

A Socio-Legal Study of Human Right to Shelter and Adequate Housing with Reference to Lucknow City in Uttar Pradesh

THESIS

**SUBMITTED TO THE
BABASAHEB BHIMRAO AMBEDKAR UNIVERSITY
LUCKNOW**

**BABASAHEB
BHIMRAO
AMBEDKAR
UNIVERSITY**



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(A CENTRAL UNIVERSITY; NAAC- 'A' GRADE)

VIDYA VIHAR, RAEBARELI ROAD, LUCKNOW-226 025 (U.P.), INDIA

2021



*DEDICATED TO
MY BELOVED
FATHER & MOTHER*





बाबासाहेब भीमराव अम्बेडकर विश्वविद्यालय

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DECLARATION

I, **Rajit Ram Sonkar**, hereby declare that this research work embodied in this Ph.D. thesis titled **“A Socio-Legal Study of Human Right to Shelter and Adequate Housing with Reference to Lucknow City in Uttar Pradesh”** has been carried out by me under the supervision of **Dr. Rashida Ather**, Assistant Professor, Department of Human Rights, School of Legal Studies, Babasaheb Bhimrao Ambedkar University (A Central University) Lucknow, 226025.

This Research work is an original work and it has not been previously submitted in part or full for any other degree or diploma in this or any other university. This is also declared that the thesis is essentially free from all kinds of plagiarism.

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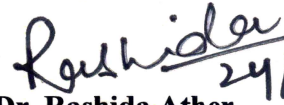
CERTIFICATE

This is to certify that the thesis titled “**A Socio-Legal Study of Human Right to Shelter and Adequate Housing with Reference to Lucknow City in Uttar Pradesh**” submitted by **Mr. Rajit Ram Sonkar** is an original research work and has not been previously submitted in part or full for the award of any other degree or diploma to this or any other university.

This thesis submitted to Babasaheb Bhimrao Ambedkar University, Lucknow satisfies all the requirements as stipulated in the *Doctor of Philosophy (Ph.D.) regulations, 1999 as amended in 2013* and it is fit for submission and evaluation for the award of the degree of Doctor of Philosophy of the University.

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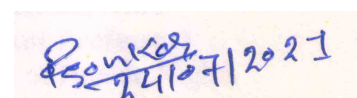
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(Rajit Ram Sonkar)

PREFACE

International human rights law recognizes everyone's right to adequate standard of life which also includes the right to adequate housing. But despite having the important place of this right within the global legal system, over a billion people are not adequately housed. Millions around the world live in life- or health threatening conditions, in overcrowded slums and informal settlements, or in other conditions which do not uphold their human rights and their dignity. Further millions are forcibly evicted, or threatened with forced eviction, from their homes every year.

Adequate housing was recognized as part of the right to an adequate standard of living in the 1948 Universal Declaration of Human Rights and in the 1966 International Covenant on Economic, Social and Cultural Rights. Other international human rights treaties have since recognized or referred to the right to adequate housing or some elements of it, such as the protection of one's home and privacy.

The right to adequate housing is relevant to all States, as they have all ratified at least one international treaty referring to adequate housing and committed themselves to protecting the right to adequate housing through international declarations, plans of action or conference outcome documents. Several national constitutions protect the right to adequate housing or outline the State's general responsibility to ensure adequate housing and living conditions for all. Courts from various legal systems have also adjudicated cases related to its enjoyment, covering, for instance, forced evictions, tenant protection, discrimination in the housing sphere or access to basic housing-related services.

Many national and municipal laws in a number of countries around the world provide for the guarantee of the human right to adequate housing and land. India also has certain constitutional provisions and laws that make it obligatory for the state to provide the right to adequate housing to all its citizens. The Constitution of India is firmly grounded in the principles of liberty, fraternity, equality and justice. The interplay of article 19(1) (e) and article 21 of the Indian Constitution; there have been also several important judgments that have clearly established the relation between the right to housing and right to life as guaranteed by Article 21 and article 19(1) (e). The implications of article 21 on the issue of the right to shelter by pavement dwellers

prescribe that the eviction of pavement and slum dwellers will live, in vicious circles, to the deprivation of their employment, their livelihood, and therefore, to the right to life.

While justice should be an inherent component of the law and incontestably, is its end, in many parts of the world, law and justice, unfortunately, are not synonymous. Even where just laws exist, they are often not implemented, or selectively used. The judiciary, too, does not always ensure the uniform administration of justice. However, for the poor and marginalized, who find their rights being violated by state and non-state actors, the judiciary, at times, is the only hope for the pursuit of justice. With regard to protection of the human right to adequate housing in India, this is even more significant as India does not have a law—either at the state or national level—that explicitly safeguards the human right to adequate housing.

In this research, the researcher has tried to examine the role of national as well as international laws for the protection of human right to shelter and adequate housing as well as examined the implemented policies for the protection of the people facing homelessness in India in particular and in Lucknow City in Uttar Pradesh in particular. This research study will help to analyse actual status of homelessness and it will also suggest the way to ameliorate the worst condition of slum people in India, particular in Uttar Pradesh.

TABLE OF CONTENT

<i>Declaration</i>	<i>i</i>
<i>Certificate</i>	<i>ii</i>
<i>Acknowledgement</i>	<i>iii</i>
<i>Preface</i>	<i>v</i>
<i>Table of Content</i>	<i>vii</i>
<i>List of Tables</i>	<i>xv</i>
<i>List of Figures</i>	<i>xvii</i>
<i>List of cases</i>	<i>xix</i>
<i>List of Abbreviations</i>	<i>xxi</i>

DESCRIPTION	PAGE NO.
CHAPTER-1	1-21
INTRODUCTION	
1.1 Introduction	1
1.2 Review of Literature	6
1.3 Statement of Problem	13
1.4 Objectives of the Study	15
1.5 Hypothesis	16
1.6 Research Methodology	16
1.6.1 Universe of Study	17
1.6.2 Sample Size	17
1.6.3 Tools & Techniques for Data Collection	17
1.7 Scope of the Study	18
1.8 Limitations of the Study	18
1.9 Scheme of Chapters	18
CHAPTER-2	
CONCEPTUAL AND HISTORICAL DEVELOPMENT OF HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING	22-45
2.1 Introduction	22

2.2 Evolution of the Right to Shelter and Adequate Housing at Different Phases	24
2.2.1 Phase I (1950-60s)	24
2.2.2 Phase II (Early 1970s – Mid 1980s)	26
2.2.3 Phase III (Mid 1980s – Early 2000s)	27
2.2.4 Phase IV (Mid 2000- early 2015)	29
2.2.5 From 2015 Onwards	30
2.3 Concept of Human Right to Shelter and Adequate Housing	31
2.3.1 Definition Given by Various Census Reports	33
2.3.2 Definition Given by Ministry of Housing and Urban Poverty Alleviation	35
2.3.3 Concept of Right to Shelter and Adequate Housing Evolved by Indian Judiciary	37
2.3.4 Concept of Right to Shelter and Adequate Housing Given by Various Jurists/Scholars	39
2.3.5 Exploration of the Concept of Shelter and Adequate Housing by International Human Rights Law	40
2.4 The Interplay of Right to Shelter, Adequate Housing and other Human Rights	42
2.5 Conclusion	44
 CHAPTER-3	 46-102
INTERNATIONAL FRAMEWORK ON HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING	
 3.1 Introduction	 46
3.2 Human Right to Shelter and Adequate Housing within the Framework of United Nations	48
3.2.1 General Provisions	49
3.2.1.1 Universal Declaration of Human Rights, 1948	49
3.2.1.2 International Convention on the Elimination of All Forms of Racial Discrimination, 1965	50

3.2.1.3 International Covenant on Civil and Political Rights, 1966	50
3.2.1.4 The International Covenant on Economic Social and Cultural Rights, 1966	51
3.2.1.5 Declaration on Social Progress and Development, 1969	55
3.2.1.6 The Vancouver Declaration on Human Settlements, 1976	57
3.2.1.7 United Nations Declaration on the Right to Development, 1986	58
3.2.1.8 Rio Declaration, 1992	59
3.2.1.9 Vienna Declaration and Programme of Action, 1993	59
3.2.1.10 Millennium Declaration, 2000	60
3.2.1.11 Sustainable Development Goal, 2015	61
3.2.2 Provision of Human Right to Shelter and Adequate Housing for Specific Groups	61
3.2.2.1 Refugees	62
3.2.2.2 Stateless Persons	62
3.2.2.3 Tribal and Indigenous Peoples	62
3.2.2.4 Persons with Disability	63
3.2.2.5 Women	64
3.2.2.6 Children	64
3.2.2.7 Migrants	65
3.2.2.8 Internally Displaced Persons	65
3.3 United Nations Bodies/Commissions and Committees on Adequate Housing	66
3.3.1.1 United Nation Commission on Human Rights	66
3.3.1.2 United Nation Special Rapporteur on Right to Shelter and Adequate Housing	67
3.3.1.3 United Nations Committee on Economic, Social and Cultural Rights	68
3.3.1.4 UN Sub-Commission on Prevention of Discrimination and Protection of Minorities	70

3.3.1.5 United Nations Commission on Human Settlements	70
3.3.1.6 United Nations Human Rights Council	71
3.3.1.7 United Nations Housing Rights Programme (UNHRP)	
3.4 Observance of International Year of Shelter on Housing	77
3.5 Regional Agreements for Human Right to Shelter on Adequate Housing	79
3.5.1 European Regional Arrangements	80
3.5.1.1 The Council of Europe	81
3.5.1.2 The European Convention on Human Rights and Fundamental Freedoms, 1950	82
3.5.1.3 The European Social Charter, 1961	83
3.5.1.4 The Revised European Social Charter, 1996	85
3.5.1.5 European Union	88
3.5.1.6 European Parliament	88
3.5.1.7 The Charter of Fundamental Rights, 2000	89
3.5.1.8 European Charter for Housing, 2006	91
3.5.2 American Regional Instruments	92
3.5.2.1 The Charter of the Organization of American States (OAS Charter), 1948	92
3.5.2.2 American Declaration of the Rights and Duties of Man, 1948	93
3.5.2.3 The American Convention on Human Rights, 1969	94
3.5.2.4 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social And Cultural Rights “Protocol of San Salvador”, 1988	94
3.5.3 African Regional Arrangements	96
3.5.3.1 African Charter on Human and Peoples Rights, 1981	96
3.5.3.2 The African Charter of the Rights and Well Being of the Child, 1990	97
3.5.3.3 Constitution of the Republic of South Africa, 1996	98
3.5.3.4 The Protocol of the African Charter of the Human and Peoples Rights on the Rights of Women in Africa, 2003	99

3.6 Statistics on World's Homelessness	100
3.7 Conclusion	101

CHAPTER-4

NATIONAL LAWS, POLICIES AND PROGRAMMES ON HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING	103-159
4.1 Introduction	103
4.2 Constitutional Provisions	105
4.2.1 Preamble of the Constitution	105
4.2.2 Fundamental Rights	107
4.2.3 Directive Principles of State Policy	110
4.3 Legislative Mandate	111
4.3.1 Central Acts/Statutes	111
4.3.1.1 The Slum Areas (Improvement and Clearance) Act, 1956	112
4.3.1.2 The Urban Land Ceiling And Regulation Act (ULCRA), 1976	112
4.3.1.3 The Protection of Human Rights Act (1993)	113
4.3.1.4 The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013	114
4.3.1.5 Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Act, 2017	116
4.3.2 Acts/Statutes of Uttar Pradesh	116
4.3.2.1 The U. P. (Regulations of Building Operations) Act, 1958	117
4.3.2.2 The Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965	117
4.3.2.3 The Uttar Pradesh Urban Planning and Development Act, 1973	118
4.4 Executive Measures for Human Right to Shelter and Adequate Housing	118
4.4.1 Five Year Plans and Right to Shelter and Adequate Housing	119

4.4.1.1 First Five-Year Plan (1951-1955)	120
4.4.1.2 Second Five Year Plan (1956-1961)	121
4.4.1.3 Third Five-Year Plan (1961-1966)	122
4.4.1.4 Fourth Five-Year Plan (1969-1974)	122
4.4.1.5 Fifth Five-Year Plan (1974-1979)	123
4.4.1.6 Sixth Five-Year Plan (1980-1985)	124
4.4.1.7 Seventh Five-Year Plan (1985-1990)	124
4.4.1.8 The Eighth Five-Year Plan (1992-97)	126
4.4.1.9 Ninth Five Year- Plan (1997-2002)	128
4.4.1.10 Tenth Five Year-Plans (2002-2007)	128
4.4.1.11 Eleventh Five Year-Plans (2007-12)	130
4.4.1.12 Twelfth Five Year-Plans (2012-2017)	130
4.4.2 Evolution of Housing Policies/Schemes/Programmes in Post Independent India	132
4.4.2.1 Subsidized Housing Scheme, 1952	132
4.4.2.2 Low Income Housing Scheme, 1954	132
4.4.2.3 Housing Scheme for Plantation Workers, 1956	133
4.4.2.4 Housing and Urban Development Corporation	134
4.4.2.5 Environmental Improvement of Urban Slums (EIUS), 1972	135
4.4.2.6 Housing Development Finance Corporation (HDFC), 1977	136
4.4.2.7 National Housing Policy, 1987	136
4.4.2.8 National Housing Policy, 1990	138
4.4.2.9 National Housing Policy, 1994	139
4.4.2.10 National Slum Development Program (NSDP), 1997	140
4.4.2.11 National Housing and Habitat Policy, 1998	140
4.4.2.12 Valmiki Ambedkar Awaas Yojana (VAMBAY), 2001	141
4.4.2.13 Jawaharlal Nehru National Urban Renewal Mission (JNNURM), 2005	141
4.4.2.14 National Urban Housing and Habitat Policy (NUHHP), 2007	144

4.4.2.15 Rajiv Awaas Yojana (RAY), 2011	145
4.4.2.16 Pardhan Mantri Awaas Yojana, 2015	147
4.5 Annual Reports on Right to Housing	150
4.5.1 Progress of Pardhan Mantri Awaas Yojana (URBAN)	151
4.6 Conclusion	158
CHAPTER-5	
JUDICIAL RESPONSES TO HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING	160-205
5.1 Introduction	160
5.2. Supreme Court on Human Right to Shelter and Adequate Housing	163
5.3. Various High Courts on Human Right to Shelter and Adequate Housing	174
5.4 Conclusion	203
CHAPTER-6	
STATUS, ISSUES AND CHALLENGES OF HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING IN LUCKNOW CITY OF UTTAR PRADESH	206-278
6.1 Introduction	206
6.2 Demographic, Educational and Political Profile of Uttar Pradesh	208
6.3 Housing Laws, Policies and Programmes in Uttar Pradesh	210
6.4 General Introduction of Lucknow City in Uttar Pradesh	211
6.4.1 Profile of Lucknow	213
6.4.2 Topography of Lucknow	213
6.4.3 Climate of Lucknow	214
6.4.4 Regional Setting & Connectivity of Lucknow	214
6.4.5 History of Lucknow	215
6.4.6 Architecture, Culture & Tourism of Lucknow	216
6.4.7 Population of Lucknow	217

6.4.8 Slum Population of Lucknow	218
6.4.9 Socio, Economic and Educational Profile of Lucknow	219
6.4.10 Housing Profile of Lucknow	220
6.4.11 Master Plan of Lucknow City, 2021	223
6.5 Filed Survey on Status and Issues of Human Right to Shelter and Adequate Housing of Lucknow City in Uttar Pradesh	225
6.6 Findings on the basis of Survey	270
6.7 Some Photographs of Field Survey	275

CHAPTER-7	
CONCLUSION AND SUGGESTIONS	279

BIBLIOGRAPHY

APPENDICES

LIST OF TABLES

S. No.	Particulars	Page No.
Table 4.1	Economic Status to Qualify for Pardhan Mantri Awaas Yojana	150
Table 4.2	Amount Granted under Pardhan Mantri Awaas Yojana (Urban)	153
Table 4.3	Subsidy Granted under Credit Linked Subsidy Scheme (CLSS)	154
Table 4.4	Number of Identified Slums	155
Table 4.5	State wise Progress of Housing for All (HFA) (2014 to June, 25 th 2021)	156
Table 4.6	Status of Pardhan Mantri Awaas Yojana in Lucknow, U.P.	157
Table 6.1	Demographic, Educational, and Political Profile of Uttar Pradesh	208
Table 6.2	Decadal Growth Trend of Population in Lucknow	218
Table 6.3	Housing Shortage in Lucknow City	220
Table 6.4	Future Projection of Housing Shortage for EWS/LIG	221
Table 6.5	Land Use of Lucknow Urban Agglomeration in 1987 & 2004-05	222
Table 6.6	Proposed Land Use for Lucknow Urban Agglomeration (UA) in 2021	224
Table 6.7	Gender of Respondent	225
Table 6.8	Community wise Respondent	226
Table 6.9	Different Age Groups of Respondent	227
Table 6.10	Marital Status of Respondent	228
Table 6.11	Educational Status of Respondent	229
Table 6.12	Source of Income of the Respondent	230
Table 6.13	Monthly Incomes of the Respondent	231
Table 6.14	Structure/Type of the Family of Respondents	232
Table 6.15	Number of Family Members of the Respondent	233
Table 6.16	Awareness about Government Housing Schemes	234

Table 6.17	Awareness about PMAY Scheme	235
Table 6.18	Beneficiaries under Different Housing Schemes	236
Table 6.19	Awareness about Some specific Housing Schemes	237
Table 6.20	Medium of Awareness	239
Table 6.21	Information Regarding Housing Schemes Rendered by Authorities/Officers	240
Table 6.22	Monitoring / Supervision by Officers/ Authorities	241
Table 6.23	Awareness related to Basic Rights	243
Table 6.24	Status of Present Residence	244
Table 6.25	Present Living Conditions of Respondent	245
Table 6.26	Duration of Staying in Current Shelter	247
Table 6.27	Information Regarding the Hold of Raw or Built House	248
Table 6.28	Kind of Property Holding by the Respondent	249
Table 6.29	Carpet Area of House	250
Table 6.30	Problem Facing by Respondent in Current Shelter	251
Table 6.31	Kind of Fuel Used for cooking	253
Table 6.32	Access to Toilet Facility	254
Table 6.33	Access to Electricity	255
Table 6.34	Availability of Water Facility	256
Table 6.35	Satisfaction Level of Cleanliness around Residence	258
Table 6.36	Other Facilities Available around Residence	259
Table 6.37	Money Granted under Government Schemes	261
Table 6.38	Level of Satisfaction from the Received Money for House Construction	262
Table 6.39	Number of Instalments for Releasing of Money for House Construction	263
Table 6.40	Level of Corruption in Releasing of Money for House Construction	265
Table 6.41	Preferences to Financial Institutions for Loan	266
Table 6.42	Reason for Not Taking Loan	267
Table 6.43	Information Regarding the Repairing/Renovation of House	269

LIST OF FIGURES

S. No.	Particulars	Pg. No.
Figure 6.1	Map of Uttar Pradesh	209
Figure 6.2	Location of Lucknow City in Uttar Pradesh	213
Figure 6.3	River Gomti at Shahee Smarak, Lucknow	214
Figure 6.4	Kudia Ghat on River Gomti, Lucknow	214
Figure 6.5	Lucknow Railway Station at Charbag	215
Figure 6.6	Chaudhry Charan Singh Airport at Amausi	215
Figure 6.7	Heritages Cultural Place of Lucknow	217
Figure 6.8	Gender of the Respondent	225
Figure 6.9	Community of the Respondent	226
Figure 6.10	Age of the Respondent	227
Figure 6.11	Marital Status of the Respondent	228
Figure 6.12	Educational Status of the Respondent	229
Figure 6.13	Source of Income of the Respondent	230
Figure 6.14	Monthly Income of the Respondent	231
Figure 6.15	Structure/Type of the Family of Respondents	232
Figure 6.16	Numbers of Family Members of the Respondent	233
Figure 6.17	Level of Awareness about Government Housing Schemes	234
Figure 6.18	Level of Awareness about PMAY Scheme	235
Figure 6.19	Beneficiaries under Different Housing Schemes	236
Figure 6.20	Level of Awareness about Some specific Housing Schemes, Like-ARHC/BLI/CLASS/ISSR	238
Figure 6.21	Medium of Awareness of Housing Schemes	239
Figure 6.22	Information Regarding Housing Schemes Rendered by Authorities/Officers	240
Figure 6.23	Monitoring / Supervision by Officers/Authorities	242
Figure 6.24	Level of Awareness related to Basic Rights	243
Figure 6.25	Status of Present Residence	244
Figure 6.26	Information about Present Living Conditions	246

Figure 6.27	Duration of Staying in Current Shelter	247
Figure 6.28	Information Regarding the Hold of Raw or Built House	248
Figure 6.29	Kind of Property Holding by the Respondent	249
Figure 6.30	Area of Residence of the Respondents	250
Figure 6.31	Problem Facing by Respondent in Current Shelter	252
Figure 6.32	Kind of Fuel Used for cooking	253
Figure 6.33	Access to Toilet Facility	254
Figure 6.34	Access to Electricity	255
Figure 6.35	Availability of water Facility	257
Figure 6.36	Satisfaction Level of Cleanliness around Residence	258
Figure 6.37	Other Facilities Available around Residence	260
Figure 6.38	Money Granted Under Government Schemes	261
Figure 6.39	Level of Satisfaction from the Received Money for House Construction	262
Figure 6.40	Numbers of Instalments for Releasing of Money for House Construction	264
Figure 6.41	Level of Corruption in Releasing of Money for House Construction	265
Figure 6.42	Preferences to Financial Institutions for Loan	266
Figure 6.43	Reason for Not Taking Loan	268
Figure 6.44	Information Regarding the Repairing/Renovation of House	269

LIST OF CASES

1. *Abhimanyu Mazumdar v. Superintending Engineer*
2. *Ajay Maken v. Union of India*
3. *Bibhuti Bhusan Chakraborty v. Deputy Registrar*
4. *Bombay High Court in Shivaji Krishna Zunjare v. State of Maharashtra,*
5. *C. Ponnusamy v. Government of Tamil Nadu*
6. *Chameli Singh v. State of Uttar Pradesh*
7. *Chander Bhushan Anand. v. Union of India (UOI*
8. *Consumer Education and Research Centre v. Union of India*
9. *Court on its own Motion v. Government of National Capital Territory (NCT) of Delhi*
10. *D.B. Realty Ltd. v. State of Maharashtra*
11. *Delhi Dayalbagh Coop. House Building Society Ltd. v. The Registrar Cooperative Societies*
12. *Delhi Development Authority v. Abhay Prakash Sinha*
13. *Dev Nath Yadav v. State of U.P*
14. *E.R. Kumar v. Union of India*
15. *'Fashion' Proprietor Aswani Kumar Maity v. West Bengal State Electricity Distribution Co*
16. *Francis Coralie v. Union Territory of Delhi*
17. *Gopiram Agarwalla v. Smt. Bina Agarwalla*
18. *Jagdish v. Delhi Development Authority*
19. *Joseph Bain D'Souza v. State of Maharashtra*
20. *Junjamma v. Bangalore Development Authority*
21. *Mala Pentamma v. Nizamabad Municipality*
22. *Millennium Educational Trust v. State of Karnataka*
23. *Mirza Sanaulla v. Davanagere Urban Development Authority*
24. *Olga Tellis v. Bombay Municipal Corporation*
25. *P.G. Gupta v. State of Gujarat*
26. *P.K. Koul v. Estate Officer*
27. *P.T. Munichikkanna Reddy & Ors vs Revamma and Ors*

28. *Pani Haq Samiti v. Brihan Mumbai Municipal Corporation*
29. *Peerless Tea and Industry Ltd. v. State of Tripura*
30. *Phongseh Misao v. Collector of Land Acquisition*
31. *PUCL v. Union of India*
32. *R. Krishnasamy Gounder v. The State of Tamil Nadu*
33. *Raja Mohan v. Divisional Engineer, Tamil Nadu Electricity Board*
34. *S. Shangreikhai v. Union of India,*
35. *Sahyadri Punarvasan Gaothan Vikas Sanstha v. Pandharpur Municipal Council*
36. *Shantha Mary v. State of Karnataka*
37. *Shantistar Builders v. Narayan Khimalal Totame*
38. *Sharadamma v. State of Karnataka*
39. *Shivaji Krishna Zunjare v. State of Maharashtra*
40. *Sri Zakir Khan, Plot No. 1374, Gandamunda, Bhubaneswar v. State of Orissa*
41. *St. Anthony's Co-operative Society v. The Secretary (Co-operation and Textile Department*
42. *State of Karnataka v. Narasimha murthy*
43. *Steel Plant Employees Union, Salem v. Steel Authority of India Limited*
44. *Sudama Singh v. Government of Delhi*
45. *Suresh Kumar Singh v. Sate of U.P*
46. *T.M. Prakash v. District Collector and Tamil Nadu Electricity Board*
47. *Tukaram Kana Joshi v. Maharashtra Industrial Development Corporation*
48. *U.P.Awaas Evam Vikas Parishad v. Friends Coop. Housing Society Ltd*
49. *Udal v. Delhi Urban Shelter Improvement Board*
50. *Yamkhomang Haokip v. State of Manipur*
51. *Zubair Malik v. Municipal Corporation of Greater Mumbai*

LIST OF ABBREVIATIONS

AALCC	: Asian-African Legal Consultative Committee
AHP	: Affordable Housing in Partnership
AMRUT	: Atal Mission for Rejuvenation and Urban Transformation
BPL	: Below Poverty Line
BSUP	: Basic Services for Urban Poor
BMTPC	: Building Materials and Technology Promotion Council
BMTPC	: Building Materials and Technology Promotion Council
CAT	: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment
CBO	: Community Based Organisation
CDG	: Community Development Group
CDP	: City Development Plan
CDS	: Community Development Societies
CEDAW	: Convention on the Elimination of All Forms of Discrimination against Women
CSMC	: Central Sanctioning and Monitoring Committee
CDPs	: City Development Plans
CoE	: Council of Europe
CC	: Constitutional Court
CPHEO	: Central Public Health and Environmental Engineering Organization
CRC	: Convention on the Rights of the Child
CLSS	: Credit- Link Subsidy Scheme
CRZ	: Coastal Regulation Zone
CSP	: City Sanitation Plan
CSP	: Community Support Program
DA	: Development Authority
DC	: District Collector
DUSIB	: Delhi Urban Shelter Improvement Board
DPR	: Detailed Project Report

DUDA	: District Urban Development Authority
EC	: European Council
ECHR	: European Convention on Human Rights
EWS	: Economically Weaker Sections
ECtHR	: European Court of Human Rights
Edn	: Edition
EPC	: Engineering Procurement Contract
EU	: European Union
ExCom	: Executive Committee of the High Commissioner's Programme
FAR	: Floor Area Ratio
FSI	: Floor Space Index
GIS	: Geographical Information System
GoI	: Government of India
HC	: High Court
HUDCO	: Housing and Urban Development Corporation
HDFC	: Housing Development Finance Corporation
HRL	: Human Rights Law
ICCPR	: International Covenant on Civil and Political Rights
ICERD	: International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	: International Covenant on Economic, Social and Cultural Rights
ICRC	: International Committee of the Red Cross
IDP	: Internally Displaced Person
IHSDP	: Integrated Housing and Slum Development Programme
ILCS	: Integrated Low Cost Sanitation Programme
IM (DT)	: The Illegal migrants (Determination by Tribunals) Act,
IAY	: Indira Awaas Yojana
ISSR	: In-Situ Slum Redevelopment
ISHUP	: Interest Subsidy Scheme for Housing the Urban Poor
IYSH	: International Year of Shelter for the Homeless
IOM	: International Organization for Migration
IPC	: Indian Penal Code

JNNURM	: Jawaharlal Nehru National Urban Renewal Mission
LARR	: Land Acquisition, Rehabilitation, and Resettlement
LIG	: Low Income Group
MGNREGS	: Mahatma Gandhi National Rural Employment Guarantee Scheme
MoA	: Memorandum of Agreement
MIS	: Management Information System
MoHUPA	: Ministry of Housing and Urban Poverty Alleviation
NCT	: National Capital Territory
NHB	: National Housing Bank
NHP	: National Housing Policy
NSDP	: National Slum Development Program
NUHHP	: National Urban Housing & Habitat Policy
NULM	: National Urban Livelihoods Mission
NBO	: National Building Organisation
NGO	: Non -Governmental Organisation
NHRC	: National Human Rights Commission
NNRC	: National Network of Resource Centers
NSA	: The National Security Act,
OAS	: Organization of American States
OAU	: Organization of African Unity
OCHA	: UN Office for the Coordination of Humanitarian Affairs
OHCHR	: Office of the High Commissioner for Human Rights
PMAY (U)	: Pradhan Mantri Awaas Yojana (Urban)
PMAY(R)	: Pradhan Mantri Awaas Yojana (Rural)
PHC	: Primary Health Care Center
PIU	: Project Implementation Units
PMU	: Project Management Units
PPP	: Public Private Partnership
RAY	: Rajiv Awaas Yojana
RESC	: Revised European Social Charter
RLEGP	: Rural Landless Employment Generation Programme
SHASHU	: Scheme of Housing and Shelter Up gradation

SFCPoA	: Slum Free City Plan of Action
SC	: Supreme Court
SCC	: Supreme Court Cases
SUH	: Shelter for Urban Homeless
SJSRY	: Swarna Jayanti Shahari Rojgar Yojana
SOR	: Statement of Objects and Reasons
SUDA	: State Urban Development Authority
SDG	: Sustainable Development Goals
TDR	: Transfer of Development Rights
TPR	: Temporary Protection Regulation
UAA	: Urban Agglomeration Area
UK	: United Kingdom
ULB	: Urban Local Body
ULCRA	: Urban Land Ceiling and Regulation Act
UNCHS	: UN Centre for Human Settlements
UNHRC	: United Nation Human Rights Committee
UN	: United Nations
UNDP	: United Nations Development Programme
UNGA	: United Nations General Assembly
UNHCR	: United Nations High Commissioner for Refugees
UOI	: Union of India
UNHCHR	: United Nations High Commissioner for Human Rights
UNHRP	: United Nations Housing Rights Programme
UNOHCHR	: United Nations Office of the High Commissioner for Human Rights
UNRRA	: United Nations Relief and rehabilitation administration
UNRWA	: United Nations Relief and Works Agency for Palestine Refugees in the Near East
UNSC	: United Nations Security Council
UPA	: Urban Poverty Alleviation
UBSS	: Urban Basic Services Scheme
UIG	: Urban Infrastructure and Governance
UIDSSMT	: Urban Infrastructure Development Schemes for Small and

Medium

Towns

ULCRA : Urban Land Ceiling and Regulation Act

ULB : Urban Local Bodies

VAMBAY : Valmiki Ambedkar Awaas Yojana

Vs : Versus

WSSD : World Summit on Sustainable Development



CHAPTER- 1
INTRODUCTION



CHAPTER-1

INTRODUCTION

1.1 INTRODUCTION:

The human right to shelter and adequate housing is one of the fundamental needs of man. It is a geographical truth which displays the intricate relation between man and his environment. This fundamental element not only protects its occupants from the various vigours of climate but also provides the place where they reside, rest, educate and store the things. Further, the housing activity creates additional employment opportunities and also includes voluntary savings. In spite of the fact that housing has several multiplier effects on the improvement of quality of life, it is one of the most neglected aspects in our country and perhaps the weakest link in our planned development.¹

The human right to Shelter and adequate housing is the right to live with security, peace, privacy and dignity. It is not merely having a roof over one's head; rather, it requires an accessible habitable space that fulfills the basic needs of humans to personal space, security, adequate lighting and ventilation, safe infrastructure, protection from weather, and adequate location with regard to work and basic facilities—all at a reasonable cost.² Because of its essentiality the right to adequate housing has recognized as a universal right at the international level and proclaimed in numerous national constitutions throughout the world. The denial of such right brings violations of other inevitable human rights in such as employment, education, health, social ties, participation in decision-making and dignified life of the individual etc.³

¹ Joseph P. John and N. Sridhran, *Shelter for the Rural Poor* 26 (Ashish Publishing House, Delhi, 1992)

² National Human Rights Commission, India, "Know Your Rights Series: Right to Adequate Shelter" (NHRC, 2011) available at: https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf (last visited on September 6, 2020)

³ Millennium Summit of the United Nations, "The Right to Development", 6-8 September (New York, 2000) available at: <https://www.un.org/en/development/devagenda/millennium.shtml> (last visited on September 6, 2020)

In spite of the universal recognition of right to adequate housing and need of a safe shelter the homelessness has become a global human right crisis that demands an urgent global response. It is occurring in all socioeconomic contexts in developed, emerging and developing economies, in prosperity as well as in austerity. It is a diverse phenomenon, affecting different groups of people in different ways but with common features. It is symptomatic of the failure of governments to address growing inequalities in income, wealth and access to land and property and to effectively respond to the challenges of migration and urbanization. Homelessness occurs when housing is treated as a commodity rather than as a human right⁴ though state obligations in relation to homelessness are well established and have been clearly articulated. These include the following immediate obligations of States:

(a) to adopt and implement strategies to eliminate homelessness, with clear goals, targets and timelines; (b) to eliminate the practice of forced eviction, especially where it will lead to homelessness; (c) to combat and prohibit in law discrimination, stigma and negative stereotyping of homeless people; (d) to ensure access to legal remedies for violations of rights, including for the failure of States to take positive measures to address homelessness; and (e) to regulate third party actors so that their actions are consistent with the elimination of homelessness and do not discriminate either directly or indirectly against homeless people.⁵

The obligations of States to take steps towards the realization of the right to shelter and adequate housing for all without discrimination are clearly laid down in a number of international human rights instruments. Some of these international measures are Universal Declaration of Human Rights (UDHR), 1948⁶ The International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966.⁷ International Convention on Civil and Political Rights (ICCPR), 1966 Convention on Elimination of All forms of Discrimination Against Women (CEDAW),⁸ 1979, The International Convention on the Elimination of All Forms of Racial

⁴ UN Report: “Homelessness is a Human Rights Crisis that Demands an Urgent Global Response”, (United Nation general assembly, 2016) available at: <https://www.gi-escr.org/latest-news/un-report-homelessness-is-a-human-rights-crisis-that-demands-an-urgent-global-response> (last visited on September 4, 2016)

⁵ *Ibid.*

⁶ The Universal Declaration of Human Rights, art. 25(1)

⁷ The International Covenant on Economic, Social and Cultural Rights, art. 11 (1)

⁸ The Convention on the Elimination of All Forms of Discrimination against Women, art 14,(2) (h)

Discrimination, 1969⁹ The Convention on the Rights of the Child (CRC), 1989¹⁰, Vienna Declaration and Programme of Action of the World Conference on Human Rights, 1993, Millennium Development Goals, 2000 and Sustainable Development Goals, 2015. Various regional arrangements, like African, American and European conventions on human rights also protect the concept of adequate housing.

Besides the international norms the Indian Constitution also lays down that “the state shall strive to promote the welfare of the people, protecting as effectively as it may a social order in which justice, social, economic and political”¹¹. Moreover Article 21 of the Constitution of India, states that, No person shall be deprived of his life or personal liberty except according to procedure established by law and emphasizes on the concept of a dignified life. It is on these basic principles that India continues to strive to provide its people basic socio-economic necessities such as food, clothing, and shelter and so on”¹².

For the proper implementation of constitutional spirit the housing policies of the Government of India have started to formulate since the 1950 itself. While at the start of “planned development” the policies were more welfare centric, later on these came to be driven by a well-defined constellation of economic interests. At the same time, the role of the government has also changed gradually from being a provider of housing to being merely a facilitator of housing activity.¹³ Since the initiation of the five-year plan in India in 1950, the housing agencies have evolved numerous housing programmes. The change in the design of these programmes reflects the changes due to the housing policies. The housing policies of the government have witnessed two major changes over the various plans: first, the role assigned to the various actors in the housing sector; and, second, standards and norms for housing and urban development. The direct government intervention in the housing sector was warranted due to, first, insubstantial house construction effort by the private sector, especially

⁹ The International Convention on the Elimination of All Forms of Racial Discrimination, art. 5 (e)

¹⁰ The Convention on the Rights of the Child, art. 27(3)

¹¹ The Constitution of India, art. 38

¹² United Nations Special Rapporteur on the “Right to Adequate Housing to the Commission on Human Rights”, (Human Rights Council, 2006), E/CN.4/2001/51, E/CN.4/2002/59, E/CN.4/2003/5, E/CN.4/2004/48, E/CN.4/2005/48, E/CN.4/2006/41, A/HRC/4/18, available at: http://ap.ohchr.org/documents/dpage_e.aspx?m=98. (last visited on August 14, 2020)

¹³ V.K. Krishna Iyer, “Housing as a Right”, *Kurukshetra* 23 (1996)

for the poorer segments of the population, second, haphazard growth of urban areas, and, third, decay of the existing housing stock¹⁴.

The Ministry of Housing & Urban Poverty Alleviation which is the apex authority of the Government of India also entrusted with the implementation of the specific programmes of urban employment and urban poverty alleviation, including the provision of basic amenities to the urban poor has played a significant role in this regard. Later on, the matters related to the housing and urban development have been assigned to the State Governments. The Constitutional 74th Amendment Act has further delegated many of these functions to the urban local bodies. Although these are essentially State subjects yet the Government of India plays a coordinating and monitoring role and also supports these programmes through centrally sponsored schemes. In order to mitigate the housing the Ministry of Housing & Urban Poverty Alleviation announced the National Urban Housing and Habitat Policy, 2007. This Policy focuses on affordable housing for all with special emphasis on economically weaker sections of the society such as SCs, STs, OBCs, Minorities, women headed households and the physically challenged.¹⁵ The Government's commitment to have housing for all by 2022 is the vision which presents dramatically different opportunities and requirements in front of the stakeholders and realizing this dream can be a step towards building a brighter India. This transformational Scheme of "Housing for All by 2022" was launched by Government of India on 17th June 2015 under Pradhan Mantri Awaas Yojana which aims to provide affordable housing to urban poor.¹⁶

Apart from the executive efforts the Indian Supreme Court and High Courts also interpret the Constitution on enforceability of social rights, especially the right to adequate housing in the context of these pressing housing needs and frequent forceful

¹⁴Ummareddy Venkateswarlu, *Urbanization in India: Problems and Prospects* 175(New Age International (p) Ltd., Publishers, New Delhi, 1998).

¹⁵ Government of India, "Annual Report on Housing in India" (Ministry of Housing & Urban Poverty Alleviation, 2011-12) *available at*:<http://mohua.gov.in/upload/uploadfiles/files/AR2011-12-1-105.pdf>. (last visited on August 14, 2020)

¹⁶ Government of India, "Annual Report on Housing in India" (Ministry of Housing & Urban Poverty Alleviation, 2014-15) *available at*: <http://mohua.gov.in/upload/uploadfiles/files/AR2014-15-1-105.pdf>. (last visited on August 14, 2020)

evictions of slum dwellers.¹⁷ Indian judiciary has elaborated several aspects of the right to adequate housing, deriving primarily from the right to life and personal liberty under Article 21 and Article 19(1)(e) of the Constitution in several remarkable cases. Such as *Olga Tellis and Others v Bombay Municipal Corporation and Others*,¹⁸ *U.P. Avas Vikas Parishad v. Friends Coop Housing Society Limited*¹⁹, *Shantistar Builders v. Narayan Khimalal Totame*²⁰, *Chameli Singh v. State of U.P.*²¹, *E.R. Kumar v. Union of India*²², *Suresh Kumar Singh v. State of U.P.*, 2019²³. Through all these cases our judiciary explained the significance of shelter to the people and connected it with the fundamental right given under the constitution of India and imposes the obligation on state to provide this to all the citizens of the country.

Though the number of initiatives have been taken by the government even then India is still grappling with unmet basic housing needs of hundreds of thousands of its citizens. While we represent the world's largest democracy and have a truly remarkable Constitution, millions of people are still living in sub-human conditions on pavements, in squatter settlements, basties, jhuggies or unauthorized slums and are in constant threat of being evicted. The lack of housing and basic services at the required pace to meet the challenges of urbanization has resulted in the development of slums and squatter settlements with wider ramifications on the health, safety and well-being of the citizens. In 2001, there were 23.5 percent of households in urban areas which were living in slums. In 2011, it has come down to 17.4 percent. But there are still 13.74 million slum households and 68 million people living in the slum areas.²⁴ As per the report of the Technical Group on Urban Housing Shortage, 2012-17 constituted by the Ministry of Housing and Urban Poverty Alleviation (MoHUPA), there is a shortage of 18.78 million dwelling units in the country out of which nearly

¹⁷ Jayna Kothari, "Right of Housing: Constitutional Perspective on India and South Africa", *Lawyers Collective* 21 (2001).

¹⁸ (1985) 3 SCC 545

¹⁹ AIR 1996 SC 114

²⁰ AIR (1990) SC 630

²¹ AIR 1051, 1995(6) Suppl. SCR 827, 1996(2) SCC 549

²² 2016 (10) SCJ 467

²³ AIR 2019 Allahabad High Court 4764

²⁴ Government of India, "Office of the Registrar General & Census Commissioner, India" (Ministry of Home Affairs, 2011) available at: <https://censusindia.gov.in/2011-common/censusdata2011.html> (last visited on July 20, 2020)

96% belong to the Economically Weaker Sections (EWS) and Lower Income Group (LIG) households potentially living in slums.²⁵

Affordable housing has, thus, become one of the biggest challenges of the present times. Planning for a home has become imperative for the younger generation today who are often forced to begin their career with the quest for a permanent home for themselves. Skyrocketing prices of land and real estate in urban areas have made houses unaffordable. Ever rising rents, fleecing builders, unapproved land use, substandard building material etc. has all widened the gap between supply and demand.²⁶

1.2 REVIEW OF LITERATURE:

The researcher has studied and reviewed various literatures to explore the concept of human right to shelter and adequate housing for having a better understanding of research work carried out in the study that can be discussed as follows:

Housing Growth in India, 1976, written by Bhakshi Sinha, published by Arnold-Heinemann Publishers (India) for Birla Institute of Scientific Research, Economic Research Division while discussing many aspects of the housing problem. In this book the author express upon the requirement of Housing and recognizes the basic necessity of housing. He enunciates the fact that the framers of the Indian constitution have recognized housing as a prerequisite for rural development. He further emphasizes that housing has got a vital role to play in the national economy. He points out that the shortage of housing is related to population explosion and evaluates the investment needs of house building industry as well as its material requirements. Stressing upon the employment aspect of house building activity he points out that the house building industry has the potential to generate employment for the masses.

Housing Problem in India: Economic and Social Aspects, 1987, written by K.V. Varghese the author feel that the housing problem is deep and could prove a

²⁵Durga Shankar Mishra, “Affordable Housing in Urban Areas” 8-9 Housing for all, Yojana Magazine, vol 61 (2017)

²⁶ *Ibid.*

Waterloo. This book tries to discuss certain important implications and intricacies of the Indian housing problem such as the rural-urban dichotomy in housing. It considers factors such as the disparity between the supply of and demand for housing and examines the validity and effectiveness of organized efforts made to tackle it. It tries to show that the real roots of the housing problem lie in population explosion, urban expansion and widespread poverty. It tries to examine the housing problem in several communities like plantation labourers, slum dwellers and pavement dwellers. The book offers suggestions to address the problem of housing in India.

Population and Housing Problems in India, 1989, The Second volume of S.D. Maurya's, book dealt with this volume consists of 19 articles. The first nine articles deal with the condition of housing in various regions of India. In the first article "Housing Problem in India: An Overview", the author, Sahab Deen Maurya suggests that housing societies could be formed at local level to mobilize resources for housing. In the second article, "Urban Shelter Crisis in India", Udaya Bhaskara Reddy concludes that the shelter situation is severe due to tremendous increase in the population of cities, shortage of developed land, inadequate access to finance, slow pace of construction, litigation, and the low capability of people to construct their own houses.

Shelter in India, 1990, the author Aromar in his book, discusses the major housing problems in India. Rapidly increasing homelessness throughout the world has promoted major new initiatives on the policy, institutional and technological fronts to tackle problem with a renewed sense of urgency. To design effective approaches to the construction sector in general and the housing problem in particular, the first step is to obtain an accurate picture of the existing state of affairs to identify major problems in the housing field in India, analyzing the data obtained from government and other published sources. The book identifies the major issues of resources, technologies, institutions and policies, which must underlie any action in this area and carries out a detailed analysis of public action on housing during the period since independence. It presents a number of conclusions regarding the relative magnitude of the governmental or formal effort in this sector and the difficulties in information and knowledge without which further progress will be very slow. On the basis of this analysis, a detailed research agenda is outlined which can provide a starting point for

government laboratories, research institutions and voluntary organizations to initiate useful work in this field.

Shelter for the Rural Poor, 1992, the authors J.P. John and Sridhar discussed the urban and rural housing conflict. The book is divided into three parts, Urban and Rural Housing Conflict, Role of Women in Housing, and Tribal Housing. The first part contains fourteen papers, the second part contains four and the third part contains two papers. This book is the first of its kind in outlining various experiences of non-governmental organizations in the field of rural housing, he openly points out the glaring defects as well as the advantages of the government sponsored rural housing programmes. The papers contributed by the decision makers, representatives of non-government organizations and individual researchers are thought provoking and give deep insight into the problem of rural housing. The technology advocated and experimented with by the NGOs provides an opportunity to explore the use of existing technology to suit local conditions. The book also raises important issues on the role of women in rural housing. It also discusses those housing technologies that are in least conflict with the environment in tribal areas.

Housing Sustainable Development and the Rural Poor a Study of Tamil Nadu, 1995, writer Bernhard Glaser in his book discussed about rural housing for the poor. The provision of adequate housing for the rural poor is crucially constrained by socio-cultural, economic, environmental and technological factors. Typically traditional rural houses are plagued poor technical quality, incompatibility with their environment and problems deriving from society's insensitivity to the socio cultural and economic needs of the dwellers.

Affordable Housing and Infrastructure in India, 1998, author K.P.Bhattacharya in his book “throws light on the problem of providing affordable housing and infrastructure to the economically weaker sections (EWS) of the population in developing countries. The book highlights the need to define housing as a priority sector and to declare building construction activity as an industry so that it has access to the fiscal and tax benefits which are available to all other Indian industries. The book concludes that the problem of providing affordable housing to the urban poor is aggravated by limited allocations of budgetary resources by the governments of developing countries. The author opines that higher budgetary

allocations for the housing sector, particularly for the economically weaker sections of society are essential. He comes to the conclusion that affordable housing and infrastructure must be made accessible to the EWS of the population. Papers cover issues such as housing policy, income earning issues, savings, and rent affordability, housing delivery infrastructure, finance, legislation and innovative building technology.

Rural Housing Policies and Practices, 2007, Author is Majumder Bhaskar, published by Prem Rawat for Rawat publications. In this book author has examined the role of housing for decent standard of living of rural population, and covered both houses constructed under government schemes and houses privately constructed in rural areas. This will provide a comparative picture of the housing programmes, and both government-supported and self-initiated. Government-supported houses have been studied under two categories, houses for the Below Poverty Line household and those for general (non-BPL) household.

Urbanisation in India: Challenges, Opportunities and the Way Forward, 2014, written by Isher Judge Ahluwalia, Publisher: SAGA India; Urban areas are integral to India's growth and development, accounting for around two-thirds of the country's GDP. Analyzing India's rapidly expanding process of urbanization; the book identifies the key challenges and opportunities and proposes suitable managerial and policy reforms. It addresses critical issues and puts forth suggestions for better planning financing alternatives and, most importantly, better governance for improved service delivery and affordable housing. Divided thematically into three sections, the volume takes into account the important facets of urbanization, including the state of urban infrastructure and planning in India with due attention to sustainability, the role of finance in urban development and its dependence on governance and methods to generate good governance in public institutions and the impact on housing and climate change. The 11 essays included in this book have been written by leading analysts and practitioners, who propose critical reforms and policy interventions. The volume will be indispensable to students and scholars of urban economics, development studies, urban planning, business practitioners, policymakers as well as the informed general reader.

The Housing Challenge in Emerging Asia: Options and Solutions, 2016, written by **Matthias Helbe, Naoyuki Yoshino** and published by Asian Development Bank Institute. The Housing Challenge in Emerging Asia: Options and Solutions provides new insights and ideas to best design and implement housing policies aimed at improving access to affordable and adequate housing. The book offers an innovative theoretical framework to conceptualize and analyze various housing policies. It also critically reviews housing policies of various countries and draws lessons for others. The countries studied include advanced economies within and outside Asia, such as Japan, the Republic of Korea, Singapore, Switzerland, the United Kingdom, and the United States, as well as emerging countries within Asia, such as the People's Republic of China and India.

Urbanization and Housing: State, Market and Consumer, 2017, Author is Ashish Mukhopadhyay in this book author has examined to the various housing schemes to the government of India from the 1952 to 2011, capital expenditure on housing under five year plan, distribution of housing shortage by economic category, 2007 and comparative estimated shortage of urban housing by economic groups in 2007 and 2012. Under changing social conditions, not only has the urban space become subject to a critical contest for housing, but rural land is also being transformed into urban space for more 'productive' use. But is this intense drive to remake the cities ruining the promise of an 'inclusive city'? Aggressive efforts towards the commodification of rural land is often disastrous for thousands of people, and the vulnerability of the consumers to fraudulent practices in the urban housing market has become widespread, with great implications for consumer justice. Urbanization and Housing aims at understanding the complex process of urbanization that has developed in a globalizing Indian society due to the transformative initiatives of the state with respect to the urbanization-driven crisis of 'affordable housing.'

Remaking Housing Policy: An International Study, 2018, written by David Clapham, Breaking the country-specific boundaries of traditional housing policy books, Remaking Housing Policy is the first introductory housing policy textbook designed to be used by students all around the world. Starting from first principles, readers are guided through the objectives behind government housing policy interventions, the tools and mechanisms deployed and the outcomes of the

policy decisions. A range of international case studies from Europe, Asia, Africa and the Americas illustrate the book's general principles and demonstrate how different regimes influence policy. The rise of the neo-classical discourse of market primacy in housing has left many countries with an inappropriate mix of state and market processes with major interventions that do not achieve what they were intended to do. *Remaking Housing Policy* goes back to basics to show what works and what doesn't and how policy can be improved for the future. *Remaking Housing Policy* provides readers with a comprehensive introduction to the objectives and mechanisms of social housing. This innovative international textbook will be suitable for academics, housing students and those on related courses across geography, planning, property and urban studies.

The Legal Right to Housing in India, 2019, written by Anindita Mukherjee, published by Cambridge University Press. This book on constructing a legal right to housing in India seeks to achieve three ends: first, examine the costs incurred in translating a moral right into the language of the law; second, unpack the ways in which existing law and policy impact the realisation of the right to housing and situate any attempt to legally guarantee the right within this context; and finally, begin thinking through the many complexities that will arise should the right be articulated within the law. A comprehensive chronology of central housing law and policy provides the descriptive background for this analytical text, while also acting as a rich introductory resource on the subject. Asserting a need as a right and then seeking legislative recognition for the right is a formula often used in rights struggles. This book takes a critical look at this process, in order to facilitate informed engagement with the law.

Housing for All: Design, Construction and Management, 2020, written by A.K. Jain, published by Khanna Book Publishing Co. (P) Ltd the book emphasis the government of India has launched the Pardhan Mantri Awaas Yojana (PMAY) for building 11.20 million houses in urban areas and 10 million houses in rural areas by the year 2022. Under the scheme a dwelling unit of 30 sqm is to is built for EWS category (income up to Rs 3 lakh pa) 60 sqm for LIG unit (income above Rs.3 lakh to Rs 6 lakh pa), where as in rural areas 25 sqm units are to be built. It also involves the rehabilitation of 65 million dwellers. This book further emphasis the identify barriers

and evolve the reforms for social housing. The barriers include- lack of understanding of the housing problem, issues resources, lack of community participation, lack of finance and distortion of investments. There is also lack of serviced land for low cost shelter, lack of linkage and livelihood, and social and physical infrastructure.

Housing and Politics in Urban India: Opportunities and Contention, 2020, written by Swetha Rao Dhananka, Cambridge University Press. Providing adequate housing in an increasingly urbanised world is a major challenge of current times. This book puts together a compelling story based on fine-grained analysis of housing processes, as lived by slum-dwellers and their voice-bearers. It situates the lived experience of claiming adequate housing within informal transactions and negotiations of patronage networks vis-à-vis the formal institutional opportunities and closures of Indian democracy. In doing so, this research extends an innovative array of conceptual and methodological tools to grasp the context in which housing claims succeed and fail. This book contributes by responding to critical areas of social movement scholarship and by displaying community engagements and tactical strategies to bring about transformative change to claim adequate housing and resist co-opting forces for socially sustainable housing futures.

Slum Development in India: A Study of Slums in Kalaburagi, 2021, written by Shekhar, Sulochana, his book is an earnest effort in understanding the slums and their needs by taking a case study of Kalaburagi, India. This study aims to contribute sustainable methodologies to advance the living conditions of slum dwellers and for better execution of slum policies. The core objectives are: first is mapping the existing slums of Kalaburagi (formerly Gulbarga) city using slum ontology from very high-resolution data and validating the slum map through ground survey and using reliable data; second is the developing a model to understand the factors which are responsible for the present growth as well as to predict the future growth of slums; third is estimating the housing demand of urban poor and suggesting a suitable site for the rehabilitation program; and fourth is suggestions for the better intervention of government policies with special reference to in-situ program. Urban is the future, and slums are its reality. Sustainable development goals are directly and indirectly concerned about the increasing urbanization and the slums. Housing the urban poor and affordable housing to all are the national missions.

Practically making these plans successful depends on a deep understanding of urban issues and proper methodology and technology to handle it. The participatory slum mapping, cellular automata slum model, housing demand analysis, and the spatial decision support system demonstrated in the book help in monitoring and managing the slums and thus lead towards a slum-free India.

1.3 STATEMENT OF PROBLEM:

The international world has gradually come to realize the critical importance of social and economic rights in building true democracies which meet the basic needs of all people. The realization of these needs is both an essential of a genuine democracy, as well essential for the maintenance of democracy. This is nowhere more evident than in the human right to shelter. Everyone needs a place which is a home. As India continues to grow in economic stature, there's much debate over the country's ability to tackle poverty and urban homelessness. India's international legal obligations with respect to the right to adequate shelter are set out in a body of binding international treaties, which India has ratified. These instruments include: the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child (CRC), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). As a signatory to these conventions, India is obligated to ensure that the economic, social and cultural rights set out in each of them are promoted and protected in Indian society. The Constitution of India also secures the socio and economic justice for all through its various provisions. While mentioning about the access to adequate and secure shelter which is a basic human right, it is still denied to many of the India's poorest people. The majority of population lives in some form of dwelling; roughly one half of the population does not enjoy the full spectrum of entitlements necessary for shelter to be considered adequate. A shelter program in country of India for the underprivileged calls for identification of resource potential, its mobilization and effective channeling. The instrument that acts as the conduit is a national policy. India, in spite of its pronounced commitment to shelter from the shelter less, did not have until now any policy paper in this direction approved by its parliament or the government. There is still a gap between the objective and the achievement.

In the largest population of state like Uttar Pradesh the problem of shelter - lessens is much existed. The maximum people living in the capital of Uttar Pradesh are shelter-less or they are compelled to live in slum area, rainbasera or shelter home for their employment or any other reasons. Though the government has started many schemes to provide shelter to persons time to time like Valmiki Ambedkar Awaas Yojana (VAMBAY), 2001, Jawaharlal Nehru National Urban Renewal Mission (JNNURM), 2005, National Urban Housing and Habitat Policy (NUHHP) 2007, Rajiv Awaas Yojana (RAY), 2011 the Economically Weaker Sections Schemes and Pardhan Mantri Awaas Yojana, 2015 but still there are the people living in the country and the concerned state in a pathetic condition without a proper house that provide them shelter.

The state of Uttar Pradesh is a largest state of country particularly in population. According to census 2011, total population of Uttar Pradesh is 19, 95, 81,475 which is largest population of any state of India. In this respect Uttar Pradesh keep fifth place after China, India, America and Indonesia in the world. As per the statistics of committee on Slum Statistics/census, 2011, Government of India, about 10.8 million urban population of Uttar Pradesh is living in slums, which constitute about 24% in urban population though the concerned state is known for less urbanization²⁷.

Lucknow city is the capital of Uttar Pradesh state as well as the district headquarter of Lucknow district and politically well-known constituency in India. The city has 609 slums with 148117 households. Out of the total slums 502 are notified slums and the remaining 107 are non-notified. About 27% of the city population lives in slums. Among the slum population as per census 2011, 77% belongs to OBC and SC division of social groups and 69% are living below the poverty line (BPL). It is found that the slums are having a housing deficit of 78303. In concern to Infrastructure, 73% of the slum households do not have full access to individual water

²⁷ Government of India, “Slum Free City Plan of Action – Lucknow” (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), *available at*: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfcp-min.pdf. (last visited on January 12, 2021)

supply connections. It is also found that about 27% of the slum households practice open defecation.²⁸

Thus it is evident from the data that the problem of shelter-lessness very much exists in Uttar Pradesh in General and in Lucknow city in Particular. So all the possible measures; legislative, executive, judicial and administrative have to be taken by the government to meet out the housing challenges and a micro level research is very much needed to find out the ground reality, causes and solution on the research problem in concerned research area.

1.4 OBJECTIVES OF THE STUDY:

The main aim of the present study is to explore, examine and evaluate the law, policy and mechanism to provide adequate housing in India in general and in Lucknow city in particular. To achieve the aim of the study several specific objectives have also been framed which are as follows:

1. To understand the meaning and concept of human right to shelter and adequate housing.
2. To explore the relation between human right to shelter and adequate housing
3. To study the international and national legal frameworks relating to human right to shelter and adequate housing.
4. To discuss and examine the various national programmes and policies related to human right to shelter and adequate housing.
5. To explore and evaluate the role of national judiciary to provide human right to shelter and adequate housing.
6. To analyse the present status and related issues and challenges of human right to shelter and adequate housing in India in general and in Lucknow city of U.P. in particular.
7. To make workable recommendations for better implementation of human right to shelter and adequate housing in India in general and in Lucknow City in Uttar Pradesh in particular.

²⁸*Ibid*

1.5 HYPOTHESES:

The following hypotheses have been tested to compile the finding and conclude the present work:

1. There is no specific law on human right to shelter and adequate housing in India to address the problem in a comprehensive manner.
2. Judiciary has been playing a vital role in the protection of human right to shelter and adequate housing for socio-economically marginalized groups.
3. Human right to shelter and adequate housing is still a challenging issue due to the improper implementation of various shelter and adequate housing schemes and policies.
4. The status of human right to shelter and adequate housing of people in Lucknow city of U.P. is not satisfactory.

