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# FROM HOMELESSNESS TO EXPLOITATION: A SOCIO-LEGAL ANALYSIS OF RIGHT TO SHELTER AND ITS IMPACT ON WOMEN AND CHILDREN

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## ABSTRACT

The right to shelter is an essential part of the right to life and personal liberty guaranteed under Article 21 of the Constitution of India. Judicial interpretations have expanded the scope of this provision to include the right to shelter, which provides access to adequate housing and basic living conditions. Despite constitutional recognition, homelessness continues to affect millions in India, with women and children constituting the most vulnerable section of the homeless population. The inadequate housing exposes them to extreme risks of sexual exploitation, trafficking, abuse, and severe health conditions. This paper is a socio-legal study to examine the relationship between denial of the right to shelter and the vulnerability of women and children to exploitation and abuse. It analyses constitutional provisions, landmark judgments and interpretations alongside empirical studies and reports to highlight existing gaps in implementation. The study argues that homelessness is not merely a housing deficit but a systemic human rights failure that intersects with gender inequality, poverty, displacement, and social rejection. The research adopts a doctrinal and analytical methodology supported by primary sources, including reports of international and national organizations, government publications such as the census 2011 and case laws. The research has also used secondary sources such as a book, peer-reviewed journal articles and scholarly literature. Through this approach, the paper analyzes how the lack of stable housing directly contributes to conditions that facilitate sexual exploitation, forced labour, trafficking, and violence against women and children. This study examines how unfulfillment of a fundamental right can give birth to abhorrent and heinous offences. It further explores the inadequacy of current rehabilitation and protection mechanisms. In addition to that, it explores a few solutions to eradicate the vulnerability of homeless women and children.

**Keywords:** Right to shelter, Article 21, Homelessness, Women, Children, Vulnerability.

## INTRODUCTION

Shelter tends to be one of the most important pillars to lead a dignified life under Article 21 Right to life and personal liberty.<sup>1</sup> In *Chameli Singh v. State of Uttar Pradesh*, Hon'ble Supreme Court held Right to Shelter as a fundamental right under Article 21. A roof over head is necessary to live a dignified human life with privacy, safety and stability. According to the Indian judiciary it's not enough to provide a shelter but an adequate housing that provides dignified living conditions, safe and decent structure, basic amenities like pure air and water, sufficient light, sanitation and electricity etc.<sup>2</sup>

Despite the recognition of Right to Shelter as our Fundamental right, according to Census 2011, total 7.2 lakh females and 2.7 lakh children are homeless in India.<sup>3</sup> This homelessness not just builds their life difficult for survival without basic amenities but also exposes them to gender and child vulnerabilities. Women are the worst affected group which face violence and are vulnerable to sexual exploitation and trafficking whereas children are easy victims of abuse and inhumane treatment and are often engaged in petty theft or prostitution for survival. Thus, lack of shelter is not an isolated problem but a root cause that fuels sexual exploitation and child abuse. Most women and children suffer due to lack of roof over their heads which affects them differently than the other groups.

Many studies focus only on right to shelter and many are concerned with sexual exploitation and child abuse, but this study examines the causal relationship between the two. Usually, it is seen that steps are being taken by the government to punish the offenders and to finish off the trafficking rackets but there is often an ignorance to which group is being targeted the most and why they are being targeted. This study bridges these issues and the right to shelter, analyzing the consequences of homelessness for women and children. This paper attempts to spread awareness and draw attention towards how a denial of fundamental right gives rise to abhorrent and heinous offences and the need to take actions to ensure the right to shelter to curb these issues. There are limited socio-legal studies that directly link denial of the right to shelter with sexual exploitation of women and abuse of street children. The study seeks to fill that gap.

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<sup>1</sup> INDIA CONST.art. 21

<sup>2</sup> *Chameli Singh v. State of Uttar Pradesh*, (1996) 2 S.C.C 549 (India).

<sup>3</sup> Registrar General of India, *Census of India 2011: Houseless Population* (2011).

