSTEM

*PDS could not achieve its desired objectives because of widespread corruption. So to remove the loopholes of this system, government re-launched the **Targeted Public Distribution System (TPDS)** in June, 1997 with focus on the poor. Under the TPDS, States were required to formulate and implement foolproof arrangements for the identification of the poor for delivery of food grains. This programme is run by the Ministry of Consumer Affairs, Food and PD Government of India.*

The key features of TPDS as adopted by the Government of India are as follows:

Targeting- The most distinctive feature of the TPDS in relation to the previous policy is the introduction of targeting by dividing the entire population into Below Poverty Line (BPL) and Above Poverty Line (APL) categories, based on the poverty line defined by the Planning Commission. The maximum income level for the population to be covered under BPL was kept at Rs. 15,000 per annum. The TPDS provides wheat at Rs. 2/kg., rice Rs. 3/kg and millets at the Rs. 1/kg to the BPL families.

Dual (multiple) prices- The second distinguishing feature is that the PDS now has dual central issue prices: (i) Prices for BPL consumers and (ii) Prices for APL consumers. A third price, introduced in 2001, is for beneficiaries of the **Antyodaya Anna Yojana (AAY)**.

Centre-State Control- A third important feature of the TPDS is that it has changed Centre-State responsibilities with respect to entitlements and allocations to the PDS. PDS was designed and managed by State governments, and State governments differ

with respect to entitlements, the commodities offered, the retail price (State issue price) and so on. In the past, the State governments demanded a certain allocation from the Central pool and based on certain factors, most importantly, past utilisation and the requirements of statutory rationing, the Central government allocated grain and other commodities to States for their public distribution systems.

FOOD SECURITY VS AADHAAR

On September 28, 2018 Santoshi Kumar, an 11-year-old girl in Simdega district of Jharkhand, died because of starving for nearly 8 days. Her family had not received any ration for months as their ration card was cancelled after being struck off the Public Distribution System (PDS) for not linking their ration card with Aadhaar. An eligible individual can become a beneficiary and access the PDS system only if her Aadhaar number is correctly seeded onto the PDS database and added to the household ration card. The procedure requires that at the time of purchase of PDS grains each month, any one person listed on the ration card needs to authenticate themselves. The Supreme Court in **Justice K.S Puttaswamy (Retd.) and another vs. Union of India and Others** {Writ Petition (Civil) no. 494 of 2012} stated in this connection that the State while enlivening right to food, right to shelter etc. envisaged under Article 21 cannot encroach upon the right of privacy of beneficiaries nor former can be given precedence over the latter.

THE NATIONAL FOOD SECURITY ACT, 2013:

The Parliament enacted the National Food Security Act, 2013 to address the issue of food security at the household level⁸. The scheme of the Act designs a targeted public distribution system for providing food grains to those below BPL. The object is to ensure to the people adequate food at affordable prices so that people may live a life with dignity. The National Food Security Act of Parliament received the assent of the President on 10th September, 2013. The Preamble of the Act states:

“An Act to provide for food and nutritional security in human life cycle approach, by ensuring access to adequate quantity of quality food at affordable prices to people to live a life with dignity and for matters connected therewith or incidental thereto.”

SALIENT FEATURES OF THE ACT:

- **Coverage and entitlement under Targeted Public Distribution System (TPDS):** Upto 75% of the rural population and 50% of the urban population will be covered under TPDS, with uniform entitlement of 5 kg per person per month. However, since Antyodaya Anna Yojana (AAY) households constitute poorest of the poor, and are presently entitled to 35 kg per household per month, entitlement of existing AAY households will be protected at 35 kg per household per month. The Act imposes obligations on the Central Government, State Government and local authorities vide Chapter VIII, IX and X. *Section 32* of the Act contemplates other welfare schemes. It provides for nutritional standards in Schedule II and the undertaking of further steps to progressively realize the objectives specified in Schedule III.
- **State-wise coverage:** Corresponding to the all India coverage of 75% and 50% in the rural and urban areas, State-wise coverage will be determined by the Central Government and then Planning Commission (now NITI Aayog) has determined the State- wise coverage by using the NSS Household Consumption Survey data for 2011.
- **Subsidised prices under TPDS and their revision:** Food grains under TPDS will be made available at subsidized prices at Rs. 3/2/1 per kg for rice, wheat and coarse grains for a period of three years from the date of commencement of the Act. Thereafter prices will be as fixed by the Central Government from time to time, not exceeding minimum support price. It has been decided by the Government to continue the above mentioned subsidized prices up to June, 2018.
- In case, any State's allocation under the Act is lower than their current allocation, it will be protected up to the level of average off-take under normal TPDS during last three years, at prices to be determined by the Central Government. Existing prices for APL households i.e. Rs. 6.10 per kilogram for wheat and Rs 8.30 per kilogram for rice has been determined as issue prices for the additional allocation to protect the average off- take during last three years.