1.6 RESEARCH METHODOLOGY:

The present research work is primarily an empirical/ field-survey based study required the doctrinal as well as non – doctrinal methods. Both primary and secondary sources have collected in the fulfillment of the objectives of present study. Primary sources have been collected from legislative materials, Judgments, Government Reports, international Documents and Questionnaire in order to find out the actual status of shelter in Lucknow and to know the level of awareness regarding its linkage with other human rights among various sector of society. Secondary data are collected from textbooks, research articles, journals, magazine, news-papers and internet. Besides the descriptive the analytical, critical and quantitative approaches have been applied mainly to analyze the legal provisions, judicial decisions and examining the implementation mechanism.

The questionnaire was purposely prepared for beneficiaries and homeless people. To get the information from the people got prepared houses with land and construction including from the people those have got the benefit under pardhan mantri awaas yojana and from those who are still not having a permanent place or shelter and living in slums, footpaths and in a temporary arrangement like rainbasera To get the information from the concerned authorities through right to information

(RTI). The whole data has been analyzed by applying the Statistical Package for Social Sciences (SPSS) software.

1.6.1 Universe of Study:

The selected location is Lucknow city in Uttar Pradesh. There are eight zones and 110 wards in the city of Lucknow. The data have been collected from the different wards on random basis.

1.6.2 Sample Size:

The total 500 hundred questionnaire have been filled up by adult individual chosen on random basis. The researcher has personally contacted to the 500 hundred respondents to knowing the actual status of different beneficiaries and non-beneficiaries under various government housing schemes for those who are socio-economically poor and also analyses the reasons that compels a person to live without shelter in Slum areas, shelter home, rain-basera etc.

1.6.3 Tools and Techniques for Data Collection:

The data have been collected through the help of both qualitative and quantitative methods. The schedule questionnaire, consisting of 30 different questions has been used to collect primarily data of housing status of people of Lucknow city like sex, caste, education, age, marital status, monthly income and occupation etc. of respondent. The special focus has been given on their opinion regarding to the facility provided by the government in there house, reason of living in slum areas, problem of facing without shelter, caste and education, nature of working and problem of mobility and political interference in allotting the house. The data has been collected from direct approaching to the beneficiaries and non-beneficiaries of housing schemes. Apart from this the information from the concerned authorities have also been connected through filing of right to information (RTI) such as Lucknow Municipal Corporation, State Urban Development Agency (SUDA), the Lucknow District Urban Development Agency (DUDA) etc.

1.7 SCOPE OF THE STUDY:

The present study will be helpful in providing awareness among poor people who live in slum areas are not aware about government policies on shelter. It may also help to reveal the actual status of the slum dwellers live in Lucknow city in Uttar Pradesh. Thus the present study can prove to be of great significance in developing a framework that proves instrumental in resolving the shortage of shelter issues and may helpful in adoption of better of policies and programmes.

1.7 LIMITATIONS OF THE STUDY:

For the purpose of this work, collecting the data of whole Lucknow city was beyond the reach of the researcher therefore, only zone wise data has been taken on random basis and also the concern authorities has not ready to give the direct reply related to the question of human right to shelter and adequate housing.

1.8 SCHEME OF CHAPTERS:

The Ph.D. work on “**A Socio-Legal Study of Human Right to Shelter and Adequate Housing with Reference to Lucknow City in Uttar Pradesh**” is based on both doctrinal and non-doctrinal study. The whole work is divided into seven chapters.

Chapter I: INTRODUCTION

The chapter I is Introductory in nature which summaries the entirety of the thesis, which has discussed at length in the chapters to follow. This chapter includes the need and importance of shelter in once’s life, housing crises at global and national level and proclamations of human right to shelter and adequate housing, provided by the human rights instruments international level, regional and national level. The chapter further mentions about the objectives, hypothesis, and adopted research methodology for the present work. The researcher also discussed the reviewed literature for this study in this chapter. The scope of the study, limitations of the study and scheme of chapters have also been discussed here.

Chapter II: CONCEPTUAL AND HISTORICAL DEVELOPMENT OF HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

This chapter deals with the concept and historical developments of human

right to shelter and adequate housing. The researcher has described the changing idea of house from ancient to present time through describing it at various phases. In this chapter researcher has also mentioned about the concept and meaning of shelter and adequate housing provided under different international, national and regional documents apart from the concept and meaning the various definition has also been mentioned in this chapter which has given by various census reports, jurist/scholars as well as international and national documents.

Chapter III: INTERNATIONAL FRAMEWORK ON HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

The chapter III has emphasized the international declaration, conventions and reports as well as regional documents in which provisions relating to human right to shelter and adequate housing are provided. The chapter give a clear emphasis on the role of United Nations to implement Right to Shelter within its framework as it highlighted that is a universally accepted norm that the right to adequate housing must be consisted of adequate basic infrastructure for water supply, sanitation and waste management facilities. Further the various conventions regarding to the human right to shelter have also been mentioned here such as: International Convention on the Elimination of All Forms of Racial Discrimination, 1965, The International Covenant on Economic, Social and Cultural Rights, 1966 sustainable development goal are also discussed in this chapter. Human right to Shelter and adequate housing for Specific Groups has also discussed such as; Refugees, Tribal and Indigenous Peoples, Rights of Disabled Persons, Women, Children, Migrants. The chapter further discusses about the regional agreements for right to shelter in which the provisions regarding human right to shelter and adequate housing has been provided such as the European Convention on Human Rights, the American Convention on Human Rights and the African Charter of Human and Peoples Rights

Chapter IV: NATIONAL LAWS, POLICIES AND PROGRAMMES ON HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

The present chapter has explained and discussed the Indian law, policy and programmes on the topic. A detailed analysis of various laws, policies and programmes related to the human right to shelter and adequate housing have been explored and examine here. India has its constitutional provisions and laws that make it obligatory for the state to provide the right to adequate shelter to all its citizens as a part of dignified right to life. The Constitution of India is firmly grounded in the

principles of liberty, fraternity, equality and justice. The fundamental rights and directive principle of state policy has been mentioned in this chapter. The right to social and economic justice and human right to shelter and adequate housing are so inseparably intertwined that together they form a meaningful component of the right to life. The framers of the Indian constitution strike a delicate balance between individual liberty and social good. The researcher has also emphasized in his work though the numerous policies have been framed but people are still forced to live in the shelter home (rainbasera) and slums areas in India.

Chapter V: JUDICIAL RESPONSES TO HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

This chapter discusses and critically evaluate the various judgments given by the Hon'ble Supreme Court and different High Courts in India to make the right to shelter and adequate housing available to the people of the country. There are a number of cases where in the judiciary played a positive role towards the protection of human right to shelter and has given direction to the government for the proper implementation of various Programmes and policies to remove the problem regarding shortage of the human right to shelter and adequate housing. In the various cases Indian judiciary also expanded the meaning of Article 21 that is related to the right to life and liberty and 19(1) (e) that is related with the freedom of reside in the territory of India within the light of right to life with dignity.

Chapter VI: STATUS, ISSUES AND CHALLENGES OF HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING IN LUCKNOW CITY OF UTTAR PRADESH

The chapter VI contains information about the study area, collection and analysis of data, interpretation and results. The purpose of this chapter is to examine, interpretate and critically evaluate the information gathered to achieve the objectives of present study in Lucknow City. This chapter is the heart of the whole research wok. Through textual discussion, tabular and graphs, the data is critically analysed and reported along with the findings. A detailed primary survey was conducted during May to July, 2019 and January, 2020 to March, 2021 across the selected locations of Lucknow city in Uttar Pradesh.

Chapter VII: CONCLUSION AND SUGGESTIONS

This chapter concludes all the chapters and mentioned some findings based on research work and tested the hypothesis on the ground of findings, and gave some suggestions for the improvement of the status of human right to shelter and adequate housing in India general and Lucknow city in Uttar Pradesh particular.



CHAPTER- 2

CONCEPTUAL & HISTORICAL DEVELOPMENT OF HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING



CHAPTER-2

CONCEPTUAL AND HISTORICAL DEVELOPMENT OF HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

2.1 INTRODUCTION

The concept and history of human right to shelter and adequate housing has not been a new concept it is traced back from the very ancient time where the men made houses from mud and grass for their live. With the passage of time and effect of the civilization the concept has been changed in regard to the shelter right. A roof on one's head is a dream that every human being aspires for. While the rich and famous create impressive houses for themselves, the poor man tries to build shelter of a plastic tent only for his family. Housing, at one time was never an issue in the Indian context. The joint family system meant that there was one house for the entire family and all the family members lived in the family home. The trend of migration to cities for jobs first raised the issue of a house for a family. The advent of the nuclear family system further exacerbated the situation with parents and children living away from each other. Rising concentration of people in urban areas also resulted in an increase in the number of people living in slums and squatter settlements¹.

The human right to shelter and adequate housing is the human right to life with dignity. The failure to provide adequate living conditions, including shelter and adequate housing which is the provision of essential services, results in a violation of human dignity. The right to life with dignity is the most fundamental and non-negotiable human right and is the core for the realisation of all other human rights.² Apart from holding states accountable, one of the means to spread awareness on the human right to adequate housing and to ensure its progressive realisation is through education. If people are educated on the fundamental principles and provisions of international and national laws on shelter and adequate housing rights, and understand the mechanisms and legal rights available to them, they could use these international instruments as effective tools to struggle against the perpetuation of inadequate and

¹Deepka Kachhal, "Abode for Everyone" 61Yojna Magazine 5 (2017)

² *Ibid.*

insecure housing conditions, while maintaining pressure on responsible agencies to meet their legally and morally binding commitments. With rising urban population growth due to natural increase, migration and reclassification factors, the urban sector of India is suffering from an extreme housing shortage, the bulk of which fall under the Economically Weaker Section (EWS) and Lower Income Group (LIG) categories.³ Homelessness is growing problem across the world. The growth of homelessness is greatest in Africa, Latin America and Asia. These are also areas where the global population rate is growing fastest. And these growing populations need a roof on their heads. The Right to shelter or the right to housing has been universally recognized as one of the basic Human Right, Shelter or Housing is a necessary requirement for the life of every human being⁴.

Adequate housing is not merely the provision of shelter in the form of four walls and a roof but also includes fundamental elements necessary for individuals, groups, and communities to live adequately with peace, safety, security, and dignity, as elaborated by the Special Rapporteur on Adequate Housing and the General Comments of the UN Committee on Economic, Social and Cultural Rights. That the human right to adequate housing is also integrally linked to a range of other human rights, including those required for the fulfilment of an adequate standard of living.⁵

Adequate housing is the foundation for creating sustainable communities and human settlements. It enables people to be productive, healthy and contributes to have access to education, which are all fundamental preconditions for human development. There are five principles determine housing adequacy: availability, accessibility, affordability, acceptability and adaptability. The achievement of these principles determines the success of housing policies and interventions such as resettlement

³ *Ibid.*

⁴ World Cities Report, “Urbanization and Development: Emerging Futures” (United Nations Habitat, 2016) *available at*: http://wcr.unhabitat.org/wp-content/uploads/2017/02/WCR-2016_-Abridged-version-1.pdf. (last visited on August 7, 2017)

⁵ United Nations High Commissioner for Human Rights, “The Right to Adequate Housing”, Fact Sheet No 21/Rev.1,(Geneva, 2014) *available at*: https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf. (last visited on January 16, 2020)

sites. When these principles guide a development process which strives to fulfil housing needs as a fundamental human right it leads to housing justice.⁶

Therefore, having a home is a basic human need; we all need somewhere to live. For those people within society without a home life are hardly supportable, and for a society a continuing problem of homeless is a measure of inadequacy of the ability of that society to meet the welfare needs of its entire citizen⁷. Housing Growth in India, Stresses upon the Requirement of Housing and recognizes the basic necessity of housing. Such right enunciates the fact that the framers of the Indian constitution have recognized housing as a prerequisite for rural and urban development. The shelter and adequate housing has got a vital role to play in the national economy. The shortage of housing is related to population explosion and evaluates the investment needs of house building industry as well as its material requirements⁸. The various judicial pronouncements has given effect and interpreted the article 21 in the context of concept of human right to shelter and adequate housing with regards to live the life with dignity and security of the individual.

2.2 EVOLUTION OF THE RIGHT TO SHELTER AND ADEQUATE HOUSING AT DIFFERENT PHASES

The problem of right to housing is not having only a current scenario but this problem was raised from very ancient time and still this problem is not solved entirely by the government though government from time to time adopted various programmes and policies for mitigating the problem of human right to shelter and adequate housing, which can be understand in following different stages.

2.2.1 Phase I (1950-60s)

Housing policies of the Government of India have come a long way since the 1950s. While at the start of “planned development” the policies were more welfare centric, later on these came to be driven by a well-defined constellation of economic

⁶ M.Nagraj “*Shelter*” 21Housing and Urban Development Corporation Ltd 5,7 and 8(2020) *available at*: <https://hudco.org/writereaddata/Eb/Hudco-Shelter/Hudco-Shelter.html#p=69> (last visited on January16, 2021)

⁷ A.K.Bhartiya and D.K.Singh, *Social Policy In India*, 195 (New Royal Book Company, Lucknow, 1st edn, 2009)

⁸ Bhakshi Sinha, *Housing Growth in India*,58(Arnold-Heinemann Publishers (India) for Birla Institute of Scientific Research, Economic Research Division,1976)

interests. At the same time, the role of the government has also changed gradually from being a provider of housing to being merely a facilitator of housing activity⁹.

After its Independence, The Government of India was facing a huge housing challenge, especially in urban areas, due to large scale migration after the partition of country. So in these early years, the government took the responsibility for provision of housing, declaring that private sector had not been able to provide it sufficiently. This resulted in the central government bringing out various schemes for different sections of society in its early years. While constitutionally it was not clear which (centre or state) government should take this responsibility, the Central government resolved to take a lead in urban sector housing, and brought out schemes like Subsidized Housing Scheme for Industrial Workers, Low Income Group Housing Scheme, Middle Income Group Housing Scheme and Slum Clearance and Improvement Scheme etc. State Governments were asked to take up the responsibility of housing in rural areas¹⁰.

These were the early days for Indian Government at the helm of power and hence, a lot of churning was going on within the government on various policy related. Sometimes, this churning resulted in sharp turns in government's policies in these early years. In the housing sector, a sharp turn was visible in the central government's policies on slums; while the First Plan called slums a 'national problem' and advocated its complete clearance from all the cities, the government soon realized that it neither had the monetary capacity, nor the institutional capacity to achieve these goals. Hence, the Second Plan immediately mellowed down on slum related issue and asked for the measures to be taken for improvement of the slums wherever it was feasible in addition to required clearances.¹¹

The early Plans also emphasized on building an institutional capacity to control the country's urban growth and deliver decent housing to public. Hence, the government advocated the creation of various institutions, both at centre and state

⁹ Tim Lambert, *A Brief History of Houses*, 37 available at: <http://www.localhistories.org/houses.html> (last visited on July 12, 2017)

¹⁰ *Ibid.*

¹¹ Gaurav Mittal, "*A Short History of Housing Policies in Independent India*" 165 (2014) available at: <http://housing.hydlab.in/?> (last visited on July 1 2016)

levels¹². While National Building Organization was created in 1954 to facilitate research in building construction activity, Town and Country Planning Organization came into existence in 1962 to facilitate spatial planning activities across the country. At the state level, various Housing Boards were created during the same period. The main objective of these housing boards was to take up housing activities for all the sections of society with a special focus on Lower Income Groups (LIG)¹³.

During this period, the government was of the view that the prevalent proliferation of slums with haphazard urban growth in Indian cities can be controlled through the proper implementation of a Master Plan with a set of Development Control Rules. Hence, it vigorously pushed for creation of Master Plans for all the cities. It asked state governments to create special agencies to take up these activities, which would also be involved in controlling and developing the land in its boundaries. For this purpose, Delhi Development Authority (DDA) was created in national capital in 1957, which later on became a model for creation of other development authorities across many cities¹⁴.

2.2.2 Phase II (Early 1970s – Mid 1980s)

After various experiments in the first phase, the government finally realized in the second phase that it cannot provide housing to all, as it envisaged earlier. This realization was quite visible in the drop of number of housing related schemes floated by the government for the sections other than poor or socially backward. During this period, government housing schemes were especially focused on lower sections of the society. Other sections were encouraged to take up housing activities as self-provisioning activity with limited support from the government. By this time, the government had also realized that slum clearance was not going to solve the problem of housing in the city; the Fourth Plan went to the extent of saying that “slum

¹² Government of India, “Housing Urban Development Water Supply and Civic Amenities” (National Institution for Transforming India, Commission, 2016) *available at*: <https://niti.gov.in/planningcommission.gov.in/docs/plans/planrel/fiveyr/9th/vol2/v2c3-7.htm> (last visited on June 30, 2016)

¹³ Homeless_in_History_India_and_the_First_World_War_The_Book_Review_South_Asia_Special_Is_sue_(March, 2015) *available at*: <http://www.academia.edu/11784574/> (last visited on June 30, 2016)

¹⁴ Gaurav Mittal, “A Short History of Housing Policies in Independent India” 165 (2014) *available at*: <http://housing.hydlab.in/?> (Last visited on July 1 2016)

clearance often lead to creation of new slums”.¹⁵ Hence the government started focusing on low cost schemes like Environmental Improvement Scheme of Urban Slums, 1972 and Sites and Services Scheme, 1980 to tackle the problem of slum proliferation. This period was also the first time when the government noted the economic significance of housing activities and its contribution to the country's economy. Hence, with a vision of “controlled and well directed growth” of the housing sector, the government created a national level Housing and Urban Development Corporation (HUDCO) in 1970. At its inception, HUDCO was envisaged as an institution which will work as the government's nodal agency in promoting “sustainable habitat development to enhance the quality of life.”¹⁶

2.2.3 Phase III (Mid 1980s – Early 2000s)

It was during this phase that neoliberal policies had started making their ways into India. The government was in the process of liberalizing the economy, which was also visible in its housing policies. Its housing policies had started talking about restricting government's role as a provider of housing in the country and pushed it to take up the role of a facilitator in this sector. The Seventh Plan advised the government that ‘Government's role in the field of urban housing has per force to be promotional.’¹⁷

The major effort will have to come from the private sector, Government's role will have to be restricted to the improvement of slums, direct provision of housing to the weaker sections of the society and encouragement and support of housing finance institutions” Even the responsibilities of slum improvement and weaker section housing were being tried to be pushed towards lower tiers of governments. Quite dramatically, the Ninth Plan had declared that ‘Housing is the State subject’. It was a controversial statement because as explained above, the Constitution of India does not mention housing under any of the three lists, listed in its seventh schedule¹⁸.

¹⁵Gaurav Mittal, “*A Short History of Housing Policies in Independent India*” 165, 167 (2014) available at: <http://housing.hydlab.in/?> (Last visited on July 4, 2016)

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ Government of India, “Ninth Five Year, 1997-2002” (Planning Commission of India) available at: <https://niti.gov.in/planningcommission.gov.in/docs/plans/planrel/fiveyr/9th/vol1/v1c1-2.htm> (last visited on January 4, 2020)

Yet, it has been internalized and repeated and most of the times clubbed with land, urban development and infrastructure, in many government documents over the years without any proper explanation. Simultaneously, a push for decentralization, through the 74th Constitutional amendment, made Urban Local Bodies responsible for providing services in their jurisdictions, which also included housing. This downward push of responsibilities resulted in the emergence a particular kind of housing schemes for poorer section, which were designed by the centre but required matching funds from state and local level governments and were supposed to be implemented by Urban Local Bodies, these are better known as Centrally Sponsored Schemes. Some examples of such schemes are Urban Basic Services Scheme, 1986 Nehru Rozgar Yojana Scheme of Housing and Shelter Up gradation, 1990 and National Slum Development Programmed, 1996.¹⁹

It is important here to note that previous housing schemes were also designed by the centre, but those never came with the clause of matching fund requirements from State or Local governments, which made a lot of difference in the implementation of schemes. In this period, the Central Government's focus shifted to facilitating the financing activities for housing rather than providing it physically on ground, as was the norm before.²⁰ The Seventh Plan admitted that "The most crucial need for housing development is to establish a proper and diversified institutional structure for housing finance." To serve this purpose, the National Housing Bank (NHB) was created in 1987. Parallel to the creation of NHB, commercial banks and other Housing Finance Institutions were directed by the government to participate on a larger scale in housing finance activities. It resulted in easy availability of housing finances for private sector with cheap interest rates. Private builders took advantage of this opportunity and started taking up housing activities in an unprecedented manner. At the same time, government-sponsored housing agencies like HUDCO and various other state-level housing boards were pushed to compete with private players for funds from the open market, without any shield of government's support. These agencies were mostly serving the poorer sections of society, which had a limited

¹⁹Durga Shanker mishra, "Affordable Housing in Urban Areas" 61 *Yojana Magazine* 7, 8 (2017)

²⁰ *Ibid* 9,10

repayment capacity and hence were not able to compete with private developers. As a result, these agencies started losing their ground in housing market, very rapidly.²¹

Housing and Urban Development Corporation was one agency, which bore most of the brunt of these policies. The government withdrew its income tax exemption in 1991-92 and then slowly cut off its equity support too. It was also suggested that HUDCO should strengthen its infrastructure wing to focus on land and infrastructure development to maintain its credit rating. All these pressures from different quarters ultimately resulted in a shift in HUDCO's focus from providing housing to weaker sections of society to funding large scale infrastructure projects, which promised good returns and hence good ratings.²² In the same period, to facilitate private sector investment in housing, the government also tried to either amend or repeal few laws which it called archaic. As a result Urban Land Ceiling and Regulation Act and Rent Control Acts were repealed in most of the cities. Even the Development Control Rules were changed and experimented with in many cities. It allowed builders to construct buildings with higher Floor Space Indexes (FSIs) with no physical infrastructure on ground to support the resulted densities.²³

2.2.4 Phase IV (Mid 2000- early 2015)

Phase IV is, by and large, a continuation of the neoliberal tendencies of Phase III, but on a larger scale. By now, the government had comfortably placed itself in the role of facilitator of housing activities. Finally, it also declared that it does not have the kind of monetary capacities to fund the urban development and housing activities in the country as much as required. Hence it started looking for ways to attract private sector investment in this sector.²⁴

The central government's schemes in this phase, which were focused only on weaker sections of society in Valmiki Ambedkar Awaas Yojana, 2001 which was later merged with Basic Services to Urban Poor under Jawaharlal Nehru Urban Renewal Mission (JNURM), 2005 and then in Rajiv Awaas Yojana, 2013 are

²¹Durga Shanker mishra, "Affordable Housing in Urban Areas" 61 *Yojana Magazine* 7, 8 (2017)

²²Amlanjyoti Goswami, Gautam Bhan, "Land Acquisition, Rehabilitation and Resettlement" 61 *Yojana Magazine* 15,16 (2017)

²³*Ibid.*

²⁴Gaurav Mittal, "A Short History of Housing Policies in Independent India" 170 (2014) available at: <http://housing.hydlab.in/?> (last visited on July 12, 2017)

advocated to be implemented on Public Private Partnership (PPP) basis. With a focus on facilitating private investment in this sector, Government has allowed 100% Foreign Direct Investment in housing sector and the latest budget (2014-15) has gone one step further in this direction by listing slum redevelopment as a Corporate Social Responsibility (CSR) activity to attract more private funds.

During this period, government has also retracted from its master-plan-led development route, which was promoted vigorously in the first few plans, and has started openly criticizing it. According to the Eleventh Plan, “The Master Plan concept has also not been useful in addressing India’s large and widely spread slums. By locking-in the supply of buildable land and space, the Master Plan, inter alia, inhibits the development of housing markets and contributes to the proliferation of slums.”²⁵ This led the government to try a different route of development planning led by City Development Plans (CDPs) in its latest scheme called Jawaharlal Nehru Urban Renewal Mission (JNURM). However, this route also seems to have failed in producing desired results and hence was severely criticized in the Twelfth Plan. The subject of housing is not specifically mentioned in the seventh schedule of the Constitution of India which deals with matters coming within the purview of the Union and State Legislatures²⁶.

2.2.5 From 2015 Onwards

“Pardhan Mantri Awaas Yojana (Urban) - Housing for All” Mission for urban area is being implemented during 2015-2022 and this Mission will provide central assistance to implementing agencies through States and UTs for providing houses to all eligible families/ beneficiaries by 2022. Pardhan Mantri Awaas Yojana (Urban) PMAY (U) - Housing for All Mission will be implemented as Centrally Sponsored Scheme (CSS) except for the component of credit linked subsidy which will be implemented as a Central Sector Scheme.²⁷ A beneficiary family will comprise husband, wife, unmarried sons and/or unmarried daughters.

The beneficiary family should not own a pucca house either in his/her name or in the name of any member of his/her family in any part of India to be eligible to

²⁵ Durga Shankar Mishra, “Affordable Housing in Urban Areas” 61 *Yojana Magazine* 7, 8 (2017)

²⁶ *Ibid.*

²⁷ Durga Shankar Mishra, “Affordable Housing in Urban Areas” 61 *Yojana Magazine* 8, 9 (2017)

receive central assistance under the Mission. A beneficiary family will be eligible for availing only a single benefit under any of the existing options i.e. slum redevelopment with private partner, credit linked subsidy, direct subsidy to individual beneficiary and affordable housing in partnership, as detailed in PMAY (U) guidelines. Mission with all its components has become effective from the date 17.06.2015 and will be implemented up to 31.03.2022²⁸

2.3 CONCEPT OF HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

The human right to Shelter and adequate housing is the integral to the realisation of the right to live with dignity, and is inextricably linked to other human rights such as the rights to work/livelihood, health, food, water, land, education, and security of the home and person. Although the majority of the world lives in some form of dwelling, around half the world's population does not enjoy all the entitlements necessary for housing to be considered adequate. It has been well established in international human rights law and its interpretation that housing is not just a physical structure of four roofs and a wall. It is a much broader concept, which encompasses various material and non-material elements of adequacy, which are necessary to create a safe and secure place to live. Furthermore, human right shelter and adequate housing is not merely a desired goal; it is a basic human right of all human beings²⁹.

The term “shelter,” which is often used to define housing, has a strong connection to the ultimate purpose of housing throughout the world³⁰. Shelter is the place where human lives. Shelter provides protection from weather and any kind of danger. It provides the place where human can rest safely and carry their usual developmental activities. Shelter also provides the place for privacy and facilities for storing the belongings. The two types of shelter have been categorized that is permanent shelter and temporary shelter. Since India’s independence in 1947, the

²⁸ Government of India, “Pardhan Mantri Awaas Yojana (Urban)– Housing for All Credit Linked Subsidy Scheme for Economic Weaker Section and Low Income Group”(Ministry of Housing & Urban Poverty Alleviation,2017) *available at* <https://pmaymis.gov.in/>

²⁹ Tracy Kaufman, National Low Income Housing Coalition/ Low Income Housing Information Service *available at*: <https://www.cdc.gov/nceh/publications/books/housing/cha01.htm> (last visited on July 12 2020)

³⁰ *Ibid.*

state has categorised homes of lower-income groups “slums” and considered them disfigurement on the city’s image. The global “slum-free city” ideology has furthered this trend. Though state housing policies have adopted different forms over the years, they have largely focused on obliterating low-income settlements. National public discourse on housing and land is now dominated by notions of individual ownership, with state policy prioritizing market interventions. The growing reliance on the private sector to meet India’s housing shortage has financialized housing provision, reducing housing from a human right to a marketable commodity for those who can afford it and resulting in the failure of the state to invest in public housing. Over 17 per cent of India’s urban population lives in inadequate settlements without access to essential services and over three million urban dwellers are homeless, unable to afford housing³¹

India’s housing crisis is characterized by the politics of land; an acute shortage of low-cost housing, manifesting in rising homelessness and the prevalence of inadequate settlements with tenure insecurity and abysmal living conditions; forced evictions, land acquisition, and displacement; and real estate speculation. Though India has ratified international law guaranteeing housing as a basic human right – and while Indian courts have recognized the right to housing as an integral component of the right to life – successive governments have not complied with this legal and moral obligation. The notion of the poor as “encroachers” and “illegal” residents considered “dispensable” in the nation’s drive to modernize continues to underscore state interventions³².

In the course of time the approaches for characterization of the concept of “housing” have changed which depends on both the change in the politics, economics and other fields, because housing is one of the most important life components giving shelter, safety, dignity and warmth, as well as providing a place to rest. The meaning and definition of human right to shelter and adequate housing has been provided in the various international and national documents further it also given by different

³¹ *Ibid.*

³² Shivani Chaudhry, “The Human Right to Adequate Housing in India: Obstacles and Challenges” *Georgetown Journal of International Affairs* (March 22, 2019) available at: <https://www.georgetownjournalofinternationalaffairs.org/online-edition/2019/3/22/the-human-right-to-adequate-housing-in-india-obstacles-and-challenges>. (last visited on December10,2020)

census data and various authorities/Jurist. The following concept has been given under the different dictionary, which as categorized as follows:

According to the Webster's dictionary as one of the explanation for concept "housing" means dwellings provided for people³³.

According to the Business Dictionary defines housing as building or building structure complying with requirements of laws and regulations and where the individuals with their families may live³⁴.

Similar definition for the concept "housing" is provided in Macmillan Dictionary where the housing is defined as buildings for people to live in³⁵.

A shelter is a small building or covered place which is made to protect people from bad weather or danger³⁶.

According to Oxford Dictionary Shelter has been described as "protection from danger, bad weather"³⁷

2.3.1 Definitions Given by Various Census Reports

According to the census of India, 1872 a house was defined as "any permanent structure which on land, serves or would serve for the accommodation of human beings, or of animals, or goods of any description provided always that it could not be struck and removed bodily like a tent or a mud hut". An attempt was also made to classify the houses as of the 'better sort' and of 'inferior sort'³⁸.

³³ Inita Henilane, "Housing Concept and Analysis of Housing Classification" 169 *Baltic Journal of Real Estate Economics and Construction Management* 4 (2016) available at: <http://center4affordablehousing.org/wp-content/uploads/2019/07/Baltic-Journal-of-Real-Estate-Economics-and-Construction-Management-Housing-Concept-and-Analysis-of-Housing-Classification.pdf> (last visited on December10,2019)

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ Collins Dictionary, available at: <https://www.collinsdictionary.com/dictionary/english/shelter>(last visited on July 26, 2021)

³⁷ Oxford dictionary available at: https://www.oxfordlearnersdictionaries.com/definition/american_english/shelter_2 (last visited on July 26, 2021)

³⁸ Government of India, "Census,1872" (Ministry of Home Affairs,1872) available at: https://censusindia.gov.in/data_products/library/indian_perceptive_link/census_terms_link/censusterm.html (last visited January18,2020)

According to the census of India, 1881 house was defined as the dwelling place of one or more families with their servants, having a separate principal entrance from the public way. The same definition with slight modification continued till 1951³⁹.

According to the census of India, 1961 House was defined as a structure or part of a structure inhabited or vacant, or a dwelling, a shop, a shop-cum-dwelling or a place of business, workshop, school etc. With a separate main entrance⁴⁰

According to the census of India, 1971 census, 'House' was defined 'as a building or part of a building having a separate main entrance from the road or common courtyard or stair case etc. Used or recognized as a separate unit. It may be inhabited or vacant. It may be used for a residential or non-residential purpose or both'.⁴¹

According to the census of India, 2001 a house is a structure with a roof and consists of 'a building or part of a building having a separate main entrance from the road used or recognized as a separate unit'. So pavement-dwellers are classed as homeless while many residents of slums or squatter settlements are not though they would be included in most Western definitions of homelessness. While pavement-dwellers do have a roof this is defined as temporary or inadequate (kutchra), lacking in secure or pukka construction⁴².

According to the census, 2011 on the basis of above given definition that identifies a person or family as homeless if they do not live in a 'census house,' that refers to a 'structure with roof'.⁴³ Going beyond the Census definition of 'homeless'

³⁹ Government of India, "Census, 1881" (Ministry of Home Affairs, 1872) *available at:* https://censusindia.gov.in/data_products/library/indian_perceptive_link/census_terms_link/censusterm.html (last visited January 18, 2020)

⁴⁰ Government of India, "Census, 1961" (Ministry of Home Affairs, 1872) *available at:* https://censusindia.gov.in/data_products/library/indian_perceptive_link/census_terms_link/censusterm.html (last visited January 18, 2020)

⁴¹ Government of India, "Census, 1971" (Ministry of Home Affairs, 1872) *available at:* https://censusindia.gov.in/data_products/library/indian_perceptive_link/census_terms_link/censusterm.html (last visited on September 7, 2017)

⁴² Concepts and Definitions *available at:* http://censusindia.gov.in/Data_Products/Data_Highlights/Data_Highlights_link/concepts_def_hh.pdf (last visited on September 7, 2017)

⁴³ Motilal Mahamalik, "Why Re-defining Homelessness and Responding to Census Data Should Inform Homeless Policy in India" 64 (2016), *available at:* <http://www.ihrn.org.in/blog/Why-Re->

which defines houseless population as persons not living in ‘census houses’, we argue that the benefits of the Supreme Court orders shall prevail and be applicable for all categories of people listed below census. The census counts 17, 73,040 homeless people in India in which 52.9 % in urban areas and 47.1% in rural areas –They are persons who do not have a house, either self-owned or rented, but instead; 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; Spend their nights at night shelters, transit homes, short stay homes, beggar’s homes and children’s’ homes; It is to be noted that within this group means homeless people there are multiple degrees of vulnerability, for instance the multiple vulnerabilities of single women, infirm and old, disabled, and persons who have special needs, and those involved in substance abuse. In addition to their social and economic vulnerability, these are also the groups who often have no kind of shelter whatsoever, and live in open subject of various forms of exploitation and abuse. This group of homeless should be taken special care of and provided care homes accordingly⁴⁴.

The Central Statistical Bureau (CSB) for statistical purposes defines the concept “housing (housing unit)” as separated and independent place of residence, intended for living for one household, or place of residence, which is not intended for living, but which was used by the household during the census as a permanent residence. “Housing” includes occupied conventional dwellings and other housing units. Usually the housing has fixed address⁴⁵.

2.3.2 Definitions Given by Ministry of Housing and Urban Poverty Alleviation

Ministry of Housing and Urban Affairs formulates policies, supports programmes, monitors programmes and coordinates the activities of Central Ministry, various State Governments and other nodal authorities. In the Federal structure of the

defining-Homelessness-and-Responding-to-Census-Data-Should-Inform-Homeless-Policy-in-India (last visited on august 19, 2017)

⁴⁴Saurabh Verma, Night Shelter, “Delhi People Case Studies: Helping the homeless with love and support towards independence”, *available at*: delhishelterboard.in/case_study_2014_15/volunteer-id-12714.pdf. (last visited on November 10, 2017)

⁴⁵ Inita Henilane, “Housing Concept and Analysis of Housing Classification” *173 Baltic Journal of Real Estate Economics and Construction Management* 4 (2016) *available at*: <http://center4affordablehousing.org/wp-content/uploads/2019/07/Baltic-Journal-of-Real-Estate-Economics-and-Construction-Management-Housing-Concept-and-Analysis-of-Housing-Classification.pdf> (last visited on December10,2019)

Indian polity, the matters pertaining to the housing and urban development have been assigned by the Constitution of India to the State Governments. However, the Union government is responsible for formulation and implementation of social housing schemes.

According to the guidelines of Housing for All (Urban) Scheme Guidelines, 2016 Economically Weaker Section House means, an all-weather single unit or a unit in a multi-storeyed super structure having carpet area of up to 30 sq. m. with adequate basic civic services and infrastructure services like toilet, water, electricity etc. States can determine the area of EWS as per their local needs with information to Ministry⁴⁶.

The government's goal of providing "housing for all by 2022" is commendable, but the restrictive scope of this scheme has excluded beneficiaries such as people experiencing homelessness, and its focus on number of houses rather than on the adequacy of housing has limited its progress. Although "housing" is much talked about, the lack of an income-based definition of "adequate" has fuelled abuse. The real estate sector leverages the notion of "adequate" to obtain government funding for developments for the middle class instead of the low-income groups in dire need of adequate, low-cost housing. The Indian government's continued destruction of self-constructed housing exacerbates the crisis. State-provided housing and resettlement for low-income groups further fails to uphold the human right to adequate housing as an inalienable right linked to the rights to work, health, education, food, land, and security⁴⁷.

The state uses the tool of "eligibility criteria" to discriminate and deny people their rights to housing and land. For instance, those who meet arbitrary "cut-off dates" and extensive documentation requirements are considered "eligible" for housing or resettlement, but still shunted to uninhabitable settlements, generally on city peripheries. Those declared "ineligible" are rendered homeless or left to fend for them⁴⁸. To resolve the housing and land crisis, the Indian government must shift its

⁴⁶ Government of India, "Pardhan Mantri Awaas Yojana, Housing for All (Urban) Scheme Guidelines" (Ministry of Housing & Urban Poverty Alleviation, 2016) available at: <https://pmaymis.gov.in/> (last visited on November 10, 2017)

⁴⁷ *Ibid.*

⁴⁸ Shivani Chaudhry, "The Human Right to Adequate Housing in India: Obstacles and Challenges" *Georgetown Journal of International Affairs* (March 22, 2019) available at:

focus from construction of houses to the provision of land with tenure security, from housing targets to housing justice, and from market-based interventions to a human rights-based approach. A rights-based approach will ensure that housing is affordable, accessible to all, habitable, and culturally appropriate. It will guarantee access to basic services and infrastructure and provide tenure security and freedom from dispossession⁴⁹.

2.3.3 Concept of Right to Shelter and Adequate Housing Evolved by Indian Judiciary

The Indian judiciary has also given the meaning of right to shelter and adequate housing and its fulfilment for the most marginalized. Judgments from the Supreme Court of India, and various High Courts, and district courts have provided safeguards by providing the housing to the low-income settlements and the forced eviction of marginalized communities, thereby respecting their fundamental rights. On several occasions, the Supreme Court of India and several other courts have expanded the Fundamental Right to life, guaranteed by Article 21 of the Constitution of India, to include the right to housing, and endorsed it on numerous occasions⁵⁰.

Although the right to adequate housing is not expressly recognized in the Indian Constitution, the Indian Supreme Court has affirmed that the Constitution implicitly protects a “right to shelter”, and has interpreted the right to shelter as a fundamental right of all persons included in right to life with dignity Article 21.⁵¹ The Court defined the right shelter to include “adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities” within the state’s resources.⁵² In *People’s Union for Civil Liberties v. Union of India and Others*, the Court went a step

<https://www.georgetownjournalofinternationalaffairs.org/online-edition/2019/3/22/the-human-right-to-adequate-housing-in-india-obstacles-and-challenges> (last visited on February 18, 2021)

⁴⁹ *Ibid.*

⁵⁰ Shivani Chaudhry and Miloon Kothari, “Adjudicating the Human Right to Adequate Housing: Analysis of Important Judgments from Indian High Court’s” 15 Housing and Land Rights Network, New Delhi (2019) available at: https://www.hlrn.org.in/documents/Housing_Judgments_India.pdf (last visited on 28 September, 2019)

⁵¹ *Chameli Singh v. Union of India*, (1996)2SCC549, para. 4- 8; *Shantistar Builders v. Narayan Khimalal Totame*, (1990) 1 SCC 520, at para 9, *Francis Coralie Mullin v. Administrator, Union Territory of Delhi and Ors.* 1980 SCC (2) 275, para. 8; *Olga Tellis v. Bombay Municipal Corporation*, (1985)3SCC545, para 46.

⁵² *Chameli Singh v. Union of India*, (1996)2SCC549, *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan*, (1997)11SCC121

further to require that state governments construct permanent shelters and provide information to the Court about homelessness, the availability and occupancy of night shelters with basic amenities, and the measures that they have taken to inform the public⁵³.

In *Shantistar Builders v. Narayan Khimalal Totame* the Court also found that people belonging to what it refers to as the “economically weaker section”⁵⁴ should be accorded priority in the construction of houses.⁵⁵ In the context of security of tenure, in *Olga Tellis*, the Supreme Court held that eviction of dwellers from pavements by the State requires prior notice because evictions, infringe upon the right to life. The Court found that alternative accommodation should be made available to those who are homeless or at threat of eviction.⁵⁶ In *Ajay Maken*, the Delhi High Court also emphasised that: “prioritising the housing needs of marginalized communities should be imperative for a state committed to social welfare and to its obligations flowing from the ICESCR and the Indian Constitution.”⁵⁷ Further there are some legal protections available to tenants under various state laws wherein evictions are strictly regulated, a minimum notice period for termination of lease agreement is required and landlords are prohibited from using force, such as locking the tenant out of the premises or removing their belongings from the property, or disconnecting essential services.⁵⁸

2.3.4 Concept of Right to Shelter and Adequate Housing Given by Various Jurists/Scholars

The concept “housing”, however, there is no common definition. The various Jurist/ Scholars have explains the concept “housing” differently which as follows:

⁵³ PUCL v. UOI, (2013) 14 SCC 368

⁵⁴ ‘Economically weaker sections’ is defined by the Indian government from time to time on the basis of family income and other indicators of economic disadvantage.

⁵⁵ *Shantistar Builders v. Narayan Khimalal Totame*, (1990) 1 SCC 520, para 21

⁵⁶ *Olga Tellis and Ors. v. Bombay Municipal Corporation and Ors.*, 1986 AIR 180

⁵⁷ High Court of Delhi, *Ajay Maken v Union of India*, W.P.(C) 11616/2015; Also, Housing and Land Rights Network, “Adjudicating the Human Right to Adequate Housing: Analysis of Important Judgments from Indian High Courts,” (HLRN,2019) available at:

https://www.hlrn.org.in/documents/Housing_Judgments_India.pdf. (last visited on January11, 2020)

⁵⁸ Delhi Rent Act 1995, Sections 21 and 22; Punjab Rent Act 1995, Sections 19 and 20; Karnataka Rent Act 1999, Sections 27 and 49

According to Smith in 1776 defines the housing as a commodity⁵⁹.

According to Ricardo in 1817 stated that housing as tangible asset with potential return⁶⁰.

According to Jevons, in 1871 has said that housing as fixed asset regardless the housing is owned or rented⁶¹.

According to Marshall, in 1890 has said that housing as a capital that is similar to the machine, if it is operated by a worker, but as a commodity if it is not operated⁶².

According to Grimes & Orville in 1976 explain that in the past the concept “housing” was associated with a physical phenomenon, and the policies of countries for its provision mostly are related with construction costs that may largely vary depending on the type of construction material, various housing standards and construction quality⁶³.

According to Torgersen in 1987 explains the concept “housing” as “the wobbly pillar under the welfare state” because in contrast to the health and education provision, the state does not see its role as the main service provider in this field⁶⁴.

The concept “housing” has a similar concept – “house” which was described by Melnikas in 1998 as a specific and relatively limited, physically, biologically socially close place where people and groups of people can live their biosocial life, by receiving services, performing house chores and other biosocial activity.⁶⁵

According to Donner in 2000 regarding the housing policy in 15 European Union states where the theoretical and practical aspects of housing policy are unified,

⁵⁹ Inita Henilane, “Housing Concept and Analysis of Housing Classification”169 *Baltic Journal of Real Estate Economics and Construction Management* 4 (2016) available at: <http://center4affordablehousing.org/wp-content/uploads/2019/07/Baltic-Journal-of-Real-Estate-Economics-and-Construction-Management-Housing-Concept-and-Analysis-of-Housing-Classification.pdf> (last visited on December10,2019)

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ Inita Henilane, “Housing Concept and Analysis of Housing Classification”169 *Baltic Journal of Real Estate Economics and Construction Management* 4 (2016) available at: <http://center4affordablehousing.org/wp-content/uploads/2019/07/Baltic-Journal-of-Real-Estate-Economics-and-Construction-Management-Housing-Concept-and-Analysis-of-Housing-Classification.pdf> (last visited on December10,2019)

the concept “housing” is explained with various similar and mutually related concepts, i. e. dwellings, “low-cost dwellings, social housing, subsidised dwellings, and sub-standard dwellings.”⁶⁶

2.3.5 Exploration of the Concept of Shelter and Adequate Housing through International Human Rights Law

There are various international, national and regional, documents, and convention of which India is also party and India has ratified that convention or documents. The right to adequate housing was documented for the first time at the international level in the 1948 universal declaration of human rights.⁶⁷

According to the UN Special Rapporteur which has define adequate housing that 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’⁶⁸. Adequate housing must provide more than four walls and a roof. A number of conditions must be met before particular forms of shelter can be considered to constitute “adequate housing.” These elements are just as fundamental as the basic supply and availability of housing. For housing to be adequate, it must, at a minimum, meet the following criteria:

- ❖ Security of tenure: housing is not adequate if its occupants do not have a degree of tenure security which guarantees legal protection against forced evictions, harassment and other threats.
- ❖ Availability of services, materials, facilities and infrastructure: housing is not adequate if its occupants do not have safe drinking water, adequate sanitation, and energy for cooking, heating, lighting, food storage or refuse disposal.
- ❖ Affordability: housing is not adequate if its cost threatens or compromises the occupants’ enjoyment of other human rights.

⁶⁶ *Ibid.*

⁶⁷ Universal Declaration of Human Rights, 1948 art.25

⁶⁸ United Nations High Commissioner for Human Rights, “The Right to Adequate Housing”, Fact Sheet No 21/Rev.1,(Geneva, 2014) *available at*:
https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf.(Last visited on June 5, 2017)

- ❖ **Habitability:** housing is not adequate if it does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.
- ❖ **Accessibility:** housing is not adequate if the specific needs of disadvantaged and marginalized groups are not taken into account.
- ❖ **Location:** housing is not adequate if it is cut off from employment opportunities, health-care services, schools, childcare centers and other social facilities, or if located in polluted or dangerous areas.
- ❖ **Cultural adequacy:** housing is not adequate if it does not respect and take into account the expression of cultural identity⁶⁹.

The term ‘adequate housing’ has not been defined in any law or code. At the international level, The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action, 1996 mentions that-Adequate shelter means more than a roof over one's head. It also means adequate privacy; adequate space; physical accessibility; adequate security; security of tenure; structural stability and durability; adequate lighting, heating and ventilation; adequate basic infrastructure, such as water-supply, sanitation and waste-management facilities; suitable environmental quality and health-related factors; and adequate and accessible location with regard to work and basic facilities, all of which should be available at an affordable cost.⁷⁰

The United Nations has discussed some key aspects of the right to adequate housing. The United Nations Committee on Economic, Social and Cultural Rights has underlined that the right to adequate housing should not be interpreted narrowly. Rather, it should be seen as the right to live somewhere in security, peace and dignity. The United Nations in 1999 interpreted homelessness including, “Those sleeping without shelter, in constructions not meant for habitation and in welfare institutions”. The majority of the homeless in India are found living in places such as roadsides,

⁶⁹ United Nations High Commissioner for Human Rights, “The Right to Adequate Housing”, Fact Sheet No 21/Rev.1,(Geneva, 2014) *available at:* https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf. (last visited on June 5, 2017)

⁷⁰ Xavier Bonnefoy, “Inadequate Housing and Health: An Overview” 30 International Journal Environment and Pollution 411(2007)

pavements, drainage pipes, under staircases, or in the open, temple-mandaps, platforms and the like’⁷¹

By its General Comment 4 on “The right to adequate housing,” the Committee on Economic Social and Cultural Rights (CESCR) has given a holistic understanding to the issue of housing: In the committee’s view, the right to housing should not be interpreted in a narrow or restrictive sense, which equates it with, for example, the shelter provided by merely having a roof over one’s head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity⁷².

2.4 THE INTERPLAY OF RIGHT TO SHELTER, ADEQUATE HOUSING AND OTHER HUMAN RIGHTS

Human rights are interdependent, indivisible and interrelated. In other words, the violation of the right to adequate housing may affect the enjoyment of a wide range of other human rights and vice versa. Access to adequate housing can be a precondition for the enjoyment of several human rights, including the rights to work, right to privacy and family life right to development health, social security, vote, privacy or education. The possibility of earning a living can be seriously impaired when a person has been relocated following a forced eviction to a place removed from employment opportunities. Without proof of residency, homeless persons may not be able to vote, enjoy social services or receive health care. Schools may refuse to register slum children because their settlements have no official status. Inadequate housing can have repercussions on the right to health; for instance, if houses and settlements have limited or no safe drinking water and sanitation, their residents may fall seriously ill.⁷³ Besides these rights the human being also suffered from many mental and physical problems due to the lack of improper living places.

⁷¹Motilal Mahamalik, “Why Re-defining Homelessness and Responding to Census Data Should Inform Homeless Policy in India”⁶⁴(2016) *available at*: <http://www.ihrn.org.in/blog/Why-Re-defining-Homelessness--and-Responding-to-Census-Data-Should-Inform-Homeless-Policy-in-India> census 1991.(last visited on august 19, 2017)

⁷² *Ibid.*

⁷³ United Nations High Commissioner for Human Rights, “The Right to Adequate Housing”, Fact Sheet No 21/Rev.1,(Geneva, 2014) *available at*: https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf. (last visited on January16, 2020)

The lack of standard living places or without having a house people's affected their other rights also which has been we have seen in the pandemic time that Millions of informal sector workers in India live in informal settlements with poor infrastructure and in overcrowded living conditions. This makes maintaining physical distance during the COVID-19 pandemic difficult, if not impossible. Internal migrant workers have been stranded in informal settlements in urban locations far from their homes. During most of the lockdown period from 22 March to 29 April, 2020 these workers could not travel home where they would have had easier access to food and other basic necessities⁷⁴. Although now allowed to travel home, the trains and buses are inadequate in number and the trains are charging them a fare to travel home, according to Indian railway guidelines, without possibility of waiver for those unable to pay the fee, despite many of the migrant workers being daily wage workers who have not earned money since the lockdown.

Many people, including informal sector workers have also faced the threat of eviction, despite a partial government ban. In addition, thousands of internal migrant workers have been forced to stay in government shelter homes, which are often in poor condition and lack access to basic necessities during the lockdown⁷⁵. In India, between 1.7 million and 3 million people are homeless, and more than 65 million people live in informal settlements without access to adequate housing. Informal settlements commonly lack basic amenities such as water, sanitation, cooking facilities. Many daily wagedworkers (nearly 90% of the 400-million-person workforce) including much of the internal migrant worker population (over 120 million), live in informal settlements. The vulnerabilities faced by these groups have been compounded by the Indian Government's inadequate response to COVID-19⁷⁶.

⁷⁴ Prof. Robert Goldman, "COVID-19 Pandemic in India: The Right to Housing", International Commission of Jurists (June, 20 2020) *available at*: <https://www.icj.org/wp-content/uploads/2020/06/India-Right-to-Housing-COVID19-Briefing-Paper-2020-ENG.pdf>. (last visited on March18, 2021)

⁷⁵ Geeta Pandey, "Coronavirus in India: Migrants Running Away from Quarantine", (BBC News, 15 April 2020) *available at*: <https://www.bbc.com/news/world-asia-india-52276606> (last visited on February17, 2021)

⁷⁶ Prof. Robert Goldman, "COVID-19 Pandemic in India: The Right to Housing", International Commission of Jurists (June, 20 2020) *available at*: <https://www.icj.org/wp-content/uploads/2020/06/India-Right-to-Housing-COVID19-Briefing-Paper-2020-ENG.pdf>. (last visited on February18, 2021)

2.5 CONCLUSION

Housing is universally recognized as one of the basic human rights. It is the responsibility of the Government to ensure that every citizen has a safe, secure and healthy place to live, work and lead a life of dignity. The World Health Organization, states that housing is one of the basic requirements for human survival. For a normal citizen owning a house provides significant economic and social security and status in society. In other words, by ensuring the right to adequate housing in urban areas, the need to enhance quality of life and opportunity of growth is addressed. A large number of urban households especially those belonging to the vulnerable sections, are unable to access good housing and civic amenities due to low income.

Housing is widely acknowledged as a human right. At the same time, it is a major driving force of the economy and often an individual's biggest asset. The situation within the housing sector is of high significance for a society's social and economic development and there is a need to openly recognize problems within the sector in order to develop and implement feasible policy options. It can be reasonable concluded that the Indian judiciary seems to have become increasingly more conservative on issues of socio economic rights and distributive justice post liberalization period in Indian history. That the remedies suggested in the cases of *Shantistar Builders v. Narayan K. Totame*, *Chameli Singh v. State of UP* and *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan*, can be said to be examples of judicial activism at its best because of the sensitivity of the Court in dealing with them. Further, despite remedies being suggested, there has been poor implementation of the same. Though there is the National Housing Policy of India, 1988, there is no National Urban Policy in place. Despite so many laws, judicial activism, the problem of adequate housing in India has not been addressed properly by the States. The rapid growth of congested slums in urban India speaks volumes about problems faced by the dwellers. The opinion of Professor Baxi on the Supreme Court decisions in the nineties is rather encouraging.

It is important to understand the philosophical change taking place in India vis-à-vis urbanisation. It is for the first time in the country's history that the Union Government has embraced the concept of urbanization. For much of Indian's post-

independence history, the country was labeled a 'reluctant' urbaniser. The reluctance was predicated on the fact that agriculture was the economy's mainstay, both in terms of income and employment. Today, while agriculture continues to employ over 40 per cent of Indian's workforce, its contribution to India's Gross Value added has fallen to 16.4 per cent. On the other hand, the contribution of services has significantly increased, and is today at 55.2 per cent. By its very nature, the services sector resides in urban areas. Given the growing aspirations of India's citizens, It is only natural they would seek employment in services, and thereby seek out urban centres it is estimated that by 2030, almost 600 million Indians or 40 per cent of India's population will live in Indian cities.



CHAPTER-3

INTERNATIONAL FRAMEWORK ON HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING



CHAPTER-3

INTERNATIONAL FRAMEWORK ON HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

3.1 INTRODUCTION

The right to adequate housing is a universal right, recognized at the international level and in more than numerous national constitutions throughout the world. It is a right recognized as valid for every individual person. The right to adequate housing brings in its wake dramatic consequences and causes numerous violations of human rights in such areas as employment, education, health, social ties, participation in decision-making denial of civil rights, among others etc. Although two world conferences specifically devoted to questions of housing and related summits on development, environment etc., all organized by the United Nations during the three preceding decades, have provided an opportunity to sensitize public opinion to the seriousness of the situation, there has been no follow up to the declarations and actions plans adopted.

The Millennium Declaration, adopted 13 September 2000 by the U.N. General Assembly is no exception to this. Moreover, it does not deal with structural causes of poverty in the world,¹ and the two Millennium Goals related to the question of housing are timid, indeed: considerably improve the life of at least 100 million slum dwellers by 2020, and reduce by half the proportion of persons who have no access to potable water by 2015.² These goals are insufficient, and it is more and more generally admitted that the Millennium Goals overall will not be reached within the allotted time frame. Worse, the proposed approach for reaching them - increasing financing for the construction of new housing for the poorest - is largely inadequate. What is needed in order to realize the right of all adequate housing is to attack the

¹ CETIM, "The Right to Development", (Geneva, June 2007) available at: <https://www.un.org/en/development/devagenda/millennium.shtml> (last visited on September 6, 2020)

² UN General Assembly, United Nations Millennium Declaration, Resolution Adopted by the General Assembly, 18 September 2000, A/RES/55/2, *available at*: <https://www.refworld.org/docid/3b00f4ea3.html> (last visited on September 8, 2020)

deep rooted causes of non-access to housing throughout the world? These causes have been identified by the United Nations.

The Special Rapporteur on the Right to Adequate Housing, include, in particular; land and property speculation; expropriations and forced evictions; the rural exodus and the growth of slums; discrimination against vulnerable groups, including women, children, refugees, migrants, the elderly and the handicapped; the negative effects of the privatization of public services.³ In other words, demanding the right to adequate housing implies fighting for the inclusion of the most vulnerable people in society and forcing governments to respect their legal obligation to guarantee a life of dignity. This implies also to the forced evictions which is illegal in international law but of which hundreds of thousands of persons are victims every year.

In spite of this right, the homeless, the inadequately housed, and the evicted are more and more numerous in the cities and the countryside across the planet. More than 4 million persons were evicted from their homes between 2003 and 2006.⁴ In today's world, some 100 million persons are homeless and more than a billion are inadequately housed. According to the estimates of the United Nations, 3 billion persons will be living in slums in 2050.⁵ Most of these persons live in countries of the South, but no continent is, nor will be, spared. Beyond the problems of housing, strictly speaking having a roof over one's head, what is most worrying is the condition that housing may be in. More than a billion persons throughout the world have no access to potable water, and 2.6 billion persons have no access to basic sanitary installations. These persons live in unhealthy and unworthy conditions; millions among them die each year, including some 1.8 million children who die of

³United Nations "Annual reports Special Rapporteur on the Right to Adequate Housing to the Commission on Human Rights" (2001 to 2005) and to the Human Rights Council (since 2006) E/CN.4/2001/51, E/CN.4/2002/59, E/CN.4/2003/5, E/CN.4/2004/48, E/CN.4/2005/48, E/CN.4/2006/41, A/HRC/4/18, *available at*: http://ap.ohchr.org/documents/dpage_e.aspx?m=98. (last visited on August 14, 2020)

⁴Center on Housing Rights and Evictions (COHRE), "Forced Evictions: Violations of Human Rights", (Center on Housing Rights and Evictions December, 2006) *available at*: www.cohre.org/store7attachm ents/Global%20survey%202003-2006.pdf. (last visited on August 12, 2020)

⁵UN-Habitat, "A Safe City is a Just City". (World Habitat Day 2007), *available at*: <http://www.unhabitat.org/categories.asp?catid=534>(last visited on August 14, 2020)

diarrhea.⁶ As important as they may be, sanitary conditions are not the only housing problem.

3.2 HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING WITHIN THE FRAMEWORK OF UNITED NATIONS

Human Right to shelter and adequate housing means at least a roof over one's head including adequate privacy enough space, ease of access adequate security; it also includes security of occupancy, structural stability as well as durability with adequate lighting, heating and ventilation. In the concept of right to adequate housing, there must be adequate basic infrastructure for water supply, sanitation and waste management facilities.⁷ While it has been declared that access to adequate and secure housing as a basic human right but it has been still denied to many countries of the world. United Nations has calculated approximately 100 million people worldwide are without a place to live and over one billion people are inadequately housed without access to basic services. If rural areas were included within these figures, the numbers could even be twice as much.

These statistics are increasing at an exponential rate, particularly within the global south, where situations are already at a grave risk. In the Indian context, according to the Census 2011, about 82 million of India's total urban population lives in slums and other low income informal settlements. This means that about 30% of the country's urban population has little or no access to adequate housing and basic amenities. The situation in rural areas is even more miserable. It can be estimated that around 50% of India's population lives in conditions of extreme deprivation⁸. The UN Special Rapporteur on adequate housing has defined the human right to adequate

⁶ United Nations Development Programmes, "Beyond Scarcity: Power, Poverty and the Global Water Crisis", (Human Development Report, 2006) *available at*:

<http://hdr.undp.org/hdr2006/pdfs/report/HDR06-complete.pdf> (last visited on August 14, 2020).