## LITERATURE REVIEW

The following sources are structured with a thematic approach which are categorised into three themes that is Constitutional basis of Right to Shelter, Gender Vulnerability and Homelessness and Child Vulnerability and Exploitation.

### Constitutional basis of the Right to Shelter

#### 1. Dr. Bhavana Sharma (2019), Right to Shelter an Expanded form of Right to Life and Personal Liberty: An Analysis, Published in International Journal of Psychosocial Rehabilitation

Dr. Bhavana Sharma (2019), through judicial interpretations, showed the development in the interpretation of the right to shelter<sup>4</sup>. She took important case laws in a chronological order to analyse the evolution of the right to shelter and its place in the Fundamental rights. The judicial interpretation highlighted the significance of adequate housing in an individual's life and to live with dignity. The findings showed the validity of the right to shelter in directive principles of state policy through article 38(1),38(2), 39(a),41,42,47<sup>5</sup> where the state is directed to promote justice among the citizens. The development in the interpretation can be seen through important judgments such as *Francis Coralie Mullin v. Union Territory of Delhi*<sup>6</sup>, *Olga Tellis v. Bombay Municipal Corporation*<sup>7</sup> and *Chameli Singh v. State of Uttar Pradesh*<sup>8</sup>. The study lacked the impact homelessness has on different groups and reforms that should be made to ensure the right to shelter to the citizens of India.

#### 2. Shubhangi Chhaya (2021), Right to Housing and Shelter in India, Published in International Journal of Law Management and Humanities

Shubhangi Chhaya (2021) in her study not only talked about the evolution and validity of the right to shelter in the Indian constitution but also included what an adequate housing means from both constitutional and international perspectives, how lack of shelter impacts different groups differently and the steps and reforms that could be made in order to ensure adequate

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<sup>4</sup> Bhavana Sharma, *Right to Shelter an Expanded Form of Right to Life and Personal Liberty: An Analysis*, Int'l J. Psychosocial Rehab., Vol. 23, Issue 3, 2019.

<sup>5</sup> INDIAN CONST.art. 38(1), 38(2), 39(a),41,42 ,47

<sup>6</sup> *Francis Coralie Mullin v. Union Territory of Delhi*, (1981) 1 S.C.C 608 (India).

<sup>7</sup> *Olga Tellis v. Bombay Municipal Corporation*, (1985) 3 S.C.C 545 (India).

<sup>8</sup> Chameli Singh *supra* note 2.

housing<sup>9</sup>. The findings highlighted the groups that suffered the consequences of not having adequate housing were women, children, slum dwellers and people with disability. The study also suggested few reforms that could be made by the local authorities and government schemes. The study lacked in showing the deeper impacts and social issues that inadequate housing creates. The study talked about the consequences on specific groups in a generic manner but not in alarming terms which could have pointed out the importance of shelter and its need to be ensured.

### **Gender Vulnerability & Homelessness**

#### **3. Pooja Koul (2022), Violence, Homelessness and Gender: A Socio-Legal Issue in India, Published in Indian Journal of Integrated Research in Law**

Pooja Koul (2022), her paper addressed the primary concerns and causes of homelessness and the types of violence and abuse those women and children are subjected to.<sup>10</sup> The government's efforts to eliminate these concerns from society and protect people's fundamental human rights are also discussed. This study highlighted how homelessness and gender vulnerability are linked. It dug deeper into the reason behind their homelessness and the urgency to ensure adequate shelter. It highlighted that homeless women are subjected to rape, sexual assault, insults, and threats. Moreover, it analyzed the initiative taken by the government The National Urban Livelihoods Mission-Scheme of Shelters for Urban Homeless for the homeless in cities (SUH). It concluded by suggesting a few steps that can be made to ensure safe shelter to women. Although this study is well written and researched, it lacked the constitutional perspective. The study was however more women centric and lacked to address child vulnerability in depth. It missed one of the most concerning crimes that is human trafficking.