- **Identification of Households:** Within the coverage under TPDS determined for each State, the work of identification of eligible households is to be done by States/UTs.
- **Nutritional Support to women and children:** Pregnant women and lactating mothers and children in the age group of 6 months to 14 years will be entitled to meals as per prescribed nutritional norms under **Integrated Child Development Services (ICDS)** and **Mid-Day Meal (MDM)** schemes. Higher nutritional norms have been prescribed for malnourished children up to 6 years of age.
- **Maternity Benefit:** Pregnant women and lactating mothers will also be entitled to receive maternity benefit of not less than Rs. 6,000.
- **Women Empowerment:** Eldest woman of the household of age 18 years or above to be the head of the household for the purpose of issuing of ration cards.
- **Grievance Redressal Mechanism:** Grievance redressal mechanism at the District and State levels. States will have the flexibility to use the existing machinery or set up separate mechanism.
- **Cost of intra-State transportation & handling of food grains and FPS Dealers' margin:** Central Government will provide assistance to States in meeting the expenditure incurred by them on transportation of food grains within the State, its handling and FPS dealers' margin as per norms to be devised for this purpose.
- **Transparency and Accountability:** Provisions have been made for disclosure of records relating to PDS, social audits and setting up of Vigilance Committees in order to ensure transparency and accountability.
- **Food Security Allowance:** Provision for food security allowance to entitled beneficiaries in case of non-supply of entitled food grains or meals.
- **Penalty:** Provision for penalty on public servant or authority, to be imposed by the State Food Commission, in case of failure to comply with the relief recommended by the District Grievance Redressal Officer.



Parliament of India

There is a lot yet to be achieved when it comes to ensuring food for all. At the governance level the food system has been fragmented. The Ministry of Agriculture focuses on crop production based on mono cultures and high cost inputs. The food entitlement of the people of India (public distribution system) is looked after by Ministry of Food and Consumer Affairs. The Ministry of Food Processing promotes industrial processing and corporate profits rather than nutrition. The ministry of Women and Child Development implements nutrition related schemes for women and child. The Human Resources Ministry implements the mid-day meal scheme for school children. The Health Ministry has nothing whatsoever to do with food and nutrition, though these are the very basis of health. This fragmented governance has provided an opportunity to giant corporations to invade our food systems and undermine our food sovereignty and food security. An integration and coherence of governance thus becomes an imperative to safeguard our right to food. Recalling the constitutional mandate of the Government of India and the commitments made to ensure human right to food, we, the people of India should call upon the Government to secure the right to food for all her people by addressing the issue more holistically.

RIGHT TO SHELTER IN INDIA

Shelter is one of the most necessary requirements for a person. It is in fact a basic human need for a person to live a healthy life and to raise his/her family safely and comfortably. It also provides security to the family. Homelessness is in part a direct result of families migrating from rural to urban cities and urbanization. Migration to urban areas can occur for a variety of reasons ranging from loss of land, need for sustainable employment, lack of clean water and other resources.

Everyone has a fundamental human right to housing, which ensures access to a safe, secure, habitable, and affordable home with freedom from forced eviction. It is the government's obligation to guarantee that everyone can exercise this right to live in security, peace, and dignity. This right must be provided to all persons irrespective of income or access to economic resources.