⁷ Miloon Kothari, Sabrina Karmali & Shivani Chaudhry, *The Human Right to Adequate Housing and Land*, National Human Right Commission ,14(2006)

⁸ Miloon Kothari, Sabrina Karmali & Shivani Chaudhry, *The Human Right to Adequate Housing and Land*, National Human Right Commission ,9(2006)

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 dignity⁹

3.2.1 GENERAL PROVISIONS

The United Nation has put obligation on the States to take steps towards the realization of the right to adequate housing for all and make laws and policies in their jurisdiction in accordance to international legally binding human rights instruments. In these international instruments included the special provisions of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights.¹⁰ It also includes Article 27 of the Convention on the Rights of the Child and in the non-discrimination provisions of the Convention on the Elimination of All Forms of Discrimination against Women under Article 14, paragraph 2 (h), and under Article 5 (e) of the International Convention on the Elimination of All Forms of Racial Discrimination.

3.2.1.1 Universal Declaration of Human Rights, 1948

The Universal Declaration of Human Rights, 1948 the first clear articulation of all rights, such as civil and political, as well as socio-economic and cultural rights provided by this declaration. The story of that historical breakthrough, where henceforth human rights would become the currency of international standards and comparisons, offered an inspiration for all the people of the world, regardless of the political regime in place or the level of industrial or political development. Indeed, at the time the US was a major promoter of the development of all these rights.¹¹

The adoption by the UN General Assembly in 1948 of the UDHR¹² marked a milestone in the development of human rights and fundamental freedoms.¹³ Article 25 of this declaration states: 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, and

⁹Supra note 1 at 48

¹⁰ The International Covenant on Economic, Social and Cultural Rights, art.11(1)

¹¹Eide, A. et al. (ed.), *Economic, Social and Cultural Rights: a Textbook* (Dordrecht: Martinus Nijhoff Publishers 2nd edn., 2001)

¹² Universal Declaration of Human Rights UNGA Resolution 2200A (XXI) UN Doc A/810 (1948)

¹³ Adopted and Proclaimed by General Assembly Resolution 217 A (III) of 10 December 1948

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 d in circumstances beyond his control.

3.2.1.2 International Convention on the Elimination of All Forms of Racial Discrimination, 1965

International Convention on the Elimination of All Forms of Racial Discrimination has adopted by United Nations General Assembly resolution number 2106 (XX) of 21 December 1965 which has come into force on 4 January 1969.¹⁴ This Convention builds upon the 1963 Declaration on the Elimination of All Forms of Racial Discrimination.¹⁵ This convention is based on the principles of the dignity and equality inherent in all human beings. According to this principles , all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion.¹⁶ Article 5 clause e (iii) of this Convention provided the right to housing under Economic, social and cultural rights.¹⁷ In addition Article 5 stated that in compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law.¹⁸

3.2.1.3 International Covenant on Civil and Political Rights, 1966

The same year, member states had adopted the International Covenant on Civil and Political Rights. Through this covenant recognized the right to life under Article

¹⁴ The International Convention on the Elimination of All Forms of Racial Discrimination, 1965, *available at*: [https:// www.ohchr.org/en/professionalinterest/pages/cerd.aspx](https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx)(last visited on August 14, 2020)

¹⁵ The International Convention on the Elimination of All Forms of Racial Discrimination, *available at*: [https://www. coe.int/en/web/compass/148](https://www.coe.int/en/web/compass/148)(last visited on August 14, 2020)

¹⁶ The International Convention on the Elimination of All Forms of Racial Discrimination, 1965, *available at* :[https:// www .ohchr.org/en/professionalinterest/pages/cerd.aspx](https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx)(last visited on August, 14 2020)

¹⁷ The International Convention on the Elimination of All Forms of Racial Discrimination, 1965, art. 5 e(iii)

¹⁸ The International Convention on the Elimination of All Forms of Racial Discrimination, 1965, art. 5

6, the right not to be subjected to subject to torture or to cruel, inhuman or degrading treatment or punishment under Article and the right not to be subjected to arbitrary or unlawful interference in one's privacy, family or home under Article 17. The International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights are treaties. They are legally binding on all states parties that have ratified them.¹⁹

3.2.1.4 The International Covenant on Economic, Social and Cultural Rights, 1966

Almost 150 States have ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966. 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. This obligation of States to recognize the right to housing manifests itself in several key areas.²⁰

Firstly, all countries must recognize the human rights dimensions of housing, and ensure that no measures of any kind are taken with the intention of eroding the legal status of this right. Second, legislative measures, coupled with appropriate policies geared towards the progressive realization of housing rights, form part of the obligation 'to recognize'. Any existing legislation or policy that clearly detracts from the legal entitlement to adequate housing would require repeal or amendment. Policies and legislation should not be designed to benefit already advantaged social groups at the expense of those in greater need. Specifically, housing rights issues should be incorporated into the overall development objectives of States. In addition, a national strategy aimed at progressively realizing the right to housing for all, through the establishment of specific targets should be adopted. Thirdly, a genuine attempt must be made by States to determine the degree to which this right is not in place, and to

¹⁹ The list of countries is available on the internet site of Office of the U.N. High Commissioner for Human Rights, *available at*: <http://www.ohchr.org/english/countries/ratification/index.htm>. (last visited on August, 14 2020)

²⁰ P. Alston, & G. Quinn, 'The Nature and Scope of States Parties Obligations under ICESCR,' 9 HRQ 156-229 (1987)

target housing policies and laws towards attaining this right for everyone in the shortest possible time. In this respect, States must give due priority to those social groups living in unfavorable conditions by according them particular consideration.²¹ When a State ratifies one of the Covenants, it accepts a solemn responsibility to apply each of the obligations embodied therein and to ensure the compatibility of their national laws with their international duties, in a spirit of good faith. Through the ratification of human rights treaties, therefore, States become accountable to the international community, to other States which have ratified the same texts, and to their own citizens and others resident in their territories.²²

States obligations translate to a requirement to meet a minimum core obligation in terms of the rights concerned, without discrimination. This concept has been used to provide a minimum threshold approach, below which no person should have to endure. The minimum core obligation has narrowed the problem of distributive justice to that of assessing the evenness of the distribution of socially guaranteed minimal levels of certain goods and benefits among individual groups within a country.²³ In terms of housing rights the minimum core obligations of States would involve a guarantee that everyone enjoyed a right to adequate shelter and a minimum level of housing services, without discrimination.

If a State claims that it is unable to meet even its minimum obligations because of a lack of resources, it must at least be able to demonstrate that every effort has been made to use all resources that are at its disposal to satisfy, as a matter of priority, those minimum obligations. International assistance should be sought if a State is not in a position to meet this minimum core obligation. However, lack of resources can never be used to justify failure of a State to fulfill its obligation to monitor non-enjoyment of the rights set out in the Covenant. In essence, the obligation of States is to demonstrate that, in aggregate, the measures being taken are sufficient to realize the right to adequate housing for every individual in the shortest possible time, using the maximum available resources. The discretion of a State here is not unlimited, but while the Covenant itself is devoid of specific allocation

²¹ *Ibid.*

²² Committee on Economic, Social and Cultural Rights (CESCR), *available at*: <http://www.unhchr.ch/html/menu6/2/fs16.htm> (last visited on August 14, 2020)

²³ S. Skogly, 'Human Rights Reporting: The "Nordic" Experience', 12 HRQ 513-528 (1990)

benchmarks, there is presumably a process requirement by which States might be requested to show that adequate consideration has been given to the possible resources available to satisfy each of the Covenant's requirements.²⁴ Appropriate policies and laws geared towards the progressive realization of housing rights, form part of the obligation 'to recognize' the right to housing. Progressive realization involves meeting the rights obligations to a higher standard to the maximum of its available resources. The term 'to the maximum of its available resources' has been interpreted to mean that both the resources within a State, and those provided by other States or the international community must be utilized for the fulfillment of each of the rights found in the Covenant.²⁵

The term has been interpreted to include money, natural resources, human resources, technology and information.²⁶ Even when available resources are demonstrably inadequate, States must still strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances. The drafters of the section originally were inclined to address this obligation to the resources of the country, and not just too budgetary appropriations.²⁷ Significantly, this principle requires an equitable and effective use of and access to the resources available. Although the alleged lack of resources is often used to justify non-fulfillment of certain rights, the UN Committee on Economic Social and Cultural Rights (UNCESCR) has emphasized that even in times of severe economic contraction and the undertaking of measures of structural adjustment within a State, vulnerable members of society can, and indeed, must be protected by the adoption of relatively low-cost targeted programmes.

The Progress Report of the UN Special Rapporteur on Housing in 1993 pointed out that the definition of maximum of available resources represents perhaps the core issue in the perception and practice of States vis-à-vis economic, social and cultural rights. In practice, States continue to exhibit an overarching tendency to rely

²⁴ P. Alston, & G. Quinn, 'The Nature and Scope of States Parties Obligations under ICESCR,' 9 HRQ 156-229 (1987), p.180.

²⁵ UN Doc. E/C.12/1991/4. United Nation Committee on Economic, Social and Cultural Rights (CESCR) General Comment No. 4. The Human Right to Adequate Housing, Geneva

²⁶ Robertson, 'Measuring State Compliance with the Obligation to Devote the Maximum Resources to Realizing Economic, Social and Cultural Rights,' 16 HRQ 693-714 (1994)

²⁷ P. Alston & G. Quinn, 'The Nature and Scope of States Parties Obligations under ICESCR,' 9 HRQ 156-229 (1987), p. 178.

on this principle in seeking to rationalize failures to ensure these rights. At the most rudimentary level, this phrase means that both the resources within a State and those provided by other States or the international community must be utilized towards the fulfillment of each of the rights found in the Covenant.²⁸

The term ‘to achieve progressively’,²⁹ imposes an obligation on States to move as quickly and effectively as possible towards the goal of realizing fully each of the rights contained in the Covenant, rather than any indefinite postponement. The concept of progressive achievement is ‘in many ways the linchpin of the Covenant’.³⁰ The UN Special Rapporteur has pointed out that; this principle imposes an obligation on States to move as expeditiously and effectively as possible towards the goal of realizing fully each of the rights found in the Covenant. Put simply, States cannot defer indefinitely efforts to ensure the full realization of the Covenant. Not all rights under this text, however, require progressive realization. The adoption of legislation relating to the non-discrimination clauses of the Covenant and monitoring of the status of realization of the rights in question must occur immediately following ratification. This obligation must be read in the light of Article 11(1) of the Covenant, in particular, the phrases ‘an adequate standard of living’ and the ‘continuous improvement of living conditions’.

Conversely, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources. The obligation of progressive realization, moreover, exists independently of the increase in resources. Above all, it requires effective use of resources available, both from domestic and external sources.³¹ Compliance by States parties with their obligations under the Covenant and the level of implementation of the rights and duties in question is monitored by the UNCESCR.³² The Committee works on the basis of many sources of information, including reports submitted by States parties and information from UN is a

²⁸ UN Doc. E/CN.4/Sub.2/1993/15.paras. 54-57.

²⁹ UN Doc. E/C.12/1771/4. United Nation Committee on Economic, Social and Cultural Rights (UNCESCR) General Comment No. 4, The Human Right to Adequate Housing, Geneva

³⁰ P. Alston, & G. Quinn, ‘The Nature and Scope of States Parties Obligations under ICESCR,’ 9 HRQ 156-229 (1987), p. 172.

³¹ UN Doc. E/CN.4/Sub.2/1993/15. paras. 58-60.

³² *Ibid.*

specialized agency, UN Centre for Human Settlements (UNCHS) and others. It also receives information from non-governmental and community-based organizations working in States, which have ratified the Covenant, from international human rights and other non-governmental organizations, from other UN Treaty bodies, and from generally available literature. National homeless organizations can submit reports (known as shadow reports) on the implementation of the rights set out in the Covenant to the UNCESCR at Geneva.³³

The UNCESCR, through its periodic monitoring of States Parties has established a corpus of jurisprudential principles in relation to the implementation of the ICESCR and the right to housing. On a number of occasions, the UNCESCR has concluded that violations of the ICESCR had taken place, and subsequently urged States parties to desist from any further infringements of the rights in question.³⁴ In 1996, the UNCESCR³⁵ proposed a draft optional protocol for individual complaints under the ICESCR to be made.³⁶ This would allow any individual to make a complaint directly to the UNCESCR in relation to an area of socio-economic rights violation, similar to the system now being developed under the Inter-American Human Rights system established under the San Salvador Protocol.³⁷ So far, a number of States have agreed to support the Protocol, and housing organization can encourage States to support this valuable development.³⁸

3.2.1.5 Declaration on Social Progress and Development, 1969

The United Nations General Assembly adopted and solemnly proclaimed the Declaration on Social Progress and Development by General Assembly resolution

³³ UN Committee on Economic, Social and Cultural Rights, Office of the High Commissioner for Human Rights, Palais des Nations, 8-14 avenue de la Paix, 1211 Genève, Switzerland. Tel. (41) (22) 917-93-21; Fax: (41) (22) 917-90-22.

³⁴ UN Doc. E/C.12/1994/20. Dominican Republic.

³⁵ UN Doc. E/C.12/1996/SR. para 44-49 and 54

³⁶ UN Doc. E/CN.4/1997/105. 18 December 1996 Commission on Human Rights Fifty-third sessions, Draft optional protocol to the ICESCR.

³⁷ The report of the Independent Expert, Mr Hatem Kotrane (UN Doc. E/CN.4/2003/53, 13 January 2003; UN Doc. E/CN.4/2003/53/Corr.2, 7 April 2003), provides commentary on: the nature and scope of States parties' obligations under the Covenant; the justiciability of economic, social and cultural rights; the benefits and practicability of a complaint mechanism and the issue of complementarity between different mechanisms.

³⁸ <http://www.unhchr.ch/html/menu2/6/cescr.htm#protocol>

2542 (XXIV) on 11 December 1969.³⁹ This defined the principles of social development, its objectives, and the methods and means of achieving those objectives. Following this action, the Assembly recommended that all Governments should take into consideration in their policies, plans and programmes the principles, objectives and means and methods of the Declaration.⁴⁰ According to this declaration all peoples and all human beings, without distinction as to race, colour, sex, language, religion, nationality, ethnic origin, family or social status, or political or other conviction, shall have the right to live in dignity and freedom and to enjoy the fruits of social progress and should, on their part, contribute to it.⁴¹

Further it says that, Social progress and development shall be founded on respect for the dignity and value of the human person and shall ensure the promotion of human rights and social justice, which requires: (a) The immediate and final elimination of all forms of inequality, exploitation of peoples and individuals, colonialism and racism, including Nazism and apartheid , and all other policies and ideologies opposed to the purposes and principles of the United Nations; (b) The recognition and effective implementation of civil and political rights as well as of economic, social and cultural rights without any discrimination.⁴² Part ii of this declaration provides the objective of declaration; part ii stated that, Social progress and development shall aim at the continuous raising of the material and spiritual standards of living of all members of society, with respect for and in compliance with human rights and fundamental freedoms, through the attainment of the following main goals: ⁴³

(a) The assurance at all levels of the right to work and the right of everyone to form trade unions and workers' associations and to bargain collectively; promotion of full productive employment and elimination of unemployment and under-employment; establishment of equitable and favorable conditions of work for all, including the

³⁹ Declaration on Social Progress and Development Proclaimed by General Assembly resolution 2542 (XXIV) of 11 December 1969, *available at*:

<https://www.ohchr.org/Documents/ProfessionalInterest/progress.pdf>(last visited on August 14, 2020)

⁴⁰Declaration on Social Progress and Development, *available at*:

https://fsu.digital.flvc.org/islandora/object/fsu%3A547394/datastream/OBJ/view/Declaration_on_Social_Progress_and_Development.pdf(last visited on August 14, 2020)

⁴¹Declaration on Social Progress and Development, 1969, art. 1

⁴²Declaration on Social Progress and Development, 1969, art. 2

⁴³Declaration on Social Progress and Development, 1969, Part II

improvement of health and safety conditions; assurance of just remuneration for labour without any discrimination as well as a sufficiently high minimum wage to ensure a decent standard of living; the protection of the consumer;

(b) The elimination of hunger and malnutrition and the guarantee of the right to proper nutrition;

(c) The elimination of poverty; the assurance of a steady improvement in levels of living and of a just and equitable distribution of income;

(d) The achievement of the highest standards of health and the provision of health protection for the entire population, if possible free of charge;

(e) The eradication of illiteracy and the assurance of the right to universal access to culture, to free compulsory education at the elementary level and to free education at all levels; the raising of the general level of life-long education;

(f) The provision for all, particularly persons in low income groups and large families, of adequate housing and community services.⁴⁴

3.2.1.6 The Vancouver Declaration on Human Settlements, 1976

The Vancouver Declaration on Human Settlements adopted by the United Nations Conference on Human Settlements in 1976.⁴⁵ This declaration has been recognized that international co-operation, based on the principles of the United Nations Charter has to be developed and strengthened in order to provide solutions for world problems and to create an international community based on equity, justice and solidarity.⁴⁶

Section III (8) and preamble stated, respectively: “Adequate shelter and services are a basic human right which places an obligation on governments to ensure

⁴⁴Supra note 2 art. 10.

⁴⁵ The Vancouver Declaration on Human Settlements, *available at*: https://mirror.unhabitat.org/downloads/docs/The_Vancouver_Declaration.pdf (last visited on August 14, 2020)

⁴⁶ The Vancouver Declaration on Human Settlements From the report of Habitat: United Nations Conference on Human Settlements, Vancouver, Canada, 31 May to 11 June 1976, *available at*: <https://mirror.unhabitat.org/downloads/docs/TheVancouverDeclarationOnHumanSettlements.pdf> (last visited on August 14, 2020)

their attainment by all people, beginning with direct assistance to the least advantaged through guided programmes of self-help and community action. Governments should endeavor to remove all impediments hindering attainment of these goals. Of special importance is the elimination of social and racial segregation, inter alia, through the creation of better balanced communities, which blend different social groups, occupations, housing and amenities.”⁴⁷ “The ideologies of States are reflected in their human settlement policies. These being powerful instruments for change; they must not be used to dispossess people from their homes or land or to entrench privilege and exploitation. The human settlement policies must be in conformity with the declaration of principles and the Universal Declaration of Human Rights.”⁴⁸

3.2.1.7 United Nations Declaration on the Right to Development, 1986

UN Declaration on the Right to Development Adopted by General Assembly resolution 41/128 of 4 December 1986.⁴⁹ The United Nations established the right to development as an inalienable human right in 1986. The declaration seeks to ensure people’s right to personal and financial improvement and progress. The Right to Development is based on human dignity and implies the right to self-determination and full sovereignty over wealth and natural resources.⁵⁰ The declaration aims to put people at the center of development; ensure their free, active and meaningful participation in society; secure non-discrimination; fairly distribute the benefits of development; and respect self-determination, and sovereignty over natural resources in a process that advances other civil, political, economic, social and cultural rights⁵¹

Article 8(1) of this declaration states: "States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter-alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an

⁴⁷ The Vancouver Declaration on Human Settlements, 1976, section III(8)

⁴⁸ The Vancouver Declaration on Human Settlements, 1976, preamble A. (3)

⁴⁹ Declaration on the Right to Development, General Assembly resolution 41/128 of 4 December 1986, available at: <https://www.ohchr.org/en/professionalinterest/pages/righttodevelopment.aspx> (last visited on August 14, 2020)

⁵⁰ UN Declaration on the Right to Development, available at: <https://www.facing-finance.org/en/database/norms-and-standards/un-erklaerung-ueber-das-recht-auf-entwicklungun-declaration-on-the-right-to-development/> (last visited on August 14, 2020)

⁵¹ *Ibid.*

active role in the development process. Appropriate economic and social reforms should be carried out with a view to eradicating all social injustices."⁵²

3.2.1.8 Rio Declaration, 1992

Agenda 21 is a comprehensive plan of action to be taken globally, nationally and locally by organizations of the United Nations System, Governments, and Major Groups in every area in which human impacts on the environment. Agenda 21, the Rio Declaration on Environment and Development, and the Statement of principles for the Sustainable Management of Forests were adopted by more than 178 Governments at the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro, Brazil, 3 to 14 June, 1992. The full implementation of Agenda 21, the Programme for Further Implementation of Agenda 21 and the Commitments to the Rio principles, were strongly reaffirmed at the World Summit on Sustainable Development (WSSD) held in Johannesburg, South Africa from 26 August to 4 September 2002.⁵³ The programme areas included in chapter one, para 7.5 is providing adequate shelter for all.⁵⁴

3.2.1.9 Vienna Declaration and Programme of Action, 1993

The 1993 World Conference on Human Rights in Vienna was a landmark in the history of the United Nations. The adoption of the Vienna Declaration and Programme of Action advanced our efforts to uphold the principles of the UN Charter and the Universal Declaration of Human Rights. The 7,000 conference participants overcame major differences to produce a powerful outcome that emphasized that economic, social, cultural, civil and political rights are indivisible and interdependent, each contributing to the enjoyment of the other. Promoting and protecting rights was confirmed as central to the identity and purpose of the United Nations. This led to the crucial decision to create the post of High Commissioner for Human Rights. Whenever and wherever rights have been violated or threatened, the voice of the High

⁵² UN Declaration on the Right to Development, 1986 art. 8(1)

⁵³ United Nations Sustainable Development Goal: Knowledge Platform, *available at*: <https://sustainabledevelopment.un.org/outcome/documents/agenda21> (last visited on August 14, 2020)

⁵⁴ United Nations Conference on Environment & Development Rio de Janeiro, Brazil, 3 to 14 June 1992 Agenda, 21, *available at*: <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf> (last visited on August 14, 2020)

Commissioner has been consistent, clear and resonant, speaking out for dignity and accountability⁵⁵.

In the Vienna Declaration And Programme of Action, 1993 paragraph 31 stated that The World Conference on Human Rights calls upon States to refrain from any unilateral measure not in accordance with international law and the Charter of the United Nations that creates obstacles to trade relations among States and impedes the full realization of the human rights set forth in the Universal Declaration of Human Rights and international human rights instruments, in particular the rights of everyone to a standard of living adequate for their health and well-being, including food and medical care, housing and the necessary social services. The World Conference on Human Rights affirms that food should not be used as a tool for political pressure⁵⁶.

3.2.1.10 Millennium Declaration, 2000

In September 8, 2000, building upon a decade of major United Nations conferences and summits, world leaders came together at the United Nations Headquarters in New York to adopt the United Nations Millennium Declaration.⁵⁷ The United Nations Millennium Declaration, signed in September 2000 commits world leaders to combat poverty, hunger, disease, illiteracy, environmental degradation, and discrimination against women. The MDGs are derived from this Declaration, and all have specific targets and indicators.⁵⁸

The Eight Millennium Development Goals are:

- To eradicate extreme poverty and hunger;
- To achieve universal primary education;
- To promote gender equality and empower women;
- To reduce child mortality;
- To improve maternal health;

⁵⁵ Vienna Declaration and Programme of Action, *available at*: https://www.ohchr.org/Documents/Events/OHCHR20VDPA_booklet_English.pdf (last visited on August 14, 2020)

⁵⁶ *Ibid.*

⁵⁷ Millennium Development Goals, *available at*: https://www.undp.org/content/undp/en/home/sdgoverview/mdg_goals.html#:~:text=In%20September%202000%2C%20building%20upon,the%20United%20Nations%20Millennium%20Declaration. (last visited on August 14, 2020)

⁵⁸ Millennium Development Goals (MDGs) *available at*: https://www.who.int/topics/millennium_development_goals/about/en/ (last visited on August 14, 2020)

- To combat HIV/AIDS, malaria, and other diseases;
- To ensure environmental sustainability; and
- To develop a global partnership for development.

3.2.1.11 Sustainable Development Goal, 2015

The Sustainable Development Goals (SDGs), also known as the Global Goals, were adopted by all United Nations Member States in 2015 as a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity.⁵⁹ The Sustainable Development Goals are the blueprint to achieve a better and more sustainable future for all. They address the global challenges we face, including those related to poverty, inequality, climate change, environmental degradation, peace, and justice. The 17 Goals are all interconnected, and in order to leave no one behind, that must achieve all by 2030.⁶⁰ Sustainable Development Goal 11, make cities and human settlements inclusive, safe, resilient and sustainable. There is also recognition of the cross-cutting nature of urban issues, which have an impact on a number of other Sustainable Development Goals. Sustainable human settlements development was also discussed at the second and third sessions of the Commission on Sustainable Development. “Promoting sustainable human settlements development” is the subject of Chapter 7 of Agenda 21, which calls for providing adequate shelter for all.⁶¹

3.2.2 PROVISION OF HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING FOR SPECIFIC GROUPS

The right to adequate housing is everybody’s right, without discrimination. The fundamental right was established in the International Convention on the Elimination of All forms of Racial Discrimination, 1965 in which the states parties committed themselves “to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, or

⁵⁹ United Nations Development Programme: Sustainable Development Goals, *available at*: <https://www.undp.org/content/undp/en/home/sustainable-development-goals.html>(last visited on August 14, 2020)

⁶⁰ United Nations: Sustainable Development Goal, *available at*: <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>(last visited on August 14, 2020)

⁶¹ United Nations: Department of Economic and Social Affairs Sustainable Development, *available at*: <https://sdgs.un.org/topics/sustainable-cities-and-human-settlements>(last visited on August 14, 2020)

national or ethnic origin, to equality before the law, notably in the enjoyment of... the right to housing,” article 5, e, iii. However, to protect particularly vulnerable groups, such as women, children, the elderly, indigenous and tribal peoples, refugees or stateless persons, other treaties have been accepted by countries at the international level.

3.2.2.1 Refugees

The right of refugees to adequate housing is recognized in the 1951 Convention Relating to the Status of Refugees. Its Article 21 provides that: “As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances.”⁶²

3.2.2.2 Stateless Persons

The United Nation Convention relating to the Status of Stateless persons which adopted in 1954, article 21 of aforesaid convention protected very basic human right to housing and stated that As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to stateless persons lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances⁶³.

3.2.2.3 Tribal and Indigenous Peoples

Common Article 1, 2, of the 1966 International Covenant on Economic Social and Cultural Rights and the International Covenant on Civil and Political Rights, which applies to tribal and indigenous peoples, provides that: “In no case may a people be deprived of its own means of subsistence.” The right of tribal and

⁶² Convention relating to the Status of Refugees ,Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950 Entry into force: 22 April 1954, in accordance with article 43 available at; [https:// www.ohchr.org/en/professionalinterest/pages/statusofrefugees.aspx](https://www.ohchr.org/en/professionalinterest/pages/statusofrefugees.aspx) (last visited on august 5/7/2019)

⁶³Convention relating to stateless person available at adopted by United Nation in 1954, available at: https://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf (last visited on august 5/7/2019)

indigenous peoples to adequate housing is also recognized, through their right to land, by the ILO Convention 169, Article 16, regarding tribal and indigenous peoples.

3.2.2.4 Persons with Disability

The Declaration on the rights of disabled persons has accepted by General Assembly resolution 3447 (XXX) on 9 December, 1975.⁶⁴ This declaration has been emphasizing that the Declaration on Social Progress and Development has proclaimed the necessity of protecting the rights and assuring the welfare and rehabilitation of the physically and mentally disadvantaged.⁶⁵ Further this Declaration on the Rights of Disabled Persons Proclaims and calls for national and international action to ensure that it will be used as a common basis and frame of reference for the protection of disabled rights.⁶⁶ This declaration has been indirectly stated about the rights to shelter of disabled person under article 9. This article stated that, Disabled persons have the right to live with their families or with foster parents and to participate in all social, creative or recreational activities. No disabled person shall be subjected, as far as his or her residence is concerned, to differential treatment other than that required by his or her condition or by the improvement which he or she may derive there from. If the stay of a disabled person in a specialized establishment is indispensable, the environment and living conditions therein shall be as close as possible to those of the normal life of a person of his or her age.⁶⁷

The right to shelter of disabled person has been also mentioned in Committee on Economic, Social and Cultural Rights, General Comment No. 5. This has passed a General Comment related to Persons with disabilities on 9 December, 1994.⁶⁸ According to the comment No. 5, the central importance of the International Covenant on Economic, Social and Cultural Rights in relation to the human rights of persons

⁶⁴ UN General Assembly, Declaration on the Rights of Disabled Persons, 9 December 1975, A/RES/3447 (XXX), available at: <https://www.refworld.org/docid/3b00f1c18.html> (last visited on August 26, 2020)

⁶⁵ Declaration on the Rights of Disabled Persons Proclaimed by General Assembly resolution 3447 (XXX) of 9 December 1975, available at: <https://www.ohchr.org/EN/ProfessionalInterest/Pages/RightsOfDisabledPersons.aspx> (last visited on August 14, 2020)

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 5 Persons with Disabilities, 9 December 1994, E/1995/22, available at: <https://www.refworld.org/docid/4538838f0.html> (last visited on August 26, 2020)

with disabilities has frequently been underlined by the international community. Thus a 1992 review by the Secretary-General of the implementation of the World Programme of Action concerning Disabled Persons and the United Nations Decade of Disabled Persons concluded that “disability is closely linked to economic and social factors” and that “conditions of living in large parts of the world are so desperate that the provision of basic needs for all – food, water, shelter, health protection and education – must form the cornerstone of national programmes”. Even in countries which have a relatively high standard of living, persons with disabilities are very often denied the opportunity to enjoy the full range of economic, social and cultural rights recognized in the Covenant.⁶⁹

3.2.2.5 Women

The right to adequate housing for women was recognized in the Convention on the Elimination of all Forms of Discrimination against Women (1979) the states parties commit themselves to: “To eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”⁷⁰

3.2.2.6 Children

Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November, 1989. The states parties commit themselves to helping parents or other persons in charge of the child, particularly in providing shelter. It’s Article 27 (3) provides that: “States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case need provide material assistance and support programs, particularly with regard to nutrition, clothing and housing.

⁶⁹ CESCR General Comment No. 5: Persons with Disabilities, *available at*: <https://www.globalhealthrights.org/instrument/cescr-general-comment-no-5-persons-with-disabilities/> (last visited on August 14, 2020)

⁷⁰ Article 14 (2) (h) of Convention on the Elimination of all Forms of Discrimination against Women, 1979

3.2.2.7 Migrants

The right to adequate housing of the ever growing number of migrants and their families⁷¹ has been recognized in Article 43, 1(d), of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. According to this Convention: “Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to: Access to housing, including social housing schemes, and protection against exploitation in respect of rents.” All the above mentioned treaties are legally binding on the states that have ratified them.⁷²

3.2.2.8 Internally Displaced Persons

All persons enjoy the right to adequate housing, as a component of the right to an adequate standard of living. The right to adequate housing entails the right of every person to gain and sustain a safe and secure home and community in which to live in peace and dignity. Discrimination on the basis of displacement is forbidden in the provision of adequate housing, and IDPs should be recognized as a disadvantaged social group entitled to particular consideration in the implementation of national housing policies. In this regard principle 18(2) (b) of the Guiding Principles reflects the need to respect IDPs’ rights to adequate housing through the provision of safe, habitable emergency and transitional shelter during displacement and assistance that meets their own housing needs in the context of durable solutions. All internally displaced persons have the right to an adequate standard of living. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to Basic shelter and housing⁷³.

⁷¹According to United Nations figures, there were 191 million migrant persons in 2005 - 115 million in the industrialized countries and 75 million in the countries of the South. U.N. Habitat, A Safe City is a Just City. World Habitat Day 2007

⁷² The list of states parties to these international treaties is available on the internet site of the Office of the U.N. High Commissioner for Human Right, *available at*: <http://www.ohchr.org/english/law/index.htm>. (last visited on August 14, 2020)

⁷³Protecting Internally Displaced Persons: A Manual for Law and Policy Makers October 2008, *available at*: <https://www.unhcr.org/50f955599.pdf> (last visited on august 5/7/2019)

3.3 UNITED NATIONS BODIES/COMMISSIONS AND COMMITTEES ON ADEQUATE HOUSING

The various United Nations bodies/ commissions and committees which have work for right to shelter and adequate housing. The United Nations Commission on Human Rights was established in 1946 to weave the international legal fabric that protects our fundamental rights and freedoms. Composed of 53 States members, its brief expanded over time to allow it to respond to the whole range of human rights problems and it set standards to govern the conduct of States. It also acted as a forum where countries large and small, non-governmental groups and human rights defenders from around the world voiced their concerns.⁷⁴

3.3.1.1 United Nation Commission on Human Rights

UN Commission on human rights passed many resolutions related to human right to shelter and adequate Housing for the achieving human rights of shelter in commission passed the following resolutions:

- ❖ **Resolution No. 2000/9** This resolution taking realization in all countries of the economic, social and cultural rights contained in the UDHR and in the ICESCR and study of special problems which the developing countries face in their efforts to achieve these human rights, and the Office of the UNHC for Human Rights of an expert group meeting on practical aspects of the human right to adequate housing, which recommended, *inter alia*, the appointment of a special rapporteur on housing rights.⁷⁵
- ❖ **Resolution No.2001/28** has passed title on ‘Adequate housing as a component of the right to an adequate standard of living.’⁷⁶ Noting the work of the United Nations treaty bodies, in particular of the Committee on Economic, Social and Cultural Rights, in the promotion of the rights related to adequate housing.⁷⁷ Commission has Encourages the Special Rapporteur, in accordance with his

⁷⁴ United Nations Human Rights Council, *available at*: <https://www.ohchr.org/EN/HRBodies/CHR/Pages/CommissionOnHumanRights.aspx> (last visited on August 14, 2020)

⁷⁵ Resolutions of the Commission on Human Rights, *available at*: <https://www.ohchr.org/EN/Issues/Housing/Pages/Resolutions.aspx>(last visited on August 14, 2020)

⁷⁶Resolutions, *available at*:<https://www.ohchr.org/EN/Issues/Housing/Pages/Resolutions.aspx> (last visited on August 14, 2020)

⁷⁷*Ibid.*

mandate, to bring the issue of adequate housing to the attention of relevant review processes of United Nations conferences and summits, notably the five-year review of the Habitat Agenda June, 2001 including, where possible, through contributing to and participating in these events.⁷⁸

- ❖ **In Resolution No. 2002/21** the Commission on Human Rights resolution 2002/21 accepted a resolution title on ‘Adequate housing as a component of the right to an adequate standard of living’.⁷⁹
- ❖ **In the Resolution No 2003/27**, Welcoming the inclusion of “adequate shelter” in the Plan of Implementation of the World Summit on Sustainable Development as an element for achieving socially, economically, and environmentally sustainable development, and recalling the resolve of the Heads of State and Government expressed in the Millennium Declaration to have achieved, by 2020, a significant improvement in the lives of at least 100 million slum dwellers.⁸⁰
- ❖ **This Resolution No.2004/21** Recognizing that adequate shelter is a vital element for achieving socially, economically and environmentally sustainable development, as stated in the Plan of Implementation of the World Summit on Sustainable Development held in Johannesburg, South Africa, in September, 2002 and in the Istanbul Declaration on Human Settlements, adopted in June 1996 by the second United Nations Conference on Human Settlements Habitat II and recalling the resolve of the heads of State and Government expressed in the United Nations Millennium Declaration to have achieved, by 2020, a significant improvement in the lives of at least 100 million slum dweller’.

3.3.1.2 United Nations Special Rapporteur on Human Right to Shelter and Adequate Housing

At its fifty-sixth session, the Commission on Human Rights adopted resolution 2000/9 of 17 April 2000, in which it decided to appoint, for a period of three years, a Special Rapporteur whose mandate will focus on adequate housing as a component of

⁷⁸Resolutions, *available at*:<https://www.ohchr.org/EN/Issues/Housing/Pages/Resolutions.aspx>(last visited on August 14, 2020)

⁷⁹ Office of the High Commissioner for Human Rights, Commission on Human Rights resolution 2002/21, *available at*:<https://www.ohchr.org/EN/Issues/Housing/Pages/Resolutions.aspx>(last visited on August 14, 2020)

⁸⁰ *Ibid.*

the right to an adequate standard of living.⁸¹ Its mandate was extended for a period of three years in 2003, via Resolution 2003/27. The Human Rights Council extended the mandate in 2007 Resolution 6/27, 2010 Resolution 15/8, 2013 Resolution 24/115, and 2014 Resolution 25/17.⁸² The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context is one of the thematic special procedures overseen by the United Nations Human Rights Council. The Special Rapporteur is an independent expert who reports on the realization of the right to housing as a fundamental component of the right to an adequate standard of living and identifies best practices, challenges, obstacles, and protection gaps related to this right.⁸³ The Special Rapporteur on adequate housing must apply a gender perspective in the reports on developments in the realization of the right to adequate housing, particularly with respect to gender-specific vulnerabilities in access to adequate housing and land.⁸⁴ In fulfilling the obligations of this special procedure, the mandate holder may: undertake country visits, consider individual complaints, submit allegation letters and urgent appeals to States concerning specific situations, engage in dialogue with relevant stakeholders, and submit activity reports to the UN General Assembly and Human Rights Council.⁸⁵

3.3.1.3 The United Nations Committee on Economic, Social and Cultural Rights

The United Nations Committee on Economic, Social and Cultural Rights is the treaty body mandated to monitor States Parties' compliance with the ICESCR. It is comprised of 18 independent experts, and has played a particularly prominent and leading role in the promotion and implementation of housing rights. As mentioned above, Article 11(1) of the Covenant guarantees for everyone the right to adequate housing. The standards contained therein constitute the most significant international legal source of the human right to adequate housing under international human rights law. Consequently, this provision has provided the basis for much of the

⁸¹ History of the mandate, *available at*: <https://www.ohchr.org/EN/Issues/Housing/Pages/OverviewMandate.aspx>(last visited on August 14, 2020)

⁸² Special rapporteur on adequate housing, *available at*: <https://ijrcenter.org/un-special-procedures/special-rapporteur-on-adequate-housing/>(last visited on August 14, 2020)

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

jurisprudential developments of this right, and has been given a very prominent stature by the Committee on Economic, Social and Cultural Rights during the past decade.⁸⁶

In 1991, the Committee adopted General Comment No. 4 on the right to adequate housing, which provides the most authoritative legal interpretation of the right to adequate housing under international law to date. General Comment No. 4 brings legal clarity to the content of the right and identifies some of the principal issues of importance in relation to this right. In this General Comment, the Committee views that the right to housing should not be interpreted in a narrow or restrictive sense which equates with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather, it should be seen as the right to live somewhere in security, peace and dignity. Significantly, General Comment No. 4 points out to the importance of the concept of adequacy in relation to the right to housing, since it serves to underline a number of factors which must be taken into account in determining whether particular forms of shelter can be considered to constitute "adequate housing" for the purposes of the Covenant. While adequacy is determined in part by social, economic, cultural, climatic, ecological and other factors, General Comment identifies seven aspects that form integral components of the right: · legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and · cultural adequacy. General Comment No. 4 is also instrumental in outlining the precise legal steps that Governments must take to comply with their housing rights obligations as stipulated under international law.⁸⁷

In 1997, the Committee on Economic, Social and Cultural Rights adopted the General Comment No. 7 on the right to adequate housing (forced evictions). In this General Comment, the Committee defined the term 'forced eviction' and reaffirms that forced evictions are prima facie violations of the right to adequate housing. The Committee also viewed that any States should be strictly prohibited – in all cases – from intentionally making a person, family or community homeless following an

⁸⁶ Housing rights legislation Review of international and national legal instruments, *available at*: <https://www.ohchr.org/Documents/Publications/HousingRightsen.pdf> (last visited on August 14, 2020)

⁸⁷ Housing rights legislation Review of international and national legal instruments, *available at*: <https://www.ohchr.org/Documents/Publications/HousingRightsen.pdf> (last visited on August 14, 2020)

eviction, whether forced or lawful. This General Comment also outlined a series of procedural steps that must be taken in any instance where eviction cannot be avoided.⁸⁸

3.3.1.4 The UN Sub-Commission on Prevention of Discrimination and Protection of Minorities

In 1991, the Sub-Commission on Prevention of Discrimination and Protection of Minorities under the United Nations Commission on Human Rights, adopted resolution 1991/12 which provides guidance in determining the legal responsibilities of those who evict. It stated that – “forced evictions can be carried out, sanctioned, demanded, proposed, initiated or tolerated by a number of factors, including, but not limited to, occupation authorities, national governments, local governments, developers, planners, landlords, property speculators and bilateral and international financial institutions and aid agencies”. The resolution also emphasized that the ultimate responsibility for preventing evictions rests with Governments.⁸⁹ In the present time this commission is not working.

3.3.1.5 United Nations Commission on Human Settlements

The United Nations Centre for Human Settlements, UNCHS (Habitat) was established in 1978, after the United Nations Conference on Human Settlements in Vancouver (Canada).⁹⁰ In its 2001 resolution 56/206, it transformed the Commission on Human Settlements and its secretariat.⁹¹ Its headquarters at the United Nations Office in Nairobi, Kenya. It is mandated by the United Nations General Assembly to promote socially and environmentally sustainable towns and cities with the goal of providing adequate shelter for all. It is a member of the United Nations Development Group.⁹² The United Nations Centre for Human Settlements (Habitat), including the United Nations Habitat and Human Settlements Foundation, into the United Nations

⁸⁸ *Ibid.*

⁸⁹ Housing rights legislation Review of international and national legal instruments, *available at*: <https://www.ohchr.org/Documents/Publications/HousingRightsen.pdf> (last visited on August 14, 2020)

⁹⁰ The NGLS Handbook of UN Agencies, Programmes and Funds Working for Economic and Social Development (NGLS), *available at*: <http://www.nzdl.org/gsdmod?e=d-00000-00---off-0cdl--00-0---0-10-0---0---0direct-10---4-----0-11--11-en-50---20-about---00-0-1-00-0--4---0-0-11-10-0utfZz-8-10&a=d&c=cdl&cl=CL2.14&d=HASH9b87098ad04642b48438a2.11.1#HASH9b87098ad04642b48438a2.11.1>

⁹¹ United Nations Human Settlements Programme Evaluation Office, *available at*: <http://uneval.org/about/memberagencies/detail/30> (last visited on August 14, 2020)

⁹² *Ibid.*

Human Settlements Programme, or UN-Habitat. UN-Habitat is the lead United Nations agency responsible for human settlements.⁹³ The Commission on Human Settlements acts as the governing body of the United Nations Centre for Human Settlements (Habitat) and is composed of 58 States,⁹⁴ and contained in the Centre's Work Programme, these areas are:⁹⁵

- Shelter and social services;
- urban management;
- environment and infrastructure; and
- Assessment, information and monitoring.

3.3.1.6 United Nations Human Rights Council

The Human Rights Council is an inter-governmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them. It has the ability to discuss all thematic human rights issues and situations that require its attention throughout the year. It meets at the UN Office at Geneva.

The Council is made up of 47 United Nations Member States which are elected by the UN General Assembly. The Human Rights Council replaced the former United Nations Commission on Human Rights.⁹⁶ The Council was created by the United Nations General Assembly on 15 March 2006 by resolution 60/251. Its first session took place from 19 to 30 June 2006. One year later, the Council adopted its "Institution-building package" to guide its work and set up its procedures and mechanisms.⁹⁷ Among them were the Universal Periodic Review mechanism which

⁹³ *Ibid.*

⁹⁴ United Nations Commission on Human Settlements Concludes Eighteenth Session Endorses Executive Director's Call To Strengthen Centre, *available at*: [https://www.un.org/press/en/2001/hab169.doc.htm#:~:text=The%20Commission%20on%20Human%20Settlements,is%20composed%20of%2058%20States.&text=awareness%20of%20human%20settlements%20issues,and%20trends%20around%20the%20world.\(last%20visited%20on%20August%2014%202020\)](https://www.un.org/press/en/2001/hab169.doc.htm#:~:text=The%20Commission%20on%20Human%20Settlements,is%20composed%20of%2058%20States.&text=awareness%20of%20human%20settlements%20issues,and%20trends%20around%20the%20world.(last%20visited%20on%20August%2014%202020)) (last visited on August 14, 2020)

⁹⁵ UNCHS (UN-Habitat): The United Nations Human Settlements Programme, *available at*: <http://web.mit.edu/urbanupgrading/upgrading/resources/organizations/UNCHS.html> (last visited on August 14, 2020)

⁹⁶ Welcome to the Human Rights Council, *available at*: <https://www.ohchr.org/en/hrbodies/hrc/pages/aboutcouncil.aspx> (last visited on August 14, 2020)

⁹⁷ Human Rights Council resolution 5/1, Institution-building of the United Nations Human Rights Council, 2006

serves to assess the human rights situations in all United Nations Member States, the Advisory Committee which serves as the Council's "think tank" providing it with expertise and advice on thematic human rights issues and the Complaint Procedure which allows individuals and organizations to bring human rights violations to the attention of the Council. The Human Rights Council also works with the UN Special Procedures established by the former Commission on Human Rights and now assumed by the Council. These are made up of special rapporteurs, special representatives, and independent experts and working groups that monitor, examine, advice and publicly report on thematic issues or human rights situations in specific countries.⁹⁸

The Human Rights Council has passed many resolutions related to the adequate Housing or Shelter as follows:

- ❖ **Resolution No.6/27** Human Rights Council accepted a Resolution 6/27, title on 'Adequate housing as a component of the right to an adequate standard of living.'⁹⁹ Human rights council recalling the rights related to housing enshrined in the Universal Declaration of Human Rights and elaborated in other international human rights treaties and instruments. human rights council further recalling the principles and commitments with regard to adequate housing enshrined in the relevant provisions of declarations and programmes adopted by major United Nations conferences and summits and by special sessions of the General Assembly and their follow up meetings, inter alia, the Istanbul Declaration on Human Settlements and the Habitat Agenda and the Declaration on Cities and Other Human Settlements in the New Millennium adopted at the twenty-fifth special session of the General Assembly, and annexed to its resolution S 25/2 of 9 June 2001.¹⁰⁰
- ❖ **Resolution No.13/10** Concerned that any deterioration in the general housing situation disproportionately affects persons living in conditions of poverty, low-income earners, women, children, persons belonging to minorities and indigenous

⁹⁸ *Ibid.*

⁹⁹ Human Rights Council Resolution 6/27, "Adequate Housing as a Component of the Right to an Adequate Standard of Living", *available at*: https://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_6_27.pdf(last visited on August 14, 2020)

¹⁰⁰ *Ibid.*

peoples, migrants, the elderly and persons with disabilities, Recognizing that “mega-events”, that is, large-scale events of limited duration and diverse nature, including major international sporting or cultural events, can provide a major opportunity to enhance the housing stock and to improve the related infrastructure in host countries.¹⁰¹ Calls upon States, in the context of mega-events, to promote the right to adequate housing and to create a sustainable, development-oriented housing legacy, and to strive in this regard.¹⁰²

- ❖ **Resolution No. 15/8** this Resolution adopted by the Human Rights Council 15/8 on the title of ‘Adequate housing as a component of the right to an adequate standard of living.’¹⁰³ The Human Rights Council, Reaffirming all its previous resolutions as well as those adopted by the Commission on Human Rights on the issue of adequate housing as a component of the right to an adequate standard of living, including Council resolution 6/27 of 14 December, 2007 reaffirming also that international human rights law instruments, including the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration of Human Rights, entail obligations and commitments of States parties in relation to access to adequate housing. To promote the full realization of the right to adequate housing as a component of the right to an adequate standard of living; identify best practices as well as challenges and obstacles to the full realization of the right to adequate housing, and identify protection gaps in this regard; Apply a gender perspective, including through the identification of gender specific challenges to the realization of the right to adequate housing.

- ❖ **Resolution No. 19/4** A resolution adopted by the Human Rights Council 19/4, in 2012 on the title of ‘Adequate housing as a component of the right to an adequate

¹⁰¹ Resolution adopted by the Human Rights Council 13/10 “Adequate Housing as a Component of the Right to an Adequate Standard of Living”, in the context of mega-events, *available at*: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/128/45/PDF/G1012845.pdf?OpenElement>(last visited on August 14, 2020).

¹⁰² Resolution adopted by the Human Rights Council 13/10 “Adequate Housing as a Component of the Right to an Adequate Standard of Living”, in the context of mega-events, *available at*: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/128/45/PDF/G1012845.pdf?OpenElement>(last visited on August 14, 2020)

¹⁰³ Resolution adopted by the Human Rights Council 15/8 “Adequate Housing as a Component of the Right to an Adequate Standard of Living”, *available at*: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/166/26/PDF/G1016626.pdf?OpenElement>(last visited on August 14, 2020)

standard of living in the context of disaster settings.’¹⁰⁴ In this resolution the Human rights council has expressing its deep concern at the number and scale of natural disasters and extreme climate and weather events and their increasing impact in the context of climate change and urbanization, as well as other factors that might affect the exposure, vulnerability and capacity to respond to such disasters, which have resulted in massive loss of life, homes and livelihoods, together with forced displacement and long-term negative social, economic and environmental consequences for all societies throughout the world,¹⁰⁵ recognizing also that the integration of a human rights-based approach into the framework of disaster risk reduction, prevention and preparedness, as well as in all phases of disaster response and recovery, represents an important factor into the progressive realization of the right to adequate housing, and underlining in this regard the principles of participation and empowerment,¹⁰⁶ to ensure that all affected persons, irrespective of their pre-disaster tenure status and without discrimination of any kind, have equal access to housing that fulfills the requirements; to integrate, in post-disaster settings, including where temporary shelter is required as an interim response, the right to adequate housing as a key component of planning and implementation of humanitarian, reconstruction and development responses; to give due priority to the realization of the right to adequate housing for the most disadvantaged and vulnerable persons through housing reconstruction and the provision of alternative housing, especially by respecting the principles of nondiscrimination.¹⁰⁷

- ❖ **Resolution No. 25/17** this Resolution adopted by the Human Rights Council 25/17 in 14 April 2014 title on ‘Adequate housing as a component of the right to

¹⁰⁴ Resolution adopted by the Human Rights Council 19/4 , 3 “Adequate Housing as a Component of the Right to an Adequate Standard of Living in the Context of Disaster Settings”,(April 2012) available at: <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G12/126/85/PDF/G1212685.pdf?OpenElement>(last visited on August 14, 2020)

¹⁰⁵ *Ibid.*

¹⁰⁶ *Ibid.*

¹⁰⁷ Resolution adopted by the Human Rights Council 19/4 , 3, Adequate Housing as a Component of the Right to an Adequate Standard of Living in the Context of Disaster Settings”,(April 2012) available at: <https://documents-dds-ny.un.org/doc/Resolution/GEN/G12/126/85/PDF/G1212685.pdf?OpenElement>(last visited on August 14, 2020)

an adequate standard of living.’¹⁰⁸ Reaffirming that everyone is entitled to the right to adequate housing as part of an adequate standard of living without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, Recognizing that security of tenure enhances the enjoyment of the right to adequate housing and is significant to the enjoyment of many other economic, social, cultural, civil and political rights, and that all persons should possess a degree of security of tenure that guarantees legal protection against forced eviction, harassment and other threats, Recognizing also the need to promote, protect and strengthen a variety of tenure forms as part of mainstreaming human rights, in particular in urban development, including in housing and slum upgrading, urban planning, land management and land administration policies, to ensure social integration, with the full participation of all relevant stakeholders,¹⁰⁹

- ❖ **Resolution No. 31/9** The Human Rights Council on 23 March 2016 adopted a resolution 31/9, Adequate housing as a component of the right to an adequate standard of living, and the right to nondiscrimination in this context.¹¹⁰ Emphasizing that the adverse effects of climate change have a range of implications, both direct and indirect, for the effective enjoyment of human rights, inter alia, the right to adequate housing as a component of the right to an adequate standard of living, and welcoming the adoption of the Paris Agreement under the United Nations Framework Convention on Climate Change, Expressing deep concern at the number and scale of natural disasters, and in this regard welcoming the adoption of the Sendai Framework for Disaster Risk Reduction 2015- 2030.¹¹¹ Recognizing the homelessness is caused by the interplay of individual circumstances and broader systemic factors, and that fulfilling the right to adequate housing as a component of the right to an adequate standard of living

¹⁰⁸ Resolution adopted by the Human Rights Council 25/17, , “Adequate Housing as a Component of the Right to an Adequate Standard of Living”, (14 April 2014) *available at*: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/135/33/PDF/G1413533.pdf?OpenElement> (last visited on August 14, 2020)

¹⁰⁹ *Ibid.*

¹¹⁰ Resolution adopted by the Human Rights Council on 31/9, 19, “Adequate Housing as a Component of the Right to an Adequate Standard of Living, and the Right to Non-Discrimination in this Context”, (April, 2016) *available at*: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/081/55/PDF/G1608155.pdf?OpenElement> (last visited on August 14, 2020)

¹¹¹ *Ibid.*

requires developing and implementing long-term and human rights-based multi sectorial policies and strategies that are gender-responsive and simultaneously address discrimination, marginalization, social exclusion and housing deprivation.¹¹²

- ❖ **Resolution No.34/9** This Resolution adopted by the Human Rights Council on 23 March 2017 34/9, title on Adequate housing as a component of the right to an adequate standard of living and the right to non-discrimination in this context.¹¹³ The Human Rights Council, Reaffirming that international human rights law instruments, including the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, entail obligations and commitments of States parties, including all levels of government, in relation to access to adequate housing, Recalling all previous resolutions of the Human Rights Council, and those adopted by the Commission on Human Rights, on the issue of the right to adequate housing as a component of the right to an adequate standard of living, including Council resolutions 25/17 of 28 March 2014 and 31/9 of 23 March, 2016 recalling also its resolutions 5/1, on institution-building of the Human Rights Council, and 5/2, on the Code of Conduct for Special Procedures Mandate Holders of the Council, of 18 June 2007, Reaffirming the principles and commitments with regard to adequate housing enshrined in the relevant provisions of declarations and programmes adopted by major United Nations conferences and summits, inter alia, the outcome of the United Nations Conference on Housing and Sustainable Urban Development (Habitat III), held from 17 to 20 October 2016 in Quito, 1 and underlining the importance of the implementation of the 2030 Agenda for Sustainable Development, including target 11.1.¹¹⁴

- ❖ **Resolution No.37/4** Resolution adopted by the Human Rights Council on 22 March 2018 37/4, on the title of Adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this

¹¹² *Ibid.*

¹¹³ Resolution adopted by the Human Rights Council on 23 March 2017, 34/9, “Adequate Housing as a Component of the Right to an Adequate Standard of Living and the Right to Non-Discrimination in this Context”, (11 April 2017) available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/090/20/PDF/G1709020.pdf?OpenElement>(last visited on August 14, 2020)

¹¹⁴ *Ibid.*

context.¹¹⁵ Reaffirming the principles and commitments with regard to adequate housing enshrined in the relevant provisions of declarations and programmes adopted at major United Nations conferences and summits and at special sessions of the General Assembly and their follow-up meetings, inter alia, the New Urban Agenda, adopted at the United Nations Conference on Housing and Sustainable Urban Development (Habitat III),¹¹⁶ emphasizing the importance of housing to dignity and equal rights for persons with disabilities, who often face widespread and severe forms of discrimination in virtually all aspects of housing, from the inaccessible design of buildings to barriers to finance or discriminatory tenant selection and various forms of stigmatization, and acknowledging in particular that persons with disabilities are at a greater risk of violence within and outside of their homes simply because of their disability,¹¹⁷ Recognizing that security of tenure enhances the enjoyment of the right to adequate housing and is significant to the enjoyment of many other economic, social, cultural, civil and political rights, and that all persons should possess a degree of security of tenure that guarantees legal protection against forced eviction, harassment and other threats.¹¹⁸

3.3.1.7 United Nations Housing Rights Programme (UNHRP)

The United Nations Housing Rights Programme (UNHRP) was launched in April 2002, as a joint initiative by UN-HABITAT and the Office of the United Nations High Commissioner for Human Rights (OHCHR). The substantive focus of the programme is grounded in the Habitat Agenda which states that “Within the overall context of an enabling approach, Governments should take appropriate action in order to promote, protect and ensure the full and progressive realization of the right to adequate housing”. The development objective of the UNHRP is to assist States and other stakeholders with the implementation of their commitments in the Habitat

¹¹⁵ Resolution adopted by the Human Rights Council no.37/4. “Adequate Housing as a Component of the Right to an Adequate Standard of Living, and the Right to Non-Discrimination in this Context, (22 March 2018) available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/100/04/PDF/G1810004.pdf?OpenElement>(last visited on August 14, 2020)

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

Agenda to ensure the full and progressive realization of the right to adequate housing as provided for in international instruments.¹¹⁹

To achieve this objective the UNHRP is involved in the following actions at the global level:¹²⁰

- Development of standards and guidelines;
- Elaboration of existing international legal instruments and support for enhanced compliance by governments; and
- Development of a system to monitor and evaluate progress in the realization of housing rights.

The right to adequate housing (as a component of the right to an adequate standard of living) is enshrined in many international human rights instruments. Most notably among these are the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. During the 1990s, the right to adequate housing gained further increasing recognition among the human rights community, and many governments adopted or revised housing policies to include various dimensions of human rights. The Second United Nations Conference on Human Settlements (Habitat II) in 1996 harnessed this momentum. The outcomes of the Conference, the Istanbul Declaration and the Habitat Agenda, constitutes a framework where human settlements development is linked with the process of realizing human rights in general and housing rights in particular. Subsequently, the Commission on Human Settlements (today the Governing Council of UN-HABITAT) adopted resolution 16/7 on ‘the realization of the human right to adequate housing’ in May 1997. The resolution recommended that UN-HABITAT and OHCHR elaborate a joint programme to assist States with the implementation of their commitments to ensure the full and progressive realization of the right to adequate housing. More recently, the Commission on Human Rights in April 2001 adopted resolutions 2001/34 and 2001/28. The latter, on adequate housing as a component of the right to an adequate standard of living, requested the two agencies to strengthen their

¹¹⁹ UN Habitat: For a better urban future, *available at*:
<https://mirror.unhabitat.org/categories.asp?catid=282> (last visited on August 14, 2020)

¹²⁰ UN Habitat: For a better urban future, *available at*:
<https://mirror.unhabitat.org/content.asp?typeid=19&catid=282&cid=10126> (last visited on August 14, 2020)

cooperation and to consider developing a joint housing rights programme. These resolutions constitute the main mandate for the establishment of the United Nations Housing Rights Programme.¹²¹

3.4 OBSERVANCE OF INTERNATIONAL YEAR OF SHELTER ON HOUSING

These are the international years currently observed by the United Nations. The United Nations designates specific days, weeks, years and decades as occasions to mark particular events or topics in order to promote, through awareness and action, the objectives of the Organization. The United Nations General Assembly has declared 1987 the International Year of Shelter for the Homeless¹²² by its resolution 37/221 of 20 December 1982.¹²³ But it was declared earlier UN resolution 36/71 in 1981 by general assembly.¹²⁴ International Year of Shelter for the Homeless (IYSH) launched a new major initiative to stimulate effective action at the national and international levels to improve the shelter conditions of the homeless, the poor and the disadvantaged throughout the world. Responsibility for organizing and coordinating the activities for the Year was entrusted to the Commission on Human Settlements at the intergovernmental level, and the United Nations Centre for Human Settlements, UNCHS (Habitat), at the secretariat level.