#### **4. Dr. Prabhakar Chavan (2023), Issues and Challenges of Homeless Women in Mumbai City, Published in International Journal for Multidisciplinary Research**

Dr. Prabhakar Chavan (2023) examined the lived experience of homeless women in Mumbai city.<sup>11</sup> This study found that homeless women face great vulnerability to gender based violence,

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<sup>9</sup> Shubhangi Chhaya, *Right to Housing and Shelter in India*, 4 Int'l J.L. Mgmt. & Human. 1123 (2021).

<sup>10</sup> Pooja Koul, *Violence, Homelessness and Gender: A Socio-Legal Issue in India*, Indian J. Integrated Res. L. (2022).

<sup>11</sup> Prabhakar Chavan, *Issues and Challenges of Homeless Women in Mumbai City*, Int'l J. for Multidisciplinary Res. (2023).

harassment and health risk due to inadequate shelter. The author noted that homelessness affected women more intensively than men. The study provided quantitative data which referred to numerical data that described the demographic and socio-economic status of homeless women surveyed in Mumbai. It consisted of surveys of homeless women of Mumbai pointing out their vulnerability by surveying through different factors. However, the study remained largely descriptive and didn't include a detailed analysis from constitutional perspective under Article 21. It didn't explore how homelessness directly contribute to sexual exploitation and child abuse. The study is moreover women centric and did not explore child vulnerability. The study limited itself within the boundaries of Mumbai and didn't explore a bigger picture.

### **5. Book by Pam Mandy (2025), *Shakti: The Story of a Homeless Woman in India***

Pam Mandy (2025) in her book '*Shakti: The Story of a Homeless Woman in India*'<sup>12</sup>, is a real-life-based book on Shakti, a homeless woman in the streets of Chennai. It talked about the struggles that led her to be homeless. It portrayed the hardships of not only Shakti but the other homeless women too. It is observed that the majority of homeless women face inhumane consequences of homelessness. It showed the hardships that homeless women and adolescent girls dealt with, which included private activities, such as bathing, changing clothes, and sleeping, which had to be done in full view of everyone. Adolescent girls were unsafe and were subjected to sexual harassment by outside men. Most of the women were abandoned by their husbands and left alone to raise the children. Shakti is an epitome of extreme strength and power as she faced all the hardships alone such as the humiliation on the streets, poverty, hunger, abusive marriage, abandonment by spouse, raising two children alone without any assistance or help. This book conveyed the realities of homeless women in India.

### **Child Vulnerability & Exploitation**

### **6. UNICEF (2024), *Study of Children in Street Situation in India***

UNICEF (2024)<sup>13</sup> gave an overview on the hardships faced by the children living on the streets due to poverty and lack of shelter. The report highlighted economic deprivation, family breakdown and migration as the main factors causing the homelessness of a child. The report

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<sup>12</sup> Pam Mandy, *Shakti: The Story of a Homeless Woman in India* (Penguin India 2025).

<sup>13</sup> UNICEF, *Study of Children in Street Situations in India* (2024).

provided insights into the impact homelessness has on children but didn't create a link between child vulnerability and the right to shelter under Article 21. This study limited its scope to only one group: Children.

### **7. Meena Mathur (2009), Incidence, type and intensity of abuse in street children in India, Published in International journal Child Abuse & Neglect**

Meena Mathur, Prachi Rathore & Monika Mathur (2009) examined the type and intensity of abuse against homeless children in Jaipur city. The survey was taken of 200 children. An interview was done which included five areas of abuse, namely, "general abuse," "health abuse," "verbal abuse," "physical abuse," and "psychological abuse." The findings told us that highest mean scores were obtained on the "verbal" and "psychological" areas of abuse. Gender differences were significant in health and overall abuse, indicating boys to be significantly more abused than girls.<sup>14</sup> Thus, this study highlighted how children faced harsh consequences of homelessness by experiencing different kinds of abuse. This study is all over statistical and lacked socio-legal perspective and constitutional basis. It's a brief study and didn't study the issues faced by children in depth.

The present study aims to bridge the above research gaps by following a socio-legal perspective. It focuses on studying the link between the right to shelter and gender and child vulnerability and highlighting how a denial of a fundamental right can lead to such serious problems and crimes.