There are 472 million children in India under the age of 18 years. This constitutes 39% of the total population in the country. In India, homelessness is a huge problem. Children from 0-6 years constitute 15.3 percent of the total homeless population in the country⁹. 18 million children in India live on the streets, the largest number in any country in the world, with 11 million being in urban spaces¹⁰. More than 3 million men and women are homeless in India's capital city of New Delhi alone. To put it in perspective, the same population in a country like Canada would make up approximately 30 electoral districts. A family of four members has an average of five homeless generations in India.

MAGNITUDE OF THE PROBLEM:

There is a shortage of 18.78 million houses in India. Total number of houses has increased from 52.06 million to 78.48 million (as per 2011 census). However, the country still ranks as the 124th wealthiest country in the world as of 2003. The number of people living in slums in India has more than doubled in the past two decades and now exceeds the entire population of Britain. About 78 million people in India live in slums and tenements. 17% of the world's slum dwellers reside in India.¹¹

9 Status of children in India, baseline study- 2018, page 5

10 Children and Youth Services Review, Volume 68, September 2016, Pages 202 -208

11 International Research Journal of Management Sociology & Humanities, Vol 6 Issue 7 [Year 2015]

INTERNATIONAL COMMITMENTS

The Right to Housing is protected by:

Article 25 of the Universal Declaration of Human Rights.

Article 11 of the International Covenant on Economic, Social and Cultural Rights. **Article 27** of the Convention on the Rights of the Child

Article 5 of the Convention on the Elimination of All Forms of Racial Discrimination

Article 14 of the Convention on the Elimination of All Forms of Discrimination Against Women

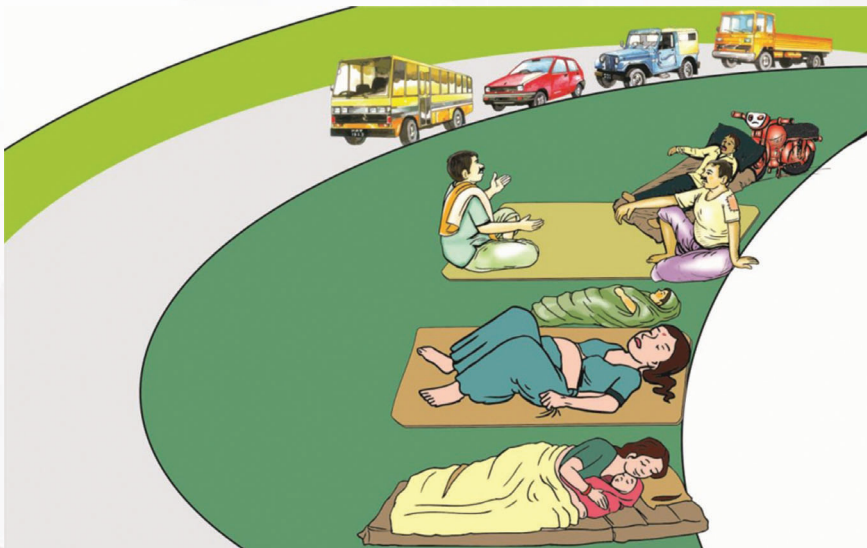
CONSTITUTIONAL INTERPRETATION OF RIGHT TO SHELTER BY THE APEX COURT:

The list of constitutional provisions that has a bearing on right to housing are: Equality before law and equal protection of the laws (**Article 14**)

Non-discrimination on the basis of caste, religion, sex, place of birth {**Article 15 (1)**}

Freedom of movement within the country {**Article 19 (1) (d)**} Freedom to live and settle in any part of India {**Article 19 (1) (e)**}

State should promote the policy of equality of genders in case of equal opportunity for livelihood (**Article 39 (a), Directive Principles of State Policy**)



People sleeping on the footpath

Equal pay for men and women {**Article 38 (d), Directive Principles of State Policy**} Legal right to property- No man or woman shall be deprived of their right to property by the state except by the authority of law (**Article 300-A**)

In the following cases, the Supreme Court of India has upheld the **Right to Housing** by linking it with the **Right to Life**:

- ***Francis Coralie Mullin v. Administrator, Union Territory of Delhi and Ors. (1981)***: This judgment is a very good example of the indivisibility of rights, with the right to live with human dignity as an integral part of the right to life and personal liberty under Article 21 of the Constitution of India.
- ***Olga Tellis v. Bombay Municipal Corporation (1985)***: The Olga Tellis judgement is the first Supreme Court decision to recognize explicitly that the right to livelihood forms an integral part of the right to life. This case was a pioneer in the field of housing rights worldwide. This case came before the Supreme Court as a writ petition by persons who live on pavements and in slums in the city of Bombay. It was prayed by the petitioners to allow them to stay on the pavements against their order of eviction. The majority judgment (concurring by all the five Judges) says that slum dwellers must get the alternative shelter if they are evicted from the pavements.¹²
- ***Shantistar Builders v. Narayan Khimalal Totame and Others (1990)***: In this case, the Supreme Court examined the scope of the right to life, using the framework of basic needs. Under Sections 20 and 21 of the Urban Land Ceiling and Regulation Act, 1976, the State Government exempted certain excess land from the provisions of the Act on the condition that the land be used by the builders for the purpose of providing housing for the 'weaker sections of society.' It was alleged that the builders had not done so. Although it found that the applicant's writ of petition had been rendered infructuous, the Bombay High Court gave some directions regarding future monitoring of the scheme sanctioned under Section 20.¹³

¹² <https://www.escri-net.org/caselaw/2006/olga-tellis-ors-v-bombay-municipal-council-1985-2-suppl-scr-51>

¹³ <https://www.casemine.com/judgement/in/5609accfe4b014971140fcf9>

On appeal, the Supreme Court stated that basic needs of man have traditionally been accepted to be the three - food, clothing and shelter. The right to life is guaranteed in any civilized society. That would take within its sweep the right to food, the right to clothing, the right to decent environment and a reasonable accommodation to live in."

The Court iterated that shelter for a human being has to be a suitable accommodation which would allow him to grow and develop in every aspect - physical, mental and intellectual. A reasonable residence is an indispensable necessity for fulfilment of the constitutional goal in the matter of development of man and should be taken as included in 'life' in Article 21.

- ***Chameli Singh v. State of U.P. (1995)***: The Supreme Court unequivocally asserted in its verdict: "Right to shelter when used as an essential requisite to the right to live, should be deemed to have been guaranteed as a fundamental right." The Court also observed that the right to shelter includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop as a human being.
- ***State of Karnataka and Ors. v. Narasimhamurthy and Ors (1995)***: The Supreme Court stated that: "Right to shelter is a fundamental right To make the right meaningful to the poor, the State has to provide facilities and opportunity to build a house. Acquisition of the land to provide house sites to the poor homeless is a public purpose as it is a constitutional duty of the State to provide house sites to the poor."
- ***U.P. Avas Evam Vikas Parishad v. Friends Coop. Housing Society Ltd. (1996)***: The Supreme Court affirmed that: "Right to shelter is a fundamental right, which springs from the right to residence assured in Article 19 (1) (e) and the right to life under Article 21 of the Constitution."

- **Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan and Ors. (1997)** : The Supreme Court directed the State to construct affordable houses for the poor as part of fulfillment of its constitutional obligations
- **People’s Union for Civil Liberties v. Union of India and Others**: In this case, a series of orders were passed for ensuring food to the needy under various schemes. The case also included the issue of homelessness and resulted in several landmark orders regulating shelters for the homeless across India.



Supreme Court of India

HIGH COURTS ON RIGHT TO HOUSING:

Jan Sangarsh Manch v. State of Gujarat (2008): The Gujarat High Court ordered Baroda Municipal Corporation to allot 6600 residential hutments under the Jawaharlal Nehru Urban Renewal Mission.

Sudama Singh and Others v. Government of Delhi and Anr. (2010): The High Court of Delhi in this case established that housing is a human right and also laid down responsibilities of the State towards fulfilling the right to housing and to resettlement.

P.K. Koul and Ors. v. Estate Officer and Anr. and Ors. (2010): The High Court of Delhi affirmed that: “...right to residence and to settle in any part of the country is assured to every citizen as a fundamental right under Article 19 (1) (e) of the Constitution of India... The right to shelter springs from this right and has been considered to be an integral part for a meaningful enjoyment of right to life under Article 21 of the Constitution of India.”