The launching of the Year coincided with severe economic constraints in the developing countries which dampened hopes for achieving the goals and objectives of IYSH. Yet during the period from 1983 to the end of 1987 many governments made new commitments to ameliorate the inadequate shelter conditions of the poor and took serious steps towards adopting new or revised strategies and policies to that end. The organizations in the United Nations system, multilateral financial institutions, bilateral aid agencies and non-governmental organizations (NGOs) responded positively to the

¹²¹ Mandate, available at: <https://mirror.unhabitat.org/content.asp?typeid=19&catid=282&cid=10370> (last visited on August 14, 2020)

¹²² UN General Assembly, *International Year of Shelter for the Homeless*, A/RES/38/168, (19 December 1983) available at: <https://www.refworld.org/docid/3b00f0170.html> (last visited on August 22, 2020)

¹²³ International Year of Shelter for the Homeless, available at: [file:///E:/E_RES_1987_37-EN%20\(1\).pdf](file:///E:/E_RES_1987_37-EN%20(1).pdf) (last visited on August 14, 2020)

¹²⁴ International Year of Shelter for the Homeless, available at: <http://www.un-documents.net/a36r71.htm> (last visited on August 14, 2020)

challenges posed by the IYSH programme and contributed in many ways to the achievement of its objectives.¹²⁵

The objective of IYSH before and during the Year was to improve the shelter and neighborhoods of some of the poor and disadvantaged by the end of 1987, according to national priorities, and to demonstrate by the year 2000 ways and means of improving the shelter and neighborhoods of the poor and disadvantaged because a considerable part of the world's population does not have adequate shelter and lives in extremely unhealthy and unsanitary conditions and the lack of adequate housing for millions of people constitutes a serious social problem requiring urgent action at both the national and international levels.¹²⁶

3.5 REGIONAL AGREEMENTS FOR HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

The main regional treaties protecting human rights, the European Convention on Human Rights, the American Convention on Human Rights and the African Charter of Human and Peoples Rights – all recognize the right to life, the right not to be subjected to cruel, inhuman or degrading punishment and the right not to be subjected to arbitrary or illegal interference in one's private or family life or in one's home. These civil and political rights guarantee a partial protection of the right to adequate housing. Some regional treaties also recognize the right to adequate housing per se: the European Social Charter, the African Charter of the Rights and Well Being of the Child and the Protocol of the African Charter of Human and Peoples' Rights on the Rights of Women in Africa.

3.5.1 EUROPEAN REGIONAL ARRANGEMENTS

There are many European regional an agreement has been conducted for the protection of right to shelter and adequate housing which we have discuses as follows:

¹²⁵ Dr. Arcot Rama chandran, "International Year of Shelter for the Homeless: Activities and Achievements", (1987) *available at*: <https://www.sciencedirect.com/science/article/abs/pii/0264275188900042#:~:text=The%20United%20Nations%20General%20Assembly,and%20the%20disadvantaged%20throughout%20the> (last visited on August 14, 2020)

¹²⁶ International Year of Shelter for the Homeless, *available at*: [file:///E:/E_RES_1987_37-EN%20\(1\).pdf](file:///E:/E_RES_1987_37-EN%20(1).pdf) (last visited on August 14, 2020)

3.5.1.1 The Council of Europe

The Council of Europe is the continent's leading human rights organization. It includes 47 member states, 28 of which are members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights.¹²⁷ The Council was set up to defend human rights, parliamentary democracy and the rule of law, develop continent-wide agreements to standardize member countries' social and legal practices and promote awareness of a European identity, based on shared values and cutting across different cultures. While the European Social Charter (and Revised Charter) and Convention on Human Rights and Fundamental Freedoms are widely associated with the Council, it also addresses housing rights issues in other ways. In 2000, the CoE Committee of Ministers adopted a Recommendation on the Right to the Satisfaction of Basic Material Needs of Persons in Situations of Extreme Hardship. This acknowledged that: the satisfaction of basic human material needs (as a minimum: food, clothing, shelter and basic medical care) is a requirement intrinsic to the dignity of every human being and constitutes the condition for the existence of all human beings and their well-being.¹²⁸

The Recommendation considered that the recognition of an individual, universal and enforceable right, for persons in situations of extreme hardship, to the satisfaction of those needs, is a condition for the exercise of other fundamental rights and an indispensable element in a democratic State based on the rule of law. It recommended that the governments of the Member States recognize, at national level, an individual universal and enforceable right to the satisfaction of basic material needs a minimum: food, clothing, shelter and basic medical care for persons in situations of extreme hardship.¹²⁹ The Council of Europe has established significant legal instruments, which promote housing rights. These are the European Social Charter 1961 and Revised Charter (RESC) 1996 and in the indirect way the European Convention on Human Rights and Fundamental Freedoms 1950.

¹²⁷ About COE, available at: <https://www.coe.int/en/web/kyiv/the-coe/about-coe> (last visited on August 12, 2020)

¹²⁸ Dr. Padraic Kenna, "Housing Rights and Human Rights", available at: <http://www.nuigalway.ie/media/housinglawrightsandpolicy/Housing-rights-and-human-rights.pdf> (last visited on August 12, 2020)

¹²⁹ *Ibid.*

3.5.1.2 The European Convention on Human Rights and Fundamental Freedoms, 1950

The Convention for the Protection of Human Rights and Fundamental Freedoms, better known as the European Convention on Human Rights, was opened for signature in Rome on 4 November 1950 and came into force in 1953. It was the first instrument to give effect to certain of the rights stated in the Universal Declaration of Human Rights and make them binding.¹³⁰ Article 1 of the ECHR provides that the rights set out will be available to ‘everyone within the jurisdiction’ of the States Parties to the Convention.¹³¹ This means that all persons in any of the States, regardless of status, can avail of the protections of the Convention. Article 3 is related to prohibition of torture or inhuman or degrading treatment or punishment,¹³² Article 6 related with right to fair trial¹³³ and Article 14 concerned to the prohibition of discrimination, 21 have been interpreted by the ECHR in the context of housing.¹³⁴ The ECHRFF does not contain a right to housing per se. However, it includes civil and political rights provisions interpreted by the ECHR as leading to the development of housing rights, especially within Article 8 (respect for private life, family life, and home)

Article 8 has provided some significance in relation to housing with its protection of respect for the home:¹³⁵

(1) Everyone has the right to respect for his private and family life, his home and his correspondence.

(2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the

¹³⁰ European Convention on Human Rights, *available at*:

<https://www.echr.coe.int/Pages/home.aspx?p=basictexts> (last visited on August 12, 2020)

¹³¹ The European Convention on Human Rights and Fundamental Freedoms, 1950 art.1

¹³² Convention for the Protection of Human Rights and Fundamental Freedoms, 1950 Art. 3, Prohibition of torture- No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

¹³³ *Ibid.* art. 6

¹³⁴ *Ibid.* art. 14, Prohibition of discrimination- The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

¹³⁵ *Ibid.* art. 8

country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

3.5.1.3 The European Social Charter, 1961

The European Social Charter was adopted in 1961 and came into force on 26 February 1965.¹³⁶ This charter guarantees social and economic human rights complementing the civil and political rights protection secured by the ECHRFF. The ESC sets out the right to adequate housing and a number of housing-related rights and freedoms and establishes a supervisory mechanism carried out by, *inter alia*.

Article 31 of the ESC provides: With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:¹³⁷

1. To promote access to housing of an adequate standard;
2. To prevent and reduce homelessness with a view to its gradual elimination;
3. To make the price of housing accessible to those without adequate resources.

Accordingly, the main elements of the right to housing envisaged under the ESC are adequacy, prevention and reduction of homelessness and accessibility.

Thus, Article 31 cannot be interpreted as imposing on states an obligation of results. However, the States Parties must show a practical and effective application of rights by adopting the necessary means of ensuring steady progress towards achieving the goals of the ESC, maintaining meaningful statistics on needs, resources and results, undertaking regular reviews of the impact of the strategies adopted, establishing a timetable for achieving the objectives of each stage, and paying close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable.¹³⁸

Article 31 must be considered in the light of the ECHRFF and the ICESCR. States Parties should promote access to housing in particular to the different groups of

¹³⁶ European Social Charter, *available at*: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/035> (last visited on August 12, 2020)

¹³⁷ European Social Charter, art. 31

¹³⁸ Digest of the Case Law of the European Committee of Social Rights, Council of Europe, 169 (1 September 2008) *available at*: [www.coe.int/t/dghl/monitoring/Social charter/Digest/DigestSept2008_en.pdf](http://www.coe.int/t/dghl/monitoring/Social%20charter/Digest/DigestSept2008_en.pdf) (last visited on August 12, 2020)

vulnerable persons. Adequate housing means a dwelling which is safe from a sanitary and health point of view, not over-crowded, and with secure tenure supported by the law covered by Article 31(2).¹³⁹

The effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards, affordable and impartial legal and non-legal remedies. Any appeal procedure must be effective. 93 States must take action to prevent categories of vulnerable people from becoming homeless. In addition to a housing policy for all disadvantaged groups of people to ensure access to social housing Article 31(3), states must set up procedures to limit the risk of eviction.¹⁴⁰

Reducing homelessness requires the introduction of emergency measures, such as the provision of immediate shelter. There must be enough places, and the conditions in the shelters should be such as to enable living in keeping with human dignity. The temporary supply of shelter, however adequate, cannot be considered satisfactory. Measures should be taken to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness.¹⁴¹ Housing is affordable if the household can afford to pay initial costs deposit, advance rent, current rent and/or other housing-related costs e.g. utility, maintenance and management charges on a long-term basis while still being able to maintain a minimum standard of living, according to the standards defined by the society in which the household is located.¹⁴²

Apart from the general right to housing, the ESC also contains rights to housing in relation to physically and mentally disabled persons;¹⁴³ children and young persons¹⁴⁴; and social, legal, and economic protection for families, including a state obligation to provide family housing¹⁴⁵. The ESC grants migrant workers an explicit right to be treated equally in relation to access to housing¹⁴⁶ Article 19 and sets out the right of elderly persons to social protection and independent living by means of

¹³⁹ Arturs Kucs, Zane Sedlova & Liene Pierhurovica, "The Right to Housing: International, European and National Perspectives", *available at*: <http://www.corteidh.or.cr/tablas/r26740.pdf> (last visited on August 12, 2020)

¹⁴⁰ *Ibid.*

¹⁴¹ *Ibid.*

¹⁴² *Ibid.*

¹⁴³ The European Social Charter, 1961. Art.15

¹⁴⁴ *Ibid.* art 17

¹⁴⁵ *Ibid.* art 16

¹⁴⁶ *Ibid.* art 19

provision of housing suited to their needs and their state of health, or of adequate support for adapting their housing¹⁴⁷. Article 30 on rights to protection against poverty and social exclusion includes an obligation on contracting states to promote effective access to, *inter alia*, housing.

However, the regime provided for by the ESC is not deemed to be as effective as the supervision mechanism laid out in the ECHRFF involving the ECHR. Unlike the obligation to pay damages for a breach of the ECHRFF, derived from Article 41 of the ECHR, the scenario under the ESC supervisory regime leads to a Committee of Ministers' recommendation on an unsatisfactory application of the ESC Article 9 of the Additional Protocol to the ESC Providing for a System of Collective Complaints addressed to the state party, which further has to provide information on the measures it has taken to give effect to the recommendation. Therefore the satisfaction for the injured individuals is substantially greater under the ECHRFF than under the ESC.¹⁴⁸ The greater popularity of the ECHRFF might have been partially initiated by the ECHR itself as, according to Padraic Kenna, it deals with housing rights in an oblique manner, almost indifferent to its sister ECSR which is developing the jurisprudence on state obligations in this area on a regular basis.¹⁴⁹

3.5.1.4 The Revised European Social Charter, 1996

The Revised European Social Charter (RESC) of 1996 added some new rights in relation to the right to protection against poverty and social exclusion and the right to housing.¹⁵⁰ According to the part I of the revised charter 1996, The Parties accept as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realized: Article I of the RESC on the

¹⁴⁷ *Ibid.* art. 23

¹⁴⁸ Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, Council of Europe, 9 November 1995, CETS No.158

¹⁴⁹ Padriac Kenna, "Housing Rights: Positive Duties And Enforceable Rights" (The European Court Of Human Rights) *available at*: <http://www.refworld.org/pdfid/4eccbd7d2.pdf> (last visited on August 12, 2020)

¹⁵⁰ European Social Charter (Revised) Council of Europe Strasbourg 3.5.1996, *available at*: <http://www.coe.int>.

implementation of the undertakings given by States demonstrates the methods which can be used to address the housing rights set out in the Charter:¹⁵¹

Without prejudice to the methods of implementation foreseen in these articles the relevant provisions of Articles 1 to 31 of Part II of this Charter shall be implemented by: laws or regulations; agreements between employers or employers' organisations and workers' organisations; a combination of those two methods; other appropriate means. Certain Articles of the RESC include a right to housing:

- Article 15: Disabled persons have the right to independence, social integration and participation in the life of the community
- Article 16: The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development
- Article 19: Migrant workers who are nationals of a Contracting State Party and their families have the right to protection and assistance in the territory of any other State Party
- Article 23: Every elderly person has the right to social protection
- Article 30: Everyone has the right to protection against poverty and social exclusion
- Article 31: Everyone has the right to housing

Article 15 of the 1961 Charter was revised in the RESC of 1996 to oblige States to enable people with disabilities to access to housing in order to promote their full social integration and participation in the life of the community With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular article 15(3) to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to

¹⁵¹ Housing Rights and Human Rights, *available at*:
<http://www.nuigalway.ie/media/housinglawrightsandpolicy/Housing-rights-and-human-rights.pdf> (last visited on August 12, 2020)

overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.¹⁵²

Article 23 of the RESC incorporated the right of elderly persons to social protection, previously set out in Article 4 of the Additional Protocol of 1988: With a view to ensuring the effective exercise of the right of elderly persons to social protection, the Parties undertake to adopt or encourage, either directly or in cooperation with public or private organisations, appropriate measures designed in particular - to enable elderly persons to choose their life-style freely and to lead independent lives in their familiar surroundings for as long as they wish and are able, by means of provision of housing suited to their needs and their state of health or of adequate support for adapting their housing; the health care and the services necessitated by their state; to guarantee elderly persons living in institutions appropriate support, while respecting their privacy, and participation in decisions concerning living conditions in the institution.¹⁵³

Article 30 of the RESC was also new and obliged States to implement the right to protection against poverty and social exclusion. With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake;¹⁵⁴ to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance.

Article 31 of the RESC was also new and created a right to housing within the RESC: With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:¹⁵⁵

- To promote access to housing of an adequate standard;
- To prevent and reduce homelessness with a view to its gradual elimination;
- To make the price of housing accessible to those without adequate resources.

¹⁵² European Social Charter (Revised), 1996, art. 15

¹⁵³ *Ibid.* art. 23

¹⁵⁴ *Ibid.* art. 30

¹⁵⁵ *Ibid.* art. 31

3.5.1.5 European Union

On November 1st 1993 the European Union (EU) was put in force by the Maastricht Treaty, which was signed on February 7th 1992. The Maastricht treaty was a consolidation of amendments of existing treaties, primarily Treaty of Rome and the Single European Act. In 2009 the Lisbon Treaty came into force, changing the way the EU works.¹⁵⁶ Housing and housing rights as such are not formally a European Union competence; there are still several tools at EU level which relate in one way or another to the right to housing. These include the:

3.5.1.6 European Parliament

There have been a number of significant resolutions and reports from the European Parliament in relation to European housing policy issues. The Resolution on the Social Aspects of Housing of 1997 expressed the Parliament's desire to have the development of a housing policy at European level, based on efforts to provide adequate housing for all. The Resolution called on Member States to include within the Treaty provisions on fundamental social rights of people living in Europe, the right to decent and affordable housing for all. The opinion of the Committee of the Regions on 'Housing and the homeless' in 1999 stated that homelessness is one of the core issues in Community discussed on housing. It provided a historical European perspective on the issue, which has a resonance today in the context of the movement of asylum-seekers and immigrants.¹⁵⁷

In 2006, an all-party group of members of the European Parliament, 'Urban Logement' published proposals for a European Charter for housing that would make 'healthy, decent and affordable accommodation' a fundamental right of all European Union citizens'.¹⁵⁸

¹⁵⁶ Development of the European Union, *available at*: <https://www.library.unic.ac.cy/development-european-union> (last visited on August 12, 2020)

¹⁵⁷ Housing Rights, *available at*: <http://www.nuigalway.ie/media/housinglawrightsandpolicy/Housing-rights-and-human-rights.pdf> (last visited on August 12, 2020)

¹⁵⁸ Housing Rights: The Duty to Ensure Housing For All, *available at*: <https://rm.coe.int/16806da793> (last visited on August 12, 2020)

In 2007 the European Parliament adopted the Andrea Report on Housing and Regional Policy. Among others, The Parliament:¹⁵⁹

- Art. 3 Calls for the identification, at European level, of a series of quality indicators defining the concept of ‘adequate housing’
- Art. 4 Stresses the importance for the EU of adopting a European housing charter based on the work of Parliament’s Urban Housing Intergroup and on the charter approved by the political groups represented
- Art. 5 Insists on the need – in the context of the Lisbon Strategy – to strengthen the right to housing benefits and to other social rights, so that worker mobility can become a reality
- Art. 6 Hopes that national and local decision-makers will adopt measures to help young people get their first home
- Art. 22 “Hopes that, in the context of the revision of the regulations governing cohesion policy planned for 2009, the debate will be reopened on extending access to Community funds for the renovation of social housing to all Member States in order to save energy and protect environment, which is currently provided for only for certain countries.

In 2008 the European Parliament adopted a Declaration on ending street homelessness. This is to give the necessary political impetus to the Member States to impulse this issue like a priority. Among others, the European Parliament:¹⁶⁰

- Art. 2: Calls on the Commission to develop an EU framework definition of homelessness, gather comparable and reliable statistical data, and provide annual updates on action taken and progress made in Member States towards ending homelessness.
- Art. 3: Urges Member States to devise winter emergency plans as part of a wider homelessness strategy.

3.5.1.7 The Charter of Fundamental Rights, 2000

The Charter of Fundamental Rights of the European Union enshrines certain political, social, and economic rights for European Union (EU) citizens and residents into EU law. It was drafted by the European Convention and solemnly proclaimed on

¹⁵⁹ Legal Frameworks Right to the European Housing, *available at*: <http://educpop-droits.eu/en/legal-frameworks-right-to-the-european-housing/> (last visited on August 12, 2020)

¹⁶⁰ *Ibid.*

7 December 2000 by the European Parliament, the Council of Ministers and the European Commission. However, its legal status was uncertain and it did not have full legal effect until the entry into force of the Treaty of Lisbon on 1 December, 2009.¹⁶¹ Under the Charter, the European Union must act and legislate consistently with the Charter and the EU's courts will strike down legislation adopted by the EU's institutions that contravenes it. The Charter applies to the Institutions of the European Union, and its member states but only when the latter are opposing the Charter by implementing EU law. The Charter does not extend the competences of the EU.¹⁶²

The Charter of Fundamental Rights of the European Union affirms several principles that the Right to Housing is linked directly or indirectly.

Art. 1: Human dignity is inviolable. It must be respected and protected.¹⁶³

Art. 7: Everyone has the right to respect for his private and family life, his home and communications.¹⁶⁴

Art. 17: Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. The use of property may be regulated by law in so far as is necessary for the general interest.¹⁶⁵

Art. 20: Everyone is equal before the law.¹⁶⁶

Art. 21: Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited.¹⁶⁷

In the Charter of Fundamental Rights of the European Union lays the groundwork for the house into Community competence, through its Article 34 clause

¹⁶¹ EU Housing Rights, available at: <http://housingrightswatch.org/page/eu-housing-rights#:~:text=%20EU%20Housing%20Rights%20%201%20EU%20CHARTER,a%20body%20of%20the%20European%20Union...%20More%20> (last visited on August 12, 2020)

¹⁶² *Ibid.*

¹⁶³ Charter of Fundamental Rights of the European Union (2000/C 364/01), Art.1-Human Dignity

¹⁶⁴ *Ibid.* Art. 7-Respect for Private and Family Life

¹⁶⁵ *Ibid.* Art. 17-Right to Property

¹⁶⁶ *Ibid.* Art. 20-Equality Before the Law

¹⁶⁷ *Ibid.* Art. 21-Non-Discrimination

3 indicating that the Union should recognize and respect the right to housing assistance. In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices.¹⁶⁸ The ratification of the Lisbon Treaty by the Member States and its entry into force on December, 2009 resulted in the implementation of the Charter of Fundamental Rights of the European Union. Monitoring methods of the Charter of Fundamental Rights was set up. Each Member State shall establish a plan with priorities for the coming years.¹⁶⁹

3.5.1.8 European Charter for Housing, 2006

An Intergroup Urban Housing within the European Parliament they have published proposals for the adoption of a European Housing Charter which should establish as a fundamental right for all citizens of the Union. The European Charter Housing was adopted in 2006.¹⁷⁰

A group of Belgian social movements has summarized the content of these articles:¹⁷¹

- Article 1 recalls the importance of the implementation of fundamental social rights and the importance of housing in the context of social inclusion objectives.¹⁷²
- Article 2 states that it is for governments to combat the problems of exclusion and it is not to support the weight of social inclusion only to owners.¹⁷³
- Article 3 underlines the importance and role of the housing sector in the context of economic cohesion objectives of the European Union. Housing is a privileged field of direct and indirect jobs as sector labor intensive force.¹⁷⁴
- Article 4 takes stand against spatial segregation, against the creation of ghettos and territorial cohesion and social diversity.¹⁷⁵

¹⁶⁸ *Ibid.* Art. 34-Social security and social assistance

¹⁶⁹ Legal Framework Right to the European Housing, *available at:* [Http://educpop-Droits.Eu/En/Legal-Frameworks-Right-To-The-European-Housing/](http://educpop-droits.eu/en/legal-frameworks-right-to-the-european-housing/) (Last Visited On August 12, 2020)

¹⁷⁰ Legal Frameworks Right to the European Housing, *available at:* <http://educpop-droits.eu/en/legal-frameworks-right-to-the-european-housing/> (last visited on August 12, 2020)

¹⁷¹ *Ibid.*

¹⁷² European Charter for Housing, 2006 art. 1-Housing: a necessary good, a fundamental social right, component of the European social pattern

¹⁷³ *Ibid.* art. 2-Housing: a key factor for social inclusion and protection of social cohesion of the European Union

¹⁷⁴ *Ibid.* Article 3.-Housing: a Lever for Economic Cohesion of the European Union

- Article 5 requires greater consideration of the importance of air pollution from buildings with the objective of sustainable urban development.¹⁷⁶
- Article 6 recommends that the European Union is developing a supportive and incentive framework for the development of Member States' housing policies as part of the implementation of the Lisbon Strategy.¹⁷⁷
- Article 7 recalls the European Parliament's position on the eligibility of expenditure to structural funds for renovation of social housing with vocation.¹⁷⁸
- Article 8 refers to the help the EU can provide under the social inclusion strategy.¹⁷⁹
- Article 9 focuses on building a public – private partnership with the objective of improving the quality and quantity of housing supply in the territory of the European Union.¹⁸⁰
- Article 10 calls for the establishment of a European Monitoring housing that allows the Union to have objective data on which it could base its decisions.¹⁸¹
- Article 11 envisages consideration the views of various stakeholders in the housing representative at European level through the drafting of a white paper or on the basis of the creation of an advisory body.¹⁸²

3.5.2 AMERICAN REGIONAL INSTRUMENTS

American regional systems have not explicitly protected housing rights to the same extent as the European system, and thus do not have the same depth of jurisprudence, but some American regional instruments indirectly applied to adequate housing.

3.5.2.1 The Charter of the Organization of American States (OAS Charter), 1948

Charter of the organization of American states signed at Bogotá, on 30 April 1948 and Came into force on 13 December, 1951, in accordance with article 109 and

¹⁷⁵ *Ibid.* Article 4.-Housing : An Inescapable Component of the European Union Territorial Cohesion

¹⁷⁶ *Ibid.* Article 5.- A full-fledged component of the European Union sustainable urban development

¹⁷⁷ *Ibid.* Article 6.-The role of the European Union

¹⁷⁸ *Ibid.* Article 7.-The cohesion policy

¹⁷⁹ *Ibid.* Article 8.-The social inclusion strategy

¹⁸⁰ *Ibid.* Article 9.-Building on the public-private partnership

¹⁸¹ *Ibid.* Article 10.-The European Observatory for Housing

¹⁸² *Ibid.* Article 11.-Standardization and the role of the European Parliament

the instruments of ratification of two-thirds of the signatory States having been deposited by that date with the Pan-American Union.¹⁸³ Article 34 (k) of the charter, stated that the member States of the charter have the basic goal to accomplish adequate housing for all sectors of society.¹⁸⁴ According to the article 34 with clause (k) the Member States agree that equality of opportunity, the elimination of extreme poverty, equitable distribution of wealth and income and the full participation of their peoples in decisions relating to their own development are, among others, basic objectives of integral development. To achieve them, they likewise agree to devote their utmost efforts to accomplishing the some basic goals in which to accomplish adequate housing for all sectors of society.¹⁸⁵

3.5.2.2 American Declaration of the Rights and Duties of Man, 1948

The American Declaration was adopted at the Ninth International Conference of American States on 2 May 1948 in Bogota, Colombia. The American Declaration is considered the formal beginning of the Inter-American system for the protection and promotion of fundamental rights. The American Declaration of the Rights and Duties of Man is a non-binding declaration on the fundamental human rights to an individual. It outlines the economic, social, and cultural rights, as well as equality under the law. The American Declaration has a preamble and two chapters. The focus is on the principle of human equality in dignity. Human rights and the duties of man are complementary, and spiritual and cultural development is the fundamental objective of human beings.¹⁸⁶

The American Declaration provisions have not directly applicable to adequate housing but some limited protections with respect to housing, and other-regarding property have available.

¹⁸³ Charter1 of The Organization of American States, 1948, *available at*: <https://treaties.un.org/doc/Publication/UNTS/Volume%20119/volume-119-I-1609-English.pdf> (last visited on August 12, 2020)

¹⁸⁴ Charter of the Organization of American States (A-41), 1948, art. 34(k), *available at*: http://www.oas.org/en/sla/dil/inter_american_treaties_A-41_charter_OAS.asp (last visited on August 12, 2020)

¹⁸⁵ Ibid.

¹⁸⁶ The American Declaration of the Rights and Duties of Man, *available at*: <http://humanrightscommitments.ca/wp-content/uploads/2018/10/American-Declaration-of-the-Rights-and-Duties-of-Man.pdf> (last visited on August 12, 2020)

There are some provisions related to housing as follows:¹⁸⁷

Article I. Every human being has the right to life, liberty, and the security of his or her person.

Article II. All persons are equal before the law and have the rights and duties established in this declaration, without distinction as to race, sex, language, creed, or any other factor.

Article V. Every person has the right to the protection of the law against abusive attacks upon his or her honor, his or her reputation and his or her private and family life.

Article VIII. Every person has the right to fix his or her residence within the territory of the state of which he or she is a national, to move about freely within such territory, and not to leave it except by his or her own will.

Article IX. Every person has the right to the inviolability of his or her home.

Article XI. Every person has the right to the preservation of his or her health through sanitary and social measures relating to food, clothing, housing, and medical care, to the extent permitted by public and community resources.

Article XVIII. Every person may resort to the courts to ensure respect for his or her legal rights. There should likewise be available to him or her simple, brief procedure whereby the courts will protect him or her from acts of authority that, to his or her prejudice, violate any fundamental constitutional rights.

Article XXIII. Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and the home.

3.5.2.3 The American Convention on Human Rights, 1969

American convention on human rights Adopted at the Inter-American Specialized Conference on Human Rights, San José, Costa Rica, 22 November, 1969.¹⁸⁸ The convention recognizing that the essential rights of man are not derived from one's being a national of a certain state but based upon attributes of the human

¹⁸⁷ American Declaration of Tile Rights and Duties of Man, *available at*: <https://link.springer.com/content/pdf/bbm%3A978-94-011-9514-0%2F1.pdf> (last visited on August 12, 2020)

¹⁸⁸ American Convention on Human Rights, *available at*: https://www.cartercenter.org/resources/pdfs/peace/democracy/des/amer_conv_human_rights.pdf (last visited on August 12, 2020)

personality, and that they therefore justify international protection in the form of a convention reinforcing or complementing the protection provided by the domestic law of the American states.¹⁸⁹

The convention does not recognize the right to housing *per se*. It rather offers an indirect recognition to the right by guaranteeing the right of an individual to be free from arbitrary non-interference with his private life, family, home or correspondence as well as unlawful attacks on his honors and reputation.¹⁹⁰ The American Convention, meanwhile, contains provisions guaranteeing certain property rights, which, again, have been interpreted to include land.¹⁹¹

There are some provisions of this convention which is related indirectly to the housing. That article 1 imposes the obligation on the state parties;¹⁹² article 11 is related with the enjoyment of right to privacy;¹⁹³ Article 24 stated that right to equal protection.¹⁹⁴

3.5.2.4 Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights “Protocol of San Salvador”, 1988

Additional Protocol to the ACHR in the Area of ESCR "Protocol of San Salvador" Adopted in San Salvador at the Eighteenth Regular Session of the General Assembly of the Organization of American States on 17 November, 1988.¹⁹⁵

The Additional Protocol to the ACHR in the Area of Economic, Social and Cultural Rights of 1988 Protocol of San Salvador is silent on this right, it however

¹⁸⁹ American Convention on Human Rights "Pact of San Jose, Costa Rica" (B-32), *available at*: https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.pdf (last visited on August 12, 2020)

¹⁹⁰ S. M. Atia Naznin, "Researching the Right to Housing", *available at*: https://www.nyulawglobal.org/globalex/Housing_Rights.html (last visited on August 12, 2020)

¹⁹¹ United Nations Housing Rights Programme Report No. 1 on Housing rights legislation: Review of international and national legal instruments, (Nairobi, 2002), *available at*: <https://www.ohchr.org/Documents/Publications/HousingRightsen.pdf> (last visited on August 12, 2020)

¹⁹² Organization of American States (OAS), American Convention on Human Rights, "Pact of San Jose", Costa Rica, 22 November 1969, *available at*: <https://www.refworld.org/docid/3ae6b36510.html> (last visited on August 30, 2020)

¹⁹³ *Ibid.*

¹⁹⁴ *Ibid.*

¹⁹⁵ Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador" (1988), *available at*: <https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/4AdditionalProtocoltotheAmericanConventiononHumanRightsintheAreaofEconomic,SocialandCulturalRightsProtocolofSanSalvador198.aspx> (last visited on August 12, 2020)

provides for the right of everyone to live in a healthy environment and to have access to basic public services which is relevant in the enjoyment of the right to adequate housing.

According to the Article 1 of this protocol everyone shall have the right to live in a healthy environment and to have access to basic public services,¹⁹⁶ and the States Parties shall promote the protection, preservation, and improvement of the environment.¹⁹⁷

3.5.3 AFRICAN REGIONAL ARRANGEMENTS

At the African level, the right to adequate housing does not expressly guarantee in the African regional human rights instruments. However, these rights are not outside the scope of interpretative possibilities open to the African supervisory bodies and would be well-covered by a combined reading of ACHPR.¹⁹⁸ The African Commission confirmed this in *The Social and Economic Rights Action Centre et al. V. Nigeria*, Communication 155/96 where it found violations of the rights to housing and food, neither of which are expressly recognized by the Charter. In an innovative interpretation, the Commission held that the right to housing or shelter is implicitly entrenched in the totality of the right to enjoy the best attainable standard of mental and physical health, the right to property and the protection of the family.¹⁹⁹

3.5.3.1 African Charter on Human and Peoples Rights, 1981

The African States members of the Organization of African Unity, parties to the present convention entitled African Charter on Human and Peoples Rights.²⁰⁰

African [Banjul] Charter on Human and Peoples' Rights, adopted on June 27, 1981, and come into force October 21, 1986.²⁰¹

¹⁹⁶ Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador" (1988), art. 11(1)

¹⁹⁷ *Ibid.* art. 11(2)

¹⁹⁸ The Right to an Adequate Standard of Living, *available at*: <http://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/substantive-human-rights/the-right-to-an-adequate-standard-of-living> (last visited on August 12, 2020)

¹⁹⁹ *Ibid.*

²⁰⁰ African [Banjul] Charter on Human and Peoples' Rights, 1981, Preamble

²⁰¹ Human rights library, *available at*: <http://hrlibrary.umn.edu/instate/z1afchar.htm> (last visited on August 12, 2020)

There are numerous provisions of the charter refer to the direct and indirect protection to the right to housing. For instance, it prohibits arbitrary and unlawful interference with the enjoyment of the right to property under article 14, which is stated that the right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.²⁰² The right to a highest attainable standard of mental and physical health, under article 16 which is stated that every individual shall have the right to enjoy the best attainable state of physical and mental health,²⁰³ and States Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.²⁰⁴ In addition, the protection accorded to the family under article 18.1, which is stated that the family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.²⁰⁵

3.5.3.2 The African Charter of the Rights and Well Being of the Child, 1990

African Charter on the Rights and Welfare of the Child was adopted by the African Member States of the Organization of African Unity, on 11 July, 1990.²⁰⁶ This charter has recognized that the child, due to the needs of his physical and mental development requires particular care with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security.²⁰⁷

African Charter, the African Charter on the Rights and Welfare of the Child of 1990 guarantees children's right to housing. Article 20(2)(a) on "parental responsibilities" requires that States parties take "appropriate measures", "in accordance with their means and national conditions", towards assisting "parents and other persons responsible for the child and in case of need provide material assistance

²⁰² African Banjul Charter on Human and Peoples' Rights, 1981, art 14

²⁰³ *Ibid.* art. 16(1)

²⁰⁴ *Ibid.* art. 16(2)

²⁰⁵ *Ibid.* art. 18(1)

²⁰⁶ African Charter on the Rights and Welfare of the Child (1990), *available at*:

[https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/2AfricanCharterontheRightsandWelfareoftheChild\(1990\).aspx](https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/2AfricanCharterontheRightsandWelfareoftheChild(1990).aspx) (last visited on August 12, 2020)

²⁰⁷ *Ibid.*

and support programmes particularly with regard to housing”. The provision clearly places the primary responsibility for the provision of housing on parents, with the State’s role being to ensure the conditions necessary for parents to meet this responsibility.²⁰⁸ The charter imposes a positive obligation upon the State parties to take all appropriate measures as per their capacity and means to assist parents and other responsible persons for the child to ensure adequate housing facilities.²⁰⁹

3.5.3.3 Constitution of the Republic of South Africa, 1996

The Constitution of the Republic of South Africa, 1996, was approved by the Constitutional Court (CC) on 4 December 1996 and took effect on 4 February, 1997. South Africa’s Constitution is one of the most progressive in the world and enjoys high acclaim internationally.²¹⁰ The South African Constitution, has provide right to housing under Article 26 and stated that Everyone has the right to have access to adequate housing,²¹¹ and he state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.²¹² In addition, no one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances and no legislation may permit arbitrary evictions.²¹³

The South African Constitution also uses the term “shelter” when providing for this right in relation to children. Section 28(1) (c) of the Constitution states that “every child has the right ... to basic nutrition, shelter, basic healthcare services and social services,” the use of “shelter”, as explained by the Constitutional Court, does not mean that it bears a different meaning from the word “housing”. The Court held further that “housing and shelter are related concepts and one of the aims of housing is to provide physical shelter. But shelter is not a commodity separate from housing”.

²⁰⁸ Lilian Chenwi, “The right to Adequate Housing in the African Regional Human Rights System: Convergence or Divergence between the African Commission and South African approaches”, (2013), *available at*: <https://journals.co.za/content/lddev/17/si-1/EJC151570> (last visited on August 12, 2020)

²⁰⁹ African Charter on the Rights and Welfare of the Child (1990), art. 20(1)

²¹⁰ The Constitution of the Republic of South Africa, *available at*: <https://www.gov.za/documents/constitution/constitution-republic-south-africa-1996-1#:~:text=The%20Constitution%20of%20the%20Republic%20of%20South%20Africa%2C%201996%2C%20was,supreme%20law%20of%20the%20land.&text=South%20Africa's%20Constitution%20is%20one,and%20enjoys%20high%20acclaim%20internationally.> (last visited on August 12, 2020)

²¹¹ Constitution of the Republic of South Africa No. 108 of 1996, art-26(1)- Housing

²¹² *Ibid.* art. 26(2)

²¹³ *Ibid.* art. 26(3)

Also that “shelter” is not limited to basic shelter alone as it “embraces shelter in all its manifestations”.²¹⁴

The South African Constitution’s congruence with the African Children’s Charter is evident from the interpretation of this right by the South African Constitutional Court. The Court was of the view that parents or family bear the primary responsibility to provide shelter for children that they care for, and only alternatively does this obligation shift to the state. This does not mean that the State incurs no obligation towards children who are cared for by parents or families. Similar to the position under the African Children’s Charter, the state bears an obligation to “provide the legal and administrative infrastructure necessary to ensure that children” enjoy their right to shelter, which can be achieved through enacting laws and creating enforcement mechanisms for the maintenance of children, their protection from maltreatment, abuse, neglect or degradation, and the prevention of other forms of abuse of children. The state therefore has primary obligation towards children in relation to the direct provision of shelter to them when they are removed from their families.²¹⁵

3.5.3.4 The Protocol of the African Charter of the Human and Peoples Rights on the Rights of Women in Africa, 2003

The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (African Women’s Protocol) was adopted by the 2nd Ordinary Session of the Assembly of the Union at Maputo, Mozambique on 11 July 2003, and come into force on 25 November 2005.²¹⁶

Article 16 of the Protocol guarantees women’s right to adequate housing. It guarantees “equal access to housing and to acceptable living conditions in a healthy environment” for women, and requires that for this right to be effectively realised, States parties have to “grant to women, whatever their marital status, access to adequate housing”. The right is thus guaranteed to all women irrespective of their marital status. This can be contrasted with the criteria for access to state subsidized

²¹⁴ Lilian Chenwi, “The Right to Adequate Housing in the African Regional Human Rights System: Convergence or Divergence between the African Commission and South African approaches”, (2013) available at: <https://journals.co.za/content/lddev/17/si-1/EJC151570> (last visited on August 12, 2020)

²¹⁵ *Ibid.*

²¹⁶ Protocol to The African Charter on Human and People’s Rights on The Rights of Women In Africa, available at: https://au.int/sites/default/files/treaties/37077-treaty-charter_on_rights_of_women_in_africa.pdf (last visited on August 12, 2020)

housing in the South African context, which requires that a woman should be Status of married or single with financial dependents.²¹⁷

3.6 STATISTICS ON WORLD'S HOMELESSNESS

Beyond the problems of housing, strictly speaking (having a roof over one's head), what is most worrying is the condition that housing may be in. More than a billion persons throughout the world have no access to potable water, and 2.6 billion persons have no access to basic sanitary installations. These persons live in unhealthy and unworthy conditions; millions among them die each year, including some 1.8 million children who die of diarrhea.²¹⁸ As important as they may be, sanitary conditions are not the only housing problem.

The right to adequate housing brings in its wake dramatic consequences and causes numerous violations of human rights in such areas as employment, education, health, social ties, participation in decision-making etc. Although two world conferences specifically devoted to questions of housing and related summits, all organized by the United Nations during the three preceding decades, have provided an opportunity to sensitize public opinion to the seriousness of the situation, there has been no follow up to the declarations and actions plans adopted. The Millennium Declaration, adopted 13 September 2000 by the U.N. General Assembly is no exception to this. Moreover, it does not deal with structural causes of poverty in the world,²¹⁹ and the two Millennium Goals related to the question of housing are timid, indeed: considerably improve the life of at least 100 million slum dwellers by 2020, and reduce by half the proportion of persons who have no access to potable water by 2015.²²⁰ The number of unsheltered people in families with children increased for the first time since data collection began. In 2020, just fewer than 172,000 people in families with children were experiencing homelessness. While most people in

²¹⁷ Lilian Chenwi, "The Right to Adequate Housing in the African Regional Human Rights System: Convergence or Divergence between the African Commission and South African approaches" (2013), *available at*: <https://journals.co.za/content/lddev/17/si-1/EJC151570> (last visited on August 12, 2020)

²¹⁸ Unite Nation Development Programme, "Beyond scarcity: Power, Poverty and the Global Water Crisis", "Forward" (Human Development Report 2006) *available at*:

<http://hdr.undp.org/hdr2006/pdfs/report/HDR06-complete.pdf>(last visited on August 14, 2020)

²¹⁹ CETIM "The Right to Development", (Geneva, June 2007) *available at*: <https://www.un.org/en/development/devagenda/millennium.shtml> (last visited on September 6, 2020).

²²⁰ A/RES/55/2: <http://www.un.org/millennium/declaration/ares552e.htm>(last visited on August 14, 2020)

families with children were in sheltered locations, the number of unsheltered people in families increased by 13 percent. This increase offset a decline in sheltered people in families with children, so the overall level of family homelessness was essentially the same in 2020 as in 2019²²¹.

These goals are insufficient, and it is more and more generally admitted that the Millennium Goals overall will not be reached within the allotted time frame. Worse, the proposed approach for reaching them - increasing financing for the construction of new housing for the poorest - is largely inadequate. What is needed in order to realize the right of all adequate housing is to attack the deep rooted causes of non-access to housing throughout the world? These causes have been identified by the United Nations.

3.7 CONCLUSION

Housing rights are now enjoyed by people in Europe at a number of levels, depending on the status of the person claiming such rights. These levels are becoming more stratified as the EU expands and deals with the influx of non-EU nationals. From the national housing rights of citizens of Member States to the housing rights of migrant workers, third country nationals, asylum seekers and illegal immigrants, there is a developing hierarchy of levels of housing rights protection. For those at the 'bottom of the ladder' there are major risks arising from lack of housing rights protection. In the wake of the terrible fires in Paris in 2005, the European Federation of National Organisations working with the Homeless has raised the crisis of housing for those who are excluded in Europe.

For very poor people the terrible pressure of the housing market increasingly leads to social exclusion and, in some cases, to a situation of social emergency, where people find themselves without resources, reduced to sleeping in the street. The figures speak for themselves: rough sleeping is increasing in major cities across Europe. It's not just Paris - almost all large urban areas are finding themselves face to face with similar problems. The horrors that the Paris fires showed up is tip of the

²²¹ The Annual Homeless Assessment Report (AHAR) to Congress, (2020), *available at*: <https://www.huduser.gov/portal/sites/default/files/pdf/2020-AHAR-Part-1.pdf> (last visited on July 14, 2021)

iceberg; there is worse. Increasing numbers of people sleep in doorways, squats, abandoned buildings and other places not meant for habitation. What is more, the profile of these people is changing. They are not only the middle aged, often alcoholic men who are associated with rough sleeping and who are often held to be to blame for their own situation. Nowadays, it is frequently women, families with children, migrants and young people who find themselves homeless or in a situation of social and housing emergency. The trigger of their plight is usually housing affordability, leading to a spiral of exclusion, affecting health, employment options, education of children etc. Housing exclusion due to lack of affordable housing also creates an extreme vulnerability to exploitation. It has led to a new and frightening form of housing exploitation: mattress rental by so-called “sleep dealers”. In effect, exploitative landlords rent out mattresses in overcrowded conditions for eight hour shifts at exorbitant prices.



CHAPTER-4

NATIONAL LAWS, POLICIES AND PROGRAMMES ON HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING



CHAPTER-4

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4.1 INTRODUCTION

Urbanization inevitably accompanies promises as well as challenges; usually that urbanization leads to growth in demand for housing of all varieties low- the cost to high -end surpassing the supply. Transformative to offset the urbanization –driven crisis of housing become necessary. The cities across societies witness transformative intervention in addressing the urbanization-induced challenges in managing sanitation hygiene wastage and maintaining. The sewerage and waste disposal system was introduced in the city of London to contain deteriorating public health due to the enormous growth of London-based industries and metropolitan populations during the late nineteenth century. In British India, the initiative had also been taken to improve the sanitary situation in three presidencies viz.; Madras, Bombay, and Calcutta. The twenty-first century urban India witnessed the launching of Jawaharlal Nehru National Urban Renewal Mission, 2005 aimed at ‘first-track planned development of identified cities¹’. A desire for housing transcends time, class, and culture. It is chiefly because of housing, is an ‘asset with an embedded value that keeps appreciating’, promises ‘enhanced financial stability and social inclusion’.²

It is on these basic principles India continues to strive to provide its people the basic socio-economic necessities such as food, clothing, and shelter, and so on³. Housing policies of the Government of India have come a long way since the 1950s. While at the start of “planned development” the policies were more welfare centric, later on, this came to be driven by a well-defined constellation of economic interests. The role of the government has also changed gradually from being a provider of

¹ Asish Mukhopadhyay, *Urbanization and Housing State, Market and Consumer* 49(Rawat publications, New Delhi, 2017)

² *Ibid.*

³ V.K. Krishna Iyear, “Housing as a Right”, *Kurukshetra* 23 (1996)

housing which means affordable and adequate housing for all to being merely a facilitator of housing activity.⁴

Since the initiation of the five-year plan in India in 1950, the housing agencies have evolved numerous housing programmes. The change in the design of these programmes reflects the changes due to the housing policies. The housing policies of the government have witnessed two major changes over the various plans: first, the role assigned to the various actors in the housing sector; and, second, standards and norms for housing and urban development. The direct government intervention in the housing sector was warranted due to, first, insubstantial house construction effort by the private sector, especially for the poorer segments of the population, second, haphazard growth of urban areas, and, third, decay of the existing housing stock⁵.

Over the past decades, housing has, however, remained largely a private sector and people's activity. Creating a conducive environment for the private sector a huge investment and various operations were accepted and initiative as a policy objective but were not adequately carried out at the policy formulation level. A private sector-led housing programme did not, therefore, take off in the desired direction and at the required pace. The private sector initiative was impeded due to non-availability of developed sites in rapidly growing towns, lack of efforts by private builders, inadequate institutional arrangements for housing finance, slow progress of cooperative housing, and inadequate organizational set-up at the state level to undertake extensive housing programmes thus lack adequate housing for the poor resulted in the mushrooming of sub-standard settlements⁶ or increasing of homelessness.

The Ministry of Housing & Urban Poverty Alleviation is the apex authority of the Government of India. The formulation of housing policy and programme, review of the implementation of the planning scheme, collection, and dissemination of data on housing, building materials/techniques, and for adopting general measures for the

⁴ Gaurav Mittal, "A Short History of Housing Policies in Independent India", 165 (2014) available at: <http://housing.hydilab.in/?p=165> (last visited on August 10, 2019)

⁵ Ummareddy Venkateswarlu, *Urbanization in India: Problems and Prospects* 175 (New Age International (p) Ltd., Publishers, New Delhi, 1998)

⁶ *Ibid.*

reduction of building costs. In addition, it is entrusted with the implementation of the specific programmes of urban employment and urban poverty alleviation, including the provision of basic amenities to the urban poor and support for the establishment of micro-enterprises by skill development of the poor. Later on, the matters about the housing and urban development have been assigned by the Constitution of India to the State Governments. The Constitutional 74th Amendment Act has further delegated many of these functions to the urban local bodies. Although these are essentially State subjects yet the Government of India plays a coordinating and monitoring role and also supports these programmes through centrally sponsored schemes.

In order to mitigate the housing shortage along with deficiencies in basic services and consonance with the changing policy environment, the Ministry announced the National Urban Housing and Habitat Policy, 2007. This Policy focuses on affordable housing for all with special emphasis on economically weaker sections of the society such as Schedule caste (SCs), Schedule Tribes (STs), Other Backward Caste (OBCs), Minorities, women-headed households, and the physically challenged.⁷

4.2 CONSTITUTIONAL PROVISIONS

Many national and municipal laws in a number of countries around the world provide for the guarantee of the human right to adequate housing and land. India also has certain constitutional provisions and laws that make it obligatory for the state to provide the right to adequate housing to all its citizens. The Constitution of India is firmly grounded in the principles of liberty, fraternity, equality and justice. The list of constitutional provisions that have a bearing on the right to adequate housing including women's and children's rights to adequate housing, are:

4.2.1 Preamble of the Constitution

The preamble of any documents reflected the objectives meaning thereby for what purpose such document is to be framed like the preamble of the Indian constitution also given the various objectives. Justices to be achieved like economic justice, political justice and social justice. The social justice denotes the equal

⁷Government of India, "Annual Report 2011-2012" (Ministry of Housing & Urban Poverty Alleviation, 2012) *available at*: <http://mohua.gov.in/upload/uploadfiles/files/AR2011-12-1-105.pdf> (last visited on August 10, 2019)

treatment of all citizens without any social distinction based on caste, colour, race, religion, sex and so on. It means absence of privileges being extended to any particular section of the society, and improvement in the conditions of backward classes (SCs, STs, and OBCs) and women. Social Justice is the foundation stone of Indian Constitution. Indian Constitution makers were well known to the use and minimality of various principles of justice. They wanted to search such form of justice which could fulfill the expectations of whole revolution. Pt. Jawahar Lal Nehru put an idea before the Constituent Assembly “First work of this assembly is to make India independent by a new constitution through which starving people will get complete meal and cloths, and each Indian will get best option that he can progress himself.”⁸ Social justice found useful for everyone in its kind and flexible form.

Although social justice is not defined anywhere in the constitution but it is an ideal element of feeling which is a goal of constitution. Feeling of social justice is a form of relative concept which is changeable by the time, circumstances, culture and ambitions of the people. Social inequalities of India expect solution equally. Under Indian Constitution the use of social justice is accepted in wider sense which includes social and economic justice both. According to Chief Justice Gajendragadkar, “In this sense social justice holds the aims of equal opportunity to every citizen in the matter of social & economical activities and to prevent inequalities”⁹. The preamble of the Constitution has solemnly promised to all its citizens justices-social, economic and political; liberty of thought expression, belief, faith and worship; equality of status and of opportunity; and to promote among the all fraternity assuring the dignity of the individual and the unity of the nation. The Constitution has attempted to attune the apparently conflicting claims of socio-economic justice and of individual liberty and fundamental rights by putting some relevant provisions. The social justice scenario is to be investigated in the context of two streams of entitlements:

⁸ Government of India, “Agenda for Political, Economic and Social Democracy Remains Unfinished: Vice President Addresses 9th National Conference of the Indian Association of Lawyers”, (Press Information Bureau December 27, 2016) *available at*:

<https://pib.gov.in/newsite/PrintRelease.aspx?relid=155870> (last visited on May 02, 2019)

⁹ Anurag Shyam Rastogi, “Concept of Social Justice under Indian Constitution”, 2011 *available at*: <https://www.lawyersclubindia.com/articles/concept-of-social-justice-under-indian-constitution-3685.asp> (last visited on May 02, 2019)

(a) sustainable livelihood, which means access to adequate means of living, such as shelter, clothing, food, access to developmental means, employment; education, health, and resources; (b) social and political participation (enabling or empowering means), which is built on the guarantee of fundamental rights, and promotion and empowerment of the right to participation in the government, and access to all available means of justice, and on the basis of which “justice as a political programme” becomes a viable reality. We require therefore a study based on select illustrations of various issues relating to government policies on topics such as: (a) the right to food and water; (b) housing, which includes resettlement and rehabilitation; (c) access to education, (d) access to provisions of health and healthcare, (e) right to work, and (f) access to information and the right to communication. In short, one of the important ways in which the inquiry will proceed will be through taking stock of various forms that have occasioned the articulation of ideas of social justice. Governmental justice consists of various welfare schemes, law, legal literacy, administrative forms of arbitration such as tribunals, boards, courts, public interest litigation, new legal education, plus the constitutional idea of protection of weaker sections of the society and introduction of positive discrimination.¹⁰

4.2.2 Fundamental Rights

The Fundamental Rights in India enshrined in the Part III of the Constitution of India guarantee civil liberties such that all Indians can lead their lives in peace and harmony as citizens of India. These include individual rights common to most liberal democracies, such as equality before law, freedom of speech and expression, freedom of association and peaceful assembly, right to live with personal liberty and dignified life freedom to practice religion, and the right to constitutional remedies for the protection of civil rights by means of writs such as habeas corpus. Violations of these rights result in punishments as prescribed in the Indian Penal Code, subject to discretion of the judiciary. The Fundamental Rights are defined as basic human freedoms which every Indian citizen has the right to enjoy for a proper and

¹⁰ United Nations, “Promoting Empowerment of People in Achieving Poverty Eradication, Social Integration and full Employment Integration and full Employment and Decent Work for all,” (Department of Economic and Social Affairs Division for Social Policy and Development, 2010) available at: <https://www.un.org/esa/socdev/publications/FullSurveyEmpowerment.pdf> (last visited on May 03, 2019)

harmonious development of personality.¹¹ These rights universally apply to all citizens, irrespective of race, place of birth, religion, caste, creed, colour or sex. They are enforceable by the courts, subject to certain restrictions. The Rights have their origins in many sources, including England's Bill of Rights, the United States Bill of Rights and France's Declaration of the Rights of Man.

Right literally mean those freedoms which are essential for personal good as well as the good of the community. The rights guaranteed under the Constitution of India are fundamental as they have been incorporated into the Fundamental Law of the Land and are enforceable in a court of law. However, this does not mean that they are absolute or that they are immune from Constitutional amendment. The Fundamental Rights were included in the constitution because they were considered essential for the development of the personality of every individual and to preserve human dignity. These Fundamental Rights help not only in protection but also the prevention of gross violations of human rights¹².

The State must 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 State must ensure right to housing or shelter. The Government of India formulated the National Housing Policy 1988, the National Housing and Habitat Policy, 1998. There are various schemes for weaker sections and slum developments. This right has been recognized by the Supreme Court and various High Courts in India as part of the right to life under article 21. The Commission is convinced that the realization of the right to food, clothing and housing requires the State to prepare long range and short range plans for proper allocation of necessary funds. Article 21 is related to Protection of life and personal liberty and declares that no citizen can be denied his life and liberty except the procedure establish by law. "Personal liberty" includes all the freedoms which are not included in Article¹³. The right to travel abroad is also covered under "personal liberty" in Article¹⁴. Further according to Article 19(1) (e) every citizen of India has the right "to reside and settle in any part of the territory of India". However, under

¹¹ The Constitution of India

¹² *Ibid.*

¹³ The Constitution of India, art.19

¹⁴ The Constitution of India, art.21

clause (5) of Article 19 reasonable restriction may be imposed on this right by law in the interest of the general public or for the protection of the interest of any public order and morality.

The interplay of article 19(1) (e) and article 21 of the Indian Constitution; there have been also several important judgments that have clearly established the relation between the right to housing and right to life as guaranteed by Article 21 and article 19(1) (e) The implications of article.¹⁵

Some others fundamental rights also indirectly related with the person basic rights such as article 14 stated that the State shall not deny to any person equality before the law or equal protection of the laws within the territory of India¹⁶; The State shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth or any of them¹⁷; and Special provisions in favour of women and children based on the principle of protective discrimination¹⁸; Freedom to reside and settle in any part of the territory of India¹⁹; right of all citizens to practice any profession, or to carry on any occupation, trade or business.²⁰ The Supreme Court held that, “we think that 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 and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow beings”²¹ number of other cases in which supreme court and various High Court has been interpreted article 21 in the light of right to shelter and adequate housing such as *Olga Tellis v. Bombay Municipal Corp and others* (1985) 3 SCC 545; *Shantistar Builders v. Narayan Khimalal Totame* (1990) 1 SCC 520; *Chameli Singh and others v. State of UP* (1996) 2 SCC 549,132; *U.P. Avas Evam Vikas Parishad v. Friends Coop. Housing Society Ltd*, AIR 1996 SC 114 1995; *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan and Others* (1997) 11 SCC 123;

¹⁵ Supra note 3 art.21.

¹⁶ Supra note 4 art.14.

¹⁷ *Id.*,art.15(1)

¹⁸ *Id.*,art.15(3)

¹⁹ *Id.*,art.19(1)(e)

²⁰ *Id.*,art.19(1)(g)

²¹ *Francis Coralie vs. Union Territory of Delhi* AIR 1981 SCR 746

Therefore, the right to privacy and sexual orientation is at the core of the right to equality, non-discrimination and life. The Court held that the identity of all individuals must be protected without discrimination because sexual orientation is an essential component of one's identity. The Court observed that the right to privacy is primarily derived from Article 21. However, it is also supplemented by the values enshrined in other fundamental rights and it advocated for a holistic view of fundamental rights.²²

These directives along with article 21 cannot be achieved when most of the urban poor live in poor quality, overcrowded, self-made shelter, which is only marginally served by public utilities. These units usually lack an adequate water supply suitable for drinking and maintaining personal cleanliness. Resources will not be adequate resources for the removal or disposal of excreta and other wastes are not available. Consequently, it is common to see the rotting garbage, human feces, and associated insects and rodent infestation. Health promotion in terms of the habitat essentially means a decent shelter. Since health is a beneficiary of economic and social development, health promotion will be most effective when it is included as an integral part of the planning and development of shelter and communities. A great deal is known about the relationship between shelter and health. Yet this information is generally not being used. The challenge for the years ahead is to integrate health information with programmes aimed at developing housing and related community facilities and services²³

4.2.3 Directive Principles of State Policy

The social and economic justice and right to shelter are so inextricably interwoven that together they form a meaningful component of the right to life. The framers of the Indian constitution strike a delicate balance between individual liberty and social good.

²² Justice K.S. Puttaswamy Vs. Union Of India, (2017) 10 SCC 1

²³ Prafulla C. Mishra, “*Right To Shelter: A Human Right Perspective*”, 40 *JILI* 230-142 (1998) available at: <https://www.jstor.org/stable/43953319> (last visited on May 02, 2019)

Article 38 and 39(f) of the Indian constitution incorporated certain socio-economic rights²⁴, which confirm the paramount of the right to shelter. Yes, these provisions are a part of the directive principles of state policy. These principles aim for the betterment of the individual as an integral component of society. Article 38 directs the state to secure a social order, which promotes the welfare of the people. Welfare means people having a place to live along with food and clothing²⁵. Similarly, article 39 (f)²⁶ directs the state to direct its policy so that children are given opportunities and they are protected against exploitation and moral and material abandonment. The concluding phrase imbues special life into article 37 when it provides that *“it shall be the duty of the state to apply these principles in making laws”*. The legislature, executive and the judiciary are thus duty bound to respect these directives²⁷.