### **METHODOLOGY**

This study is qualitative in nature and does not involve any field surveys and interviews. The study presents a socio-legal research methodology to examine the cause-and-effect relationship between the right to shelter under Article 21 of the Constitution of India and gender and child vulnerability. The research is based on primary sources, including reports of international and national organizations, government publications such as census 2011 and case laws. The research has also used secondary sources such as a book, peer-reviewed journal articles and scholarly literature.

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<sup>14</sup> Meena Mathur, Prachi Rathore & Monika Mathur, *Incidence, Type and Intensity of Abuse in Street Children in India*, 33 *Child Abuse & Neglect* 907 (2009).

A doctrinal method is used to analyze constitutional provisions, case laws, and legal principles relating to the right to shelter and its interpretation under Article 21. Alongside this, a descriptive and analytical approach is used to examine the social dimensions of homelessness and its impact on women and children, particularly in relation to sexual exploitation and abuse.

The study also uses a thematic analysis of existing literature, organizing sources into themes such as constitutional foundations of the right to shelter, gendered vulnerability and homelessness, and child vulnerability and exploitation. This approach enables identification of research gaps and facilitates an integrated understanding of the legal and social issues involved.

### **ARTICLE 21 RIGHT TO SHELTER: SCOPE AND JUDICIAL INTERPRETATION**

Article 21 Right to life and personal liberty is an integral part of Indian Constitution and it includes to live with dignity. Over time the Court realised that to live with dignity, a person needs basic amenities. It is not enough to provide a shelter but adequate housing. Under the UDHR (Article 25), adequate housing means more than just a roof; it is the right to live in safety, peace, and dignity, encompassing security of tenure, affordability, habitability, and access to services<sup>15</sup>. The Hon'ble Supreme Court has expanded the scope of Article 21 and included the right to shelter as a fundamental right. Sharma (2019) showed how judicial pronouncements have interpreted the right to shelter.

The right to shelter was first mentioned in *Francis Coralie Mullin v. Union Territory of Delhi*, the Hon'ble Supreme Court held, "the right to life includes the right to live with human dignity and all that goes along with it, namely the bare necessities of life such as adequate nutrition, clothing, education and shelter"<sup>16</sup>. Later in *Olga Tellis v. Bombay Municipal Corporation* the Hon'ble Supreme Court held, "the eviction of pavement dwellers without providing alternative means of livelihood would directly affect their right to life, as no person can live without the means of livelihood"<sup>17</sup>. In *Chameli Singh v. State of Uttar Pradesh*, the Hon'ble Supreme Court declared Right to Shelter as a fundamental right. The court clarified the meaning of shelter by emphasising that the right includes adequate housing that provides dignified living conditions, safe and decent structure, basic amenities like pure air and water, sufficient light, sanitation

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<sup>15</sup> Article 25, Universal Declaration of Human Rights (1948)

<sup>16</sup> *Francis Coralie Mullin supra* note 6

<sup>17</sup> *Olga Tellis supra* note 7

and electricity etc.<sup>18</sup> Thus, the slum dwellers and people without these basic amenities lack adequate housing. In *Peoples Union For Civil Liberties v. State of Gujarat & Ors*, the Hon'ble Supreme Court laid down the limitation of this right by putting a reasonable restriction on it that is nobody can exercise this right so as to cause obstruction to public and public activities or to other sections of the society<sup>19</sup>.

Even after the strong constitutional status, the implementation of right remains weak. According to census 2011, 17.7 lakh people remain without a roof over their heads<sup>20</sup>. This failure leads to many serious consequences for women and children which are required to be addressed. The consequences can be restrained through ensuring the right to shelter.

### **IMPACT OF DENIAL OF SHELTER ON WOMEN: SEXUAL EXPLOITATION AND VIOLENCE**

Women have always been the most vulnerable groups in our society as women are denied their basic rights and are suppressed by patriarchal norms. Women are easier targets of exploitation in homeless conditions due to the structural gender inequality that exists in our society. Homeless women on the streets lack safety and privacy. They are subjected to sexual harassment, sexual assault, physical and verbal abuse, rape, sex trafficking and coercion into prostitution. This highlights the significance right to shelter holds in a woman's life.