There are also other cases where courts have established the link between the right to life and the right to housing resulting in positive judgements. These cases include: Delhi Dayalbagh Coop. House Building Society Ltd. v. The Registrar Cooperative Societies & Ors.; The Commissioner, Bangalore Development Authority and Anr. v. State of Karnataka and Anr.; R. Krishnasamy Gounder v. the State of Tamil Nadu; Ramesh Chandra Sahni v. State of U.P. ; Gopiram Agarwalla v. Smt. Bina Agarwalla and Anr.; S. Shangreikhai and Ors. v. Union of India and Ors. And, Yamkhomang Haokip v. State of Manipur and Ors.

WHAT ARE SLUMS?

*The definition of “slum” varies from country to country. In India, each state has its own definition of slum. The definition of ‘Slum areas’ was set by the **Slum Areas Improvement and Clearance Act of 1956**. It defines slums as “places where buildings are in any respect unfit for human habitation by reason of dilapidation, overcrowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light, sanitation facilities or any combination of these factors which are detrimental to safety, health and morals.”*

Due to want of facilities and opportunities, the right to residence and settlement is an illusion to the rural and urban poor. Articles 38, 39 and 46 mandate the State, as its economic policy, to provide socio-economic justice to minimise inequalities in income and in opportunities and status. It positively charges the State to distribute its largesse to the weaker sections of the society envisaged in Article 46 to make socio-economic justice a reality, meaningful and fruitful so as to make life worth living with dignity of person and equality of status and to constantly improve excellence.

Government schemes for providing shelter

Pradhan Mantri Awas Yojana (PMAY) (Urban) also called the “Housing for All” scheme, PMAY was launched in 2015. It aims to deliver houses for the homeless by 2022. While the centre is offering assistance to all states and UTs, it will also provide home loan interest subsidy for those buying their first home in urban areas. Under the scheme, the government will provide interest subsidy of three to four per cent for a home loan amount of up to Rs 9 lakh and Rs 12 lakh. So far, over 3 lakh homes under PMAY (urban) have been constructed against a target of 40.6 lakh by 2022.

Pradhan Mantri Gramin Awaas Yojana, previously known as **Indira Awas Yojna**, focuses on providing “pucca houses” with basic amenities to homeless families. The objective is to build one crore homes of 25 square metres each by 2022. The government provides financial assistance by sharing the cost of construction with the state in the ratio of 60:40 in plain areas and 90:10 for north eastern and hilly areas. The cost for the unit assistance of Rs 1.2 lakh is also provided to the beneficiary belonging to households without shelter, destitute/living on alms, manual scavengers, and tribal groups and legally released bonded labour. So far, about 28.8 lakh homes have been constructed against a target of 1 crore by 2022.



Houses constructed under government scheme

Nandu and Sarita have been living together in their *kutch* house for ten years. As the years pass, the house is getting more and more difficult to maintain. Every monsoon, the ceiling starts to leak and they have to constantly maintain their thatched roof or even a light storm would blow it away. Moreover, there is no connection for gas or electricity and animals such as snakes often find their way into the house burrowing from the earth beneath their feet. By no means, this is a safe standard of living. Since Nandu and Sarita fall under the Economically Weaker Section of the society, they are eligible for Pradhan Mantri Gramin Awas Scheme, wherein they will get financial support from the government to construct their own house.

National Housing Policy, 1994:

In 1991, India adopted a more 'inclusive' view of economic development by emphasizing that it must integrate with the global economy. In pursuance of this, it reduced custom duties and welcomed Foreign Direct Investment (FDI) in several sectors of the economy. The National Housing Policy, 1994 was a product of this economic point of view. The 1994 Policy sought to increase supply of land serviced by basic minimum services with a view to promoting a healthy environment.