4.3 LEGISLATIVE MANDATE

The legislation framed by the parliament as well as state legislature particular in Uttar Pradesh related to the right to shelter and adequate housing has been discussed here, with the easy of understanding the legislative mandate, has been divided into two parts one is Act and laws passed by the parliament which has enforced in the territory of India and another is Act and laws has been passed by the state legislature particular state of Uttar Pradesh which as follows:

4.3.1 CENTRAL ACTS/STATUTES

After the independence of the country, time to time, the central government has been enacted a number of enactments and made policies related to housing to fulfill the aim and objectives given under the directive principles of state policies which are very fundamental for the governance. Some laws and policies are discussed as fallows.

²⁴ The Constitution of India,art.38, 39(f)

²⁵ *Ibid.*art.38

²⁶ *Id.*,art.39

²⁷ The Constitution of India,art.37

4.3.1.1 The Slum Areas (Improvement and Clearance) Act, 1956

The Slum Areas (Improvement and Clearance) Act 1956 aims to “provide for the improvement and clearance of slum areas in certain Union Territories and the protection of tenants in such areas from eviction.” Since the Act is central government legislation, it is only applicable in areas under the control of the center, which are the Union Territories of India. Several other states, such as Tamil Nadu, have enacted similar laws or extended the Act to their states.

The Act contains provisions for notification and compensation in case of demolition or improvement of buildings ‘unfit for human habitation.’ Section 19 of the Act specifically pertains to the protection of tenants in notified slum areas from eviction and provides for procedures for adequate notification and alternative accommodation.

4.3.1.2 The Urban Land Ceiling And Regulation Act (ULCRA), 1976

The Urban Land Ceiling and Regulation Act (ULCRA), 1976 was formulated to force ‘surplus’ urban land onto the market. This Act put caps on the amount of land that could be held by individuals or private landowners and gave the state the right to acquire the surplus land at way below market rates. Exemptions were to be granted if the land was used to promote lower-income housing. The intention was to enable the state to acquire land cheaply and then use it for housing for LIGs²⁸. However, implementation was poor and more exemptions were granted than land acquired. Moreover, it was argued that the perceived scarcity had the effect of pushing land prices up higher than they would have in the absence of ULCRA. Less surplus land was distributed than was acquired. According to the budget speech of the Finance Minister for 1987- 88, “although 10 years have passed, less than one half of one percent of the land declared surplus has been used for construction.”²⁹

²⁸Pritika Hingorani, “Revisiting Upgrading: Low-Income Housing and Infrastructure” prepared for Indian Institute for Human Settlements (IIHS) held in Mysore on November 17, 2011, *available at*: <http://www.idfc.com/pdf/publications/Paper1-Housing-Policy-Review-Final.pdf>. (last visited on August 11, 2019)

²⁹ *Ibid.*

4.3.1.3 The Protection of Human Rights Act, 1993

The Protection of Human Rights Act provides for the creation of the National Human Rights Commission and state human rights commissions in India and also lays down their powers and functions. The origin of these commissions can be traced to the Vienna Declaration and Programme of Action adopted in June 1993 and the creation of the United Nations Office of the High Commissioner for Human Rights in December 1993.

The Act marked the Indian state's readiness to assume responsibility for realizing human rights of all its citizens under the Vienna Declaration, where it is stated that, "human rights and fundamental rights are the birthrights of all human beings; their protection and promotion is the first responsibility of Governments."

In Section 2 (d) the Act defines human rights. 'Human rights' means the rights relating to life, liberty, equality, and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.³⁰

The national and state human rights commissions established by this Act have been granted the power of a civil court while trying a suit under the Code of Civil Procedure 1908. These commissions can inquire suo moto or based on petitions presented to them by a victim or any person on his / her behalf, into complaints of violation of human rights or negligence in the prevention of such violation by a public servant. Following an investigation, the commissions can recommend to the concerned government or authority to pay compensation, to initiate proceedings for prosecution, and/or approach the Supreme Court of India or the High Court concerned for such directions.³¹

³⁰ The Protection of Human Rights Act, 1993

³¹ Housing Land Rehabilitation Network, "Protection of the Human Right to Adequate Housing under Indian Law, Policy, and Case Law" (HLRN, 2013) *available at*: https://www.hlrn.org.in/documents/Indian_Law_and_Policy.htm. (last visited on August 11, 2019)

4.3.1.4 The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

The linkages between Land Acquisition, Rehabilitation, and Resettlement (LARR), and Housing for All (HFA) assume significance primarily in the context of scarcity of land for planned development and the overwhelming shortage of adequate, affordable housing in India.³² The Land Acquisition bill has been renamed as the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement act, 2013. The new act replaces a nearly 120-year-old law enacted during British rule in 1894. It emphasizes Rehabilitation and resettlement.³³ An Act to ensure, in consultation with institutions of local self-government and Gram Sabhas established under the Constitution, a humane, participative, informed and transparent process for land acquisition for industrialization, development of essential infrastructural facilities and urbanization with the least disturbance to the owners of the land and other affected families and provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post-acquisition social and economic status and for matters connected therewith or incidental there to.³⁴

The provisions of this Act relating to land acquisition, compensation, rehabilitation, and resettlement, shall apply, when the appropriate Government acquires land for its use, hold and control, including for Public Sector Undertakings and a public purpose, shall any other purposes.

- The new act concerns only such cases where the land will be acquired by central or State authorities for any public purpose.

³² Amlanjyoti Goswami & Gautam Bhan, “Land Acquisition, Rehabilitation and Resettlement,” September, 61 *Yojana Magazine* 16-17 (2017)

³³ *Ibid.*

³⁴ Gazette of India, “Extraordinary, Part II, sec. 3(ii), 1st January 2014”, (vide notification No. 3729 (E), dated 19th December, 2013) available at: <http://sikenvis.nic.in/writereaddata/Original%20Notification-Date%20For%20Enforcement%20of%20the%20Right%20to%20Fair%20Compensation%20and%20Transparency%20in%20Land%20Acquisition,%20Rehabilitation%20and%20Resettlement%20Act%202013.pdf> (last visited on January 12, 2020)

- It calls for taking the consent of 80 per cent of land owners for acquiring land for private projects and of 70 per cent land owners for public- private projects.
- It also tries to lay down a transparent process for land acquisition for industrialization, development of essential infrastructural facilities, and urbanization by giving adequate financial compensation to the affected people.
- It gives priority to the interest of the framers, landless labourers, Dalit and tribles.
- Multi – crop irrigated land will not be acquired except as a demonstrably last resort measure. Wherever multi-crop irrigated land is acquired an equivalent area of culturally wasteland shall be developed for agricultural purposes. States are also required to set a limit on the area of agricultural land that can be acquired in any given district.³⁵
- It also provides for leasing of land to developers, instead of a sale, so that the ownership will remain with original landholders and they can also have a regular income by way of lease rent; the terms of the lease to be laid down by the state government according to the type of land, location, market rates etc.
- The act clearly enunciates the issues relating to acquisition, award, compensation and rehabilitation and also curtails the discretionary powers of the district magistrates.
- 13 central Acts that are outside the purview of the new Act have to conform to the provisions of compensation and the Rehabilitation and Resettlement package within one year of the coming into force of the legislation.
- Where land is acquired for urbanization, 20 percent of the development land will be reserved and offered to land-owning project affected families, in proportion to their land acquired and at a price equal to the cost of acquisition and the cost of development.
- The consent of Gram Sabha is mandatory for acquisitions in Scheduled Areas under the Fifth Schedule referred to in the constitution.

³⁵ *Ibid.*

4.3.1.5 Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Act, 2017

An Act to amend the Planning and Environment Act, 1987 to facilitate affordable housing supply and to modify the requirements for determining certain applications to amend wind farm planning permits, to make miscellaneous amendments to the Building Act, 1993 and the Building Amendment (Enforcement and Other Measures) Act, 2017 and for other purposes.

4.3.2 ACTS/STATUTES OF UTTAR PRADESH

The state of Uttar Pradesh is one of largest state in northern India in population. It is not only the most-populous state of the country but also most populated subdivision in the world. In present time the state is divided into 18 divisions and 75 districts. Lucknow is the capital of state of Uttar Pradesh. According to the Census of 2011, the total population of Uttar Pradesh is about 199,581,477 which contribute about 16.16% of India's population. The density of said state is 828 per square kilometer that makes it one of the most densely populated states in the country, though the right to housing has been recognized as human rights in several international instruments. In the UDHR right to housing is recognized as a part of the right to an adequate standard of living. In this declaration it is clearly stated that “Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family, including food, clothing, housing and medical care and necessary social services”³⁶. But in the Indian scenario there is no direct legislation which guarantees adequate housing to the citizen of the country. In India, only the courts, that Supreme Court and various High Courts in India has extended the scope of constitutional provision of Fundamental Rights under Article 21 which include right to housing through the judicial interpretations.

In India the Right to housing was mentioned at first time, in the case of Francis Coralie v. Adiministrarer Union Territory Delhi.³⁷ In this case Justice Bhagwati stated that “right to life includes the right to live with human dignity and

³⁶ The Universal Declaration of Human Rights 1948, art.7

³⁷ AIR 1981, SC 746

adequate nutrition, clothing and shelter are the necessities of life. In the case of *Chameli Singh v State of Uttar Pradesh*,³⁸ it was held that right to live includes the right to food, water, civilized environment, education, medical concern and shelter and Right to shelter includes adequate living place, safe and decent structure, clean and polite surroundings belonging to sufficient light, clean air and water, proper electricity, sanitation facility and other civic amenities. The Uttar Pradesh government has also been made many laws and policies in the furtherance of courts providing of aforesaid facilities and opportunities to the needy people. Some of legislations are given as follows as:

4.3.2.1 The U. P. (Regulations of Building Operations) Act, 1958

This Act with a view to the prevention of bad laying out of land, haphazard erection of buildings or growth of sub-standard colonies or with a view to the development and expansion of that area according to proper planning, it may, by notification in the Official Gazette declare the area to be regulated area.

4.3.2.2 The Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965

In exercise of the powers under clause (i) of sub-section (2) of Section 94 read with Section 29 and proviso (b) of sub section (i) of section 33 of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965 the Governor of the Uttar Pradesh is pleased to make the following rules prescribing the forms and manner of service of notice required under Section 29 and the proviso (b) to Section 33 of the said Adhiniyam. Whereas the U.P. Avas Evam Vikas Parishad has formulated a Housing Improvement Scheme known as the.....scheme under section.....of, the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965;

And whereas it is necessary that the land/building situated within the boundaries of the scheme should be acquired for the execution of the aforesaid scheme –

Whereas, the Uttar Pradesh Avas Evam Vikas Parishad has formulated a Housing/Improvement Scheme known as the.....Scheme under section.....of the

³⁸ AIR, 1996, SSC 549

Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965; And whereas, the Board has declared that betterment fee shall be payable in respect of the land/buildings situated within the boundaries of the scheme but not acquired for the execution thereof and also in respect of the lands/buildings situated within half a kilometer of the said boundaries, in accordance with section 50 of the Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965.

4.3.2.3 The Uttar Pradesh Urban Planning and Development Act, 1973

This document describes the Act, which intends to provide for the development of certain areas of Uttar Pradesh, where the problems of town planning and urban development need to be tackled resolutely and the existing local bodies and other authorities in spite of their best efforts have not been able to cope with these problems to the desired extent.

4.4 EXECUTIVE MEASURES FOR HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

The five years plan (yojana), policies, programme and scheme are playing very important role for providing the housing to the poor people in this regard government makes various policies and programme to find out the problem and also it's eradicating measures. Legislature makes the acts for controlling, punishing and proper implementation of policies and programme.

Housing as a policy measure dates back to the British industrial revolution. As a public measure, however, it dates back even before that. "... the workhouses provided under the Elizabethan poor laws of 1601, later known as almshouses in the united states as well as in England, served as convenient containers for watching over the needy and perhaps unruly who were given work and fed and clothed, if necessary."³⁹

In the Mercantilist period, rulers used the inducement of better housing to lure people into urban places specializing in the production of goods for export, one of the

³⁹ Supra note 5 at 103.

principle goals of Mercantilist policy”. Questions related to public intervention in housing came to be talked about since the industrial revolution particularly in the context of the then-dominant political-economic ideology of laissez-faire.⁴⁰

“State intervention in housing in the early twentieth century was in part a response... to the increasing strength of working-class militancy.... However, state intervention in housing cannot be seen as resulting only from working-class pressure. While the timing and form of the 1919 Housing Act were greatly influenced by working-class struggle, it was not a total watershed in the nature of state intervention⁴¹”.

4.4.1 FIVE YEAR PLANS AND RIGHT TO SHELTER AND ADEQUATE HOUSING

Poverty alleviation in India has always been a part of the policy debate in India right from the First five year Plan Period with its primary focus on agriculture and rural development. Urban development was tackled through a focus on industry. While social services such as health and education provided for the urban population, there remained a concerted focus on rural India in the Five Year Plans; urban poverty was not recognized as a concern in the initial plan periods. The change towards an urban focus is seen from the VIIth Plan Period onwards (1985-1990) with attention to infrastructure, environmental improvement (slum upgrading), and livelihood promotion. Subsequent plans have steadily increased the allocation for urban development and urban poverty alleviation⁴².

Most significant is the recent emphasis on urban renewal evidenced through the allocation under JNNURM in the 10th Five Year plan which has continued since then. JNNURM is the first attempt at a comprehensive package for development and poverty alleviation in urban India, recognizing the importance of cities as engines of economic growth. However, being the first such attempt of its kind, the review of its

⁴⁰ *Ibid.*

⁴¹ Bhaskar Majumder, *Rural Housing Policies and Practices* 31(Rawat Publications, New Delhi, 2007)

⁴² Policy & Programme Support Unit (PPSU), GoI-DFID Project, Support to National Policies for Urban Poverty Reduction (SNPUPR), 2011 “Plan –Wise Review of Developments in the Housing & Urban Poverty Sector”. Unpublished note prepared for the M/o Housing & Urban Poverty Alleviation, August 2011, available at: Policy & Programme Support Unit (PPSU), GoI-DFID Project, and Support to National Policies for Urban Poverty Reduction (SNPUPR).2011

performance has been mixed and much more effort and commitment are needed in this regard. Although budgetary allocations for urban development have risen substantially, these do not compare with the allocation for schemes and interventions for rural India. The per capita expenditure on the urban sector at Rs. 1,566.00 is significantly lower than the per capita expenditure in the rural sector, which is Rs. 7,433.00 for the current plan period.

Steps regarding housing that also include adequate housing have always been in the following five years plan.

4.4.1.1 First Five-Year Plan (1951-1955)

- ❖ The problem of housing was recognized and housing and urbanization were brought into the policy planning framework.
- ❖ It identified the problem of affordability as the key issue in the housing sector more so for the low-income groups;
- ❖ Reduction in the cost of construction through savings on building materials and cutting down of wasteful use of labour was recommended as solutions to improve affordability;
- ❖ Housing needs of the refugees given priority - A number of new towns were established in different parts of the country for housing refugees from Pakistan;
- ❖ Two Social housing schemes, Integrated Subsidized Industrial Housing Scheme (1952) and Low Income Housing Scheme (1954), were launched;⁴³
- ❖ Several institutions were set up. An independent Ministry of Works and Housing was established. The National Buildings Organization was created to formulate low-cost housing designs and build up a database for the formulation of housing strategies and plans.⁴⁴

⁴³ Government of India, "First Five Year Plan 1951-56", (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on August 29, 2019)

⁴⁴ Government of India, "Report of the Working Group on Urban Poverty, Slums, and Service Delivery System", (Planning Commission of India, 1954) available at:

4.4.1.2 Second Five Year Plan (1956-1961)

- ❖ Schemes for subsidized Industrial Housing and Low Income Group (LIG) were further strengthened;
- ❖ Life Insurance Corporation (LIC) got associated with the government and launched a scheme to provide loans to the middle-income groups (MIG);
- ❖ New schemes like Plantation Labour Housing Scheme, Village Housing Scheme, and Land Acquisition and Development Scheme were launched;
- ❖ A scheme for slum clearance was introduced; schemes for Scheduled Caste, other backward classes in rural villages were launched.
- ❖ Housing programmes for the employees of Central/State government agencies were undertaken;
- ❖ Establishment of Delhi Development Authority (DDA) under an act of the Parliament for implementing the Master Plan.
- ❖ The government shifted its policy of granting direct loans for the development of sites and plots to individuals to assisting state governments and local authorities⁴⁵.
- ❖ A statement on the Housing Policy was for the first time made on the 14th August 1957 in the Parliament by the then Minister for Works, Housing and Supply. Salient features of the policy are: Subsidy to those who need it the most, set up housing corporations in the states to provide loan finance with the central government providing the necessary subsidy, indigenous building material will use to the maximum extent, a separate department to expedite the implementation of housing schemes.⁴⁶

http://planningcommission.nic.in/aboutus/committee/wrkgrp12/hud/wg_Final_Urb_Pvt.pdf (last visited on August 29, 2019)

⁴⁵ *Ibid.*

⁴⁶ Government of India, "Second Five Year Plan, 1956-1961", (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on August 29, 2019)

4.4.1.3 Third Five-Year Plan (1961-1966)

- ❖ Housing policies should be linked with economic development and industrialization policies;
- ❖ Efforts to increase housing stock by various agencies – public, private or cooperative;
- ❖ Efforts to create conditions in which the entire programme of housing construction, both public and private is oriented to serve the requirement of the LIG category in the community⁴⁷.
- ❖ Placed emphasis on land acquisition and development
- ❖ Many of the states during this period established housing boards to eliminate housing shortages with a focus on meeting the housing needs of LIG and slum-dwellers;
- ❖ Level of activity by public agencies was found to be slow and hence financial institutions were established to provide financial and technical assistance to metropolitan authorities, state housing boards and other urban institutions for financing the development of housing and urban development projects⁴⁸
- ❖ The concept of the economically weaker section (EWS) of society was introduced during this period. EWS housing was integrated with the Subsidized Industrial Housing Scheme in operation since the inception of the First Five Year Plan⁴⁹.

4.4.1.4 Fourth Five-Year Plan (1969-1974)

- ❖ Emphasis on strengthening and toning up of public agencies for meeting the housing needs and application of planning principles for the orderly development of urban centers;

⁴⁷ *Ibid.*

⁴⁸ Government of India, “Third Five Year Plan, 1961-1966”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on August 29, 2019)

⁴⁹ Government of India, “Annual Report, 1966-1969” (Ministry of Housing & Urban Poverty Alleviation, 1969) available at: <http://mohua.gov.in/cms/annual-reports.php> (last visited on August, 30 2019)

- ❖ The plan laid great emphasis on self-help for improving the housing situation;
- ❖ In slum areas, the concept of slum clearance was replaced by slum improvement, and the urban authorities were asked to take a more positive and realistic view of the people and their problems;
- ❖ A distinct change in the policy framework was effected involving a shift from formal housing to sites and services programmes and environmental improvement of slums;
- ❖ A scheme for environmental improvement of slums was introduced in 1972 in selected cities to provide the basic services;
- ❖ The 1950s, 1960s, and 1970s can be described as the ones in which institution-building in the field of human settlement financing took place⁵⁰;
- ❖ A major issue concerning the government was providing housing finance to a vast majority of low-income families. Such families require a longer period of repayment and soft terms of loans. In this context, HUDCO was established as sectoral institution for comprehensively dealing with the problem of growing housing shortages, rising number of slums⁵¹.

4.4.1.5 Fifth Five-Year Plan (1974-1979)

- ❖ Addresses to the following limited objectives in the housing sector:
- ❖ Preservation and improvement of the existing housing stock;
- ❖ Provision of house sites to a million landless labourers as a part of the Minimum Needs Programme ;

⁵⁰ Government of India, “Fourth Five Year Plan, 1969-1974”, (Planning Commission in India, New Delhi) *available at*: <http://planningcommission.nic.in> (last visited on August 29, 2019)

⁵¹ Government of India, “Report of the Working Group on Urban Poverty, Slums, and Service Delivery System”, (Planning Commission of India, 1954) *available at*: http://planningcommission.nic.in/aboutus/committee/wrkgrp12/hud/wg_Final_Urb_Pvt.pdf (last visited on August 29, 2019)

- ❖ Continuance of the existing schemes to provide subsidized houses to certain weaker sections of the community;
- ❖ Extension of support to institutional agencies;
- ❖ Intensification of research in and development of cheap building materials;
- ❖ In 1977, a draft Fifth Five Year Plan was reformulated with emphasis on the aspect of self-help housing, provision of house sites and assistance to rural landless labourer;
- ❖ Housing Development Finance Corporation (HDFC) was set up in 1977 to provide finance for new residential housing to individuals, an association of individuals and cooperative societies, and to companies for staff housing⁵².

4.4.1.6 Sixth Five-Year Plan (1980-1985)

- ❖ Emphasis on housing activities in small and medium towns, adoption of cost-cutting technologies, evolving of building bye-laws which are more sensitive to the needs of the people;
- ❖ The plan envisaged that instead of providing direct subsidy for EWS, the strategy should be to provide sites and services to this category⁵³.
- ❖ The planners increasingly recognized the remarkable role played by HUDCO particularly in the field of social housing in urban and rural areas⁵⁴

4.4.1.7 Seventh Five-Year Plan (1985-1990)

- ❖ Promotion and encouragement of self-help housing;

⁵² Government of India, “Fifth Five Year Plan, 1974-1979”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on August 29, 2019)

⁵³ Government of India, “Sixth Five Year Plan, 1980-1985”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on August 29, 2019)

⁵⁴ Government of India, “Report of the Working Group on Urban Poverty, Slums, and Service Delivery System”, (Planning Commission of India, 1954) available at: http://planningcommission.nic.in/aboutus/committee/wrkgrp12/hud/wg_Final_Urb_Pvt.pdf (last visited on August 30, 2019)

- ❖ Provision to identified rural families house sites and assistance for construction of dwellings for those families already provided with house sites;
- ❖ Cost of housing units under social housing scheme to be kept within the paying capacity of the target group;
- ❖ Providing stimulus and support to private housing for MIG and LIG Securing reduction in construction cost by adopting low-cost housing techniques and standards as also through modifications in building bye-laws, land use control, and minimum plot requirements.⁵⁵
- ❖ Harnessing science and technology in efforts for improving building technology and development of cheap building materials;
- ❖ The plan emphasized that HUDCO should play an important role in conjunction with state governments for providing finance to weaker sections for house-building activity.
- ❖ Housing authorities and housing boards to concentrate on land acquisition and development in urban areas and on the provision of house sites in rural areas instead of going in for direct construction of houses⁵⁶.
- ❖ It was proposed to continue various housing schemes initiated earlier under the Minimum Needs Programme and the rural housing and slum improvement efforts.
- ❖ The Global Shelter Strategy adopted by the United Nations in 1988 called upon the government to take steps for the formulation of a National Housing Policy (NHP).

Accordingly, a draft NHP was prepared by the Ministry of Urban Development during this period;

- ❖ The government set up the Building Materials and Technology Promotion Council (BMTPC) with the objective of bridging the gap between laboratory development

⁵⁵ Government of India, “Seventh Five Year Plan, 1985-1990”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on August 29, 2019)

⁵⁶ *Ibid.*

and large-scale field application of innovative materials and technologies. Setting up a network of building centers as a centrally sponsored scheme to affect savings in construction cost through the promotion of low-cost and innovative building materials and technologies and building of the local delivery system.⁵⁷

4.4.1.8 The Eighth Five-Year Plan (1992-97)

- ❖ A significant aspect with regard to the Eighth Plan is that it has been set against a National Housing Policy. The objectives of the Eighth Five Year Plan are to be achieved through the following tasks/instruments:
- ❖ Expand the provision of basic infrastructure facilities in rural and urban areas in order to improve the overall environment of habitat and provide appropriate conditions for the majority of the households to have access to housing;
- ❖ Remove legal constraints to increase the supply of serviced land as well as rental housing;
- ❖ Extend stimulus and support for private housing on an expanded scale through enhancing the flow of credit to the housing sector through housing finance institutions (HFIs), as well as other measures like tax incentives.⁵⁸
- ❖ Encourage the use of low-cost building materials and cost-effective technologies.
- ❖ Promote self-help housing as well as shelter up-gradation by providing better access to finance, land, materials, and technology through appropriate delivery systems to the poorer segment of the rural population.
- ❖ Provide financial and institutional support through both formal and informal systems for environmental improvement.

⁵⁷ Government of India, “Report of the Working Group on Urban Poverty, Slums, and Service Delivery System”, (Planning Commission of India, 1954) *available at*: http://planningcommission.nic.in/aboutus/committee/wrkgrp12/hud/wg_Final_Urb_Pvt.pdf (last visited on September, 10 2019)

⁵⁸ Government of India, “Eighth Five Year Plan, 1992-1997”, (Planning Commission in India, New Delhi) *available at*: <http://planningcommission.nic.in> (last visited on September 10, 2019)

- ❖ Establish an effective Management Information System for housing and urban infrastructure accessible to both private and public development agencies.
- ❖ Evolve special assistance programmes in the form of subsidy, preferably in-kind, the differential rate of interest, and delivery support for disadvantaged groups⁵⁹.

The social/other schemes initiated in earlier plans are to be continued either in their existing or modified forms. More important amongst these are:⁶⁰

- a) The scheme of house sites-cum-construction assistance initiated to give a boost to housing in rural areas during the Seventh Plan and included in the State Sector within the Minimum Needs Programme;
 - b) The Indira Awaas Yojana (IAY) introduced in the Central Sector in 1985-86 forming part of Rural Landless Employment Generation Programme (RLEGP) for construction of houses for SCs/STs and freed bonded labour;
 - c) The Centrally sponsored scheme for the establishment of building centers initiated in 1988 to promote technology transfer to the grassroots level and to encourage the use of new alternative materials;
 - d) To tackle the problem of housing in urban areas, including improvement of slums and squatter settlements, the State shall assist in:
- ❖ Increasing the availability of residential land, with particular reference to the needs of poor sections;
 - ❖ Support incremental self-building through financial and technical support;
 - ❖ Encouragement to up-gradation and progressive development of low-income settlements.
 - ❖ Promotion of appropriate technologies that maximize the use of locally available and recycled materials⁶¹.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ Government of India, "Working Group on Urban Poverty, Slums, and Service Delivery System", (Planning Commission of India) *available at*: http://planningcommission.nic.in/aboutus/committee/wrkgrp12/hud/wg_Final_Urb_Pvt.pdf (last visited on August 29, 2019)

4.4.1.9 Ninth Five Year- Plan (1997-2002)

- ❖ While the housing needs of all segments of the population will have to be met, the Ninth Plan will focus especially on households at the lower end of the housing market, the priority groups identified for such support are people below the poverty line, SC/ST, and women-headed households;
- ❖ There will be provision for more direct intervention by the government in the case of the lower segments of the housing market and selected disadvantaged groups. The subsidy would continue to be provided for some more time and the flow mechanism will be made more transparent and increasingly routed outside the financial system.⁶²
- ❖ The Plan recognized the need to strengthen the linkages and inter-dependency between shelter and income up-gradation. To promote this, the Ninth Plan will support the use of composite credit instruments, modify land-use patterns, and city master plans, and strengthen the linkages between farm and the non-farm sector in the rural and semi-urban areas. The NGOs and other voluntary organizations will have to play the role of a catalyst⁶³.

4.4.1.10 Tenth Five Year-Plans (2002-2007)

- ❖ The tenth Plan Working Group on Housing has observed that around 90 percent of housing shortage pertains to the weaker sections. There is a need to increase the supply of affordable housing to the economically weaker sections and the low-income category through a proper programme of allocation of land, an extension of funding assistance, and provision of support services.⁶⁴
- ❖ In order to facilitate larger housing delivery for the weaker sections and low-income groups, the on-going programme for providing additional 2-million houses every year needs to be continued.

⁶² Government of India, “Ninth Five Year Plan, 1997-2002”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on September 10, 2019)

⁶³ *Ibid.*

⁶⁴ Government of India, “Tenth Five Year Plan, 2002-2007”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on September 10, 2019)

- ❖ The proposed programme of Valmiki Ambedkar Awaas Yojana (VAMBAY) along with the total city sanitation component of Nirmal Bharat Abhiyan(NBA) for meeting the housing and sanitation requirements of the urban poor need to be taken up in all urban areas, so as to promote 'cities without slums'. Provision needs to be made for a central subsidy of Rs.1000 crores annually during the tenth plan period with the matching amount contributed by the state governments/local bodies or as a loan from HUDCO.
- ❖ In order to increase the proportion of household savings to be invested in the housing sector, as well as to provide houses to those who cannot as yet afford to have their own houses, there is need to encourage the promotion of rental housing by the private sector, public sector, as well as cooperatives and individuals: This requires legislative changes in the existing rent control laws, and has been a matter in which very little progress has been achieved.
- ❖ A special emphasis needs to be laid on the strengthening of the Building Centre Movement, with particular focus on coverage of uncovered districts in the country numbering about 200. A central grant allocation of Rs.20 crores during the 10th Plan period needs to be provided for the same.⁶⁵
- ❖ HUDCO earmarks 55% of its housing portfolio funds to Weaker Sections and Low-Income Groups, with different interest rates, high loan components for lower-cost units, and the longer repayment period. Through its releases are somewhat less than sanctions, it is noteworthy that HUDCO has sanctioned 13.61 lakh urban housing units and 20.21 lakh rural housing units in the three years from 1998-99 to 2000-01 under the 2-Million Housing Scheme. The other factor in HUDCO operations for the mass housing programmes is the dependence on State Government guarantees, which as noted elsewhere, eliminates parts of the Country from its operations.
- ❖ HUDCO has been at the forefront of the Government's efforts to come to the aid of disaster-affected households and has provided financial assistance for disaster

⁶⁵ *Ibid.*

rehabilitation housing to the tune of Rs. 2360 cores for construction of over 40 lakhs houses for earthquake, cyclone, and flood victims⁶⁶.

- ❖ A special programme for Strengthening and Retro-Fitting of Housing Stock in Vulnerable Regions threatened by Natural Hazards needs to be taken up with the participation of the state governments, BMTPC, and HUDCO.

4.4.1.11 Eleventh Five Year-Plans (2007-12)

- ❖ The housing shortage is most acute for the EWS and LIG, almost 99% of the shortage is for this class. Hence the emphasis is on providing affordable housing through schemes JNNURM, Affordable Housing in partnership, Interest Subsidy Scheme for Housing the Urban Poor (ISHUP) and Rajiv Awaas Yojana (RAY)⁶⁷.

4.4.1.12 Twelfth Five Year-Plans (2012-2017)

- ❖ In the course of the discussions of the Working Group, certain issues were raised beyond its immediate purview. However, it was felt that these issues should be pointed out for consideration of the Planning Commission and other related working groups.
- ❖ Water, Sanitation, and solid waste management and urban poverty: linkages between the lives and livelihoods of the urban poor to water, sanitation, and solid waste management were acknowledged. In particular, issues of livelihood of waste pickers and their contribution to city solid waste management were considered important. It was felt that any debate regarding water, sanitation, and solid waste management under the 12th Five Year Plan should consider linkages of these sectors with urban poverty.⁶⁸
- ❖ Transport implications: The Working Group was cognizant of the fact that for the provision of affordable housing and urban informal sector livelihoods, transport linkages should be important considerations. For example, resettlement of slum-

⁶⁶ *Ibid.*

⁶⁷ Government of India, “Eleventh Five Year Plan, 2007-2012”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on September 10, 2019)

⁶⁸ Government of India, “Annual Report 2011-2012” (Ministry of Housing & Urban Poverty Alleviation) available at: <http://mohua.gov.in/upload/uploadfiles/files/AR2011-12-1-105.pdf>. (last visited on August 10, 2019)

dwellers must allow for adequate transport linkages and wherever possible, the relocation of the poor must occur on intra-city and inter-city transport corridors. Also, informal sector livelihoods depend on non-motorised transport and small vehicles including cycles, cycle rickshaws, auto-rickshaws, etc. The 12th Plan document should consider the implications of transport planning on the urban poor.⁶⁹

- ❖ The Working Group took a strong view regarding the measurement of urban poverty as being either above or below a ‘line’/‘cut-off’ representing consumption expenditure. It was felt that the way in which urban poverty alleviation is tackled at the programmatic level requires a measurement of vulnerabilities and not consumption/income poverty. The recommendation is for data on the various vulnerabilities to be gathered and eligibility for coverage under a scheme to be dependent on vulnerability rather than possession of a BPL card.
- ❖ Another concern related to the issue of informal livelihood and urban poverty is the concern regarding urban cultural heritage conservation.⁷⁰ The incidence of slums around urban heritage structures is generally viewed negatively instead of a focus on the livelihood opportunities for the urban poor related to tourism and conservation. Additionally, the documentation and preservation of urban cultures are not seen as a priority as cities are conceived of and planned as a built environment as opposed to also being sites of culture. An exploration of the ways in which urban poverty alleviation and urban cultural heritage can interact positively needs to be undertaken. This includes movable or immovable objects, sites, structures, groups of structures and natural features and landscapes that have archeological, paleontological, historical, architectural, religious, aesthetic, or other cultural significance⁷¹.

⁶⁹ Durga Shankar Mishra, “Affordable Housing in Urban Areas” 8-9 (Housing for all, yojana magazine, vol 61)

⁷⁰ *Ibid.*

⁷¹ Government of India, “Annual Report 2016-2017” (Ministry of Housing & Urban Poverty Alleviation, NITI, Ayog) available at: <http://niti.gov.in/upload/uploadfiles/files/AR2011-12-1-105.pdf>.(last visited on September 10, 2019)

4.4.2 EVOLUTION OF HOUSING POLICIES/SCHEMES/PROGRAMMES IN POST INDEPENDENT INDIA

The scheme for allotment of house sites-cum-construction assistance as part of the minimum needs programme in urban areas is under the purview of the state sector. The central government supplements the efforts of the state governments by initiating and implementing some central and centrally sponsored programme. An early effort for the provision of public housing in post-independence India came in to existences and then for time forwarded for many years with changing and the same spirit years to provide shelters to all 1950s. There are discusses some Social housing schemes in India, after 1950s as follows.

4.4.2.1 Subsidized Housing Scheme, 1952

The first major housing program, for Industrial Workers and Economically Weaker Sections, was launched in 1952 in which the central government gave 50 percent of the cost of land and construction as a subsidy to the state government, with the rest given as a loan. The target group was families of industrial workers employed typically in mines or factories in the private sector, with incomes of less than Rs. 500 per month. The loans were given to industrial employers or cooperative societies of industrial workers 75 or 90 percent of project cost respectively, with a 25 percent subsidy component to build the housing. Housing was provided on a rental basis, for a completed or open development plot. Workers could draw on non-refundable loans from their provident funds to meet the remainder of the expenditure of construction.⁷²

4.4.2.2 Low Income Housing Scheme, 1954

Low income housing scheme was started in 1954 which gave loans for up to 80 percent of the cost of a dwelling unit (subject to a cap of Rs. 8,000) to individuals whose income did not exceed Rs. 6000 per annum. This loan could also be used by a non-profit organization, public bodies, cooperative societies, or by educational institutions, hospitals, and the like to build rental or hire purchase housing for their lower-paid employees. It was also suggested that a portion of funds under this scheme

⁷² Government of India, "First Five Year Plan, 1951-1956", (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on November 02, 2019)

be allocated to allow state governments to develop sites for sale to low-income families.⁷³

4.4.2.3 The Housing Scheme For Plantation Workers, 1956

This scheme was made it mandatory to provide and maintain houses of government-prescribed standards for their workers. While larger plantations were expected to undertake these themselves, smaller plantations could avail of government loans.⁷⁴

During the Second Five Year Plan (1956-61) the government launched the 1956 Slum Clearance and Improvement Scheme. This scheme borrowed directly from western experience and aimed at clearing slums and rehabilitating families in government-built housing at nominal rents.⁷⁵ The financing for this project was a 50 percent loan and 37.5 percent Central Government subsidy with the rest coming from the State government (later, HUDCO financing was available for this scheme) and was implemented by the respective State Housing Board and Slum Clearance Boards. Often just a skeletal structure or open development plot of between 1000 to 1200 square feet was provided with a latrine and families had to build the remaining structure in accordance with official guidelines. A limited amount of building materials were also given to families for construction.⁷⁶ However, the scale of construction could not keep up with the number of demolitions made and as a result; the program resulted in a net destruction of housing stock. As Singh describes, in Delhi only 20.6 percent of the population evicted was resettled by 1977.⁷⁷

In addition, the sites chosen for resettlement were often far away from where the slum dwellers had previously lived and worked, thus disrupting their means of livelihood, increasing their transport costs, and uprooting them from their established

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ Pritika Hingorani, "Revisiting Upgrading: Low-Income Housing and Infrastructure" prepared for Indian Institute for Human Settlements (IIHS) held in Mysore on November 17, 2011, *available at*: <http://www.idfc.com/pdf/publications/Paper1-Housing-Policy-Review-Final.pdf> (last visited on August 11, 2019)

⁷⁶ Government of India, "First Five Year Plan, 1951-1956", (Planning Commission in India, New Delhi) *available at*: <http://planningcommission.nic.in> (last visited on November 02, 2019)

⁷⁷ *Ibid.*

social networks.⁷⁸ This was despite the Plan recommending “minimum dislocation” by providing homes at nearby sites so as not to disrupt employment.⁷⁹ As a result, as with many of the government schemes during these period, beneficiaries often sold off the homes they received and moved back into new slums.

Other schemes during this period include the 1959 Middle Income Group (MIG) Housing Scheme which brought in the Life Insurance Corporation of India (LIC) to provide loans to individuals or co-operatives up to Rs. 33,000 for building houses with a cost ceiling of up to Rs. 43,000. Approximately 40,000 homes were built under this scheme by the Fifth Plan⁸⁰. Another 30,000 homes were built under the 1959 Rental Housing for State Government Employees program that provided loans for the state government to provide rental accommodation to their employees.⁸¹

4.4.2.4 Housing and Urban Development Corporation

The 1970s witnessed a couple of significant developments. First, the establishment of housing and urban development corporation limited (HUDCO), a fully owned enterprise of the government of India (under the companies act 1956), to ‘assist and promote housing and urban development programmes with a special focus on the needs for the economically weaker sections and low-income groups’ and second, emergence of housing development finance corporation (HDFC), a pioneer in providing housing loan to individual, groups and cooperative societies as well as companies for staff housing⁸². HUDCO is mainly engaged in financing housing (both urban and rural) and urban infrastructure. HUDCO has consistently taken initiatives towards social housing. About 94 percent of beneficiaries of total housing units sanctioned by HUDCO belong to the EWS and LIG categories.⁸³

⁷⁸ Government of India, “Second Five Year Plan, 1956-1961”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on November 02, 2019)

⁷⁹ *Ibid.*

⁸⁰ Government of India, “Fifth Five Year Plan, 1974-1979”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on August 29, 2019)

⁸¹ Government of India, “Second Five Year Plan, 1956-1961”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on November 27, 2019)

⁸² Asish Mukhopadhyay, *Urbanization and Housing State, Market and Consumer*, 104 (Rawat Publications, New Delhi, 2017)

⁸³ Government of India, “Annual Report 2011-2012” (Ministry of Housing & Urban Poverty Alleviation) available at: <http://mohua.gov.in/upload/uploadfiles/files/AR2011-12-1-105.pdf>. (last visited on August 10, 2019)

HUDCO has been a critical partner to various governments of India sponsored schemes (housing and basic services) launched for the urban poor and these include Basic Services for Urban Poor, Integrated Housing and Slum Development Programme, Integrated Subsidy Scheme for Housing for Urban Poor and Rajiv Gandhi Yojana.⁸⁴

4.4.2.5 Environmental Improvement of Urban Slums (EIUS), 1972

One of the most important schemes of this period, sought to provide basic amenities like safe water supply, sewerage, drainage, pavements, storm water drainage, latrines and other amenities to slums settlements. The program began in 11 cities but was later expanded to cover 9 more. In 1974, an implementation for this scheme was transferred to respective State governments. This program continued well into the nineties where its scope was widened under the Eighth Plan to incorporate other poverty alleviation and basic services programs.⁸⁵

Around 1980 the government launched several sites and services schemes. Although there were variations in the schemes – in some only a plot was given, while in other basic structural elements were provided – government-provided basic infrastructure was a feature of all. Often beneficiaries were charged a user fee for maintaining the infrastructure and also had to bear the costs of constructing their dwellings.⁸⁶ As assistance, concessional loans for up to Rs. 3000 per unit were given and made repayable over 20-25 years.⁸⁷

A number of important initiatives in the housing finance space were set up during this time. In 1970 the Housing and Urban Development Corporation (HUDCO) was set up to channel public funds for housing into public sector housing projects and in making soft loans to LIGs that required longer periods of repayment.

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ K. Wadhwa, "Housing Programmes for Urban Poor: Shifting Priorities" 23(34) *Economic and Political Weekly* (1988).

⁸⁷ Government of India, "Sixth Five Year Plan, 1980-1985", (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on November 27, 2019)

4.4.2.6 The Housing Development Finance Corporation (HDFC), 1977

The Housing Development Finance Corporation (HDFC) was constituted to fund individual, co-operative, or association-based housing activity. Companies could also borrow from HDFC to finance their staff housing projects.⁸⁸

4.4.2.7 National Housing Policy, 1987

In conjunction with the announcement of the National Housing Bank (NHB) was set up as the apex housing finance institution under the Reserve Bank of India. Its role was to promote and regulate housing finance and mobilize greater resources for housing.⁸⁹ Fiscal and monetary policy (tax exemptions, housing loans) targeting MIGs and HIG were also used during this time to encourage the building of ownership-based and rental accommodation by the private sector.⁹⁰ Since the Seventh Plan explicitly recognized the problems of the urban poor as distinct from their rural counterparts, for the first time an urban-focused poverty alleviation scheme known as Urban Basic Services Scheme (UBS) was launched in 1986.⁹¹

UBS aimed to provide basic social services and physical infrastructure in all urban slums. Emphasis was placed on women and children living in slums – providing learning opportunities for women and pre-school programs. Setting up of community organizations and vocational training opportunities also formed a part of this scheme.⁹²

The Seventh Plan (1985-90) set the tone for a new direction in housing policy. At the time, there was growing concern about the increased income disparity, growth in black money, rapid urbanization, and the resultant spiraling increase in land prices over which the government could exercise little control. With land prices increasing

⁸⁸ Government of India, “Fifth Five Year Plan, 1974-1979”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on November 27, 2019)

⁸⁹ A. Sivam & K. Sadasivam, “Role of State and Market in Housing Delivery for Low-Income Groups in India” (17(1) *Journal of Housing and the Built Environment* 69-88 (2002)

⁹⁰ K.. Wadhwa, “Housing Programmes for Urban Poor: Shifting Priorities” 23(34) *Economic and Political Weekly* (1988)

⁹¹ K. Wadhwa, *Affordable Housing for Urban Poor*. available at: [www.spa.ac.in/NRC/ Theme PaperAffordableHousing.pdf](http://www.spa.ac.in/NRC/ThemePaperAffordableHousing.pdf) (last visited on August 10, 2019)

⁹² *Ibid.*

more than inflation, speculative activity had priced the poor out of the land markets.⁹³ “These problems required a change in policy outlook which was articulated in the Seventh Plan with a three-fold role assigned to the public sector – mobilization of resources for housing, provision for subsidized housing for the poor and acquisition and development of land”⁹⁴

Moreover, the Seventh Plan’s focus on a holistic and integrated approach to shelter provision provided the impetus for the 1988 National Housing Policy (NHP). This policy looked at land, materials, finance, technology, and targeted poverty alleviation as part of an integrated and comprehensive solution to the housing. The development of the housing sector as a whole was emphasized. Both the income and cost aspects of affordability were addressed; the policy suggested easy access to institutional finance at affordable rates as a pre-requisite for accelerating housing investments. It also reiterated more financial responsibility on the part of individual households for increasing investment in housing.

The March 1987 Preamble to the Draft National Housing Policy (DNHP) had for the first time recognized shelter as a basic human need, ranked next to food and clothing, an closely linked with the quality of life.⁹⁵ The responsibility of the state towards the poor was clearly established and it marked at least a preliminary step towards the acceptance of shelter as a fundamental right in 1989. However, in the final NHP, the government seemed worried that the demand to make the provision of shelter a fundamental right of the citizen would get a boost if such a preamble was retained and this statement was removed.⁹⁶

In 1990, the NBO was reconstituted and a new organization, the Building Materials and Technology Promotion Council (BMTPC) was set up whose aim was to research, develop and facilitate the use and commercial production of innovative and low-cost building materials. A network of building centers was set up under this centrally sponsored scheme to help build a local delivery system. Building standards,

⁹³ A. Kumar, “National Housing Policy: The Implications” 24(23) *Economic and Political Weekly* 1285-1291 (1989)

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

building bye-laws, and minimum plot requirements were modified to enable reductions in cost.⁹⁷

4.4.2.8 National Housing Policy, 1990

The 1990s began on an encouraging note for the urban poor. In 1990 the government began a program to provide identity cards to slum dwellers to legalize their tenure and upgrade their access to basic infrastructure. However, his government, and consequently this program, was short-lived.⁹⁸

In 1990 the new draft National Housing policy for the first time recognized the economic contribution of the housing and construction sector in generating employment. The policy aimed to (i) to prevent luxury housing (for which the residential plot size was reduced from 2000 sq m to 120 sq m) (ii) to enable self-help housing through fiscal and monetary measures for HIGs and MIGs, (iii) to make the state directly responsible for providing housing for the poor (iv) to amend ULCRA to bring about the better supply of urban residential land (v) to strengthen both formal and informal sources of financing and (vi) to encourage rental housing.⁹⁹ This was not very different from the 1988 housing policy however strategies to achieve stated aims were clearer and the document voiced more concern for poorer citizens.

Under the Eighth Plan, EUIS, UBSP, and 1990 Nehru Rozgar Yojana (NRY), an employment scheme containing a component called “Scheme of Housing and Shelter Up gradation (SHASHU)” were the primary urban and poverty alleviation programs. Assuring secure tenure and designing cost recovery mechanisms were recognized as crucial to the long-term sustainability of EIUS.¹⁰⁰

⁹⁷ Government of India, “Seventh Five Year Plan, 1985-1990”, (Planning Commission in India, New Delhi) available at: <http://planningcommission.nic.in> (last visited on November 27, 2019)

⁹⁸ U. Ramanathan, “Illegality and the Urban Poor” 41(29) *Economic and Political Weekly* 3193-3197, (2006)

⁹⁹ A. Sivam & K. Sadasivam, “Role of State and Market in Housing Delivery for Low-Income Groups in India” 17(1) *Journal of Housing and the Built Environment* 69-88 (2002)

¹⁰⁰ O.P. Mathur, *Slum-Free Cities: A New Deal for the Urban Poor*. Available at: www.nipfp.org.in/opm_files/.../Final%20Poverty%20Rep.pdf. (2009). (last visited on August 10, 2019)

4.4.2.9 National Housing Policy, 1994

In India, the National Housing Policy was adopted by the parliament in August 1994. The long-term goals of policy were reducing homelessness, improving the housing conditions of the inadequately housed, and providing a minimum level of basic services and amenities to all. The National Housing Policy, 1994, recognized the importance of both rural and urban housing in the overall development of the poor in both the rural and urban areas¹⁰¹.

As a follow-up of the global of the shelter strategy (GSS), the ministry of urban development (present ministry of urban affairs and employment) prepared the national housing policy (NHP). the basic objectives of the NHP are as follows:¹⁰²

- To assist all people, and in particular the homeless, the inadequately housed and the vulnerable sections, to secure for themselves affordable shelter through access to developed land, building materials, finance, and technology;
- To create an enabling environment for housing activity by various sections by eliminating constraints, and by developing an efficient and equitable system for the delivery of housing inputs;
- To expand the provision of infrastructure facilities in rural and urban areas in order to improve the environment of human settlements, increase the of poorer households to basic services, and to increase the supply of developed land for housing;¹⁰³
- To undertake within the overall context of policies for poverty alleviation and employment, steps for improving the housing situation of the poorest sections and vulnerable groups by direct initiative and financial support of the state;
- To help mobilize and facilitate the expansion of investment in order to meet the needs of housing construction and up-gradation and augmentation of infrastructure;

¹⁰¹ *Ibid.*

¹⁰² Durga Shankar Mishra, "Affordable Housing in Urban Areas" 61 *Yojana magazine* 8 (2017)

¹⁰³ David Cowan, *Housing law and policy* (Cambridge university press, 2011)

- To promote a more equal distribution of land houses in the urban and rural areas, and to curb speculation in land and housing in consonance with the macro-economic policies for the efficient and equitable growth;¹⁰⁴
- To promote vernacular architecture and to preserve the nation's rich heritage in the field of human settlements¹⁰⁵.

4.4.2.10 National Slum Development Program (NSDP), 1997

In 1997 the National Slum Development Program (NSDP) sought to augment state government funds for upgrading with additional Central money. In keeping with the Eighth Plan findings that programs were still fragmented, the shelter upgrading components of NRY and the Prime Minister's Integrated Urban Poverty Eradication Program were incorporated into NSDP. NSDP focused on providing physical amenities, community infrastructure and social amenities, shelter up-gradation, skill up-gradation, and training of urban poor women and encouraged the involvement of NGOs, community-based organizations (CBOs), and private bodies.¹⁰⁶

4.4.2.11 National Housing and Habitat Policy, 1998

The National housing and habitat policy 1998 announced by the government of India aimed at the development of housing infrastructure through a strong public-private partnership. It aims at ensuring that housing, along with supporting services, is treated as a priority sector at par with infrastructure; facilitates the construction of dwelling units each year with an emphasis on the poor. The 1998 policy aimed to facilitate the construction of 20 lakh dwelling units each year for the poor covering both urban and rural areas.¹⁰⁷

The policy recognized the importance of both urban and rural housing in the total development of the rural people and the urban poor. The thrust of the housing policy of the government of India, thus, shifted from a short-term project-based approach to one of being considered as an integral component of economic

¹⁰⁴ *Ibid.*

¹⁰⁵ Ummareddy Venkateswarlu, *Urbanization in India: Problems and Prospects* 175-176 (New Age International (p) Ltd., Publishers, New Delhi)

¹⁰⁶ *Ibid.*

¹⁰⁷ Durga Shankar Mishra, "Affordable Housing in Urban Areas" September 61 *Yojana magazine* 8 (2017)

development. The role of the government of India has accordingly changed from an agent that provided to that of a facilitator¹⁰⁸.

4.4.2.12 Valmiki Ambedkar Awaas Yojana (VAMBAY), 2001

In 2001, another centrally-sponsored construction and upgrading scheme, Valmiki Ambedkar Awaas Yojana (VAMBAY) was launched that targeted below poverty line households lacking adequate shelter. It also aimed to provide health services and access to community toilets through Nirmal Bharat Abhiyan with 20 percent of the funding under VAMBAY to be allocated to sanitation. The program was the first of its kind to be implemented through a 50 percent Central Government subsidy with the remaining contribution coming from state or local governments or through a loan from HUDCO. State governments were required to set up the implementation machinery, arrange land where required, and organize the credit component. The state's contribution was in line with the size of their slum population and finances could be obtained through loans if required, such as through HUDCO.¹⁰⁹

4.4.2.13 Jawaharlal Nehru National Urban Renewal Mission (JNNURM), 2005

The JNNURM programme is an integrated reform-driven, fast track planned development of cities with a focus on efficiency in urban infrastructure, services delivery mechanism, and accountability of Urban Local Bodies (ULBs) towards citizens. The mission has two sub-missions and 4 components;

Urban Infrastructure and Governance (UIG) for 65 mission cities and Urban Infrastructure Development Schemes for Small and Medium Towns (UIDSSMT) run by M/o Urban Development (UD) while Basic Services to the Urban Poor (BSUP) in 65 mission cities and Integrated Housing and Slum Development Programme (IHSDP) for those other than mission cities managed by M/o HUPA. For the latter, the main thrust of BSUP is on the integrated development of slums through projects providing for shelter, basic services, and other related civic amenities with a view towards providing utilities to the urban poor. In addition to projects, JNNURM is also

¹⁰⁸ Bhaskar Majumder, *Rural Housing Policies and Practices* 33 (Rawat Publications, New Delhi, 2007)

¹⁰⁹ *Ibid.*

reform-driven; the key pro-poor reforms include the implementation of the 74th Constitutional Amendment Act, Provision of a 7-point charter for Basic services for the urban poor earmarking of the municipal budget for the provision of basic services to the urban poor via a “Basic Services to Urban Poor” (BSUP) Fund; and reservation of land for housing the urban poor in both public and private housing projects. JNNURM is scheduled to end in 2012 after which Rajiv Awaas Yojana (RAY) is likely to take over.¹¹⁰

Finally, BSUP aims at ensuring an adequate investment of funds to fulfill deficiencies in the provision of basic services as well as scaling-up delivery of civic amenities and provision of utilities with an emphasis on universal access to the urban poor. Three reforms are critical for addressing the needs of basic services to the urban poor; under JNNURM these are.

- Internal earmarking of a minimum 25% of municipal/local-body budgets for basic services to the urban poor;
- Reservation of at least 20 to 25 percent of developed land or FSI, in all housing projects (both Public and Private) for Economically Weaker Sections/Low Income Groups category with a system of cross-subsidization; and
- Provision of basic services to the urban poor including, the security of tenure at affordable prices, improved housing, water supply, sanitation, and ensuring delivery of already existing universal services of the government for education, health, and social security.¹¹¹

These three pro-poor reforms were aimed to create an enabling policy environment for urban poverty alleviation initiatives. The progress of states vis-à-vis the reforms have been varied. 55 cities have made the provision for internal earmarking within the local budget, but the percentage varies from 10% to 30%. In case of reservation of land for EWS/LIG housing, 50 cities have made provisions in

¹¹⁰ Government of India, “Jawaharlal Nehru National Urban Renewal Mission Overview” (Ministry of Urban Employment and Poverty Alleviation Ministry of Urban Development, 2005) *available at*: [http://mohua.gov.in/upload/uploadfiles/files/1Mission%20Overview%20English\(1\).pdf](http://mohua.gov.in/upload/uploadfiles/files/1Mission%20Overview%20English(1).pdf) (last visited on August 10, 2019)

¹¹¹ *Ibid.*

the range of 10-25% reservation of land/FAR as the case may be. However, the established framework for reforms under JNNURM, have not been deep enough to counter adverse land & capital markets. These reforms are sought to be further strengthened and integrated into the Rajiv Awaas Yojana (RAY), through predicting central assistance on its implementation through legislative amendments to the Municipal or Town-Planning/Urban Development Acts. In addition, the Rajiv Awas Yojana mandates the assignment of property rights to slum dwellers through an Act.¹¹²

JNNURAM is also having a number of issues related to design and implementation of scheme which are as follows:

- Many states lag behind in programme utilization due to a lack of enabling capacity and funds;
- States and cities need to be encouraged to ensure financial sustainability by tapping other sources of funds such as user charges, monetization of urban land and property taxes;
- In spite of a clearly identified need for capacity building and the subsequent allocation of funds for the same, expenditure on capacity building is low. In certain states, the feedback is that the funds reach them late and capacity building initiatives under JNNURM at the state level relies heavily on externally-funded projects to deliver capacity building;
- The escalation in project costs is due to increases in the rates of raw materials relative to the rates set by the government. This increase then has to be covered by the State governments resulting in delays due to their limited financial capacity;
- City Development Plans (CDPs) were originally intended to be dynamic documents that would inform project preparation and proposals. The M/o UD revised its CDP guidelines in 2010 in a bid to encourage cities and states to update their CDPs. However, a negligible number of cities have undertaken the revision of CDPs, chiefly because the mission is in its last year;

¹¹² *Ibid.*

- Very few states have set-up their Project Management Units (PMUs) and very few cities have set-up their Project Implementation Units (PIUs). Therefore the original intention of dedicating manpower for the successful implementation of JNNURM in the cities has not been effective;¹¹³
- Project approval is subject to appraisals and appraisal agencies such as BMTPC are understaffed leading to significant delays in the approval process.

4.4.2.14 National Urban Housing and Habitat Policy (NUHHP), 2007

The National Urban Housing & Habitat Policy (NUHHP), 2007 along with various actionable points under it have been widely circulated among the various Central Ministries, State Governments, Union Territory Administrations, Business Chambers, Associations of Real Estate Developers and other Stakeholders.¹¹⁴ The Policy and the actionable points had been put on the website of the Ministry. Further, as per the NUHHP, 2007, the role of the Central Government is to encourage and support the States to prepare a State Urban Housing and Habitat Policy and also a State Urban Housing & Habitat Action Plan.¹¹⁵ The High-Level Monitoring Committee set up under the chairpersonship of Hon'ble Minister of Housing & Urban Poverty Alleviation for periodic review and implementation of the NUHHP, 2007 has desired that the States should be encouraged to prepare their own State Urban Housing and Habitat Policy (SUHHP).

The National Urban Housing & Habitat Policy (NUHHP), 2007 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. However, the most vulnerable of these are urban homeless.

The Urban homeless persons contribute to the economy of the cities and thus the nation as cheap labour in the informal sector, yet they live with no shelter or social security protection. The urban homeless survive with many challenges like no access

¹¹³ *Ibid.*

¹¹⁴ Durga Shankar Mishra, "Affordable Housing in Urban Areas" September, 61 *Yojana magazine* 9 (2017)

¹¹⁵ Government of India, "National Urban Housing Habitat Policy, 2007", (Ministry of Housing & Urban poverty Alleviation New Delhi, 2007) *available at*: https://www.nhb.org.in/Urban_Housing/HousingPolicy,2007.pdf.(last visited on August 10, 2019)

to elementary public services such as health, education, food, water, and sanitation. National Urban Livelihoods Mission (NULM) aims at providing permanent shelter equipped with essential services to the urban homeless in a phased manner under the Scheme of Shelter for Urban Homeless (SUH).¹¹⁶

1. Ensure availability and access of the urban homeless population to permanent shelters including the basic infrastructure facilities like water supply, sanitation, safety, and security;
2. Cater to the needs of especially vulnerable segments of the urban homeless like the dependent children, aged, disabled, mentally ill and recovering gravely ill, by creating special sections within homeless shelters and provisioning special service linkages for them.
3. Provide access to various entitlements, viz. social security pensions, PDS, ICDS, identity, financial inclusion, education, affordable housing etc. for homeless populations.
4. Formulate structures and framework of engagement for development, management, and monitoring of shelters and ensuring basic services to homeless persons, by state and civil society organisations including homeless collectives.¹¹⁷

However, depending on the need, a shelter may cater to working men, women, and families with appropriate spaces demarcated for each of the categories.