Homeless women are not born homeless. There are many factors that lead to their homelessness. Firstly, the forced migration that occurs due to natural disasters and calamities, industrialization and infrastructure projects, rural indebtedness which force them to shift from their habitats to the urban cities in search of employment and survival. Secondly, in order to escape from domestic violence women often choose to leave their houses and live on their own. Unfortunately, they lack economic stability and land and end up being homeless. Many of them become homeless due to the abandonment by their spouses, families and children. Also, slum demolition and evictions without rehabilitation leads to poor women and their children on streets.

The above circumstances lead to homelessness and the beginning of their vulnerability. The

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<sup>18</sup> *Chameli Singh supra* note 2

<sup>19</sup> *People's Union for Civil Liberties v. State of Gujarat, (2004) 12 S.C.C 104 (India)*.

<sup>20</sup> Registrar General of India, *Census of India 2011: Houseless Population* (2011).

women on streets are seen as helpless and voiceless. They live in an open environment where they lack privacy and are subjected to harassment. They face difficulties in performing basic activities like bathing, changing clothes and even sleeping. The book *Shakti: The Story of a Homeless Woman in India* (2025) by Pam Mandy<sup>21</sup> described a scene where a little 12 year old girl Vijaya who was sleeping beside her mother suddenly woke up and found a stranger's hands on her body, touching her inappropriately. It also mentioned how sexual comments were passed onto adolescent girls.

These women and adolescent girls are most targeted by the sex traffickers and human traffickers as they are easily approachable in an open environment, have absence of family and social support and lack of identity documents. Alongside, they use the false trust building tactics by presenting themselves as rescuers as these homeless women are mostly illiterate, innocent and easy to convince. They take advantage of their existing condition and expose them to a more inhumane state. These women are later forced into commercial sexual activities, physical and psychological abuse, forced labour and begging. Many homeless women and young girls are also targeted for prostitution.

Homeless women who are also victims of human trafficking in India are not available in public national records. Their disappearance goes unreported as they lack social or family network, have no fixed address and identity documents, their absence is normalised due to migration and displacement and due to stereotyping them as 'runaways'.

Apart from sexual exploitation, women face sanitation issues and health issues during pregnancy. During menstruation, they struggle to access and afford sanitary pads, clean water and private spaces. Poor sanitation leads to infection and diseases. Inadequate private sanitation facilities violate their right to live with dignity under Article 21. The Supreme Court of India, in the case of *Dr. Jaya Thakur v. Government of India & Ors.* (2026), officially recognized Menstrual Health and Hygiene (MHH) as a fundamental right under Article 21 Right to Life and Dignity<sup>22</sup>. During pregnancy, the unfavourable environment and excessive heat waves affect both the health of a mother and the child and sometimes lead to miscarriages. Thus, altogether it creates gender vulnerability.

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<sup>21</sup>MANDY, *supra* note 12

<sup>22</sup> *Dr. Jaya Thakur v. Government of India & Ors.*, (2026) 2026 INSC 97

## IMPACT OF DENIAL OF SHELTER ON CHILDREN: ABUSE AND TRAFFICKING

Children on the streets face some of the most severe forms of vulnerability. The street connected children are engaged in works like begging, rag-picking and giving labour at hazardous factories. The absence of family support, shelter and institutional protection make them victims of abuse, exploitation, forced labour and trafficking.

The children become homeless due to poverty, physical abuse and domestic violence that make children run out of their homes, slums demolition and death or illness of parents. Children who lack the capacity to make informed choices end up being homeless. These children easily come in contact with traffickers. The traffickers lured the children by promising them food, toys, employment or a better life and later leading them towards sexual exploitation, forced labour or criminal activities. At the age where a child should gain education, play freely and live in a healthy environment, these children are subjected to commercial sexual activities, forced labour in hazardous factories and tortured by physical and psychological abuse.