Rajiv Awas Yojna was launched in 2009. The scheme envisages a slum-free India and encourages state and union territories (UT) to bring all illegal constructions within a formal system. To increase the affordable housing stock under the scheme, the Centre has approved the Affordable Housing in Partnership (AHP) scheme to be part of the RAY. The scheme also provides support of Rs. 75,000 for economically-weaker sections (EWS), Dwelling Units (DUs) of the size of 21 to 40 square metres. So far, over Rs. 1,398 crore has been spent while nearly 46,000 houses have been developed under the scheme.

National Housing & Habitat Policy, 1998

The National Housing & Habitat Policy, 1998 laid greater emphasis on the aspect of "Habitat" as a supplementary focus to housing. The emphasis on "providing" housing continued in this Policy with emphasis on both quality and cost-effectiveness especially to vulnerable sections of society.

In 2007 the **National Urban Housing & Habitat Policy (NUHHP)** came to being. It seeks to enhance the spotlight on 'habitat' with a 'Regional Planning approach' as well as further deepen the role of Government as a 'facilitator' and 'regulator.' Moreover, the new policy lays emphasis on earmarking of land for the low income groups in new housing projects. The policy lays emphasis on Government retaining its role in social housing so that affordable housing is made available to economically weaker sections (EWS) and low income group (LIG) of the population.



An urban colony for rehabilitated people

Main features of National Urban Housing & Habitat Policy (NUHHP), 2007 :

It aims at promoting sustainable development of habitat in the country with a view to ensuring equitable supply of land shelter and services at affordable prices to all sections of the society.

It prescribes involvement of multiple stakeholders namely; private sector, co-operative sector, industrial sector for labour housing and the services, institutional sector for employee housing has been emphasised in the NUHHP.

It prescribes that 10%-15% land or 20%-25% Floor Space Index (FSI) (whichever is greater) to be reserved for EWS and LIG housing.

Provides for special action plan to be prepared for urban slum dwellers.

States/UTs to be advised to develop 10 year perspective plans for housing for EWS and LIG.

Central & State Govt. to develop special incentive plans for in situ slum upgradation. Micro-finance Institutions (MFIs) to be promoted at state level to expedite the flow of finances to urban poor.

Model Guidelines to be developed by Central govt. for use by States/ UTs for land supply.

Policy gives primacy to provision of shelter to the urban poor at their present location or near their work place.

Policy for in – situ slum rehabilitation. Relocation will be considered only in specific cases.

Formation of Cooperative Housing Societies of urban poor and slum dwellers to be encouraged.

Despite all these progressive judgments and interpretations, schemes and policies with respect to housing, India has still a long way to go to realise the right to shelter in its complete sense. A comprehensive legislation on the lines of National Food Security Act is also required to deal with the issue of homelessness.

WALDEN IS BORN IN SOCIAL MANAGEMENT
A WISDOMY ACT AND FORM BY REV. ANDREW

National Human Rights Commission
India

RIGHT TO FOOD
AND
RIGHT TO SHELTER

National Human Rights Commission
India

RIGHT TO SANITATION

National Human Rights Commission
India

KIDNAPPING/ABDUCTION,
TRAFFICKING (ITPA AND IPC),
WRONGFUL CONFINEMENT

National Human Rights Commission
India

RESPONSIBILITIES OF THE POLICE
TOWARDS
THE VULNERABLE SECTIONS OF SOCIETY

National Human Rights Commission
India

THE EMPLOYER'S RESPONSIBILITY AS PER
THE MINIMUM WAGES ACT,
THE PAYMENT OF BONUS ACT,
THE PAYMENT OF GRATUITY ACT,
THE PENSIONERS ACT

National Human Rights Commission
India

RESPONSIBILITIES OF THE EMPLOYER
(MCCIR ACT, 1946)
AND
THE RIGHTS OF THE EMPLOYEES
AS MAHAJALAS AND GOVS AND
THEIR RESPONSIBILITIES

National Human Rights Commission
India

Constitutional and Civil Rights
to Promote Scheduled Caste And
Scheduled Tribe Students' Rights of
the Law against Child Marriage

National Human Rights Commission
India

RIGHTS OF SENIOR CITIZENS

National Human Rights Commission
India

RIGHT TO WATER

National Human Rights Commission
India



NATIONAL HUMAN RIGHTS COMMISSION, INDIA

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