4.4.2.15 Rajiv Awaas Yojana (RAY), 2011

Rajiv Awaas Yojana (RAY) envisages a “Slum Free India” with inclusive and equitable cities in which every citizen has access to basic civic and social services and decent shelter. In pursuance of this vision of “Slum free India”, Rajiv Awaas Yojana (RAY) was launched in June 2011 in two phases, the preparatory phase for a period of

¹¹⁶ Government of India, “Scheme of Shelters for Urban Homeless”, (Ministry of Housing & Urban Poverty Alleviation, December, 2013) *available at*: https://nulm.gov.in/PDF/NULM_Mission/NULM-SUH-Guidelines.pdf. issued July, 2018. p.1 (last visited on August 11, 2019)

¹¹⁷ Government of India, “Scheme of Shelters for Urban Homeless Deendayal Antyodaya Yojana National Urban Livelihoods Mission (Revised Operational Guidelines)”, (Ministry of Housing and Urban Affairs, 2018) *available at*: https://nulm.gov.in/PDF/NULM_Mission/NULM-SUH-Guidelines.pdf. issued July, 2018. p.1 (last visited on August 11, 2019)

two years, which ended in June 2013, and implementation phase. Central Government has approved the implementation phase for the period of 2013-2022.¹¹⁸

Rajiv Awaas Yojana has been launched in two phases: Phase-I, for two years from 2011-2013 in the nature of Additional Central Assistance(ACA); and Phase-II which will cover the remaining period of the Twelfth Five Year Plan (2013-17). State Governments will enter into a Memorandum of Agreement (MoA) with the Ministry of Housing and Urban Poverty Alleviation for undertaking reforms in a time-bound manner. Sanction of projects will depend on:

- The commitment and willingness to assign property rights to slum dwellers, preferably in the name of the wife or in the name of both wife and husband and enactment of legislation within one year of the first project sanctioned. For North Eastern and the Special Category States, however, where land ownership patterns are community-based or restricted by certain conditions of the law, the reform with timelines are to be mutually worked out between the concerned States and the Centre.¹¹⁹
- Provisions being put in place for enforcement of the following pro-poor reforms begun under JNNURM - viz., reservation of 20-25% of developed land for Economically Weaker Section (EWS) / Low Income Group (LIG) housing in every new public/private residential development; and non-lapsable earmarking of 25% of the budget of all municipalities/ other bodies providing municipal basic services to meet the revenue and capital expenditures of urban poor colonies and slums and the implementation of the seven-point charter entitlements of JNNURM (i.e. land-tenure, affordable housing, water, sanitation, education, health, and social security) – with the enactment of legislation for the first two reforms within one year of the first project sanctioned.¹²⁰
- Commitment with timelines for making amendments in the Rent Control Acts, review of urban land development and land use policies, structures and

¹¹⁸ Government of India, “Rajiv Awaas Yojana (RAY) Scheme Guidelines 2013-2022”, (Ministry of Housing & Urban Poverty Alleviation, New Delhi), *available at*: <http://mohua.gov.in/upload/uploadfiles/files/RAYGuidelines.pdf>.(last visited on September 10, 2019)

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

strategies, the simplification of the processes and procedures of sanctioning buildings, and building bylaws concerning development and housing projects.¹²¹

A ‘whole city’, ‘all slums’ approach will be adopted, in keeping with the goal of slum-free cities, with a slum defined as in the Report of the Committee on Slum Statistics/Census chaired by Dr. Pronab Sen as a compact settlement of at least 20 households (10-15 for the North Eastern & Special Category States) with a collection of poorly built tenements, mostly of temporary nature, crowded together usually with inadequate sanitary and drinking water facilities in unhygienic conditions.¹²²

In each slum, an integrated approach will be taken to up-gradation or redevelopment, with provision of infrastructure, basic civic and social amenities, and decent housing. The community will be involved at every stage, from planning through implementation to post-project sustenance. In-situ development will be encouraged as the model of choice, to ensure that development does not lead to loss of job linkages; there will be an emphasis on private sector participation for both slum redevelopment, wherever feasible, as well as for creation of new affordable housing stock, for rental and ownership.¹²³ The benefits of health, education, social security, workers’ welfare, livelihoods, and public transport linkages for holistic slum redevelopment will be provided through the conscious effort for convergence of schemes and dovetailing of budgetary provisions available under the programmes in the respective sectors.¹²⁴

4.4.2.16 Pardhan Mantri Awaas Yojana, 2015

Addressing a joint session of parliament in July 2014, just a month after being elected, the prime minister said, “ by the time the nation completes 75 years of its Independence, every family will have a pucca housing with water connection, toilet facilities, 24x7 electricity supply and access.” To achieve this vision, the PM

¹²¹ *Ibid.*

¹²² Bhaskar Majumder, *Rural Housing Policies and Practices* 84 (Rawat Publications, New Delhi, 2007)

¹²³ Asish Mukhopdhyaya, *Urbanization and Housing state Market and Consumer* 70 (Rawat Publications, New Delhi, 2017)

¹²⁴ *Ibid*

launched the Pradhan Mantri Awaas Yojana (PMAY) or Affordable Housing for All Mission. The mission was divided into two parts- PMAY (Gramin), which come under the ambit of the Ministry of Rural Development, and the PMAY (Urban), which fell under the Ministry of Housing and Urban Affairs' domain¹²⁵. The Pradhan Mantri Awaas Yojana has four components:

- A. In-Situ Slum Redevelopment (ISSR):** This uses the land as a resource. The scheme aims to provide houses to eligible slum dwellers by redeveloping the existing slums on public/private land. A grant of INR 1 lac per house is provided by the central government to the planning and implementing authorities of the states/UTs under this scheme¹²⁶.
- B. Affordable Housing in Partnership (AHP):** This aims to provide financial assistance to private developers to boost private participation in an affordable housing project; central assistance is provided at the rate of INR 1.5 lac per EWS houses in private projects where at least 35 percent of the houses are constructed for the EWS category¹²⁷.
- C. Credit- Link Subsidy Scheme (CLSS):** This scheme facilitates easy institutional credit to EWS, LIG and MIG households for the purchase of homes with interest subsidy credited upfront to the borrower's account routed through primary lending institutions (PLIs). This effectively reduces housing loans and equated monthly installment (EMI)¹²⁸.
- D. Beneficiary- Led Construction or Enhancement:** This scheme involves central assistance of INR 1.5 lakh per family for new construction or extension of existing houses for the EWS/ LIG the Government envisages building affordable pucca houses with water facility, sanitation, and electricity supply round- the -clock. Under PMAY, it is proposed to build 2 crore houses for urban poor including EWS and LIG in group areas by the year 2022 through the financial assistance of 2 trillion from the central government. This scheme is converged with other schemes to ensure houses have a toilet, Swachh Bharat Mission

¹²⁵ Hardeep S Puri, "Affordable Housing: Future of Urban Development" July 62 *Yojana Magazine "Resurgent India"* 7 (2018)

¹²⁶ Ranjeet Mehta, "Ensuring a Roof over the Head" July 62 *Yojana Magazine "Resurgent India"* 32 (2018)

¹²⁷ Ranjeet Mehta, "Ensuring a Roof over the Head" July 62 *Yojana Magazine "Resurgent India"* 32 (2018)

¹²⁸ Ibid

electricity connection, Ujjwala Yojana LPG gas connection, access to drinking water, and Jan Dhan banking facilities, etc.¹²⁹

The scheme is aimed for urban areas with follows components/ options to State/ Union Territories and cities:

- Slum rehabilitation of Slum Dwellers with participation of private developers using land as a resource;
- Promotion of affordable housing for weaker section through credit link subsidy;
- Affordable housing in partnership with public and private sectors and
- Subsidy for the beneficiary led to individual house construction or enhancement.

Besides this, the government of India has been taking several initiatives through the budget to provide housing for all. Provisions in the Union Budget 2017-18 were a game-changer for the real estate sector but also particularly for achieving the goal of Housing for all by 2022.¹³⁰

The Union Budget 2017-18 announced several measures to boost affordable housing. Some highlights of the Budget 2017 to boost Housing Sector are as follows.

- Affordable Housing has been given Infrastructure status
- One crore rural houses will be created by 2019
- National Housing Bank to refinance Rs 20,000 crore loans
- Pradhan Mantri Awaas Yojana to get Rs 23,000 crore
- Real estate developers to get tax relief on unsold stock as a liability to pay capital gains will arise only in the year a project is completed
- Instead of Built-up area of 30 and 60 sq meters, the carpet area of 30 and 60 sq meters will be applicable for affordable housing
- The holding period for capital gains tax for immovable property reduced from 3 years to 2 years
- Tax break of 1-year post receipt of the completion certificate, for the
- Pradhan Mantri Awaas Yojana will be extended to 600 districts

¹²⁹ Ranjeet Mehta, "Ensuring a Roof over the Head" July 62 *Yojana Magazine* "Resurgent India"32 (2018)

¹³⁰ Ranjeet Mehta, "Ensuring a Roof Over the Head" July 62 *Yojana Magazine* "Resurgent India"33 (2018)

Table 4.1: Economic Status to Qualify for Pradhan Mantri Awaas Yojana

ISSR	- Using land as a resource - With private participation - Gol grant@ Rs. 1 lakh per house - Extra FSI/TDR/FAR if required , to be provided by the states/UTs				
BLC	- For EWS category requiring individual house - Gol grant@ Rs. 1.5 lakh per house for construction of new or enhancement of existing houses.				
AHP	- With private sector or public sector including parastatal agencies. - Central Assistant of Rs. 1.5 lakh per EWS house in affordable housing projects.				
CLSS	- Upfront interest subsidy for EWS, LIG and MIG				
		EWS	LIG	MIG-I	MIG-II
	Household Income (Rs. p.a)	Upto 3,00,000	3,00,000-6,00,000	6,00,000-12,00,000	12,00,000-18,00,000
	Interest Subsidy (per cent p.a)	6.5 per cent	6.5 per cent	4 per cent	3 per cent
	DU carpet area	30 sq. m	60 sq. m	90 sq. m	110 sq. m

Source: Ministry of Housing and Urban Poverty Alleviation, 2017¹³¹

4.5 ANNUAL REPORTS ON RIGHT TO HOUSING

The Ministry of Urban Development has the responsibility of broad policy formulation and monitoring of programmes in the area of urban development. Urban Development is a State subject but the Government of India plays a coordinating and monitoring role and also supports urban development through Central and Centrally Sponsored Schemes. The Ministry addresses various issues one of them also is providing housing for all poor homeless people in the urban sector through policy guidelines, legislative guidance, and sectoral programmes. Urbanization in India has become an important and irreversible process and an important determinant of national economic growth and poverty reduction. The process of urbanization is characterized by a dramatic increase in the number of large cities, although India may be said to be in the midst of a transition from a predominantly rural to a quasi-urban society. Thus Ministry of Housing and Urban Affairs published yearly annual reports which as follows.

¹³¹ Durga Shankar Mishra, “Affordable Housing in Urban Areas” September, 61 *Yojana magazine* 9 (2017)

The government of India, under the supervision of Ministry of housing and urban affairs has been prepared annual reports every year regarding rehabilitation-policies for the needy people. In the annual report of 2017-18, mainly right to adequate housing of person with disabilities was focused. In the annual report of 2005, it was first time when the government had been focused on homelessness. In annual report of the year of 2009, main focus was on climate change and right to adequate housing. In the annual report of 2010, there has been focused on migration and right to adequate housing. In 2018, main focus was made on right to housing for residents of informal settlement. In 2019 the report was made for right to housing for indigenous people.

4.5.1 Progress of Pradhan Mantri Awaas Yojana (URBAN)

Memorandum of Agreement (MoA) has been signed with 29 States and 6 UTs; 4,302 cities have been selected in 35 States/UTs for inclusion under the Mission. 7,474 projects for construction of 37,43,631 houses under the mission in 3,361 cities of 35 States/UTs involving Central assistance of Rs. 57,652 crore have been accepted by Government under the Mission. Central assistance of Rs. 13,150 crore has been released to the concerned States against approved projects¹³² rs. 1.05 crore has been approved as Central Assistance for the State Government of Arunachal Pradesh for 1 Beneficiary Led Individual House Construction (BLC) project for the construction of 70 EWS Dwelling Units (DUs) at Bomdila city of Arunachal Pradesh and Rs.0.3567 crore as 1st installment of Central Assistance was released. Rs. 365.10 crore has been approved as Central Assistance for the State Government of Assam for 8 Beneficiary Led Individual House Construction (BLC) projects for construction of 24,340 EWS DUs at 8 cities of Assam and Rs.66.888 crore as part payment of 1st installment of Central Assistance was released¹³³. Rs. 35.835 crore has been approved as Central Assistance for the State Government of Assam for 2 Beneficiary Led Individual House Construction (BLC) projects for construction of 2,389 EWS DUs at 2 cities of Assam and Rs.14.334 crore as 1st installment of Central Assistance was released. Rs. 146.505 crore has been approved as Central Assistance for the State Government of

¹³²Government of India, "Annual report 2017-2018", (Ministry of Housing and Urban Development, New Delhi) available at: [http://mohua.gov.in/upload/uploadfiles/files/new_AR-2017-18%20\(Eng\)-Website.pdf](http://mohua.gov.in/upload/uploadfiles/files/new_AR-2017-18%20(Eng)-Website.pdf). (last visited on April, 4 2020)

¹³³*Ibid.*

Assam for 37 Beneficiary Led Individual House Construction (BLC) projects for construction of 19,534 EWS DUs at 37 cities of Assam and Rs.58.602 crore as 1st installment of Central Assistance was released.¹³⁴

Rs. 250.5 crore has been approved as Central Assistance for the State Government of Assam for 66 Beneficiary Led Individual House Construction (BLC) projects for construction of 16,700 EWS DUs at 66 cities of Assam and Rs.18.132 crore as part payment of 1st installment of Central Assistance was released. Rs. 99.525 crore has been approved as Central Assistance for the State Government of Manipur for 5 Beneficiary Led Individual House Construction (BLC) projects for construction of 6,635 EWS DUs at 5 cities of Manipur and Rs. 39.81 crore as 1st installment of Central Assistance was released.¹³⁵ Rs. 93.465 crore has been approved as Central Assistance for the State Government of Manipur for 5 Beneficiary Led Individual House Construction (BLC) projects for construction of 6,231 EWS DUs at 5 cities of Manipur and Rs.37.386 crore as 1st installment of Central Assistance was released. Rs. 155.88 crore has been approved as Central Assistance for the State Government of Manipur for 10 Beneficiary Led Individual House Construction (BLC) projects for construction of 10,392 EWS DUs at 10 cities of Manipur and Rs. 62.352 crore as 1st installment of Central Assistance was released.¹³⁶

Rs. 10.545 crore has been approved as Central Assistance for the State Government of Meghalaya for 6 Beneficiary Led Individual House Construction (BLC) projects for construction of 703 EWS DUs at 6 cities of Meghalaya and Rs. 4.218 crore as 1st installment of Central Assistance was released. Rs. 0.63 crore has been approved as Central Assistance for the State Government of Sikkim for 1 Beneficiary Led Individual House Construction (BLC) project for the construction of 42 EWS DUs at Namchi city of Sikkim and Rs.0.186 crore as 1st installment of

¹³⁴ *Ibid.*

¹³⁵ Government of India, “Annual report 2017-2018”, (Ministry of Housing and Urban Development, New Delhi) *available at:* [http://mohua.gov.in/upload/uploadfiles/files/new_AR-2017-18%20\(Eng\)-Website.pdf](http://mohua.gov.in/upload/uploadfiles/files/new_AR-2017-18%20(Eng)-Website.pdf). (last visited on April,4 2020)

¹³⁶ Government of India, “Annual report 2017-2018”, (Ministry of Housing and Urban Development, New Delhi) *available at:* [http://mohua.gov.in/upload/uploadfiles/files/new_AR-2017-18%20\(Eng\)-Website.pdf](http://mohua.gov.in/upload/uploadfiles/files/new_AR-2017-18%20(Eng)-Website.pdf). (last visited on April,10 2020)

Central Assistance was released.¹³⁷ Rs. 643.44 crore has been approved as Central Assistance for the State Government of Tripura for 20 Beneficiary Led Individual House Construction (BLC) projects for construction of 42,896 EWS DUs at 20 cities of Tripura and Rs. 112.8379 crore as part payment of 2nd installment of Central Assistance was released.

A total subsidy of Rs. 1,684.12 crore has been released to the Central Nodal Agencies under CLSS during the FY 2017-18, as per under. A total of 14 meetings of Central Sanctioning and Monitoring Committee (CSMC) were held for approval of central assistance for construction of houses approved by States/UTs and also to monitor Physical and Financial achievement of earlier approved houses under the Mission during 1.1.2018 to 31.3.2019. Progress of PMAY (U) mission can be summarized in the table and graphs are given below.

Table 4.2: Amount Granted under Pradhan Mantri Awaas Yojana (Urban)

Sr.No.	Particulars	Process from 01.01.2018 to 31.03.2019	Cumulative as on 31.03.2019
1.	City/Town Covered (Nos)	1,084	4,445
2.	Project (s) Approved (Nos)	9,263	16,512
3.	Investment (Central, State & Beneficiary) (Rs. in Crore)	2,78,789.97	4,73,688.01
4.	Central Assistance Involved (Rs. in Crore)	68,782.81	1,24,651.92
5.	Central Assistance Released (Rs. in Crore)	36,244.59	49,394.09
6.	Houses Involved(Nos)	44,14,148	80,38,107
7.	Houses Grounded for Construction (Nos)*	26,17,503	45,44,981
8.	Construction of Houses Completed (Nos)*	20,28,569	25,05,440
9.	Houses Occupied (Nos)*	17,97,687	22,91,638

*Includes incomplete works of earlier NURM scheme completed after 2014

Source: Ministry of Housing and Urban Poverty Alleviation, 2017¹³⁸

¹³⁷ Pradhan Mantri Awaas Yojana-Urban, “Best-Performing States and Union Territories to be awarded under”, (PMAY-Urban) available at: <https://realty.economictimes.indiatimes.com/news/industry/best-performing-states-uts-to-be-awarded-under-pmay-urban/67902391>

¹³⁸ Durga Shankar Mishra, “Affordable Housing in Urban Areas” September, 61 *Yojana magazine* 9 (2017)

The Credit Linked Subsidy Scheme (CLSS) is being implemented as Central Sector Scheme (CS) wherein central assistance is being released to Central Nodal Agencies for crediting the interest subsidy directly into the home loan account of beneficiaries through Primary Lending Institutions (PLIs). As of 31.03.2019, a total of 5, 67,950 beneficiaries entailing a total subsidy of Rs. 12,717.08 crore have availed benefits under CLSS. A breakup of beneficiaries and subsidy released under CLSS during the period from 1.1.2018 to 31.03.2019 along with cumulative progress as on 31.03.2019 is as per under.

Table 4.3 Subsidy Granted under Credit Linked Subsidy Scheme (CLSS)

Details for CLSS scheme	No. of Beneficiaries		Subsidy (Rs. in Crore)	
	From 01.01.2018-31.03.2019	Cumulative Total	From 01.01.2018-31.03.2019	Cumulative Total
CLSS for EWS/LIG	3,28,029	4,00,292	7,722.99	9,178.14
CLSS for MIG	1,56,587	1,67,658	3,309.97	3,538.94
Total	4,84,616	5,67,950	11,032.96	12,717.08

Source: Ministry of Housing and Urban Poverty Alleviation, 2017¹³⁹

¹³⁹ Durga Shankar Mishra, “Affordable Housing in Urban Areas” September, 61 *Yojana magazine* 9 (2017)

Table 4.4 Number of Identified Slums

Name of State/ Union territory	Towns			Type wise Slum Population		
	Statutory towns	Slum reported towns	Total population	Notified slums	Recognised slums	Identified slums
INDIA	4041	2,613	6,54,94,604	2,25,35,133	2,01,31,336	2,28,28,135
Jammu & Kashmir	86	40	6,62,062	1,62,909	1,36,649	3,62,504
Himachal Pradesh	56	22	61,312	60,201	0	1,111
Punjab	143	73	14,60,518	7,87,696	1,93,305	4,79,517
Chandigarh	1	1	95,135	95,135	0	0
Uttarakhand	74	31	4,87,741	1,85,832	52,278	2,49,631
Haryana	80	75	16,62,305	14,912	0	16,47,393
Delhi	3	22	17,85,390	7,38,915	0	10,46,475
Rajasthan	185	107	20,68,000	0	0	20,68,000
Uttar Pradesh	648	293	62,39,965	5,62,548	46,78,326	9,99,091
Bihar	139	88	12,37,682	0	0	12,37,682
Sikkim	8	7	31,378	31,378	0	0
Arunachal Pradesh	26	5	15,562	0	0	15,562
Nagaland	19	11	82,324	0	48,249	34,075
Manipur	28	0	0	0	0	0
Mizoram	23	1	78,561	0	78,561	0
Tripura	16	15	1,39,780	0	1,24,036	15,744
Meghalaya	10	6	57,418	34,699	8,006	14,713
Assam	88	31	1,97,266	9,163	70,979	1,17,124
West Bengal	129	122	64,18,594	48,918	37,03,852	26,65,824
Jharkhand	40	31	3,72,999	64,399	59,432	2,49,168
Odisha	107	76	15,60,303	0	8,12,737	7,47,566
Chhattisgarh	168	94	18,98,931	7,13,654	7,64,851	4,20,426
Madhya Pradesh	364	303	56,88,993	19,00,942	25,30,637	12,57,414
Gujarat	195	103	16,80,095	0	0	16,80,095
Daman & Diu	2	0	0	0	0	0
Dadra & Nagar Haveli	1	0	0	0	0	0
Maharashtra	256	189	1,18,48,423	37,09,309	34,85,783	46,53,331
Andhra Pradesh	125	125	1,01,86,934	83,38,154	8,77,172	9,71,608
Karnataka	220	206	32,91,434	22,71,990	4,45,899	5,73,545
Goa	14	3	26,247	6,107	0	20,140
Lakshadweep	0	0	0	0	0	0
Kerala	59	19	2,02,048	1,86,835	8,215	6,998
Tamil Nadu	721	507	57,98,459	25,41,345	19,78,441	12,78,673
Puducherry	6	6	1,44,573	70,092	73,928	553
Andaman & Nicobar Is.	1	1	14,172	0	0	14,172

Source: Government of India, “Office of the Registrar General & Census Commissioner, India” 2011 (Ministry of Home Affairs.)¹⁴⁰

¹⁴⁰ Available at: <https://www.censusindia.gov.in/2011-Documents/Slum-26-09-13.pdf>. (last visited on July, 20 2021)

Table 4.5: State wise Progress of Housing for All (HFA) (2014 to June, 25th 2021)

Sr. No.		Name of the State/ UT	Project Proposal Considered	Physical Progress of Houses (Nos)			Financial Progress (in Crore)		
				Sanction ed	Grounde d	Completed/ Delivered	Investment	Central Assistance	
								Sanctioned	Released
1	States	Andhra Pradesh	1,089	20,36,892	14,56,836	4,61,107	87,380.54	30,910.14	10,084.97
2		Bihar	512	3,63,640	2,16,128	93,458	19,963.05	5,677.51	2,451.29
3		Chhattisgarh	1,775	2,97,461	2,12,295	1,39,554	12,587.29	4,583.15	2,511.61
4		Goa	10	4,042	3,984	3,984	793.59	91.79	91.25
5		Gujarat	1,604	8,13,338	7,29,528	5,71,491	76,871.96	15,177.26	11,003.20
6		Haryana	538	2,84,037	76,611	43,615	28,778.37	4,624.58	1,159.62
7		Himachal Pradesh	268	12,478	10,588	5,675	772.29	220.81	123.80
8		Jharkhand	445	2,34,351	1,52,268	1,02,045	14,513.01	3,585.22	2,262.72
9		Karnataka	2,835	6,88,906	4,53,727	2,45,074	49,174.39	11,199.12	4,891.74
10		Kerala	510	1,28,739	1,22,042	99,205	6,759.31	2,113.48	1,470.99
11		Madhya Pradesh	1,563	8,53,075	7,63,008	4,51,334	47,147.34	13,689.42	9,379.36
12		Maharashtra	1,167	13,13,417	7,39,467	4,86,039	1,48,747.73	21,757.91	10,339.08
13		Odisha	824	1,77,018	1,31,830	94,621	9,179.93	2,761.75	1,548.84
14		Punjab	885	1,07,861	84,239	43,271	6,556.73	1,793.51	1,043.88
15		Rajasthan	397	2,11,195	1,54,718	1,28,118	16,329.18	3,791.69	2,234.80
16		Tamil Nadu	3,689	7,13,156	6,03,557	4,38,957	45,606.20	11,330.13	6,920.94
17		Telangana	286	2,23,214	2,34,605	2,04,124	26,727.61	3,867.79	2,723.13
18		Uttar Pradesh	4,393	17,26,781	12,99,856	8,62,532	80,775.55	26,873.90	15,428.79
19		Uttarakhand	226	44,364	27,552	20,665	3,537.66	836.74	557.70
20		West Bengal	532	5,27,838	3,95,195	2,72,795	28,721.10	8,360.63	5,173.65
Sub- total (States) :-			23,548	1,07,61,803	78,68,034	47,67,664	7,10,922.82	1,73,246.53	91,401.36
21	North East States	Arunachal Pradesh	48	7,427	7,913	3,410	445.25	167.00	121.36
22		Assam	370	1,37,678	1,00,517	29,638	4,398.53	2,084.76	978.75
23		Manipur	42	53,534	37,560	5,571	1,374.38	803.45	338.09
24		Meghalaya	36	5,327	2,419	1,666	288.50	85.30	21.50
25		Mizoram	52	39,865	19,242	4,686	856.71	608.14	189.77
26		Nagaland	75	34,228	29,812	6,053	1,119.56	539.39	272.79
27		Sikkim	11	625	628	332	23.92	9.56	4.70
28		Tripura	107	91,926	66,935	52,701	2,833.91	1,472.86	1,025.24
Sub- total (N.E. States) :-			741	3,70,610	2,65,026	1,04,057	11,340.76	5,770.48	2,952.21
29	Union Territories	A&N Island (UT)	2	602	47	43	155.85	9.20	0.89
30		Chandigarh (UT)	-	1,511	6,471	6,471	298.77	33.47	33.47
31		UT of DNH & DD	9	7,668	7,220	5,011	642.42	151.88	129.93
32		Delhi (NCR)	-	25,014	65,594	48,994	4,916.26	565.01	565.01
33		J&K (UT)	332	56,129	41,770	10,574	3,147.63	857.04	323.30
34		Ladakh (UT)	8	1,777	1,038	470	84.85	36.67	17.28
35		Lakshadweep (UT)	-	-	-	-	-	-	-
36		Puducherry (UT)	38	14,798	14,883	6,215	862.90	234.56	163.62
Sub- total (UT) :-			389	1,07,499	1,37,023	77,778	10,108.68	1,887.84	1,233.52
Grand Total :-			24,678	112.95 Lakh	83.25 Lakh	50.04 Lakh	7.35 Lakh Cr.	1.82 Lakh Cr.	1.06 Lakh Cr.

Source: <https://pmay-urban.gov.in/uploads/progress-pdfs/60d5c0add5803-WEB-2.pdf> (last visited on July 22, 2021)

Table 4.6: Status of Pardhan Mantri Awaas Yojana in Lucknow, U.P.

S. No.	State /City	Financial Progress (Rs in Cr.)			Physical Progress (Nos)		
		Investment	Central Assistance Sanctioned	Central Assistance Released	Houses Sanctioned	Houses Grounded	Houses Completed
1	Sandila	76.24	34.06	7.71	2270	1911	691
2	Ganj Muradabad	42.33	18.84	8.87	1255	1071	639
3	Bangarmau	77.90	35.25	11.13	2350	1347	717
4	Fatehpur Chaurasi	33.54	14.99	5.35	999	722	458
5	Ugu	29.96	13.41	9.55	894	837	252
6	Safipur	78.41	35.16	12.28	2343	2020	1166
7	Kursath	28.31	13.14	1.50	876	555	259
8	Auras	38.77	17.20	13.31	1147	1055	918
9	Hyderabad	590.49	60.97	53.31	3005	2925	2584
10	Rasulabad	32.56	14.53	5.85	968	687	339
11	Mohan	69.03	30.95	19.28	2063	1761	1208
12	Nyotini	41.41	18.59	8.45	1239	1106	645
13	Nawabganj(NP)	36.22	16.05	6.71	1071	790	297
14	Unnao	250.47	89.02	31.24	5916	3937	1605
15	Gangaghat	96.51	44.23	8.26	2950	982	343
16	Purwa	66.09	29.62	11.85	1975	1677	1046
17	Maurawan	66.26	29.78	18.96	1985	1712	582
18	Bighapur	15.73	7.03	3.22	468	377	117
19	Bhagwant Nagar	36.21	16.36	9.47	1091	862	702
20	Malihabad	62.71	24.53	12.17	1600	1580	997
21	Mahona	56.86	24.55	13.89	1634	1609	917
22	Itaunja	37.13	17.86	8.72	1190	866	490
23	Bakshi Ka Talab	134.26	52.62	23.89	3471	2710	1984
24	Kakori	107.22	50.92	20.23	3399	3033	1435
25	Lucknow	6,631.23	1,642.34	383.49	102918	30371	15790
26	Lucknow(CB)	305.35	25.10	25.10	1282	1282	1282
27	Gosainganj	40.06	17.61	9.17	1175	1004	653
28	Amethi (NP)	91.04	39.28	16.57	2618	1984	1235
29	Nagram	90.33	40.43	20.87	2695	2552	1876
30	Bachhrawan	30.26	13.75	5.25	916	860	524
31	Maharajganj	25.86	11.34	8.32	756	691	370
32	Jais	94.55	43.32	12.46	2888	2144	917
33	Raebareli	368.41	150.73	70.13	6163	4791	2738
34	Lalganj	61.14	27.11	17.83	1807	1710	625
35	Dalmau	46.43	20.75	10.27	1383	1217	543
36	Unchahar	28.09	12.50	5.91	832	585	312
37	Parsadepur	21.54	9.36	3.36	624	760	496
38	Salon	28.82	12.15	4.36	810	654	307
39	Kampil	14.74	6.69	0.48	447	422	210
40	Kaimganj	18.12	7.73	3.15	516	477	252
41	Shamsabad	18.49	8.45	1.95	563	530	363
42	Farrukhabad-cum- Fatehgarh	157.70	69.86	19.09	4665	3034	1720
43	Fatehgarh CB	0.46	0.04	0.04	4	4	4
44	Mohammadabad(NP)	20.33	9.02	3.74	604	546	326
45	Kamalganj	10.31	4.37	2.00	292	214	151
46	Samdhan	65.43	29.04	8.52	1936	1589	681
47	Gursahaiganj	62.31	27.03	11.97	1802	1502	619
48	Sikanderpur(NP)	39.18	16.65	8.55	1110	910	477
49	Chhibramau	80.98	34.52	10.09	2303	2143	828
50	Saurikh	15.14	6.56	3.60	437	370	238

Source: <https://pmay-urban.gov.in/uploads/progress-pdfs/60d5c0add5803-WEB-2.pdf> (last visited on July 22, 2021)

4.6 CONCLUSION

It has been increasingly realized across the globe that sustainable housing and urban development have a crucial bearing on the quality of life and social and economic well-being of the people. Accordingly, housing has been placed at the center of the New Urban Agenda of Habitat III, 2016.¹⁴¹ Sustainable and disaster-resilient housing has been recognized as an important lever in meeting the commitments towards the Sendai Framework (2015)¹⁴² and the Paris Agreement on climate change (2016).¹⁴³ Goal 11 of sustainable development Goals¹⁴⁴ aims to make cities and human settlement inclusive, safe, resilient, and sustainable. India too has acknowledged the importance of housing in improving the socio-economic conditions of the people and accordingly launched the Mission of Housing for all by 2022.

Capacity building for all players at different levels is an important pre-requisite to achieve the national resolve to provide housing for all by 2022. Good practice and performances in the implementation of the mission need to be disseminated among various stakeholders. States have an important role to play in this as ‘housing and urban development’ is a state subject under the constitution. Through their policies, the state must prepare a comprehensive action plan clearly articulating the right institutional and legal structures for enabling the ecosystem to achieve this ambitious task. Innovations in the housing sector need focused attention. Practices in low-cost housing and rapid-paced construction technology require large scale applications to meet the demand for affordable housing in urban areas. Affordable housing has, thus, become one of the biggest challenges of the present times. Planning for a home has become imperative for the younger generation today who are often forced to begin their career with the quest for a permanent home for themselves. Skyrocketing prices of land and real estate in urban areas have made houses

¹⁴¹ Habitat –III-New –Urban-Agenda-10- September -2016, *available at*: <http://habitate3.org/wp-content/uploads/> (last visited on October 10, 2019)

¹⁴² United Nations, “Sendai Framework for Disaster Risk Reduction 2015 – 2030” (United Nations Office For Disaster Risk Reduction, Geneva, Switzerland) *available at*: https://www.preventionweb.net/files/43291_sendaiframeworkfordrren.pdf (last visited on December 10, 2019)

¹⁴³ United Nations, Climate Change, *available at*: http://unfccc.int/paris_agreement/items/9944.php (last visited on August 10, 2019)

¹⁴⁴ Government of India , “Sustainable Development Goal” (Niti Aayog, New Delhi) *available at*: [http://niti.gov.in/writereaddata/files/Mapping-SDGs per cent 20V19-Ministries per cent20060416_0.pdf](http://niti.gov.in/writereaddata/files/Mapping-SDGs%20per%20V19-Ministries%20per%20060416_0.pdf) (last visited on August 10, 2019)

unaffordable. Ever rising rents, fleecing builders, unapproved land use, substandard building material etc. has all widened the gap between supply and demand¹⁴⁵.

It is in such situations that Government regulations play an important role. While the Land Acquisition, Rehabilitation, and Resettlement Bill ensured proper and justified use of the land for various purposes, the Real Estate (Regulation and Development) Act was introduced by the Government to protect the interests of home buyers. Pradhan Mantri Awas Yojana-Housing for All Urban has been introduced to solve the housing problem of the Indian middle, lower middle class and below poverty level class of its citizens. PMAY-G aims at providing a pucca house, with basic amenities, to all households living in kutcha and dilapidated houses, by 2022. On the financing front, while National Housing Bank regulated housing finance companies, RBI regulates commercial banks and partially cooperative banks. The Credit linked subsidy schemes have facilitated the financing of houses even for those who otherwise not afford them.¹⁴⁶

Infrastructure is another important dimension of housing. Adequate infrastructure facilities like roads, metro trains, schools, hospitals, shopping areas and children's play areas are a must for making "Housing for all by 2022" a success. The use of durable and environment-friendly material in construction is equally important in today's scenario. Design needs to be such that it ensures that the house withstands the ravages of time and nature¹⁴⁷. Green technology can make the house environment friendly and also obviate the necessity to use artificial coolers in the summer and heaters in the winter. Smart Cities Mission and Atal Mission for Rejuvenation and Urban Transformation (AMRUT) aim to address these issues by promoting cities that provide core infrastructure and give the citizens a clean and sustainable environment and also address issues of improved quality of services.¹⁴⁸ A stable home is an essential requirement for the life and happiness of a family and it is the effort of the government to ensure a better abode and thus a better life to the last person.

¹⁴⁵ Government of India, "Annual Report 2020-21 (Ministry of Housing Urban Affairs, New Delhi) available at: [http://mohua.gov.in/upload/uploadfiles/files/Annual_Report_2020_21_MoHUA_English_Version%20\(Final\).pdf](http://mohua.gov.in/upload/uploadfiles/files/Annual_Report_2020_21_MoHUA_English_Version%20(Final).pdf) (last visited on June,10 2021)

¹⁴⁶ "Housing for All" 61 *Yojana Magazine* 5 Sep. (2017)

¹⁴⁷ Government of India, "Annual Report 2020-21 (Ministry of Housing Urban Affairs, New Delhi) available at: [http://mohua.gov.in/upload/uploadfiles/files/Annual_Report_2020_21_MoHUA_English_Version%20\(Final\).pdf](http://mohua.gov.in/upload/uploadfiles/files/Annual_Report_2020_21_MoHUA_English_Version%20(Final).pdf) (last visited on June,10 2021)

¹⁴⁸ *Ibid.*



CHAPTER-5

JUDICIAL RESPONSES TO HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING



CHAPTER-5

JUDICIAL RESPONSES TO HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

5.1 INTRODUCTION

“The arc of the moral universe is long, but it bends towards justice.”-

Theodore Parker¹

India is still grappling with unmet basic housing needs of hundreds of thousands of its citizens. While we represent the world's largest democracy and have a truly remarkable Constitution, millions of people are still living in sub-human conditions on pavements, in squatter settlements, basties, jhuggies or unauthorized slums and are in constant threat of being evicted. The Supreme Court India and various others High Courts interprets the Constitution on enforceability of social rights, especially the right to shelter and adequate housing in the context of these pressing housing needs and frequent forceful evictions of slum dwellers²

While justice should be an inherent component of the law and, incontestably, is its end, in many parts of the world, law and justice, unfortunately, are not synonymous. Even where just laws exist, they are often not implemented, or selectively used. The judiciary, too, does not always ensure the uniform administration of justice. However, for the poor and marginalized, who find their rights being violated by state and non-state actors, the judiciary, at times, is the only hope for the pursuit of justice. With regard to protection of the human right to shelter and adequate housing in India, this is even more significant as India does not have a law-either at the state or national level—that explicitly safeguards the human right to

¹Shivani Chaudhry and Miloon Kothari, “Adjudicating the Human Right to Adequate Housing: Analysis of Important Judgments from Indian High Court’s” 15 Housing and Land Rights Network, New Delhi(2019) *available at:* https://www.hlrn.org.in/documents/Housing_Judgments_India.pdf (last visited on 24 September, 2019)

²Jayna Kothari, “Right of Housing: Constitutional Perspective on India and South Africa”, 6 Lawyers Collective 5-6 (2001) *available at:* http://lawyerscollective.org/lc_mag/freedownloads/magazine2001/June%202001/right_of_housing.htm (last visited on 26 September, 2016)

shelter and adequate housing. Laws deal with land acquisition, land revenue, tenancy. They cover rights of home and land-buyers. Multiple laws exist to “clear slums,” to zone city spaces, and to govern property and real estate development, but not to respect, protect, and fulfill the right to adequate housing as a human right in India³

International laws, which India has ratified—including the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and the Convention on the Rights of Persons with Disabilities—recognize and guarantee the right to housing as a human right. It is, thus, binding on the Government of India to implement its international legal obligations by ensuring that all its schemes and housing-related interventions are grounded in the ‘human right to adequate housing’ framework. India, however, has not adopted a human rights approach to housing. On the contrary, the state is responsible for multiple violations of the right to housing, especially of marginalized and low income groups.

India’s housing crisis is marked by the lack of state investment in social and low-cost housing, which is further exacerbated by forced evictions, real estate speculation, and market-driven solutions to meet the national housing shortage. In the absence of the provision of legal security of tenure, self-constructed housing of the urban and rural poor continues to be viewed by the state as an ‘encroachment’ and is routinely demolished, without due process, and in violation of international human rights standards.⁴

Human rights are also violated when people’s land is forcibly acquired or appropriated, when they are forcefully relocated to remote settlements without basic services and adequate housing, or when they are displaced from their homes and habitats and rendered homeless. The vast majority of the affected population has limited access to justice and effective remedy for violations of the right to housing.

³Shivani Chaudhry and Miloon Kothari, “Adjudicating the Human Right to Adequate Housing: Analysis of Important Judgments from Indian High Court’s” 15 Housing and Land Rights Network, New Delhi(2019) *available at*: https://www.hlrn.org.in/documents/Housing_Judgments_India.pdf (last visited on 28 September, 2019)

⁴*Ibid.*

Against this backdrop of impunity for state and non-state actors, and the absence of a rights-based legal framework to uphold the right to shelter and adequate housing in India, the judiciary's role is critical⁵.

The Indian judiciary, however, has been consistent in safeguarding the right to housing as a human right and in ensuring its fulfillment for the most marginalized. Judgments from the Supreme Court of India, and various High Courts, and district courts have providing safeguards ordered against demolitions of low-income settlements and the forced eviction of marginalized communities, thereby respecting their fundamental rights. On several occasions, the Supreme Court of India and several other courts have expanded the Fundamental Right to life, guaranteed by Article 21 of the Constitution of India, to include the right to housing, and endorsed it on numerous occasions⁶.

However, the justiciability of the human right to shelter and adequate housing has been limited in India due to the absence of strong and rights-based laws and policies related to housing and shelter. Although India has ratified several international human rights instruments, which mandate the guarantee and protection of the human right to adequate housing, it has not independently recognized or defined the right within its legislative or constitutional framework. The courts have often been inconsistent and even contradictory in their interpretation and treatment of the right to shelter and adequate housing, not necessarily recognizing it as an independent human right or providing human rights-based remedies. The Indian judiciary has elaborated several aspects of the right to shelter and adequate housing, deriving primarily from the right to life and personal liberty. The 'right to life' is a fundamental right guaranteed under Article 21 of the Constitution of India, which states that, "No person shall be deprived of his life or personal liberty except according to procedure established by law."

The Indian judiciary has elaborated several aspects of the right to shelter and adequate housing, deriving primarily from the right to life and personal liberty. Some

⁵*Ibid.*

⁶*Ibid.*

of the very significance decisions of Supreme Court and given by various High Courts are discussed as follows:

5.2 SUPREME COURT ON HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

The Supreme Court of India, in several judgments, has held that the human right to adequate housing is a fundamental right emanating from the right to life protected by Article 21 of the Constitution of India “No person shall be deprived of his life or personal liberty except according to procedure established by law”. In several important judgments, the apex court has clearly established the relationship between the right to housing and the right to life, as guaranteed by Article 21.

***Francis Coralie v. Union Territory of Delhi, 1981*⁷**

In the above mention case the honorable Supreme Court in its earliest conception of the right to shelter, stated that: We think that 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 and shelter over the head and facilities for reading, writing and expressing one in diverse forms, freely moving about and mixing and commingling with fellow beings. While arriving at the proper meaning and content of the right to life, the attempt of the court should always be to expand the reach and ambit of the fundamental right rather than to attenuate its meaning and content. A constitutional provision must be construed, not in a narrow and constricted sense, but in a wide and liberal manner so as to anticipate and take account of changing conditions and purposes so that the constitutional provision does not get atrophied or fossilized but remains flexible enough to meet the newly emerging problems and challenges. This principle applies with greater force in relation to a fundamental right enacted by the Constitution. The fundamental right to life which is the most precious human right and which forms the ark of all other rights must therefore be interpreted in a broad and expansive spirit so as to invest it with significance and vitality which may endure for years to come and enhance the dignity of the individual and the worth of the human person.

⁷ AIR 1981 SC 746,753

***Olga Tellis v. Bombay Municipal Corporation, 1985*⁸**

Subsequently, in the above mention case the Supreme Court of India considered forced evictions as a violation of the rights to life and livelihood, and held, an equally important facet of that right is the right to livelihood because; no person can live without the means of living, that is, the means of livelihood. If the right to livelihood is not treated as a part of the constitutional right to life, the easiest way of depriving a person his right to life would be to deprive him of his means of livelihood to the point of abrogation. Such deprivation would not only denude the life of its effective content and meaningfulness but it would make life impossible to live. And yet, such deprivation would not have to be in accordance with the procedure established by law, if the right to livelihood is not regarded as a part of the right to life. That, which alone makes it possible to live, leave aside what makes life livable, must be deemed to be an integral component of the right to life. Deprive a person of his right to livelihood and you shall have deprived him of his life. Indeed, that explains the massive migration of the rural population to big cities. They migrate because they have no means of livelihood in the villages. The eviction of the people from their dwellings would result in the deprivation of their livelihood.

***Shantistar Builders v. Narayan Khimalal Totame and others, 1990*⁹**

In the above mention case the honorable Supreme Court of India directly recognized the right to shelter and children to adequate housing and observed that the basic needs of man have traditionally been accepted to be 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 difference between the need of an animal and a human being for shelter has to be kept in view. For the animal it is the bare protection of the body; for a human being it has to be a suitable accommodation which would allow him to grow in every aspect – physical, mental and intellectual. The Constitution aims at ensuring the full development of every child. That would be possible only if the child is in a proper home.

⁸ (1985) 3 SCC 545

⁹ (1990) 1 SCC 520

Further, in this case, the Supreme Court gave certain directions in its order. The order was made to resolve the dispute regarding the order of exemption made under the Urban Land (Ceiling & Regulation) Act, 1976. The purpose of the Act is to provide housing to the weaker section of the society as a part of their right to life as the right to shelter. The Act puts a ceiling limit on the land which a private individual can acquire, and gives the State Government power to use the vacant land for the housing of the weaker section. It was argued that the builders are breaching the conditions of the exemption order.

In response to the appeal made in the Court, the bench issued some directives as comments to the order in dispute made by the State Government. In its judgment, the court asked for constituting a committee with the purpose of supervising such projects. The main purpose of the committee is to make sure that the purpose of the Act is achieved. Thus, the judgment was extended to the Act for all the State Governments to formulate policies recognizing the right of each person of proper, safe, and reasonably comfortable accommodation.

Consumer Education and Research Centre v. Union of India, 1995¹⁰

In this case honorable Supreme Court held that the 'right to shelter' would mean and include the right to livelihood, a better standard of living, hygienic conditions in the work place, and leisure. It was unanimously held by a bench of three Judges that right to health to a worker is an integral facet of meaningful right to life and have not only a meaningful existence but also robust health and vigour without which worker would lead life of misery. Lack of health denudes his livelihood. Compelling economic necessity to work in an industry exposed to health hazards due to indigence to bread-winning to him and his dependents should not be at the cost of the health and vigour of the workman. Facilities and opportunities, as enjoined in Article 38, should be provided to protect the health of the workman. Right to human dignity, right to shelter, development of personality, social protection are fundamental rights to the workmen. Medical facilities to protect the health of the workers are fundamental rights to workmen. It was, therefore, held that "the right to health, medical aid and to protect the health and the vigour of a worker while in service or

¹⁰(1995) 3 SCC 42

post retirement is a fundamental right under Article 21 read with Articles 39(e), 41, 43, 48-A of the Constitution of India and fundamental human right to make the life of workmen meaningful and purposeful with dignity of persons".

P.G. Gupta v. State of Gujarat, 1995¹¹

In the above mention case honorable Supreme Court considered the mandate of human right to shelter and read it into Article 19(1) (e) and Article 21 of the Constitution and the Universal Declaration of Human Rights and the Convention of Civic, Economic and Cultural Rights and held that it is the duty of the State to construct houses at reasonable cost and make them easily accessible to the poor. The aforesaid principles have been expressly embodied and in-built in our Constitution to secure socio-economic democracy so that everyone has a right to life, liberty and security of the person. Article 22 of the Declaration of Human Rights envisages that everyone has a right to social security and is entitled to its realization as the economic, social and cultural rights are indispensable for his dignity and free development of his personality.

It would, therefore, be clear that though no person has a right to encroach and erect structures or otherwise on footpath, pavement or public streets or any other place reserved or earmarked for a public purpose, the State has the Constitutional duty to provide adequate facilities and opportunities by distributing its wealth and resources for settlement of life and erection of shelter over their heads to make the right to life meaningful, effective and fruitful. Right to livelihood is meaningful because no one can live without means of this living that is the means of livelihood. The deprivation of the right to life in that context would not only denude life of effective content and meaningfulness but it would make life miserable and impossible to live. It would, therefore, be the duty of the State to provide right to shelter to the poor and indigent weaker sections of the society in fulfillment of the Constitutional objectives.

¹¹AIR 1995 (1) SCALE 653

U.P. Awaas Evam Vikas Parishad v. Friends Coop. Housing Society Ltd, 1996¹²

In this case honorable Supreme Court of India state that the right to shelter is a fundamental right, which springs from the right to residence under Article 19 (1) (e) and the right to life under Article 21. In this case it has been held that prior approval was not necessary. It is held that the Petitioner Board could not implement the scheme until approval was given by the State Government. It is held that once the approval is given, all the previous acts done and actions taken get validated and the publications made under the Adhiniyam also become valid. This decision covers this case squarely. The learned Judges in the said decision read initiation of the Scheme under Section 28 of the Adhiniyam and whereas the initiation of the Scheme is to be found under Section 16 of the Adhiniyam. Unless there is approval of the State Government of the Scheme initiated under Section 16 of the Adhiniyam, such a Scheme cannot be published under Section 28 of the Adhiniyam. There is no approval of the State Government to the Scheme initiated by the Parishad on record, and in the absence of such an approval, any subsequent approval by the State Government of the Scheme published under Section 28 of the Adhiniyam would not cure the defect.

Relevant part of s.59(1) (a) reads thus: "The Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam 1965 (Except in relation to those housing or improvement schemes which have either been notified under s.32 of Uttar Pradesh Avas Evam Vikas Parishad Adhiniyam, 1965 before the declaration of the area comprised therein as development area or which having been notified under s.28 of the said Adhiniyam before the said declarations are thereafter 'approved' by the State Government for continuance under the said Adhiniyam or which are initiated after such declaration "with the approval" of the State Government hereinafter in this section referred to as the Special Avas Parishad Schemes shall in respect of a development area remain suspended...." A reading thereof would indicate that for the development of the area the provision of the Adhiniyam shall remain suspended except in relation to three categories of the housing scheme or improvement schemes enumerated under the Act, namely, : (i) Schemes which have been notified under s. 32 of the Adhiniyam before the declaration under s.3 of the Act; (ii) Schemes for which notification under s.28 of

¹² AIR 1996 114 SCC 1995

the Adhiniyam has been issued before the notification under s.3 of the Act and are thereafter approved by the State Govt. for continuance; and (iii) Schemes which are initiated after the declaration under s.3 of the Act with the approval of the State Government. Right to shelter is a fundamental right, which springs from the right to residence assured in Art.19 (1) (e) and right to life under Art.21 of the Constitution. No doubt their construction has also to be in accordance with lay out and building rules but that would not be a ground to refuse permission to them when they approached the authorities to sanction the same in accordance with law.

***State of Karnataka v. Narasimhamurthy, 1996*¹³**

In the above mention case the honorable Supreme Court affirmed the positive obligation of the state to fulfill the right to shelter/housing. It held that right to shelter is a fundamental right under Article 19 (1) of the Constitution. To make the right meaningful to the poor, the State has to provide facilities and opportunity to build house. Acquisition of the land to provide house sites to the poor houseless is a public purpose as it is a constitutional duty of the State to provide house sites to the poor. Admittedly, final notification under sub-section (4) of Section 3 did contain the name of the first respondent the notification under Section 3 (1) of the Karnataka Acquisition of Land for Grant of House Sites Act, 1972 was published in the Gazette on February 3, 1975. Under these circumstances, the High Court was clearly in error in holding that the notification published under sub-section 3 (1) of the Act was vitiated by error of law on account of omission to have the name of the owner, viz., the first respondent, published in the notification under Section 3 (1). The appeal is accordingly allowed and the writ petition stands dismissed but, in the circumstances, without costs.

***Chameli Singh v. State of Uttar Pradesh, 1996*¹⁴**

In this case honorable Supreme Court elaborated the components of the right to adequate housing that in any organized society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is

¹³ AIR 1996 SC 90

¹⁴ AIR (1996) 2 SCC 549

assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. Right to live guarantee in any civilized society implies the right to food, water, decent environment, education, medical care and shelter. These are basic human rights known to any civilised society. All civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India cannot be exercised without these basic human rights. Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore, 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. 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. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organized civic community one should have permanent shelter so as to physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy.

The ultimate object of making a man equipped with a right to dignity of person and equality of status is to enable him to develop himself into a cultured being. Want of decent residence; therefore, frustrates the very object of the constitutional animation of right to equality, economic justice, fundamental right to residence, dignity of person and right to live itself.

***P.T. Munichikkanna Reddy & Ors vs Revamma and Ors, 2007*¹⁵**

In the above mention case Court held that, there is another aspect of the matter, which cannot be lost sight of. The right of property is now considered to be not only a constitutional or statutory right but also a human right Declaration of the Rights of Man and of the Citizen, 1789 enunciates right to property under article 17: Since the right to property is inviolable and sacred, no one may be deprived thereof, unless public necessity, legally ascertained, obviously requires it and just and prior indemnity has been paid. Under article 17(i) and 17(ii) also recognizes right to property: 17 (i) everyone has the right to own property alone as well as in association with others. (ii) No one shall be arbitrarily deprived of his property¹⁶.

Human rights have been historically considered in the realm of individual rights such as, right to health, right to livelihood, right to shelter and employment, etc. but now human rights are gaining a multifaceted dimension. Right to property is also considered very much a part of the new dimension. Therefore, even claim of adverse possession has to be read in that context.

***PUCL v. Union of India, 2013*¹⁷**

In this case the issue related to homelessness has been brought before the court, which is a serious violation of the human right to adequate housing was brought to the notice of the Supreme Court of India through the intervention of special commissioners. 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 center. It also stated that shelters should be functional throughout the year and not as a seasonal facility only during the winter.

In an order dated, 23 January 2012, the Supreme Court of India stated that:

- ❖ Article 21 of the Constitution states that no person should be deprived of his life or personal liberty except according to the procedure established by the law. Over the years, this Court's jurisprudence has added significant meaning and depth to

¹⁵ (2007) 6 SCC 59

¹⁶ The Universal Declaration of Human Rights, 1948

¹⁷ (2013) 14 SCC 368

the right to life. A large number of judgments interpreting Article 21 of the Constitution have laid down right to shelter is included in right to life.

- ❖ The State owes to the homeless people to ensure at least minimum shelter as part of the State obligation under Article 21.

***Tukaram Kana Joshi v. Maharashtra Industrial Development Corporation, 2013*¹⁸**

In the above mention case the apex court declared that, the right to property is now considered to be, not only a constitutional or a statutory right, but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment etc. Now however, human rights are gaining an even greater multi-faceted dimension. The right to property is considered, very much to be a part of such new dimension.

The appellants were deprived of their immovable property in 1964, when Article 31 of the Constitution was still intact and the right to property was a part of fundamental rights under Article 19 of the Constitution. It is pertinent to note that even after the Right to Property seized to be a Fundamental Right, taking possession of or acquiring the property of a citizen most certainly tantamount to deprivation and such deprivation can take place only in accordance with the "law", as the said word has specifically been used in Article 300-A of the Constitution. Such deprivation can be only by resorting to a procedure prescribed by a statute. The same cannot be done by way of executive fiat or order or administration caprice. In *Jilubhai Nanbhai Khachar, etc. etc. v. State of Gujarat & Anr.*, (AIR 1995 SC 142) it has been held as follows: -

"In other words, Article 300-A only limits the power of the State that no person shall be deprived of his property save by authority of law. There is no deprivation without due sanction of law. Deprivation by any other mode is not acquisition or taking possession under Article 300-A. In other words, if there is no law, there is no deprivation."

¹⁸ (2013) 1 SCC 353

The right to property is now considered to be, not only a constitutional or a statutory right, but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment etc. Now however, human rights are gaining an even greater multi-faceted dimension. The right to property is considered, very much to be a part of such new dimension.

***E.R. Kumar v. Union of India, 2016*¹⁹**

In the above mention case the Supreme Court addressed the right to shelter of homeless persons in urban areas, by establishing a committee to examine the slow progress with regard to the creation of shelter homes by states/union territories across India, and directing the government and its authorities to ensure that at least temporary shelters are provided for the homeless to protect them during the winter season. The Supreme Court has also established the right to property as a human right, in the context of adverse possession. Further Supreme Court stated that a careful consideration of the submissions of the parties and the material on record discloses that the destitute in urban areas continue to suffer without shelters. The Union of India has formulated a Scheme and released huge amounts of money to the State Governments. The State Governments are responsible for the implementation of the Scheme. The reasons for non-utilization of funds for the welfare scheme are not forthcoming.

Thus, the Supreme Court of India has unequivocally established the human right to adequate housing as an integral aspect of the ‘right to life’ guaranteed under Article 21 of the Constitution of India. Moreover, the Supreme Court has expounded the various facets of adequate housing not limited merely to shelter, and also emphasized the positive duties of the State towards fulfilling the right. In spite of the availability of funds and a clear mechanism through which to disburse them, we see an extremely unsatisfactory state of affairs on the ground. This is despite our continuous monitoring of the matter. Yet another winter approaches and enough has

¹⁹ 2016 (10) SCJ 467

not been done for protection of many homeless in our towns/cities. For the aforementioned reasons, we direct as follows:

A Committee is constituted which will have Mr. Justice Kailash Gambhir, retired Judge, High Court of Delhi as its Chairman with an officer of the Joint Secretary cadre from the Ministry of Housing & Urban Poverty Alleviation to be deputed by the Union of India and an officer, serving or retired, from the Delhi Judicial Service to be nominated by the Chief Justice of the High Court of Delhi in consultation with the Chairperson of the Committee as Members. The last mentioned shall be the Member Secretary of the Committee. The Ministry of Housing and Urban Poverty Alleviation shall be the Nodal Ministry to provide all logistical support to the Committee. The Chairman of the Committee shall be entitled to all such emoluments/perquisites and facilities as are admissible to any retired Judge, when holding a post retirement assignment like Chairperson of the State Consumer Commissions except residential accommodation. The Committee may not require any regular office space but should there be any such requirement it may take up the matter with the relevant authority. The Committee shall cause physical verification of the available shelters for urban homeless in each State/UT.

“Right to housing and dignity denied: Indian Supreme Court orders eviction of slum dwellers within 3 months”, In a recent order passed in the case of MC Mehta v. Union of India, the Supreme Court has given directions to remove around 48,000 slum dwellings that run along a stretch of 140 kilometer of railway tracks in New Delhi within three months. The three-judge bench further directed that no court can grant a stay on the removal of the slum dwellers and has issued no guidelines about resettlement and rehabilitation plans to be followed by government authorities. This petition was originally filed in 1985 as a Public Interest Litigation by lawyer and environmentalist MC Mehta, to address concerns related to pollution in and around Delhi, India. The Supreme Court has issued numerous orders since then in relation to this case. The most jolting has been this recent order issued on August 31, 2020. The

Supreme Court has essentially stripped these slum dwellers of the right to access remedy and the right to be heard, in violation of the principles of natural justice²⁰.

5.3 VARIOUS HIGH COURTS ON HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING

Certain interim orders and judgments from High Courts across the country have also upheld the human right to adequate housing, and condemned the practice of forced evictions without due process and adherence to human rights standards.