Meena Mathur, Prachi Rathore & Monika Mathur(2009), in the study it was observed that in Jaipur city 61.8% homeless children are in the moderate category of abuse and 36.6% homeless children indicated abuse in severe and very severe categories on the intensity of abuse. Highest mean scores were obtained on the verbal and psychological area of abuse.<sup>23</sup> Times of India (2010) published that a government study has found that a vast majority of street children face sexual abuse in India, which is home to the world's largest number of destitute children. Overall, 66.8% children on streets face physical abuse and 55% of street children have undergone sexual abuse. The study covered 13 states -- Andhra Pradesh, Assam, Bihar, Delhi, Goa, Gujarat, Kerala, Madhya Pradesh, Maharashtra, Mizoram, Rajasthan, Uttar Pradesh and West Bengal with a sample size of 12,447 children.<sup>24</sup> Thus, homeless children are subject to abuse and exploitation and constitute child vulnerability.

Apart from abuse and exploitation, homeless children face lack of education, healthcare, nutrition, sanitation and hygiene. It is important to ensure shelter as children are exposed to unhygienic conditions as they struggle to access clean water to drink, toilets, bathing facilities etc. Thus, homeless children lack the right to live with dignity due to absence of adequate

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<sup>23</sup> Meena Mathur, Prachi Rathore & Monika Mathur(2009), *supra* note 14

<sup>24</sup> Majority of Street Children Face Sex Abuse in India: Study, *Times of India*, Jan. 24, 2010.

housing.

## **RECOMMENDATIONS/ SUGGESTIONS**

After the deep analysis of the issue, the recommended steps that could be taken in action to ensure adequate housing to homeless women and children are-:

- The government should expand the safe shelters that are set up for women and children. It should ensure a safe and protected environment for both women and children and provide them with basic amenities.
- The shelters should be gender sensitive and child friendly.
- The shelters must contain good sanitation facilities with clean toilets, bathing facilities, safe drinking water, and menstrual hygiene management
- There should be awareness through legal campaigns for making them aware of their rights and services available for them.
- The government should strengthen anti-trafficking measures and eliminate the trafficking rackets.
- Enforce existing policies like the National Urban Livelihoods Mission (Shelters for Urban Homeless) effectively.
- Bring rehabilitation programs to rehabilitate the women and children who were evicted from their slums.
- Support services like healthcare, counselling and mental health support should be provided especially to those who have faced mental and physical abuse.
- The NGOs should take steps to make homeless women and children aware of their rights and contribute for their welfare.
- Legal aid clinics should provide homeless women and children legal assistance.

## **CONCLUSION**

We observed through the study how the denial of the Right to Shelter under Article 21 of the

Indian Constitution significantly increases the vulnerability of women and children. It is crucial to understand the significance an adequate housing holds in a woman and child's life. Homeless women face extreme risks of sexual exploitation, harassment, physical and verbal abuse, and severe health and sanitation challenges. Similarly, homeless children are exposed to abuse, forced labour, trafficking, and deprivation of education, healthcare, and basic necessities, which collectively undermine their development and well-being. The lack of adequate shelter functions as a factor that perpetuates inequalities and violates the fundamental right to life with dignity under Article 21.

Despite constitutional guarantees and government schemes, implementation remains insufficient, leaving marginalized populations unprotected and socially invisible. This highlights the urgent need for interventions that integrate both legal and social measures. Ensuring safe, gender-sensitive and child-friendly shelters, strengthening anti-trafficking measures, providing legal aid clinics and implementing rehabilitation programs are critical to safeguard the rights and dignity of these vulnerable groups. It is important to spread awareness about the basic human rights that the homeless are unaware of, but are entitled to claim it.

Future research could focus on region-specific field studies to evaluate the effectiveness of shelter interventions and policy reforms. Overall, guaranteeing the Right to Shelter is not merely a legal obligation but a social responsibility to protect women and children from exploitation, abuse and lifelong vulnerability, thereby reinforcing the broader principles of justice, equality, and human dignity enshrined in the Constitution.

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