Gopiram Agarwalla v. Smt. Bina Agarwalla, 1985²¹

In the case of Gopiram Agarwalla honorable High Court held that the right to shelter/housing is an integral part of the right to life, and accords protection against instances of arbitrary forced eviction, and the Court observed that:

I feel disposed to observe that the right to shelter is a fundamental right of a citizen under the Constitution. If he has the right to live guaranteed to him under Article 21, it guarantees a dignified living under a shelter and certainly cannot be thrown out summarily to the streets from a place which has sheltered him. If he is carrying on trade or business on a premises, his right under Article 19(1) (g) will be infringed if it is unreasonably tempered within an unauthorized or arbitrary manner. Indeed, as held in Dilip Kumar (AIR 1983 SC 109), even in such cases, Article 21 will be infringed. The right to earn livelihood of such a citizen would be thereby impaired. The expression “life” does not cannot (sic) a mere animal existence, so it was held by their lordship Reference made to “dignity of individual” in the Preamble to the Constitution, of which notice was taken in Kharak Singh (AIR 1985 SC 1295) also bears reiteration in this context. I have no doubt, therefore, that right to a dignified existence under a shelter is inherent in Article 21. If a person is under a shelter as a living human being of 20 century (not belonging to the stone age) accustomed to the finer graces of the modern civilisation, he is entitled to live there or even continue there his trade or profession to earn his livelihood enjoying protection

²⁰ Supreme Court Order, “Right to Housing and Dignity”, (2020) available at: <https://ohrh.law.ox.ac.uk/right-to-housing-and-dignity-denied-indian-supreme-court-orders-eviction-of-slum-dwellers-within-3-months/> (last visited on May, 20 2021)

²¹ (1985) 1 GLR 248

of the shelter until he is evicted therefrom in accordance” with the procedure prescribed by law.

Bibhuti Bhusan Chakraborty v. Deputy Registrar, 1997²²

In this case the right to housing was referred to, through Supreme Court precedent, in *Shantistar Builders v. N.K. Totame*, (AIR 1990 SC 630) to accept that the basic needs of human beings include the need for shelter, and the right is inherent in Article 21 of the Constitution of India. The Court also read the right to privacy as part of the right to shelter/housing through another Supreme Court case. *R. Rajagopal v. State of Tamil Nadu*, (AIR 1995 SC 264). This meant that a citizen has the “right to be let alone” and also “the right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education among other matters.”

This judgment is significant in light of the numerous instances of discrimination in access to housing on grounds of caste, gender, religion, sexuality, and marital status, among others. The Court, by reaffirming the right to privacy as part of the right to shelter, prohibits the denial of housing by co-operative societies on moral or arbitrary grounds. The right to shelter/housing includes the right to be let alone, and does not allow discrimination based on the private life of an individual. The judgment links the right to housing, an economic, social and cultural right, with the right to privacy, a civil and political right – thus reinforcing the indivisibility of human rights approach. The judgment also upholds the right to dispose property, as per will.

C. Ponnusamy v. Government of Tamil Nadu, 1997²³

In the above mention case issue has been brought before court that was whether the notification was vague, incorrect, and untenable in light of the fact that the Petitioners had no other land and had resided on it for a long time. The Court held that the principles of natural justice embodied in Rule 3(b) 93 of the Tamil Nadu Land Acquisition Rules, which mandates the Collector to hold a hearing on receiving

²² AIR 1997 Cal 374

²³ (1997) 1 CTC 212

objections, and Section 5-A of the Land Acquisition Act 1984⁹⁴ had been violated, and Court considered the fundamental nature of the right to shelter under Article 19(1) of the Constitution. It cited Supreme Court decisions to recognize that fundamental rights cannot be violated when acquiring land for the purpose of building housing. The Court ruled that in these circumstances, on the ground that there has been violation of the petitioner's fundamental right to shelter which the first Respondent has to provide for, I am inclined to quash the acquisition proceedings impugned in the present writ petition.

While acknowledging and upholding the right to housing, the case highlights the importance of procedural safeguards such as providing notice and public hearings to prevent any arbitrary incursions against the right to housing.

St. Anthony's Co-operative Society v. The Secretary (Co-operation and Textile Department), 2001²⁴

The issue in this case is that whether a co-operative housing society can confine membership to a particular religion, sect or group, and exclude those who do not profess the religious faith of the said cooperative society.

Although the Court does not enunciate a clear right to housing, it recognizes the importance of enjoying property in the obiter, as well as the fact that membership to a society is linked with use of property. The Court, however, relies on the literal interpretation of the law to reiterate that membership to the society (and thus to the enjoyment of housing) is subject entirely too legislative intervention. The judgment does not recognize a constitutional right to housing or any form of property but merely a statutory right; consequently, if the state were to allow or mandate exclusion of certain members through legislation, the evicted members cannot rely on constitutional protection. A better approach would have been to link the welfare objective of co-operative societies with the duty of the state to facilitate habitation for all members of society and every member's individual right to housing within a community.

²⁴ (2001) 1 BomCR 730

Steel Plant Employees Union, Salem v. Steel Authority of India Limited, 2003²⁵

In this case, the High Court of Madras neither confirmed nor denied the protection of the right to housing under the Constitution of India. However, the case exhibits the manner in which the right to housing may be fulfilled, which either could be by providing housing facilities or allowance/compensation in lieu of it.

The fact of the case is that the Steel Authority of India had constructed some quarters for its workers near the Salem Steel Plant since it was far away from Salem town in the state of Tamil Nadu. Since these were not sufficient for all workers, rules were framed to determine allotment based on eligibility criteria. However, even after being declared “eligible,” many workers were not allotted housing. Despite this, the company initiated a scheme that allowed employees of other public sector units (PSUs) and banks established in the township to avail of company accommodation on a long-term lease basis. The employees, who were not allotted accommodation, opposed this move. The issue arises in this case are whether the scheme was fair and reasonable and another issues is whether the Petitioners’ right to housing was violated.

The Court held that having acquired land for certain purposes under the Land Acquisition Act 1894, the Respondents could not utilize it for anything other than the stated ‘public purpose.’ However, the Court recognized that the scheme was floated by the company to meet its financial losses incurred over the years. It also noted that many changes in terms of accessibility had come into place, such as better roads and housing colonies in nearby areas. The Court interpreted the scheme liberally and said that the ‘public purpose’ was the preservation and sustenance of the plant to prevent further deterioration and the Court also said that the agreement/settlement clarified that those not getting accommodation would get house rent allowance. Accordingly, the scheme was deemed fair and reasonable, as it aimed to maintain the plant, which was indeed the ‘public purpose’ for which the land was acquired. The Court also relied on the order of preference to dismiss the apprehensions of the Petitioners and responding to the Petitioners’ claim that their right to shelter/housing is protected by Article 21 of the Constitution, the Court ruled that the settlement (‘National Joint

²⁵ (2003) ILLJ Mad 189

Committee for Steel Industry' Agreement) made it clear that those not provided quarters would be provided housing rent allowance.

Yamkhomang Haokip v. State of Manipur, 2003²⁶

In this case a direction has been issued by the court that the villagers will not be evicted and that the eviction notice is quashed. The issue of case is whether the eviction notice, issued to the chief of the village, was in accordance with the law or not and another issue is whether the Petitioners have the right to housing or to live at the new site in Moreh or not. The Court deemed that from the documents available, it was not ascertainable whether the land in question was part of the wildlife sanctuary or not. The notice did not mention that the land was part of the sanctuary but merely stated that there had been an “encroachment” and provided details on the size of the land in question. The notice was thus vague and not tenable. The right to shelter/housing is part of Article 21 of the Constitution and Supreme Court precedent has recognized that there is a right to dwell on pavements and in settlements to earn livelihood: (...) It is the Constitution Bench decision in *Olga Tellis v. Union of India*, reported in (AIR 1986 SC 180), which has put life and vigour to this requirement, because in that case, the right to dwell on pavement or in slums were accepted as a part of the right conferred by Article 21, which, as would be seen later, takes within its fold the right to livelihood as the persons whom *Olga Tellis* represented in that case were staying at payments or in slums so as to enable them to earn their livelihood in places nearby, the Court came forward to protect them and desired providing of alternative accommodation for some categories of people.

This Court further requires the State respondents to keep in their mind the differences between the need of an animal and human being for shelter, as for the animal, it is the bare protection of the body and for good food; and for - a human being a suitable accommodation or shelter which would allow him to go in other aspects - physically, mentally and intellectually with good food, clothing for survival on this earth. The Guwahati High Court recognized the rights to housing and livelihood as integral to the realization of the right to life. It, therefore, issued the order that due care must be taken while issuing a notice of eviction. The Court also

²⁶ (2003) 3 GLR 409

held that due process laid down by law must be followed by the state and alternative accommodation must be provided, wherever possible. In case the notice is vague or due process is not followed, the eviction proceedings would not be valid.

Shivaji Krishna Zunjare v. State of Maharashtra, 2004²⁷

In one of the most remarkable instances of the recognition of the right to housing, the Bombay High Court, in this case, dealt with the exclusion of certain persons from a slum rehabilitation scheme under the Development Control Regulations for Greater Mumbai. The Court, while discussing the right to adequate housing, invoked Article 26 of the South African Bill of Rights, which provides that the right to adequate housing exists for all persons; that the State must take reasonable legislative and other measures within its available resources; and, that no one may be evicted without an order of the Court considering all circumstances.²⁸

The Court then discussed the *Government of the Republic of South Africa v. Grootboom*²⁹ a landmark judgment on the right to housing in South Africa, as an illustration of the role of the judiciary in effectuating socio-economic rights. The Court especially highlighted the test of reasonability as propounded by *Grootboom* in testing the legality of state policies. However, the Court refused to enumerate the content of the right to housing in India owing to the fact that there was already a state policy in place for settlement-dwellers. Nevertheless, this case is significant for the positive acknowledgement of the human right to adequate housing by the Bombay High Court.

Sahyadri Punarvasan Gaothan Vikas Sanstha v. Pandharpur Municipal Council, 2005³⁰

In this case the Court has not only upheld adequate housing as an essential element of the right to life but also recognized the rights to privacy, reputation, and equal opportunity. Further, it included within its ambit basic amenities such as electricity, water, open spaces, toilets, markets, and burial grounds. This is consistent

²⁷ (2004) 6 BomCR 133

²⁸ Bill of Rights, South Africa, art. 26

²⁹ (2000) 11 BCLR 1169 (CC)

³⁰ (2005) 3 BomCR 210

with the comprehensive interpretation of the human right to adequate housing by the United Nations Committee on Economic, Social and Cultural Rights in its General Comment 4.³¹

The Court took cognizance of the fact that in the name of the larger public good; people residing in remote villages are often displaced, resulting in a range of adverse impacts, especially on women and children. The Court stated that: It is unfortunate that whenever such projects are undertaken in the name of larger public good, people residing in remote villages are displaced. Not only they get thrown out from the areas where they are residing for decades together but upon shifting, minimum and basic amenities are also not guaranteed to them. It is a common grievance of such people that while residing for decades together, with State assistance and most of the times on their own, they establish schools; play grounds, cremation grounds etc. Villagers get together and implement, with assistance from Non-Governmental Organizations and State, schemes for water supply and other amenities. Everything is gone the moment the villages are submerged. People are shifted to far off places. In the name of resettlement and rehabilitation virtually nothing is provided. This is the grievance on most occasions. People get thrown out and displaced physically, mentally and socially. Communities which are residing together for decades have to adjust with totally different living conditions. This has an adverse impact on all sections and strata of the society but more particularly on women and children. The right to life under Article 21 was read expansively to include the right to reputation, right to privacy, and the right to equal opportunity. This means that everyone is entitled to basic amenities such as open toilets, open spaces, markets, burial grounds, electricity and water.

Joseph Bain D'Souza v. State of Maharashtra, 2005³²

In the above mention case, the Bombay High Court examined the housing situation in Mumbai in the aftermath of the 2005 floods. The Court engaged with the state government and urged it to examine issues of urban planning, the need to create

³¹ UN Committee on Economic, Social and Cultural Rights, General Comment 4: "The Right to Adequate Housing" art.11 (1) 1991. *available at*: http://hln.org.in/documents/CESCR_General_Comment_4.pdf (last visited on 20 September, 2016)

³²(2005) 6 BomCR 543

affordable spaces for the urban poor, and the dilapidated condition of existing housing facilities. The Court's approach reflects an implicit understanding that the right to housing not only signifies protection from illegal eviction, but also requires the state to actively ensure accessibility of affordable housing.

The Court stated that in our view, it is necessary that there should be an independent monitoring mechanism. A range of considerations must be weighed and balanced with the need to provide conditions for dignified existence to those occupants... The right to housing is a basic human right... Many of those buildings lack facilities as elementary as a self-contained toilet attached to a tenement. Hence, the preservation of the balance of life warrants a balance between competing equalities. The impact of an additional population on the existing civic services is one facet of the impact on the quality of life... The balance is not easy to define but a balance has to be made on the basis of a considered understanding of all the facets of a complex problem.

Junjamma v. Bangalore Development Authority, 2005³³

This case demonstrates the complexities of land use and ownership in a metropolitan city, where there is scarce access to low-cost housing and land. Though the Court upholds the acquisition proceedings, it recognizes the realities of the urban poor and the responsibility of the government to formulate adequate policy to ensure adequate housing for all. The Court's view that the land-acquirers, in this case, also belonged to economically weaker sections and the protection arising from the right to adequate housing would also extend to them, exhibits that the right to adequate housing is universal in nature and is not dependent on the nature or perceived legality of tenure. It is an universally accepted view that adequate housing is one of the most basic human needs. With the adoption of the Universal Declaration of Human Rights in 1948, the right to adequate housing comes within the fold of universally applicable and universally accepted human rights law. Ultimately, adequate housing is the right of every child, woman and man. Recognizing this, the Supreme Court has held that the right to shelter is a fundamental right that springs from right to residence article 19(1) (e) and right to life (article 21). Recognizing the quandary as one between balancing private rights and the public interest, the Court said that the core problem

³³ ILR 2005 KAR 608, 2004 (7) KarLJ 677

was the need for housing by the poor and needy. Given that the right to adequate housing was recognized internationally, it was suggested that the same benefit be granted to the new tenants and the original site-owners, including those who did not have a registered sale deed.

***Sharadamma v. State of Karnataka, 2005*³⁴**

In this significant case, which highlights the arbitrary and excessive use of power by state agencies, the High Court of Karnataka held that the acquisition proceedings would be void if the government did not adhere to the principles of natural justice. The Court recognized that the acquisition of land causes serious problems as well as violations of the human rights of displaced persons, including homelessness and loss of livelihood. Adequate consideration, therefore, must be given before acquisition proceedings are initiated. In this case, the state agency failed to demonstrate due consideration and violated the principles of natural justice, leading to the invalidation of the acquisition procedure. The Court also drew a distinction between legislative bodies like the Parliament that are omnipotent and can exercise the power of “*eminent domain*,” and those that enjoy limited or qualified jurisdiction such as the Bangalore Development Authority. The ruling is also significant because it details the impacts of displacement on affected persons and communities, thereby demonstrating a complex understanding of the many dimensions of the human right to adequate housing and congruent rights. By acquiring of such vast extent of lands, the occupation and the right to reside will be deprived and the landowners are deprived of the Constitutional rights guaranteed under Articles 19 and 21 of the Constitution. The acquisition of vast extent of lands is also violative of Article 38 of the Constitution of India. Allotting site under the special scheme will not come to their livelihood nor will payment of compensation solve their problems. The long duration that will take for payment of compensation amount for the acquired lands also cannot be ignored. Until compensation is paid and alternative arrangements for residence, profession, studies and other basic requirements are made, one can imagine the plight of the owners standing empty hands on the streets.

³⁴(2005) 4 KarLJ 481

Mala Pentamma v. Nizamabad Municipality, 2005³⁵

In this judgment, the Court offers an expansive interpretation of the right to life guaranteed by Article 21 of the Constitution of India, which recognizes the right to housing/shelter. Apart from establishing the duty of state authorities to follow due process requirements before any eviction process, the Court also emphasized the right to housing of people belonging to marginalized communities. The Court held that the right to housing of people from the Scheduled Castes and Scheduled Tribes, is part of their right to social and economic empowerment and the government has the duty to protect the same.

The Court recognized that the Respondents claimed to have taken up the cause of the general public in attempting to build sanitation facilities. However, it gave priority to the right to shelter/housing of the Petitioners and read it as an integral part of Article 21 of the Constitution of India. The Court stated that It is not in dispute that the respondents have taken up the cause for general public, but that by itself does not authorize the first respondent to deprive the petitioners of their shelter. Right to shelter, is a fundamental right, traceable to Article 21 of the Constitution of India and any action infringing of such a right, is amenable to writ jurisdiction under Article 226 of the Constitution of India.

The components of this right were further elaborated as involving just and humane work conditions, adequate facilities, pollution free water and air, and full enjoyment of life. The Court affirmed that as stated earlier, right to shelter is a fundamental right, which springs from the right to residence assured in Article 19(1) (e) and right to life under Article 21, a fundamental right which is an inalienable human right. The Apex Court in a decision *Samatha v. State of Andhra Pradesh*, (AIR 1997 SC 3297), held that right to live with human dignity enshrined in Article 21 derives its life breath from the Directive Principles of State Policy and that opportunities and facilities should be provided to the children to develop in a healthy manner and in conditions of freedom and dignity. It is further observed that adequate facilities, just and human conditions of work, etc. are the minimum requirements which must exist in order to enable a person to live with human dignity and the State

³⁵ (2005) 6 ALD 488

has to take every action. That apart, right to life includes the right to enjoyment of pollution free water and air for full enjoyment of life. Right to life enshrined in Article 21 means something more than mere survival of animal existence. The right to live with human dignity with minimum sustenance and shelter and all those rights and aspects of life which would go to make a man's life complete and worth living would form part of the right to life. Right to health and social justice was held to be fundamental right to workers. It was further clarified that any action infringing such a right is amenable to writ jurisdiction under Article 226 of the Constitution of India.

***Chander Bhushan Anand. v. Union of India, 2005*³⁶**

In the above mention case the Punjab and Haryana High Court discusses the right to housing as a part of the right to life, and acknowledges the importance of rent control legislations in protecting the right to shelter of tenants against arbitrary and forced evictions by landowners/ landlords. However, the treatment of the tenant's right to housing in this case is not based on a human rights approach, as is evident from the Court's decision to allow the government to limit this protection only to a particular income group. Thus, it implied that the right to housing of tenants is a legal right arising from a law that can be restricted by the government. It is also unfortunate that the Court accepted an arbitrary income figure to limit protection accorded by the Rent Act. The Court also misreads the right to housing as being limited only to the most deprived, thereby leaving out a significant part of the population that would also be considered poor and in need of protection and guarantee of their equal right to adequate housing. The Court relied on Supreme Court precedent to establish that the right to shelter/housing is a fundamental right, which emanates from the right to residence in Article 19(1) (e) and the right to life under Article 21 of the Constitution.

***Jagdish v. Delhi Development Authority, 2006*³⁷**

This case shows the desperation of hundreds of thousands of people living in deplorable conditions throughout the country. The Constitution obliges the state to act positively to ameliorate these conditions. The obligation is to provide access to

³⁶ (2005) 139 PLR 400

³⁷ MANU/DE/9327/2006

housing, health care, sufficient food and water, and social security to those unable to support themselves and their dependents. The state must also foster conditions to enable citizens to gain access to land on an equitable basis. In this case the Court recognized the right to housing and consequently, laid down a procedure to establish and ensure that due process is followed during an acquisition proceeding, to safeguard the right to housing. Reading Section 2 (d) and 2 (f) of the Protection of Human Rights Act 1993, the Court declared that the right to adequate housing guaranteed by Article 11.1 of the International Covenant on Economic, Social and Cultural Rights is part of the law of the land in India. Thus, by virtue of Section 2 (d) and 2 (f) of the Protection of Human Rights Act, 1993 the right to adequate housing guaranteed by Article 11(1) of the International Convention on Economic Social and Cultural Rights is part of the law of the land in India. Other international instruments, namely, Universal Declaration of Human Rights, 1948, International Convention on Elimination on All Forms on Racial Discrimination, 1965, Declaration of Social Progress and Development, 1969, Vancouver Declaration of Human Settlements, 1976 and Declaration of the Right to Development also inform the interpretation of the Right to Adequate Housing accordingly. These international instruments provide for right to adequate shelter, housing services and access to land on equitable basis to all. Thus, these instruments cast a positive obligation on the state to take reasonable measures to ensure progressive realization of the right to adequate housing, particularly to the low income/least advantaged groups of the society. The Court also read the international instruments that recognize the human right to adequate housing, services, and access to land on an equitable basis to all.

The international laws, declarations, and standards referred to by the Court include:

- i) Article 25.1 of the Universal Declaration of Human Rights, 1948;
- ii) Article 11.1 of the International Covenant on Economic, Social and Cultural Rights, 1966;
- iii) Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination, 1965;
- iv) Part II of the Declaration of Social Progress and Development, 1969;

v) Section 1 (8) and Chapter 2 (A.3) of the Vancouver Declaration of Human Settlements, 1976;

vi) Article 8.1 of the Declaration on the Right to Development, 1986; and,

vii) General Comment 7 dated 20 May 1997 of the UN Committee on Economic, Social and Cultural Rights.

Relying on the South African judgment in the case of Republic of South Africa v. Grootboom, the Court recognized the positive obligation of the state to take reasonable measures to ensure progressive realization of the right to adequate housing, particularly to low-income/least advantaged groups of the society.

***Delhi Development Authority v. Abhay Prakash Sinha, 2008*³⁸**

In this case the Court dismissed the appeal by Delhi Development Authority (DDA) and upheld the judgment passed by the single judge. It also directed DDA to hand over the possession of the allotted flats to the Respondents within six weeks subject to the Respondents furnishing an undertaking to DDA that they would not transfer or sell the allotted flats for a period of five years from the date of taking possession. In this case, the Court relied on the human right to adequate housing to emphasize the positive obligations of the State and its agencies to provide low-cost and affordable housing.

The Court relied on the human right to adequate housing, and emphasized on the positive obligations of the State, specifically the Delhi Development Authority, to provide low cost and affordable housing: From the judgment of the learned Single Judge, it is clear that though the learned Single Judge found that there was some breach on the part of the respondents herein in not making the payment in time, at the same time, the learned Single Judge was persuaded to allow the Writ Petitions filed by the respondents herein by balancing the equities and reminding the DDA that it was not to act as mere property developer, like a private entrepreneur, and in view of the fact that DDA is a public authority. Court stated that we are of the opinion that the view taken by the learned Single Judge is in tune with the obligation cast upon the

³⁸ AIR 2008 Delhi High Court

statutory bodies like the DDA. The Constitution of India makes it obligatory for the State to provide the right to adequate housing to all its citizens. There have been several important judgments that have clearly established the relation between the right to housing and right to life as guaranteed by Article 21. The Supreme Court of India has held that the right to shelter or adequate housing is a fundamental human right emanating from this provision.

R. Krishnasamy Gounder v. The State of Tamil Nadu, 2008³⁹

This case is significant as it recognizes the broad ambit of the right to housing and acknowledges that it includes not only shelter but other civic amenities such as clean drinking water, sanitation, and electricity. The case elaborates the meaning of adequate housing to include personal safety and security of tenure as well opportunities for personal growth.

The Court said that acquisition in this case was undertaken for the purpose of constructing housing for Low Income Groups and Middle Income Group. Hence, the acquisition was justifiable. The right to have a reasonable residence is also a guaranteed right under Article 21 of the Constitution of India. Article 21 is one of the salutary provisions included in Part III of the Constitution of India. Right to life as guaranteed under Article 21 includes right to live with human dignity and in a healthy environment. It is the duty of the State to provide the minimum facility to a citizen so as to have a meaningful life. What was contemplated under Article 21 was only a decent living and not a mere animal existence. The very concept of good governance had undergone a sea change in the recent times. The Court cited precedent from the Supreme Court in *Chameli Singh v. State of Uttar Pradesh* to indicate that the right to shelter/housing means more than mere protection of life and limb, and is also a home with the opportunity to grow physically, intellectually, spiritually, and mentally. It thus includes adequate living space, safe infrastructure, and clean surroundings.

³⁹ 2008 (8) MLJ 1037

‘Fashion’ Proprietor Aswani Kumar Maity v. West Bengal State Electricity Distribution Co., 2009⁴⁰

In this case follows the right to housing jurisprudence, which holds that essential utilities, such as clean drinking water and electricity, are integral to the realization of the human right to adequate housing and the right to life, and hence, should not be denied on the basis of legality or status of tenure. The Court held that if the law of the land provides that a person in possession of any premises may not be dispossessed from there, except in accordance with law, it is implicit that the possession of the person is protected till such time that an appropriate forum holds otherwise and the person is removed from the premises under due process of law. It stated that:

If the law of the land provides that a person in possession of any premises may not be dispossessed therefrom except in accordance with law, it is implicit that the possession of the person is protected till such time that an appropriate forum holds otherwise and the person is removed from the premises under due process of law. It would then defy reason to suggest that such person can continue to be in possession but be denied an essential utility as electricity which is within the broad sweep of the right to life guaranteed under Article 21 of the Constitution.

Mirza Sanaulla v. Davanagere Urban Development Authority, 2010⁴¹

In the above mention case Court has demonstrates that how to established the right to housing/shelter as a constitutional right and held executive bodies accountable if they failed in their duty to implement laws and policies related to implementing the right. The Court relied extensively on judgments of the Supreme Court establishing the right to shelter emanating from the Constitution of India and held that keeping in mind the constitutional right of a citizen to shelter and obligation of the State, applying the same to the facts of this case the petitioner is entitled to restitution at the hands of the respondent- Urban Development Authority.

⁴⁰ AIR 2009 Cal 87

⁴¹ (2010)ILR Karnataka 2956

Sudama Singh v. Government of Delhi, 2010⁴²

This landmark judgment is significant because the High Court of Delhi not only recognized and upheld the human right to housing and the state's legal obligation to fulfill it, including for low-income residents, but also gave procedural directions for its implementation, which, in the absence of statutory provisions, could be used as precedent for similar cases. The judges examined the housing crisis of the urban poor in a holistic manner and recognized their indispensable role in the functioning of the city. The High Court of Delhi adopted a human rights based approach to hold that forced evictions violate multiple human rights, while also recognizing the right to resettlement and offering an expansive interpretation of the right to life to include the right to adequate housing and the right to live with dignity. The judgment was upheld by the Supreme Court of India in C.A 21806–21807/2017, wherein the Court also clarified that the relief granted in *Sudama Singh* would be applicable to all affected parties, and not merely the Petitioners.

The court recognized that human well-being and development are closely linked to the provision of adequate housing:

Adequate housing serves as the crucible for human well-being and development, bringing together elements related to ecology, sustained and sustainable development. It also serves as the basic unit of human settlements and as an indicator of the quality of life of a city or a country's inhabitants. It reflects, among other things, the mobilization of resources and the distribution of space, as well as varied social and organizational aspects of the relationship between Government and society. The Court provided a holistic understanding of the right to housing by stating that international declarations on the implementation of housing rights would include emphasis on the physical structure such as the provision of drinking water, sewer facilities, access to credit, land and building materials as well as the de jure recognition of security and tenure and other related issues. The judgment cites several international covenants and global standards, thereby reminding the Government of India of its international legal obligations and reiterating its duty to respect, protect, and fulfill the right to adequate housing as a human right. The judgment elaborates

⁴² (2010) 168 DLT 218

constitutional perspectives related to the right to shelter/housing and cites judgments of the Supreme Court of India that have upheld the right to housing/shelter as an inalienable component of the right to life under Article 21 of the Constitution of India, including *Shantistar Builders v. Narayan Khimalal Totame*, *PG Gupta v. State of Gujarat*, *Chameli Singh v. State of Uttar Pradesh*, and *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan*. Recognizing the severity of urban poverty in India, the judgment cited the ‘India: Urban Poverty Report 2009’ that acknowledges that people living in urban settlements face challenges of inadequate housing and lack basic civic amenities including clean drinking water, sanitation and health facilities.

***P.K. Koul v. Estate Officer, 2010*⁴³**

It is the one of India’s landmark cases on the human right to adequate housing, the High Court of Delhi examined the causes of homelessness and acknowledged the injustice caused as a result of forced eviction and displacement. Relying on international laws and standards, the Court held that forced evictions lead to gross human rights violations and elaborated the constitutional obligations of the state to ensure the right to housing/shelter for all. The Court further strengthened the positive aspects of the right to housing by stating that financial stringency could not be used as an excuse by the state to not undertake steps to ensure adequate housing facilities. In cases where the state fails to comply with its constitutional obligations, the Court held that the aggrieved would not only be entitled to restitution, but also compensation in the form of damages.

The Supreme Court has repeatedly reiterated the well settled position that the state has the constitutional duty to provide adequate facilities and opportunities to all including the disadvantaged and the displaced, by distributing its wealth and resources for the settlement of life and erection of shelter over their heads. The court has emphasized the constitutional right of every citizen to migrate and settle in any part of India for better employment opportunity and it would be the duty of the state to provide right to shelter to the disadvantaged in society.

⁴³ (2010)ILR Supp. (1) Delhi 657

Dev Nath Yadav v. State of U.P., 2010⁴⁴

In the above mention case court recognizes that the right to housing includes the right to resettlement of persons who are displaced. However, the case does not address the conflict between the rights of the villagers to their common land and the right of the urban poor to resettlement. The Court relied on statute to find that the state government was the owner of the land and had transferred it to the Gaon Sabha (village body) or other local authority. It was also, according to the statute, open to the state to reclaim the land upon payment of compensation. Therefore, the Gaon Sabha only had a right to compensation. The Court, however, recognized the right to housing as an integral part of Article 21 of the Constitution of India, and said that the poor persons residing in towns had a right to resettlement since they did not have proper homes. It stated that right of re-settlement of the persons, who do not have proper homes, is a part of the fundamental right to housing, which is now well recognised by the Supreme Court, being a part of life under Article 21 of the Constitution of India.

S. Shangreikhai v. Union of India, 2011⁴⁵

In the above mention case court recognizes that land as an essential resource linked to the right to life, right to housing, right to livelihood, and right to dignity. In doing so, it acknowledges the indivisibility of human rights and the conception of land as not merely a physical resource but as a bundle of rights essential for the realization of the right to life. In this case Court relied on two concepts – the idea that the farmers had a vested right in the continued use of the paddy fields, and that the rights to shelter and livelihood are inherent in Article 21 of the Constitution of India. Citing Article 300 A of the Constitution, the Court found that persons may not be deprived of their property except by authority of law. It found that a “vested right” means an absolute or indefeasible right, of an immediate fixed nature, in present or future enjoyment in respect of property. If such an indefeasible right was to be extinguished, an amount of compensation had to be paid.

⁴⁴(2010) 6 AWC All 5742

⁴⁵AIR 2011 Gau 171

Abhimanyu Mazumdar v. Superintending Engineer, 2011⁴⁶

In this case court reaffirms that the right to electricity is a component of the right to shelter/housing, which is derived from the right to life, and therefore, the provision of electricity should be independent of the legality of the settlement. The Court held that if only an occupier with perfect legal title could apply for an electric connection, then in the absence of consent of an owner, no person would be able to get an electric connection. This leads to a situation where a landlord can take advantage of this interpretation to gain the upper hand in disputes with the tenant. The Court cited the Supreme Court judgment in *Rame Gowda v. M. Varadappa Naidu*, which held that: “A person in settled possession of immovable property cannot be dispossessed otherwise than by due process of law and such a person, in settled possession, although the commencement of such possession was unlawful, can restrain even the lawful owner from disturbing his settled possession otherwise than in due process of law”.

Sri Zakir Khan, Plot No. 1374, Gandamunda, Bhubaneswar v. State of Orissa, 2011⁴⁷

In this case court recognizes the right to property, as not merely a constitutional right, but also a human right which cannot be restricted except in accordance with the provisions of a statute. It uses this understanding of the right to prevent the arbitrary eviction of local villagers from the vicinity of a protected area, until actual harm can be proved. This judgment is significant because it strives to strike a balance between the right to property of individuals and environmental rights. This is crucial since in many similar cases in India concerning the conservation of wildlife and natural forests, courts and authorities favour the latter while disregarding the rights of the local people to their customary lands. The Court said that:

Law is well settled that a right to hold property is a constitutional right as well as human right. It referred to the Supreme Court judgment in *Chairman, Indore Vikas Pradhikaran v. Pure Industrial Coke and Chemicals Ltd* (AIR 2007 SC 2458). which

⁴⁶ AIR 2011 Cal 64

⁴⁷ MANU/OR/0216/2011

had held that the right to property is now considered to be not only a constitutional right but also a human right. Earlier human rights were existed to the claim of individuals' right to health, right to livelihood, right to shelter and employment, etc. but now human rights have started gaining a multifaceted approach. Now property rights are also incorporated within the definition of human rights. Even claim of adverse possession has to be read in consonance with human rights.

Delhi Dayalbagh Coop. House Building Society Ltd. v. The Registrar Cooperative Societies, 2012⁴⁸

In this case, which deals with the acquisition of land for the development of a housing society whose ownership is restricted to a certain sect, the Court used the fundamental right to adequate housing to hold that the membership to the housing society cannot be restricted to members of a community. As land is a natural resource, restricting its transfer to only certain people, would violate constitutional principles. The Court relied on the right to housing, and stated that:

The right to have housing has been recognized as part of Article 21 of the Constitution as already observed aforesaid. The citizens, thus, have a right to housing and they have a right to reside in any part of the country. The association formed in the form of the cooperative society was only with the objective of providing housing to its members. This is set out in the objects of the Bye-Laws of the society itself. Once that task was performed, really the objects have worked themselves out. The various members become absolute owners of their properties in question with the right to transfer them. The primary object for formulation of the society was; thus, house building, which is not a religious activity. Learned Amicus Curiae has rightly emphasized that in view of right of housing being recognized as a Fundamental Right under Article 21 of the Constitution and the land being a natural resource of limited nature, any restriction on transfer of the nature as one in the present case would not pass the constitutional test.

⁴⁸ (2012)195 DLT 459, 2013 (133) DRJ 513

Court on its own Motion v. Government of National Capital Territory (NCT) of Delhi, 2012⁴⁹

Although this case does not explicitly discuss the right to housing, it is a remarkable example of the judiciary exercising its power of judicial review to take suo moto cognizance of the issue of homelessness, which is a serious violation of the human right to adequate housing. The Court considered the plight of the homeless population in the winter and issued directions to ensure access to shelter and healthcare, as well as improved living conditions. Through a series of orders, the Court virtually administered the implementation and maintenance of homeless shelters in Delhi, thereby, implicitly protecting the human right to adequate housing of the most marginalized. The Court held 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. 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. 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.

Millennium Educational Trust v. State of Karnataka, 2013⁵⁰

The above mention case is significant for the right to housing jurisprudence because it firmly establishes housing as a human right derivable from the constitution and from the international human rights legal framework. It recognizes the right to housing as a comprehensive right, essential for the fulfillment of the right to life of the present and future generations and indivisible from other fundamental human rights. The case adopts a human rights approach and outlines the responsibility of the state to provide adequate housing to people belonging to the economically weaker sections, as part of the state's obligation to fulfill the right to housing. The main fact of the case is that the Millennium Educational Trust applied for land from the Deputy

⁴⁹ AIR 2012 WP (C) No. 4323 Delhi High Court

⁵⁰ ILR 2013 Karnataka 1452

Commissioner, Bangalore, and received it for educational activities. Even though the Deputy Commissioner formally handed over the land by lease deed, the actual possession of the land was not facilitated. Despite representations made by the Petitioner, the Respondent cancelled the grant on the grounds that land had not been used within two years, and handed it over to the Rajiv Gandhi Rural Housing Corporation Limited, Bangalore to utilize the land for homeless and landless persons in Bangalore.

The Court relied on the judgment in *Chameli Singh v. State of Uttar Pradesh*, (AIR 1996 SC 90) which upheld the right to shelter/housing as integral to the right to life guaranteed by Article 21 of the Constitution of India. The Court also relied on the judgment in *Consumer Education and Research Centre v. Union of India*, where the Supreme Court held that the right to shelter/housing would mean and include the right to livelihood, a better standard of living, hygienic conditions in the work place, and leisure.

The Court took cognizance of international human rights law and standards, and read those in conjunction with the Constitution of India; Article 25(1) of the Universal Declaration of Human Rights provides that the right to adequate housing has been codified and other National Human Rights. Article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) provides that “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.” These weaker sections are entitled, as a matter of right, under Article 21 read with Article 19(1) (c) and paragraph 4 of Articles 39 and 46 of the Constitution of India and in the light of interpretation made by the Hon’ble Supreme Court specially in the light of the provisions of International Human Rights and other covenants and it is a pious and constitutional obligation on the part of the State, to provide shelter to the weaker sections.

The Court also emphasized that whenever there is a conflict between different legislative/administrative actions, the actions furthering the constitutional mandate of ensuring social justice and the ‘right to shelter’ would be prioritized. The Court, while

recognizing the indivisibility of human rights, also perceived the right to housing in the context of sustainable development and the right to a safe environment of future generations, ‘Right to shelter’ cannot be looked only through the persons who make application for grant of housing site as a matter of right, the same has to be looked through the succeeding generation, specially children’s right. A child’s right is to be brought up in a safe environment. The right to housing and security are interconnected. While poor housing condition affects the health, homelessness and frequent displacement are prone to impair the child’s learning. Though housing remains as fundamental as food and security, the issue has not yet received the priority it deserves. The National Human Rights Council emphasizes that the current housing crisis can be addressed effectively, only when it is acknowledged as a human right.

T.M. Prakash v. District Collector and Tamil Nadu Electricity Board, 2013⁵¹

This case is significant for affirming the indivisibility of human rights and holding that electricity is an essential human right and necessary for the fulfillment of several human rights, including the human rights to adequate housing, education, and life. The case also illustrates that access to essential services, such as clean water and electricity, cannot be denied on the basis of the status of tenure. Irrespective of the legal status of occupancy, everyone is entitled to basic services to ensure their right to life and dignity. The Court suggested that access to electricity supply should also be considered a part of the fundamental right to life under Article 21 of the Constitution of India: When right to education up to the age of 14 years is a fundamental right, when right to health is also recognized as a right to life, under Article 21 of the Constitution of India, access to electricity supply should also be considered as a right to life, in terms of Article 21 of the Constitution of India. The Respondents ought to have addressed all the issues, instead of banking on the Committee’s decision, which in the humble opinion of this Court, is not in aid of human right, but inapposite to the need for, providing the basic amenity, electricity.

Electricity supply is an essential and important factor for achieving socio-economic rights, to achieve the constitutional goals with sustainable development and

⁵¹ (2013) W.P.No.17608, Madras High Court

reduction of poverty, which encompasses lower standards of living, affects education, health, sanitation and many aspects of life. Food, shelter and clothing alone may be sufficient to have a living. But it should be a meaningful purpose. Lack of electricity denies a person to have equal opportunities in the matter of education and consequently, suitable employment, health sanitation and other socio-economic rights. Without providing the same, the constitutional goals, like Justice, Liberty, Equality and Fraternity cannot be achieved.

***Pani Haq Samiti v. Brihan Mumbai Municipal Corporation, 2014*⁵²**

In this case the Court accepted the existence of a right to shelter/housing but made a distinction between “illegal” and “legal” settlements. It also recognized the right to water, and stated that water supply must be provided to all irrespective of the nature of the settlement. In the same breath, the Court sanctions differential rates and means of providing water, according to the legality of the settlement, thus entirely contradicting the human rights approach.

While on one hand, the rights to housing and water are seen as universal rights imposing obligations on the state to ensure them, on the other hand, the Court distinguishes between “legal” and “illegal” dwellings, relying on the state’s discretionary power in making such policy decisions. This reveals an inherent discrimination against the urban poor without acknowledging the larger socio-economic challenges and the shortfalls of the state in providing public housing, especially in large cities like Mumbai. The failure of the Court to uphold the human right to adequate housing of those deemed “illegal,” even going to the extent of sanctioning the demolition of their homes, is disturbing. This case has been included in this compilation to highlight the inherent contentions and contradictions within the judiciary. While recognizing the right to housing, the Court asserted the Apex Court categorically held that right to live guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter.

⁵² (2014) 2705 Bombay high court

Shantha Mary v. State of Karnataka, 2014⁵³

In this case, the High Court of Karnataka held that proof of residence in an area, does not automatically confer a legal title to the property or land. However, it also implicitly relied on the legal right to shelter/housing to state that every person who is evicted, irrespective of legal status, must be rehabilitated and provided access to livelihood, healthcare, and education facilities, among others. The Court declared that the Bruhat Bengaluru Mahanagara Palike (BBMP) resolution, along with various other provisions like identity cards, ration cards, and voter cards did not confer allotment rights to the Petitioners. However, the Court also stated that:

But it does not mean that the writ petitioners and the similarly placed tenants/unauthorised occupants are not entitled to any relief. The right to shelter is certainly within the sweep of Article 21 of the Constitution of India. As held by the Apex Court in the case of *Chameli Singh v. State of U.P.*, reported in (1996) 2 SCC 549, the protection of life guaranteed by Article 21 encompasses within its ambit the right to shelter to enjoy the meaningful right to life. The relocation of the petitioners has to be a meaningful exercise consistent with the rights to life, livelihood and dignity.

Zubair Malik v. Municipal Corporation of Greater Mumbai, 2015⁵⁴

This case pertains to the legality of an eviction notice served by the Municipal Corporation of Greater Mumbai, in the absence of alternative accommodation. While recognizing that immediate eviction must not be carried out without providing alternative accommodation, the Court held that every landlord might not be economically well-off to provide the same. In such situations, therefore, the Petitioners could approach the state to provide temporary accommodation. The Court also urged the state government to formulate policies for providing temporary accommodation for people who are forcefully evicted as a result of a state policy. In doing so, the Court was mindful of the economic background of the Petitioners.

⁵³ (2014) 4 AKR 513

⁵⁴ (2015) 1 ALLMR 543

However, the Court did not clarify if the state was obligated to provide temporary accommodation in situations where eviction was not a result of a state policy.

The Court ordered that the landlord is not under an obligation to provide accommodation if the building is being vacated. The state is obligated to provide alternative or temporary accommodation. All human beings' problems/difficulties just cannot be overlooked when it comes to vacation or eviction of compulsory leaving of home/premises, even for want of development of the property by the developer/owner or the society itself. The cooperation and settlement is the solution. The State or local bodies having once decided to provide temporary or permanent shelter with all facilities, as recorded above, the similar policy and/or housing policies, should be, on certain conditions and taking note of the circumstances for such poor tenants/occupants, required to be framed.

***D.B. Realty Ltd. v. State of Maharashtra, 2015*⁵⁵**

In this case, the Court upheld a state policy requiring real estate developers to reserve a certain area for economically weaker sections in exchange for additional floor space index. The Court rejected the contention that this provision violates the right to property of the building owners, emphasizing the need to develop affordable urban housing. Any policy which purports to do the same must be upheld. The Court's decision is significant as it recognized the positive duty of the state to provide affordable housing. Although, the Court does not use the language of the right to housing, it effectively clears the way for the realization of the same.

***Peerless Tea and Industry Ltd. v. State of Tripura, 2015*⁵⁶**

The High Court of Tripura held that human rights, which were erstwhile considered as individual rights, are now also being recognized as multi-dimensional and thus, include the right to property and consequently, the right to housing. The Court also held that whenever the state uses its "eminent domain" to deprive people of their property, adequate compensation must be paid, irrespective of the profit or loss incurred by the state. Relying on statute, the Court opined that the Act clearly

⁵⁵(2015) 3 BomCR 640

⁵⁶MANU/TR/0147/2015

stipulates that the state must pay compensation, and hence the notifications were in contravention of the said Act. While stating that the right to property was not a fundamental right, the Court relied on the Supreme Court judgment in *Tukaram Kana Joshi v. Maharashtra Industrial Development Corporation*, which had held that: The right to property is now considered to be, not only a constitutional or a statutory right, but also a human right. Though, it is not a basic feature of the Constitution or a fundamental right. Human rights are considered to be in realm of individual rights, such as the right to health, the right to livelihood, the right to shelter and employment etc. Now however, human rights are gaining an even greater multi-faceted dimension. The right to property is considered, very much to be a part of such new dimension.

***Ajay Maken v. Union of India, 2015*⁵⁷**

In this case, the Court recognized the grave human rights crisis as a result of the forced eviction of settlement dwellers at Shakur Basti in the winter, and acknowledged the vulnerable condition of women and children who were especially affected by the demolition of their homes. Through various interim orders, the Court directed and monitored the provision of relief and rehabilitation to the persons affected by the demolition. The Court also directed the officers of DUSIB, Northern Railways, and Delhi Police, to place on record the reasons for the demolition, thereby affixing responsibility on the executive for acts of forced eviction. The Court emphasized the role of the police during forced evictions, and held that the police cannot act in a manner that causes harm to the people or their personal belongings.

In its final judgment, the High Court of Delhi strongly recognized and upheld the human right to adequate housing and relied extensively on international law to emphasize the obligation of the government to protect and fulfill the right. It also elaborated on key judgments of the Supreme Court recognizing the right to housing as an integral element of the right to life. The Court held that people living in urban settlements should not be viewed as “illegal encroachers” by the government or its authorities and relied on the conception of the ‘right to the city’ to substantiate its claim. It also emphasized the need to integrate the ‘right to the city’ in state policy and implementation of schemes. Further, it recognized the importance of the

⁵⁷(2015), W.P. (C) 11616, High Court of Delhi

‘indivisibility of human rights.’ The Court acknowledged that forced evictions violate multiple human rights and held that in all cases of forced eviction in Delhi, the procedure established by the Delhi Urban Shelter Improvement Board (DUSIB) Act, the Delhi Slum & JJ Rehabilitation and Relocation Policy 2015, and the judgment of *Sudama Singh v. Government of Delhi* would have to be followed.

Despite its positive recognition of the human right to adequate housing and right to the city, the relief provided by the Court, however, was limited to the procedure laid down in the DUSIB policy and did not extend to mandating in situ rehabilitation or providing compensation to the affected families for the multiple human rights violations and extensive losses suffered during the forced eviction and its aftermath, which included the loss of health as well as loss of life of some residents. This could result in increased insecurity for the residents and in several affected families being omitted from the resettlement process or being relocated in remote and inadequate sites.

***Raja Mohan v. Divisional Engineer, Tamil Nadu Electricity Board, 2016*⁵⁸**

This case, in consonance with the judgment in *T.M. Prakash v. District Collector and Tamil Nadu Electricity Board* is significant for its recognition of electricity as a human right. It is also important that the judgment recognizes that access to electricity supply should be considered integral to the right to life and hence, cannot be denied to people living on poramboke lands (a local reference to government land used and shared by communities).

The Court relied on the judgment in *T.M. Prakash and Others v. District Collector, Tiruvannamalai District, Tiruvannamalai*, which held that the access to electricity is a human right, integral to the achievement of other socio-economic rights and cannot be denied to people living on poramboke (government) land. Consequently, the Court held that a Mandamus directing Respondents not to provide electricity would violate the Tamil Nadu Electricity Code and thus, the supply of electricity to an individual cannot be restrained by a writ of Mandamus.

⁵⁸(2016)W.P.(MD)No.477, and (2016)W.M.P.(MD)No.4291, Madras High Court

Udal v. Delhi Urban Shelter Improvement Board, 2017⁵⁹

In this case, which deals with forced eviction and the failure of the state to provide alternative accommodation, the Court questioned the administrative and procedural technicalities based on which housing is denied to evictees. The Court examined the arbitrary “cut-off dates” which are used to exclude people from availing alternative accommodation, and also acknowledged that the settlement-dwellers may not be in a position to maintain records, hence, relief could not be denied on the failure to produce certain specific documents, as long as there is some proof of residence. The Court provided relief to some of the Petitioners; however, it restricted the use of the judgment as precedent to seek relief in other cases. The Court highlighted the importance of the right to housing, stating that:

It is trite that the right to housing is an essential part of Right to Life and a fundamental right ensured by Article 21 of the Constitution of India. It has also been held that the right to life is not right to merely an animal existence but an entitlement to reasonable accommodation *Chameli Singh & Ors. v. State Of U.P. & Anr.* (1996) 2 SCC 549, and, *M/s Shantistar Builders v. Narayan Khimalal Totame* (1990) 1 SCC 520. The contours of this right were further expanded by a pronouncement of the Supreme Court reported at *Ahmadabad Municipal Corporation v. Nawab Khan Gulab Khan & Ors.* (1997) 11 SCC 123, wherein the court held that when slum dwellers have been residing at a place for some time, it became the duty of the government to make schemes for housing these jhuggi dwellers.

Suresh Kumar Singh v. State of U.P., 2019⁶⁰

In the above mention case Allahabad High Court emphasis the significance of shelter right to the people and this right connected with the fundamental right given under the constitution of India and imposes the obligation on state to providing this right and observed that Right to shelter a fundamental right; state has constitutional duty to provide house sites to poor. Further honorable high court stated that “Shelter for human being, therefore, is not a mere protection of his life and limb. It is home

⁵⁹(2017) W.P.(C) 5378, & (2017)CM No.22718 Delhi High Court

⁶⁰AIR 2019 Allahabad High Court 4764

where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore includes adequate living space, space, safe and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities likes road 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. 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. To bring Dalit's and tribes into the mainstream of national life, providing these facilities and opportunities to them is the duty of the state as fundamental to their basic human and constitutional rights. There could be not individual liberty without a minimum of property. The objective of facilitating adequate shelter of all' also implies that direct government support should mainly be allocated to the most needy population groups."

5.4 CONCLUSION

Human rights have been historically considered in the realm of individual rights such as, right to health, right to livelihood, right to shelter and employment, etc. but now human rights are gaining a multifaceted dimension. Right to property is also considered very much a part of the new dimension. Therefore, even claim of adverse possession has to be read in that context. A human rights-based approach to housing, consistent with international human rights laws and standards, requires the recognition of adequate housing as a universal and independent but also indivisible, interdependent, and inter-related human right linked with all other human rights, which guarantees to every individual, security of tenure, access to affordable housing and essential services, and protection from forced and arbitrary incursions. The Indian jurisprudence does consistently and unequivocally recognizes an independent human right to adequate housing, it does acknowledge shelter/housing as an essential component of the right to life, and protects many aspects of the right to adequate housing by relying on other associated rights and state policy.

The judicial treatment of the right to adequate housing in India has been adequate or fully consistent with the conception of the right, as articulated in international law, policy, and standards including, inter alia, General Comments 4 and

7 of the Committee on Economic, Social and Cultural Rights, the Basic Principles and Guidelines on Development-based Evictions and Displacement, the Guiding Principles on Security of Tenure for the Urban Poor, the Habitat Agenda,⁶¹ the New Urban Agenda,⁶² and other UN declarations, as well as reports of the Special Rapporteurs on Adequate Housing.⁶³ The path of cases reveals that the courts recognize in various aspects of the right to housing as part of Article 21 of the Constitution of India ‘right to life’, judicial intervention to effectuate the right is unlimited. To some extent, the lack of a strong policy framework outlining the contours of the right could be attributed to the consistent treatment of the right by the judiciary. The judiciary’s engagement with the positive obligations of the state to fulfill the right to adequate housing is mostly recommendatory and directory in nature does always result in proportionate relief and remedy. For example, in the number of cases, courts acknowledge the conditions of the urban poor and the homeless, the relief provided by the courts necessarily secure their right to adequate, affordable housing in the city. The courts provided relief in cases where there are no exists a state policy to provide affordable housing courts have provided relief using the human rights approach as the basis even in cases where courts have directed the state to fulfill its positive obligations to ensure the adequate housing and right to shelter to the poor people, the implementation of these directives is strictly followed, with the monitoring mechanism.

Although in some of the cases dealing with the right to adequate housing in India pertain to the negative obligations of the state, specifically the protection against forced and arbitrary evictions. The relief provided in such cases is often limited to invalidating the eviction, if certain conditions related to due process are not met. In some cases, courts have directed the provision of alternative accommodation before carrying out the eviction.

⁶¹ The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action, 1996, *available at*: http://www.un.org/en/events/pastevents/pdfs/habitat_agenda.pdf (last visited on March 1, 2019).

⁶² New Urban Agenda, 2016, *available at*: <https://habitat3.org/the-new-urban-agenda/> (last visited on March 1, 2019).

⁶³ For reports of the Special Rapporteurs on “The Right to Adequate Housing”(Reports of the Special Rapporteurs, 2014)*available at*: <https://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx> (last visited on March 2, 2019).

Thus, Indian judiciary has unequivocally established the human right to shelter and adequate housing as an integral aspect of the 'right to life' guaranteed under Article 21 of the Constitution of India. Moreover, the Supreme Court and various High Courts has expounded the various facets of adequate housing not limited merely to shelter, and also emphasized the positive duties of the State towards fulfilling the right. By this way the judiciary protected the rights of individual and also impose obligation on the government as well as private machineries which are responsible for providing right to shelter and adequate housing to the homeless people.



CHAPTER-6

STATUS, ISSUES & CHALLENGES OF HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING IN LUCKNOW CITY OF UTTAR PRADESH



CHAPTER-6
STATUS, ISSUES AND CHALLENGES OF HUMAN RIGHT TO
SHELTER AND ADEQUATE HOUSING IN LUCKNOW
CITY OF UTTAR PRADESH

6.1 INTRODUCTION

The state of Uttar Pradesh is a largest state of country particularly in population. During the British period it was constituted as the United Provinces state in 1937, later on it was reconstituted and renamed as Uttar Pradesh in 1950 after the independence of our country. Lucknow is the capital of state of Uttar Pradesh. On 9th November 2000, Uttarakhand was separated from the state of Uttar Pradesh. It is India's fourth largest state in terms of land area with a total area of 243,290 square kilometres. According to census 2011, total population of Uttar Pradesh is 19, 95, 81,475 which is largest population of any state of India. In this respect Uttar Pradesh keep fifth place after China, India, America and Indonesia in the world. It has near about 16.49% of whole population of India. In the state, male constitute 52.40% and Women constitute 47.6% of whole population.¹ Total literacy rate of state of Uttar Pradesh is 69.72% where literacy rate of Women is 59.26% while literacy rate of male is 79.24%. Gender index of the state of Uttar Pradesh is 898.² It has 75 districts, 18 divisions or commissionaires, 822 blocks, 52029 village panchayat, 107452 villages, and 11 Municipal Corporation. The density of said state is 828 per square kilometer that makes it one of the most densely populated states in the country.

The state is considered as one of the less urbanized states of India, it has second largest urban population in the country. Around 22% of the population lives in urban areas in Uttar Pradesh, which constitute more than 44 million, according to the data provided by the 2011 census, approximately 1.77 million people are homeless in India, of which 65.3% are concentrated in the five states; Uttar Pradesh, Maharashtra,

¹ Government of India, "Office of the Registrar General & Census Commissioner, India" (Ministry of Home Affairs, 2011) available at: <https://censusindia.gov.in/2011-common/censusdata2011.html> (last visited on July 20, 2020)

² *Ibid.*

Rajasthan, Madhya Pradesh, Andhra Pradesh, Gujarat. For solving this issue, the Indian government has come up with a variety of affordable housing schemes on numerous occasions. Some such schemes will be discussed in this thesis and their effectiveness will be evaluated. As per the statistics of committee on Slum Statistics/census, 2011, Government of India, about 10.8 million urban population of Uttar Pradesh is living in slums, which constitute about 24% in urban population³. Having a home is a human right which, sadly, is not available to a large portion of the Indian population as well in state of Uttar Pradesh also. It is an economic, cultural, and social right to shelter and is recognized in certain national constitutions and the Universal Declaration of Human Rights. Housing is a part of the right to an adequate standard of living. Being homeless is not just a temporary inconvenient situation; it has long-reaching consequences, in various forms, for an individual as well as society. Homeless people have higher premature mortality and chronic health consequences. Housing is a basic human requirement of any civilised society. With the growth of urbanisation, cities have been expanding alarmingly in the last few decades, which have resulted in haphazard growth of urban areas as well as acute housing shortage. Housing and Urban Planning Department was established to ensure planned development of urban areas and create an enabling environment to provide affordable housing. The multiplicity of urban laws has always been a nightmare for the urban populace. Lack of information and transparency in official transactions were some of the factors responsible for this state of affairs. The Department has taken a step to reach the citizens to make them aware of the laws, policies, programmes and procedural simplifications carried out. Land Pooling Schemes is to be launched soon whereby all lands required by the Authority shall vest absolutely in the Authority free from all encumbrances. The Authority shall hand over possession of the final plots to the owners to whom they are allotted in the land pooling scheme. A permanent Tribunal for this scheme shall be constituted.

This chapter contains information about the study area, analysis of data, interpretation and results. The purpose of this chapter is to analysis information collected in this study entitled, “A Socio-Legal Study of Human Right to Shelter and

³ Government of India, “Slum Free City Plan of Action – Lucknow” (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), *available at*: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfcp-min.pdf. (last visited on January 12, 2021)

Adequate Housing with Reference to Lucknow City in Uttar Pradesh” the Interpretation and result part is the heart of the research report. Through textual discussion, tabular and graphs, the data is critically analysed and reported. A detailed primary survey was conducted during May to July, 2019 and January, 2020 to March, 2021 across the selected locations of urban areas of Lucknow city in Uttar Pradesh.

The objective of this study is to examine the different government housing schemes under which poor people has been benefited and also examine that why the people are to be compelled to live in slum areas, rain basera etc. and different places in Lucknow city without shelter. Along with beneficiaries under pardhan mantri awaas yojana, study of slums areas, rain basera and homeless peoples and also examine the responses of the beneficiaries of state government under different housing schemes like economically weaker sections, Kanshiram Awaas Yojana, Rajiv Gandhi Awaas Yojana etc. This study was also focussed on facilities provided under the house like electricity, water supply, sanitation facilities surrounding the area and others basic facilities which is very necessary for surviving the human beings that is basic human rights.

6.2 DEMOGRAPHIC, EDUCATIONAL AND POLITICAL PROFILE OF UTTAR PRADESH

Table 6.1 Demographic, Educational, and Political Profile of Uttar Pradesh

Population	19,95,81,477
women's population	9,53,31.83
male population	104480510
Divisions Districts –	18
Districts	75
sex ratio	912
Density/km square	829
Rural population	77.73%
Total literacy	67.68%
Literacy of female	57.18%
Literacy rate of male	77.28%
Gram sabhas	59163
Development blocks	822
Lok Sabha seats	80
Rajya Sabha seats	31
Legislative Assembly seats	404
Legislative council seats	100

Source: Census of India, 2011

Figure 6.1 Map of Uttar Pradesh



Source: <https://www.mapsofworld.com/india/uttar-pradesh/>

6.3 HOUSING LAWS, POLICES AND PROGRAMMES IN UTTAR PRADESH

The human right to shelter and adequate housing has been recognized as human right in several international instruments which India is the party to. While talking about national perspective there is no specific legislation on the same though the Indian judiciary has given a very positive interpretation of article 21 of constitution of India and attached right to shelter and adequate housing and right to life. In the case of *Chameli Singh v State of Uttar Pradesh*,⁴ it was held that right to live includes the right to food, water, civilized environment, education, medical concern and shelter and Right to shelter includes adequate living place, safe and decent structure, clean and polite surroundings belonging to sufficient light, clean air and water, proper electricity, sanitation facility and other civic amenities. The government of Uttar Pradesh has also enacted many laws and formulated policies to implement the above directions of court such as; The U. P. (Regulations of Building Operations) Act, 1958, This Act with a view to the prevention of bad laying out of land, haphazard erection of buildings or growth of sub-standard colonies or with a view to the development and expansion of that area according to proper planning, it may, by notification in the Official Gazette declare the area to be regulated area. The Uttar Pradesh Awas Evam Vikas Parishad Adhiniyam, 1965 The Uttar Pradesh Urban Planning and Development Act, 1973. This document describes the Act, which intends to provide for the development of certain areas of Uttar Pradesh, where the problems of town planning and urban development need to be tackled resolutely and the existing local bodies and other authorities in spite of their best efforts have not been able to cope with these problems to the desired extent. The institutional responsibility for slum improvement vests with the State Urban Development Agency (SUDA), the apex policy making and monitoring agency for urban areas in the state.

Besides the state specific legislation and policies the government of U.P. is also implementing central laws and policies in Uttar Pradesh like the other state of country. The Ministry of Housing and Urban Affairs formulates policies, coordinates activities of various agencies at the state and municipal level and monitors programmes in the area of urban development. It also provides states and urban local bodies (ULBs) with financial assistance through various centrally supported schemes.

⁴ AIR, 1996, SSC 549

The Ministry implements several centrally sponsored schemes, and few central sector schemes. These include: (i) Atal Mission for Rejuvenation and Urban Transformation (AMRUT), (ii) 100 Smart Cities Mission, (iii) Pradhan Mantra Awaas Yojana – Urban (PMAY-U), (iv) Swachh Bharat Mission – Urban (SBM-U), and (v) Deendayal Antyodaya Yojana-National Urban Livelihood Mission (DAY-NULM). The housing shortage is expected to reach 200 lakh by 2022. According to the census 2011 it was estimated that about 56% of this shortage falls in the Economically Weaker Sections (EWS), 40% in the Lower Income Group (LIG) category, and the rest 4% in the middle and higher income groups. The Ministry estimates the demand for housing at around 100 lakh.⁵ PMAY (U) is an affordable housing scheme being implemented from 2015 to 2022. It seeks to help the central government achieve its target of ‘housing for all targets’ by 2022. So far 4,424 cities have been covered under PMAY-U.⁶ The scheme comprises four components: (i) in situ rehabilitation of existing slum dwellers (using the existing land under slums to provide houses to slum dwellers) through private participation, (ii) credit linked subsidy scheme (CLSS) for EWS, LIG, and middle income group (MIG), (iii) affordable housing in partnership, and (iv) subsidy for beneficiary-led individual house construction. The Ministry provides central assistance to ULBs for the implementation of the scheme through the respective state governments. projects under PMAY-U was Rs 1,80,000 crore, as on October 28, 2019.⁴ The total central assistance sanctioned was Rs 1,42,000 crore, out of which Rs 57,896 crore⁷ had been released. It recommended the unhindered availability of funds be ensured to achieve the goal of ‘Housing for All’ by 2022.

6.4 GENERAL INTRODUCTION OF LUCKNOW CITY IN UTTAR PRADESH

Lucknow city is the capital of Uttar Pradesh state as well as the district headquarter of Lucknow district and politically well-known constituency in India. The

⁵ Government of India, “Unstarred Question No.1439, Lok Sabha”, (Ministry of Housing and Urban Affairs, February 12, 2019), *available at*:

<http://164.100.24.220/loksabhaquestions/annex/17/AU1439.pdf>. (last visited on January 12, 2021)

⁶ Government of India, “Pradhan Mantri Awas Yojana – Urban”, (Ministry of Housing and Urban Affairs, 2015-2022) *available at*: <https://pmay-urban.gov.in/>. (last visited on February 11, 2020)

⁷ Government of India, “1st Report of the Standing Committee on Urban Development (2019-20) on Demands for Grants (2019-20)” (The Ministry of Housing and Urban Affairs, December 11, 2019), *available*

at: http://164.100.47.193/lsscommittee/Urban%20Development/17_Urban_Development_1.pdf. (last visited on February 11, 2020)

city has 609 slums with 148117 households. Out of the total slums 502 are notified slums and the remaining 107 are non-notified. About 27% of the city population lives in slums. Among the slum population,⁸ 77% belongs to OBC and SC division of social groups and 69% are living below the poverty line (BPL). It is found that the slums are having a housing deficit of 78303. In concern to Infrastructure, 73% of the slum households do not have full access to individual water supply connections. It is also found that about 27% of the slum households practice open defecation⁹. Lucknow city, with in a jurisdiction of 35053 hectare (350.53 sq.m) of area, housing a population of 28, 15,601¹⁰ is a Municipal Corporation administered by Lucknow Nagar Nigam (LNN). The Lucknow Nagar Nigam was formed in 1959 following the enactment of the UP Municipal Corporation Act. The administration is headed by an Executive officer as Commissioner of Municipal administration. The Municipal commissioner is most often an IAS officer. The Governing body or elected wing of Lucknow Nagar Nigam consists of a Mayor and 110 ward Corporations. Lucknow Development Authority established in 1974 under the Uttar Pradesh Urban Planning & Development Act 1973 is responsible for the preparation and revision of master plan, development of new areas as well as provision of housing, monitoring the orderly development of Lucknow Urban agglomeration, which covers an area of 36901 Hecter (369.01 Sq.km). Apart from the Lucknow Nagar Nigam, the institutional responsibility for slum improvement vests with the State Urban Development Agency (SUDA), the apex policy making and monitoring agency for urban areas in the state. The Lucknow District Urban Development Agency (DUDA) undertakes the executions of SUDA in the district. The DUDA is responsible for works relating to community development and various schemes related to urban poor such as development of slum communities, construction of community toilets, assistance in construction of household latrines, infrastructure improvement in slums creation of awareness etc.

⁸ Government of India “Office of the Registrar General & Census Commissioner, India” (Ministry of Home Affairs,2011) *available at*: <https://censusindia.gov.in/2011-common/censusdata2011.html> (last visited on July 20, 2020)

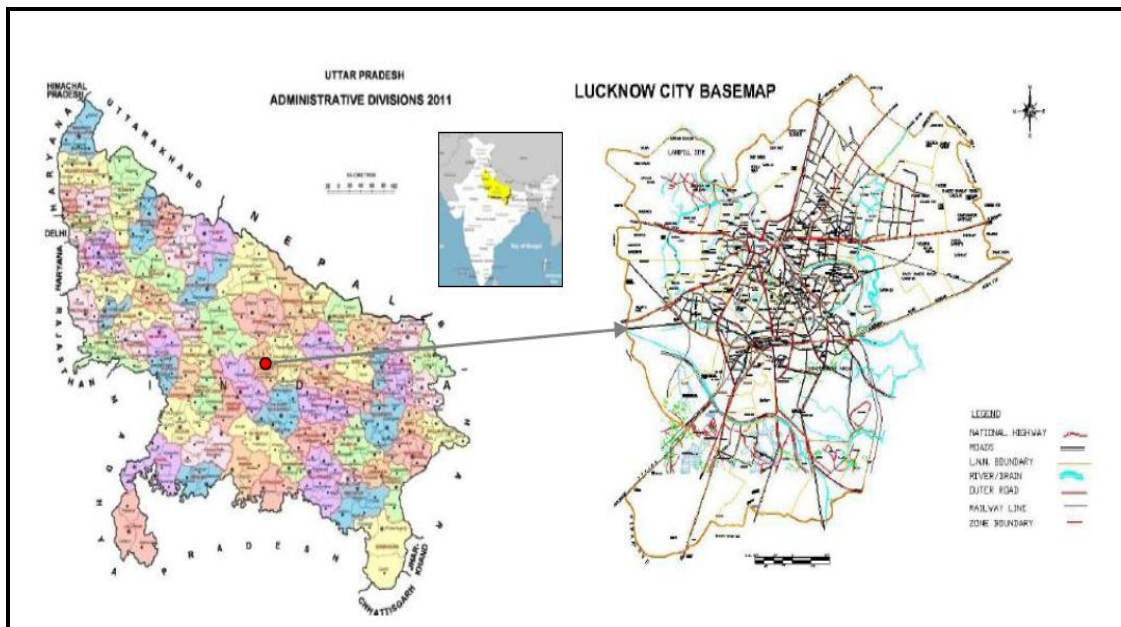
⁹ *Ibid.*

¹⁰ Government of India “Office of the Registrar General & Census Commissioner, India” (Ministry of Home Affairs,2011) *available at*: <https://censusindia.gov.in/2011-common/censusdata2011.html> (last visited on July 20, 2020)

6.4.1 Profile of Lucknow

Lucknow is the capital city of Uttar Pradesh state and one of the most prominent cities in India in terms of commerce, education, historical, architecture, culture, urdu literature etc. The city is the 11th largest metropolitan city in the country and after Delhi, it is the 2nd largest city in Northern part of India. The city of Lucknow is situated on the banks of river Gomti a tribute of Ganges River, which passes through the middle of the city. The city lies on the geographical coordinates of 26°30' and 27°10' North Latitude and 80°30' and 81°13' East Longitude.

Figure 6.2 Location of Lucknow City in Uttar Pradesh



Source: Government of India, “Slum Free City Plan of Action – Lucknow” (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), available at: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfcp-min.pdf.

6.4.2 Topography of Lucknow

Lucknow city is situated in the middle of Gangetic plains and fairly on compact tract of gently undulating land. The Alluvium soils forms the major geological formation. The region is under Composite Tropical climate. The city stands at an elevation of 123.45 meters above the sea level. The city is drained by the Gomti River and its tributaries. The city falls under Seismic Zone-III termed as moderate damage risk zone.

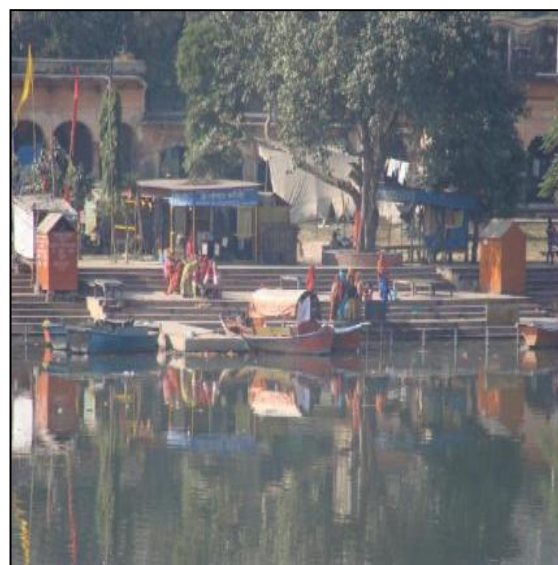
6.4.3 Climate of Lucknow

Lucknow has an extreme tropical climate with very cold and dry winters from December to Mid-February and dry, hot summers from April to Mid-June. The rainy season is from mid-June to mid-September, when it gets an average rainfall of 1000 mm mostly from the south-west monsoon winds. During extreme winter the maximum temperature is around 25 degrees Celsius and the minimum is 3 to 4 degrees Celsius range. Fog is quite common from late December to late January. Summers can be quite hot with temperatures rising to the 40 to 45 degree Celsius range.

Figure 6.3 River Gomti at Shahee Smarak, Lucknow



Figure 6.4 Kudia Ghat on River Gomti, Lucknow



Sources: Government of India, “Slum Free City Plan of Action – Lucknow” (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), available at: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfcp-min.pdf.

6.4.4 Regional Setting & Connectivity of Lucknow

The Lucknow district is surrounded on the eastern side by District Barabanki, on the western side by district Unnao, on the southern side by Raebareli and on the northern side by Sitapur and Hardoi districts. Lucknow is well connected to the other parts of state and country through air, rail and road. Four National Highways pass through the city, the National Highway (NH) 24 linking Lucknow to Delhi, NH 25 to Shimpur, Jhansi (Madhya Pradesh Border) NH 56 linking to Varanasi and NH 28 to Mokama (Bihar) connecting different regions within and outside the state are passing

through the city. In terms of rail connectivity, Lucknow Railway station is a major junction having two railway terminals where one belongs to Northern Railway division and another belongs to North Eastern Railway division connecting all the major cities of the state and the country such as New Delhi, Mumbai, Kolkata, Hyderabad, Bengaluru, Chennai, Ahmadabad, Jaipur, Pune etc. A part from the main railway stations, the city has thirteen railway stations at different parts of the city which are well connected to the sub urban areas of the city. The Chaudary Charan Singh International Airport is situated at Amausi, 10 km from Lucknow Railway Station. It is the second busiest airport in North India after the Indira Gandhi International Airport, Delhi. Lucknow is directly connected by air with Sharjah, Dubai, Muscat, Riyadh and major cities in country such as Delhi, Mumbai, Dehradun, Hyderabad, Chennai, Bengaluru, Kolkata, Ahmedabad, Bhubaneswar, Bhopal, Patna etc. Along with Lucknow the airport serves as primary aviation hub for Kanpur city.

Figure 6.5 Lucknow Railway Station at Charbag



Figure 6.6 Chaudhry Charan Singh Airport at Amausi



Sources: Government of India, “Slum Free City Plan of Action – Lucknow” (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), available at: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfcp-min.pdf.

6.4.5 History of Lucknow

The history of Lucknow can be traced back to the ancient times of the Suryavanshi Dynasty. It is said that Lakshmana, who was the brother of Lord Rama, laid the foundation of the ancient city. This was near the Gomti River on an elevated piece of land. It was then called Lakshmanpur. Lucknow is located in Awadh region, which was known as the granary of India and was important strategically for the control of

the Doab, the fertile plain between the Ganga and the Yamuna rivers. It was during the year 1720 when the great Mughal emperors began to appoint Nawabs in order to ensure smooth administration in the province. In the year 1732, Mohammad Amir Saadat Khan was appointed as the viceroy of Awadh, in which Lucknow was a major province. It was then that the powerful dynasty of the Nawabs, which changed the history of this place. Under the rule of the Nawabs, Lucknow flourished like never before. After 1755, Lucknow grew by leaps and bounds under the rule of the fourth Nawab Asaf-ud-Daula. Lucknow flourished in each and every aspect, which includes poetry, dance, music and the other finer aspects of the life style of Lucknow. In regard to this, the city is also referred as 'City of Nawabs'. It was when the British came to India that Lucknow was made into an administrative capital. Lucknow has been one of the major centers of First War of Independence, participated actively in India's Independence movement. There were many uprisings during the British rule by Indian radicals and many ghastly incidents left Lucknow with bad memories. However, after independence Lucknow was declared the capital of the state of Uttar Pradesh by the Government of India. Since then it has progressed beautifully, merging skillfully the past with the present.

6.4.6 Architecture, Culture & Tourism of Lucknow

The Architecture style of Lucknow is a mixture of Mughlai and Turkish style. The Bara Imambara, Chhota Imambara, Rumi Darwaza, Islamic shrines in the city is good examples of the type. As the city has historical and Architectural significance it attracts a large number of tourists. The Rumi Darwaza, Shah Najaf Imambara, Dr. Ram Manohar Lohia Park, Residency, Bada Imambara, Chattar Manzil, Hazratganj Market etc., are some of the famous tourist attractions in the city. A part from that, Lucknow is famous for Urdu Literature and shayari. The great legends of Urdu poetry like Mir Anees and Mirza Dabeer are from the city. The city is also famous for its distinct Nawabi style cuisine.

Figure 6.7 Heritages Cultural Place of Lucknow**Rumi Darwaza****Bara Imambara****Residency Complex****Hazratganj Shopping area**

Source: Government of India, “Slum Free City Plan of Action – Lucknow” (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), available at: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfc-min.pdf.

6.4.7 Population of Lucknow

The population of Lucknow city (Nagar Nigam) as per 2011 census is 28,15,601 out of which male and female are 14,70,133 and 13,45,468 respectively. Considering the population statistics from the last century, the city faced a decrease in population in the decade 1911-1921 and thereafter the decadal population increased successively. The decade 1981-1991 showed an increase in the decadal rate of 70.79 due to the reasons of expansion of city area limit. The decal population growth rate in 2001-11 is 28.81 percent. The population of children (0-6 yrs) as on 2011 in Lucknow is 2,80,817 which constitutes about 9.97 percent of total population.

Table 6.2 Decadal Growth Trend of Population in Lucknow

Census Year	Population	Decadal Population Increase (In No.)	Decadal Population growth rate (in Percentage)
1901	256239	--	--
1911	252114	-4125	-1.61
1921	240566	-11548	-4.58
1931	251057	10491	4.36
1941	361294	110237	43.91
1951	459484	98190	27.18
1961	615523	156039	33.96
1971	774644	159121	25.85
1981	947990	173346	22.38
1991	1619116	671126	70.79
2001	2185927	566811	35.01
2011	2815601	629674	28.81

Source: Government of India, “Slum Free City Plan of Action – Lucknow” (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), available at: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfcp-min.pdf.

6.4.8 Slum Population of Lucknow

As per census 2001, the Lucknow city is having a total of 609 slums in its municipal jurisdiction area. Out of which 502 are notified slums and 107 are non-notified slums. The National Building Organization (NBO) Annexure primary survey is carried out in January, 2011 for all 609 slums in the city. The total slum population in the city is 772807 which constitute about 27% of city population. The total number of slum households in the city is 1,48,117 which constitute about 31% of total city households. In the year 1981 the population density of the city was 69 persons per hectare and it came down to 49 persons per hectare in 1991. The major reason behind this is the expansion of municipal area limits, where the city area increased from 14595 Hectares to 33750 Hectares. In the year 2001 the population density of the city is 67 persons per Hectare and it increased to 83 persons per hectare in year 2011. The

Lucknow city, along with the status of state capital is the administrative headquarters of Lucknow division and the district. The city a major service sector oriented, commercial, financial educational and agricultural marketing center in North India. From the last century, the population of the city increased from 2,56,239 in 1991 to 28,15,601 in 2011 with an average decadal growth rate of 26 percent. The city experienced an average decadal growth rate of 44.87 percent in the last three decades (1991 to 2011) i.e., after the expansion of city boundary. In view of the population growth rate of last three decades, the population projections were drawn for the next 15 years using geometric mean method. It is projected that by the year 2016 the population of the city would be 32,33,288 by the year 2021 it would be 37,12,938 and 2026 the projected population of the city is 42,63,743.

6.4.9 Socio, Economic and Educational Profile of Lucknow

According to the census, 2011 the sex ratio in Lucknow stood at 915 female per every 1000 male. The average literacy rate of Lucknow is 84.72% with male and female literacy rate being 87.81% and 81.36% respectively. The increase in the rate of sex ratio and literacy were considered as the positive indicators of human development and quality of life. The Lucknow city, along with the status of state capital is the administrative headquarters of Lucknow division and the district. The city a major service sector oriented, commercial, financial educational and agricultural marketing center in North India. The economic status of any city depends on the capacity of production of various activities and the surrounding areas. Any change with respect to increase or decrease in the economic activities leads to the change in development of the city. Being the capital city for one of the largest states in the country, the headquarters of the division, district and one of the major cities in the country, Lucknow derive its major economic base from service sector, business and trade. In accordance with the Projection made in Lucknow Master Plan 2021, the Lucknow city would have 28.50 percent working population in 2011 and in 2021 it would be 30 percent. The major industries in Lucknow Urban Agglomeration include aeronautics, machine tools, distillery chemicals, and furniture and chikan embroidery. Lucknow has traditionally been associated with chikan embroidery work on readymade garments, sarees, etc. with most units being small-scale and household based and located in the old city area.

6.4.10 Housing Profile of Lucknow

Housing is a basic human requirement of any civilized society. With the growth of urbanisation, cities have been expanding alarmingly in the last few decades, which have resulted in haphazard growth of urban areas as well as acute housing shortage. As on year 2011, the city is having a total of 477860 households. A part from that the city have 49087 Non-residential properties. In the inner areas of the city, mixed type of land use can be found where in majority of cases ground floor is kept under commercial use and upper floors under residential use. The average household size of the city as per 2011 census is 5.8. In 2001, the city has 3,93,005 households with average household size of 5.5 persons. At an average household size of 5.8 persons and assuming 2% as dilapidation rate per decade, the projected housing requirement for Lucknow city for the year 2016 would be 544270 in 2021 it would be 625011 and 717730 in the year 2026. The housing shortage for the city is calculated based on census data, estimations and assumptions pertaining to existing housing stock in the city, dilapidated housing structures, vacant houses, and slum households. The housing shortage for the city is estimated for the next 15 years under two circumstances (a) taking into account the existing slum household stock and assuming they will remain same in future (b) assuming that all the existing slum households are developed into a decent affordable housing under RAY and other slum development programmes. The Housing requirement and shortage projections for the city is shown in table.

Table 6.3 Housing Shortage in Lucknow city

Year	2016	2021	2026
Projected Housing	544270	625011	717730
Housing Shortage*	236227	316968	409687
Housing Shortage**	-	168851	261570

*¹¹, **¹²

Source: Government of India, “Slum Free City Plan of Action – Lucknow” (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), available at: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfcp-min.pdf.

¹¹ - Estimated housing shortage of the city if existing slums in the city are not improved in the city

¹² Estimated housing shortage, considering that all the slums in the city are improved under slum developed programmes like RAY Economic Weaker Section /Low Income Group Housing

Working towards slum free Lucknow city, there is needed to build up EWS and LIG housing stock. EWS housing are meant for people whose annual income is below Rs 60, 000 while LIG housing are meant for people whose annual income is less than Rs 1,20,000. As mentioned in City Development Plan 2006, estimates that there is need to create at least 7000 housing units per annum. Most BPL/EWS and LIG households in cities live in informal settlements/slums on encroached public lands. There is no data on numbers of poor families without adequate housing in cities. Census of India provides estimates of number of poor in each city and they also project future population growth for cities using an urban growth rate. City Master Plans etc. make estimates on housing demand on the basis of Census information. Considering the past census data and development plans of the city it is assumed that 30% of the Lucknow households belongs to either EWS or LIG population.

In Lucknow city Slums, 68% of the slum households are living under below poverty line (BPL), which accounts 21% of the total city households. Assuming the other 9% of the households live in other parts of the city, the EWS/LIG housing projections are calculated for the next 15 – 20 years.

Table 6.4 Future Projection of Housing Shortage for EWS/LIG

Year	2011	2016	2021	2026
EWS/LIG Housing	143358	163281	187503	215319

Source: Government of India, “Slum Free City Plan of Action – Lucknow” (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), available at: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfcp-min.pdf.

By developing slum settlements under the Rajiv Awaas Yojana scheme, the housing problem for EWS/LIG population living in slums would be expected to tackle in the next 5 years. The mandatory reform under JNNURM targeting urban poor “Earmark at least 20-25 percent of developed land in all housing projects (developed by public and private agencies) for Economically Weaker Section (EWS) and Lower Income Group (LIG) category with a system of cross subsidization,” and as per the Housing policy framed in 2010, all government, private and cooperative housing schemes above 3,000 square meter in area are mandated to allocate 10% units each to LIG and EWS. This prompts any developer to keep a total of 20% land area reserved for these units; up on which layout plan would be approved by the development authority.

On strict implementation of the above mentioned reforms of JNNURM and Housing Policy would solve the existing and future EWS/LIG housing in the city.

The existing land use statistics (year 2004-05) of Lucknow Urban Agglomeration (UA) reveals that about 55 percent of the area is under Residential use. The statistics reveal that about 990 Hectares of land i.e., 6.10 percent of the total area is under Industrial use. Majority of the Industries in the city are located along and near Kanpur road. About 12.10 percent of land is under Administrative offices, Public and Semi -public use. This large concentration of land under these uses is due to the presence of Government buildings as Lucknow is the capital city of the state and as well as administrative head, quarters of the district. Majority of the government offices are located at Vidhan Sabha marg, Kesarbagh, Hazratganj, Aminabad etc. About 1240 Hectares of land i.e., 7.60 percent is under Transportation use which includes the bus station and railway station area along with road and railway lines. The percentage of area kept under transportation use is less when compared to other major cities of the country. Around 2.7 percent of total land is under Parks and Playgrounds and 1.9 percent of land is under water bodies. The city is having about 12.40 percent of its total area under Open lands, where the majority of the open land is situated along the banks of Gomti River. The detailed land use statistics were tabulated in the *Table*

Table 6.5 Land Use of Lucknow Urban Agglomeration in 1987 & 2004-05

S. No.	PARAMETER	YEAR 1987		YEAR 2004-05	
	Land Use Category	Area (Ha.)	%	Area (Ha.)	%
1	Residential	4485.98	48.90	8945.00	55.00
2	Commercial	223.77	2.40	360.00	2.20
3	Industrial	596.22	6.50	990.00	6.10
4	Public & Semi Public services	902.02	9.80	1410.00	8.70
5	Administrative Offices	474.69	5.20	560.00	3.40
6	Parks/ Playground	346.48	3.80	435.00	2.70
7	Transportation	952.00	10.40	1240.00	7.60
8	Water Bodies	193.66	2.10	310.00	1.90
9	Open Land	996.14	10.90	2020.00	12.40
	Total	9170.00	100.00	16270.00	100.00

Source: Government of India, “Slum Free City Plan of Action – Lucknow” (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), available at: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfcplan.pdf.

The inner city bounded by Gomti River on north, Charbagh Railway station on south,

Vidhansabha marg on east and Campwell road on west is the most densely populated part of Lucknow. The area constitutes only around 5 percent of the total city area but houses about 30 percent of the city population. The population density is more than 1000 persons per hectare in some parts of the old city. Along with the densely packed dwelling units, the inner city is also a major commercial/ market centre, the chowk bazaar, aishbagh, nadan mahal road are the major commercial centres situated in the old city. The mixed type of land use is predominantly seen in some parts of the old city.

6.4.11 Master Plan of Lucknow City, 2021

The Master plan of Lucknow is revised for year 2021. The existing land use development happening in the city is within the legal frame work of Master Plan, 2021. The main objectives of Master Plan 2021 for Lucknow are:

- To evaluate the execution of earlier Master plan, achievements and its validity in current context
- To set up suitable rules and regulations for efficient and organized development of the city.
- To ensure effective transport system for easy flow of Traffic and transportation
- To make suitable provision and ensure balanced distribution of the Facilities/services to
- Public
- To define rules for conservation/maintenance of Historical Buildings and place
- To maintain a healthy physical environment in the city

Table 6.6 Proposed Land Use for Lucknow Urban Agglomeration (UA) in 2021

S. No.	PARAMETER	YEAR 2021	
	Land Use	Area (Ha.)	%
1	Residential	18480	45.0
2	Commercial	1450	3.5
3	Industrial	1665	4.1
4	Public & Semi Public services	2500	6.1
5	Administrative Offices	520	1.3
6	Parks/ Playground	10055	24.5
7	Transportation	6405	15.5
	Total	41075	100

Source: Government of India, “Slum Free City Plan of Action – Lucknow” (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), available at: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfc-min.pdf.

In the proposed land use, 2021 about 18480 Hectares of land is kept under Residential use. At present in some residential areas of the city, the population density even ranges between 600 to 1000 persons per hectare. The master plan made provisions to limit the population density around 600 by developing the residential areas in other parts of the city. The new and proposed residential layouts are projected for the density of 400 persons per hectare. To reduce the stress of high concentration of commercial activities, vehicle parking in Hajratganj and Amina Bazaar, commercial development is proposed in other parts of the city. Mixed land use development is proposed in the areas of Chowkbazaar, daliganj and yahiaganj. About 520 hectares of land is reserved under offices keeping in view the administrative status of the city. Around 2500 hectares of area is kept under Public and Semi-public use, where 1410 hectares out of this area is reserved for educational institutions.

6.5 FILED SURVEY ON STATUS AND ISSUES OF HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING OF LUCKNOW CITY IN UTTAR PRADESH

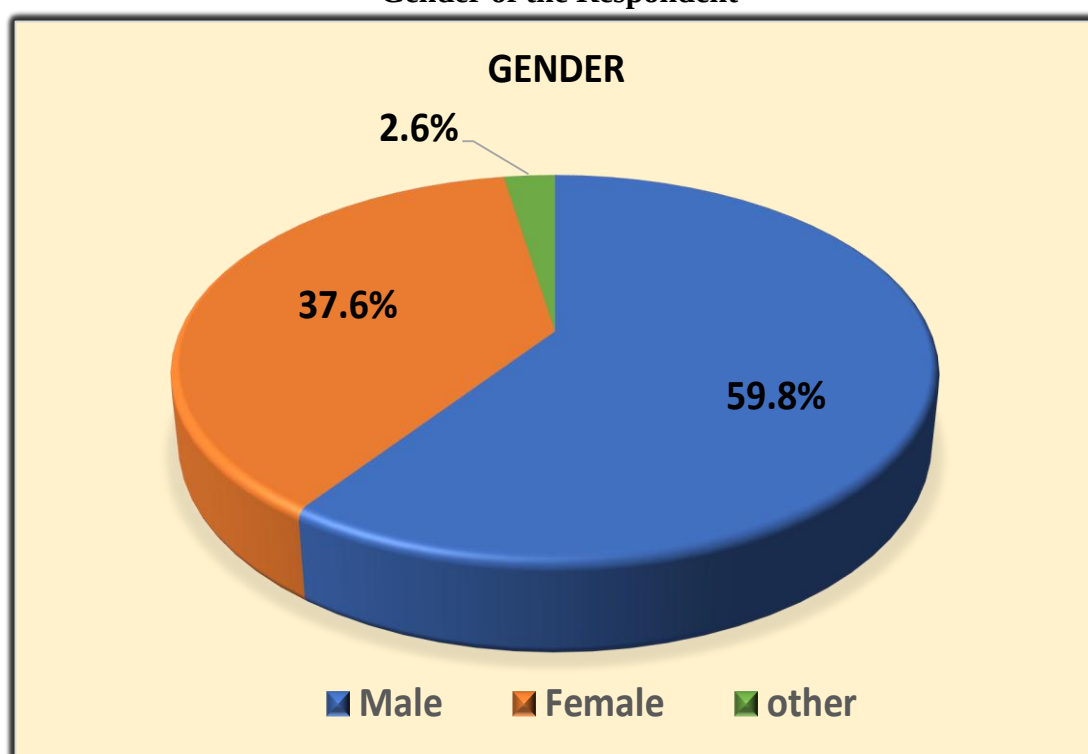
Profile of the Respondents:

Table 6.7 & Figure 6.8 show the percentage of respondent's gender out of 500 samples. The given table and figure presents that there are more male (59.8 % or 299) than female participants (37.6 % or 188) out of total 500 sample. The remaining (2.6 % or 13) participants are other than male or female participants.

Table 6.7 Gender

Gender	Frequency	Percent
Male	299	59.8
Female	188	37.6
other	13	2.6
Total	500	100.0

Figure 6.8
Gender of the Respondent



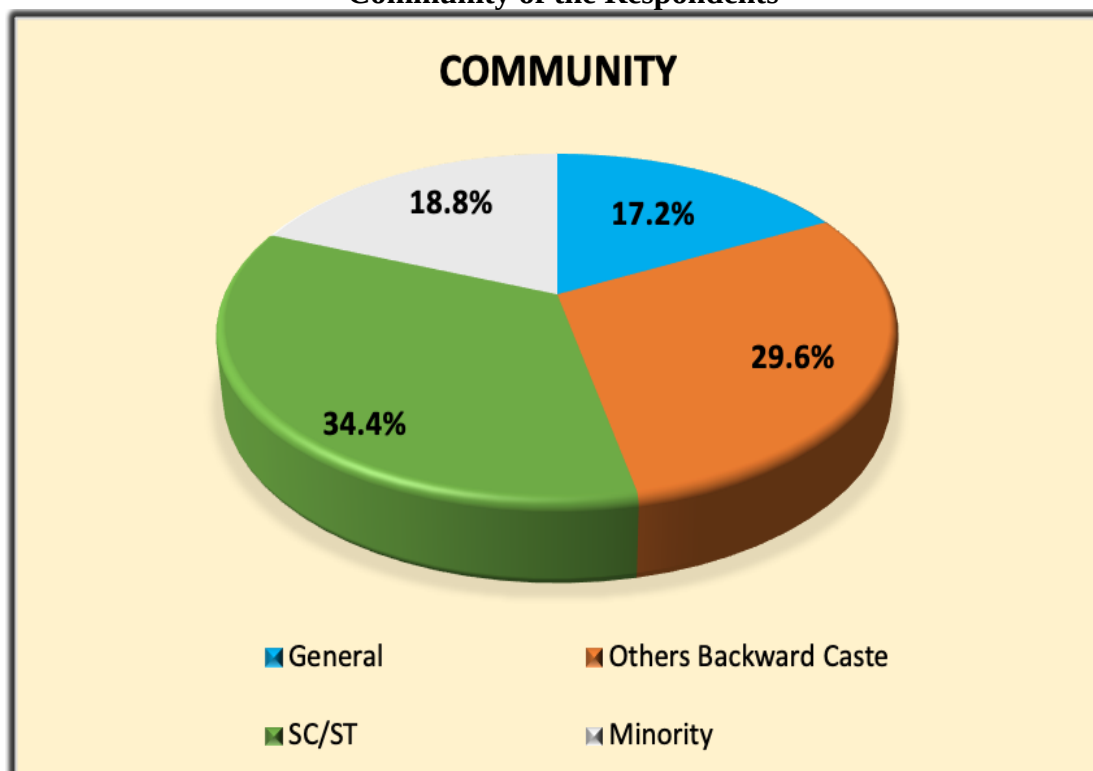
Source: Questionnaire/Schedule, Section A (Question no. A)

Table 6.8 and Figure 6.9 describe category wise information about the respondents. This table shows that out of 500 there are 17.2% (86) respondents belong to general community, 29.6% (148) respondents belong to other backward castes and 34.4% (172) respondents belong to the schedule caste and schedule tribes. Among all the respondents, there are 18.8 % (94) respondents belong to minority community.

Table 6.8 Community

Community	Frequency	Percent
General	86	17.2
Others Backward Caste	148	29.6
SC/ST	172	34.4
Minority	94	18.8
Total	500	100.0

Figure 6.9
Community of the Respondents



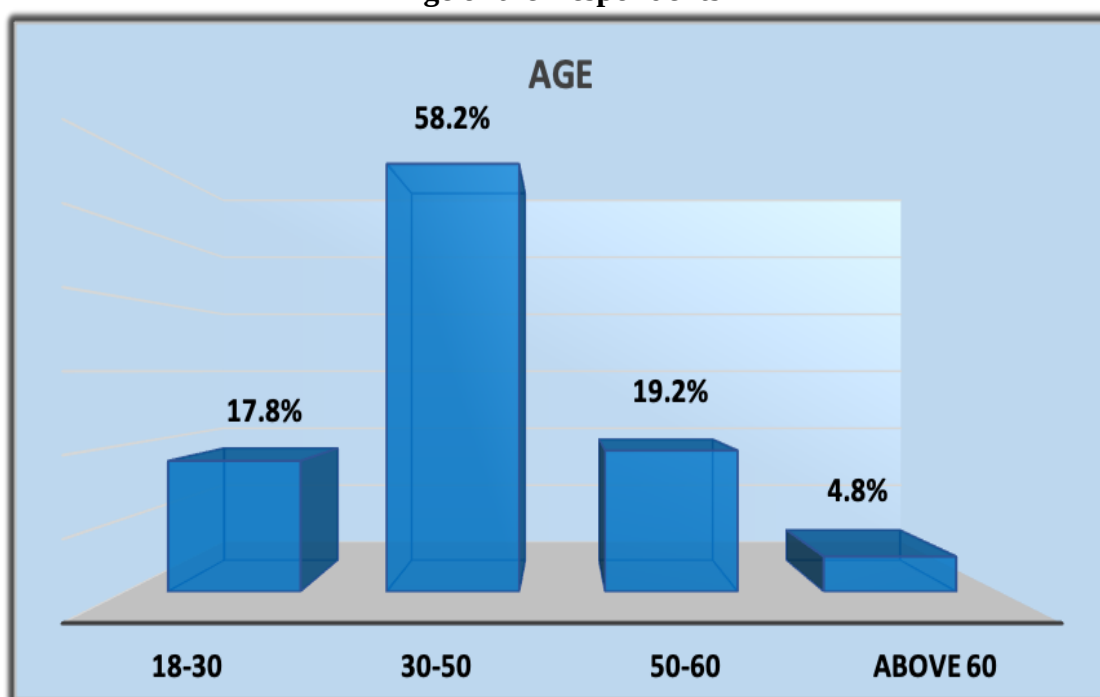
Source: Questionnaire/Schedule, Section A (Question no. B)

As age plays a vital role in understanding the basic right to shelter and adequate housing. The researcher found during his field survey, respondents of different age group. The Table 6.9 and Figure 6.10 show the profile of respondents according to their age groups. Out of 500, 17.8% (89) respondents belong to the age of 18-30 years, 58.2% (291) from 30-50 years, and 19.2% (96) from 50-60, and around 4.8% (24) are above than 60 years.

Table 6.9 Different Age Groups of Respondent

Age	Frequency	Percent
18-30	89	17.8
30-50	291	58.2
50-60	96	19.2
Above 60	24	4.8
Total	500	100.0

Figure 6.10
Age of the Respondents



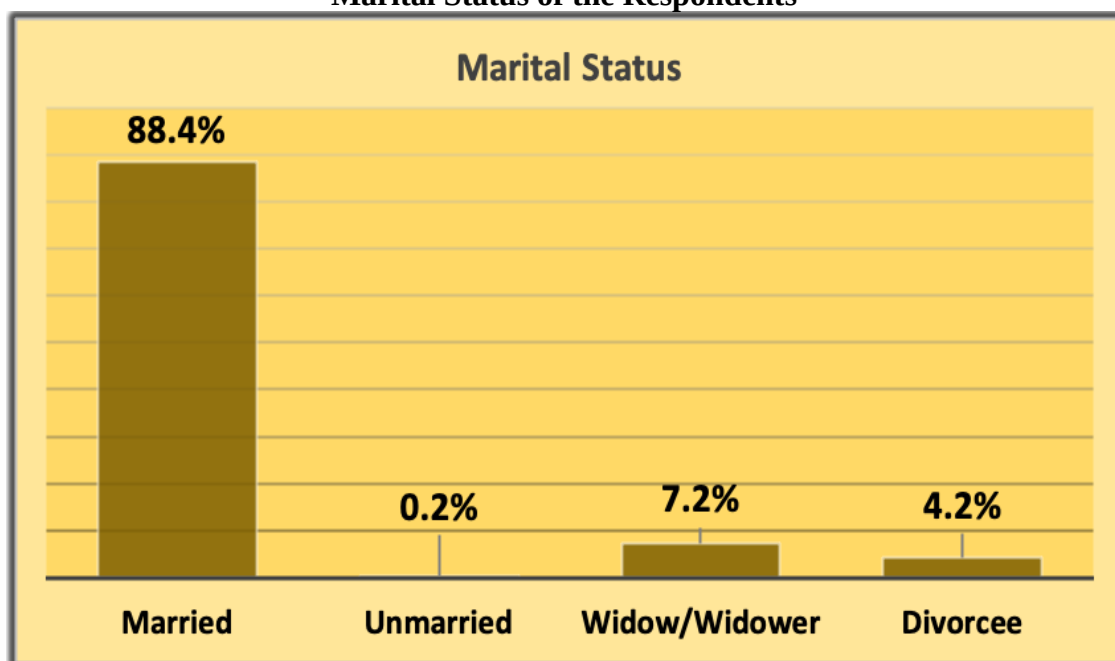
Source: Questionnaire/Schedule, Section A (Question no. C)

Table 6.10 & Figure 6.11 show the marital status of the respondents. The biggest group is those that were married. This indicates that a large number of heads of households are either young or married. Out of 500 respondents 88.4% (442) respondents were married, 0.2% (1) respondents were unmarried, 7.2% (36) were widow/widower and 4.2% (21) respondents were found divorcee.

Table 6.10 Marital Status

Marital Status	Frequency	Percent
Married	442	88.4
Unmarried	1	0.2
Widow/Widower	36	7.2
Divorcee	21	4.2
Total	500	100.0

Figure 6.11
Marital Status of the Respondents



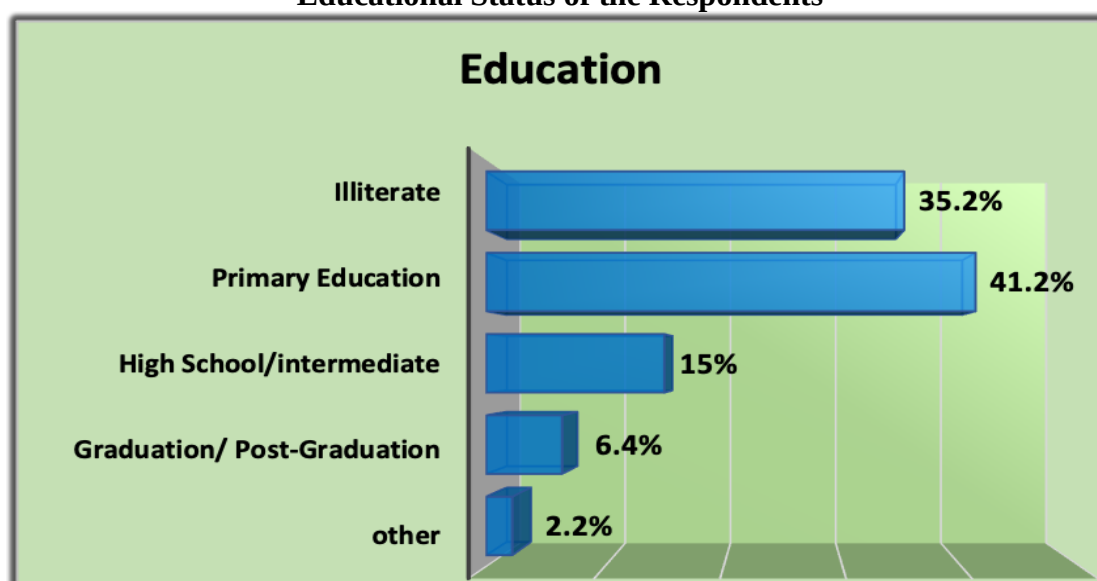
Source: Questionnaire/Schedule, Section A (Question no. D)

The following table and figure presents the education profile of the respondents, divided into five categories as per their level of education. It is evident from the table & figure 6.5 that out of 500 respondents, maximum of 35.2% (176) are illiterate, 41.2% (206) are primary educated, 15.0% (75) are educated up to High School/Intermediate, Graduation/Post-Graduation, and 6.4% (32) and 2.2% (11) are educated up to other level. Here we can see that the maximum respondents are illiterate or either they got primary education, the education has much affected the life of person because if they were not educated, they can't able to know their basic rights or we can say that the government schemes such as housing rights also. The unavailability of proper house for living, also negatively affects the educational life of the children.

Table 6.11 Educational Status

Educational Status	Frequency	Percent
Illiterate	176	35.2
Primary Education	206	41.2
High School/intermediate	75	15.0
Graduation/ Post-Graduation	32	6.4
other	11	2.2
Total	500	100.0

Figure 6.12
Educational Status of the Respondents



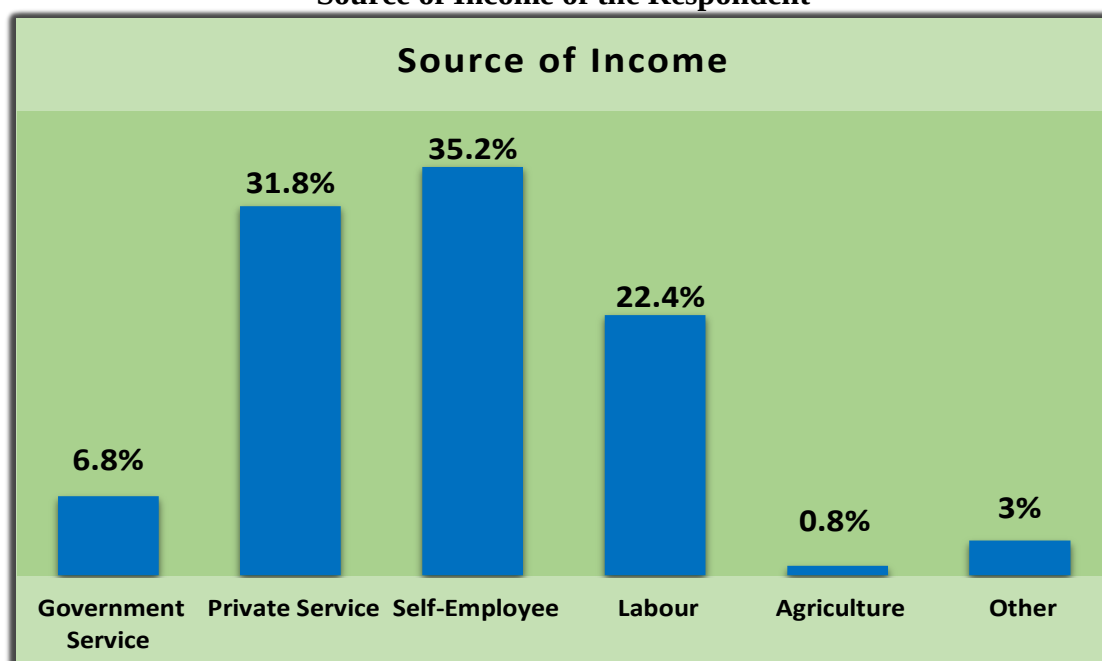
Source: Questionnaire/Schedule, Section A (Question no. E)

One cannot afford a single house for himself if he has no proper source of income. Level of occupation is the main key to increase one's income. In the present study, table 6.12 and figure 6.13 described the employment status of respondents. If one has occupation/employment that is money making, then only he would be able to have a house. Maximum 35.2% (176) of respondents are self-employed, 6.8% (34) was Government Employee, 31.8% (159) was private, and 3.0% (15) does other occupant. Labour class 22.4% (122) and 0.8% (4) was engaged in agriculture sector.

Table 6.12 Source of Income

Source of Income	Frequency	Percent
Government Service	34	6.8
Private Service	159	31.8
Self-Employee	176	35.2
Labour	112	22.4
Agriculture	4	0.8
other	15	3.0
Total	500	100

Figure 6.13
Source of Income of the Respondent



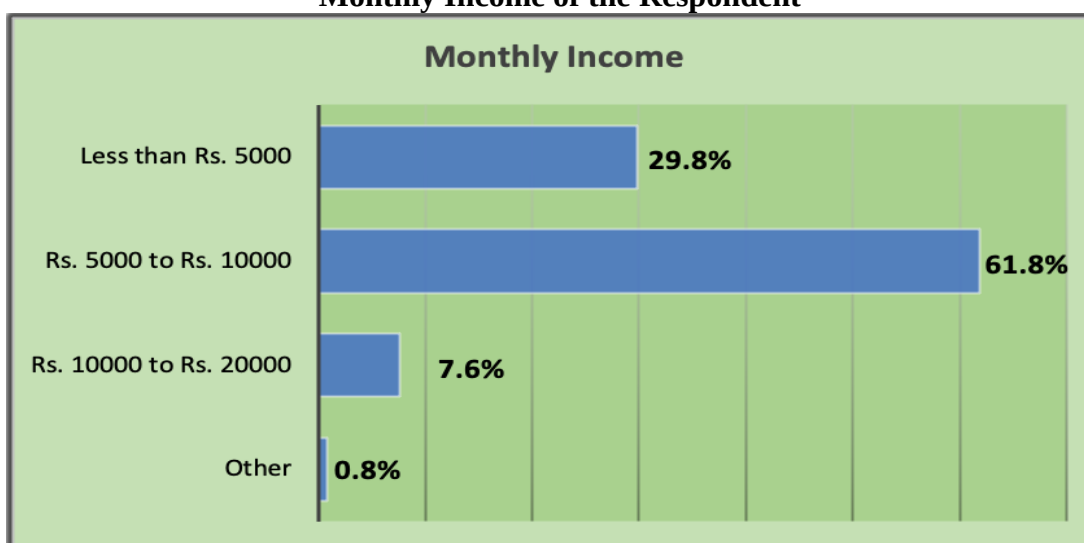
Source: Questionnaire/Schedule, Section A (Question no. F)

The analysis of income at household level is highly important for understanding the poverty and for supporting the efforts to deal with poverty. Poverty measures can be calculated from a multitude of approaches. A common approach is to use household income and draw a minimum level of income required for a household to be considered above or below poverty. Based on data collected in a low income under city of Lucknow, the regression analysis was applied to investigate the differences between different marital statuses and gender and how they are associated with different levels of income. Table 6.13 & figure 6.14 shows the monthly income of the respondents such as 29.8% (149) earned less than Rs.5000, 61.8 % (309) respondent's monthly income were between Rs.5000 to Rs.10000, 7.6 % (38) earned Rs.10000 to Rs.20000 and 0.8 % (4) respondent's income were other than the above given slots.

Table 6.13 Monthly Incomes

Monthly Income	Frequency	Percent
Less than Rs. 5000	149	29.8
Rs. 5000 to Rs. 10000	309	61.8
Rs. 10000 to Rs. 20000	38	7.6
Other	4	0.8
Total	500	100.0

Figure 6.14
Monthly Income of the Respondent



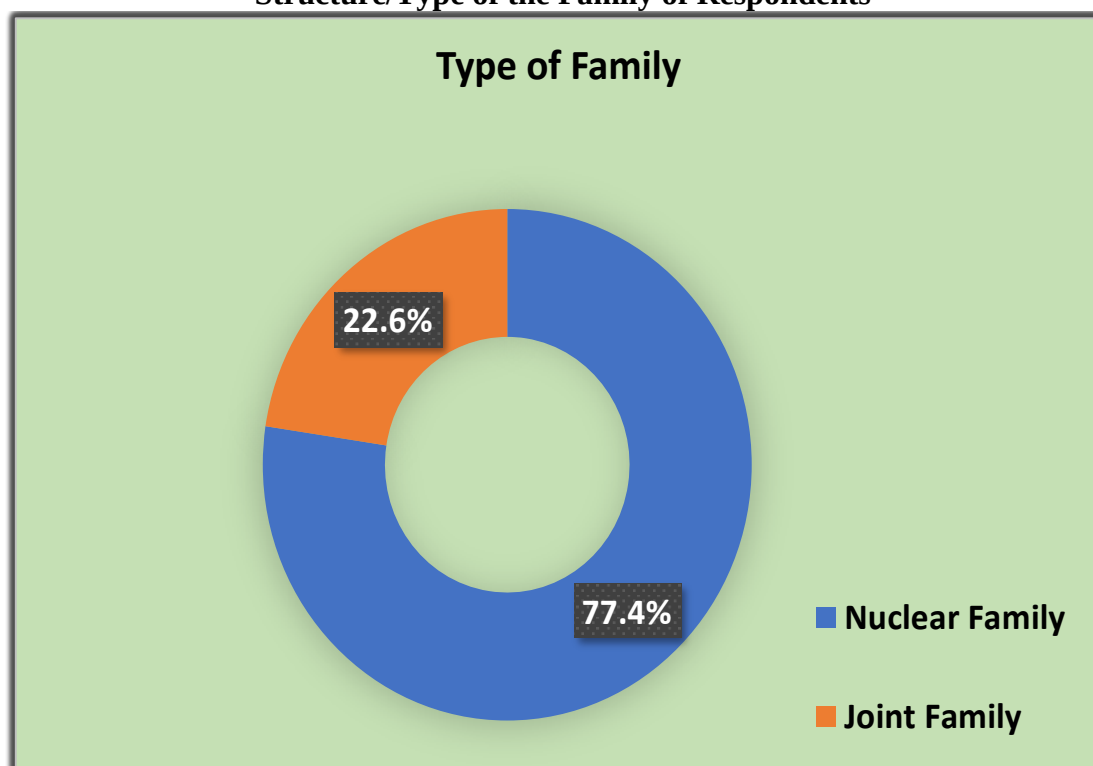
Source: Questionnaire/Schedule, Section A (Question no. G)

Table 6.14 and figure 6.15 describes the structure or type of family, researcher found that out of 500 respondents; here maximum numbers of family were living in nuclear family. The percentages of such families are 77.4% (387) and 22.6% (113) respondents are living in joint family.

Table 6.14 Type of Family

Structure/Type of the Family	Frequency	Percent
Nuclear Family	387	77.4
Joint Family	113	22.6
Total	500	100.0

Figure 6.15
Structure/Type of the Family of Respondents



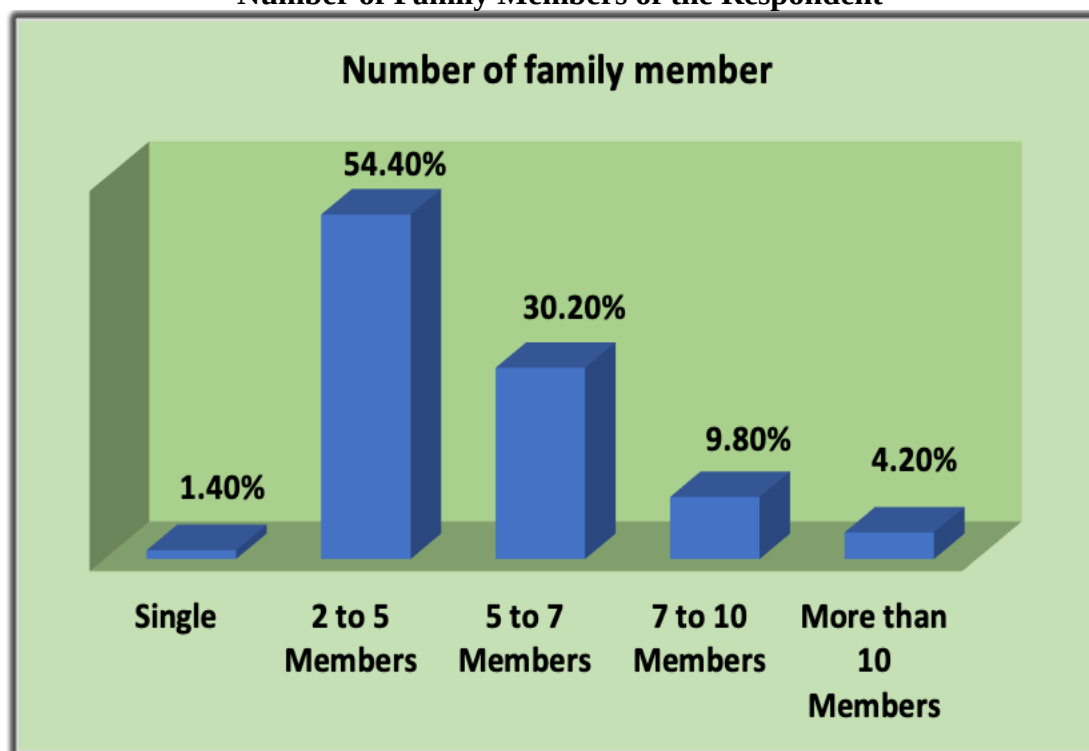
Source: Questionnaire/Schedule, Section A (Question no. H)

Table 6.15 & figure 6.16 shows that number of family members living in single house that are 1.40% (7) out of 500 respondents were living in their house alone, but the maximum 54.40% (272) respondents were living, in there house with 2 to 5 members in a family , 30.20% (151) respondents were living in their house with 5 to 7 members in family, 9.80% (49) respondents were living in their house with 7 to 10 members in a family and 4.20% (21) respondents were living in their house having more than 10 members in a family.

Table 6.15 Number of Family Members

Number of Family Members	Frequency	Percent
Single	7	1.4
2 to 5 Members	272	54.4
5 to 7 Members	151	30.2
7 to 10 Members	49	9.8
More than 10 Members	21	4.2
Total	500	100.0

Figure 6.16
Number of Family Members of the Respondent



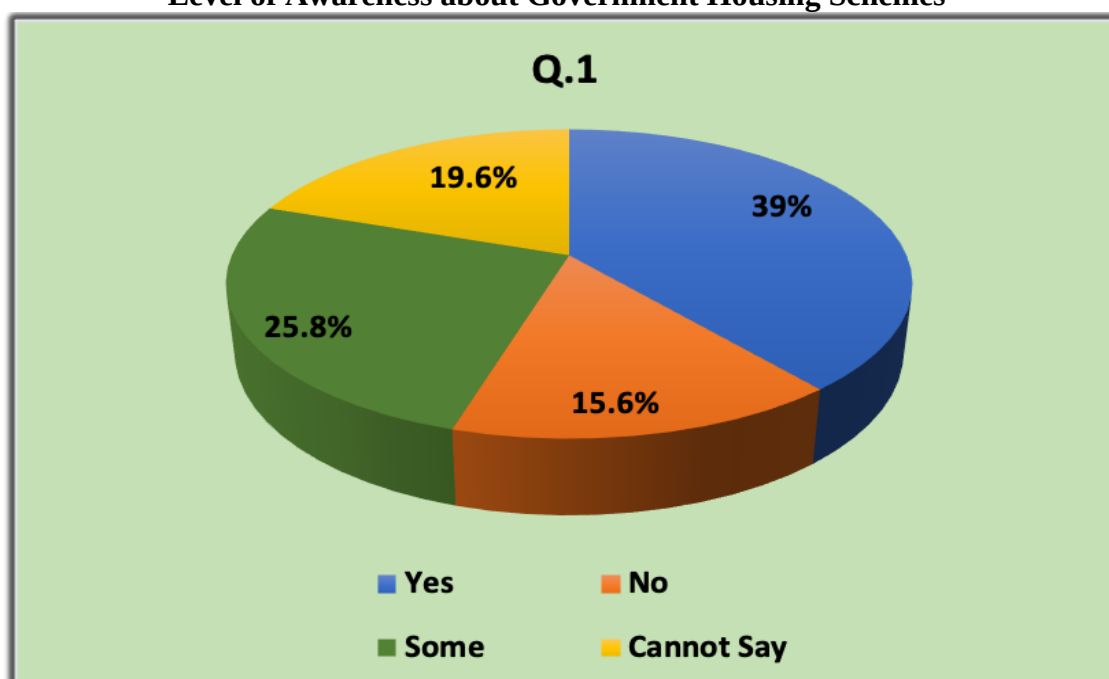
Source: Questionnaire/Schedule, Section A (Question no. I)

Awareness about housing schemes is essential to get maximum benefit of those schemes. Table 6.16 & figure 6.17 shows that about 39% (195) of respondents were very much aware with the schemes offered by the government, 15.6% (78) of respondents had no knowledge, and about 25.8% (129) of respondents had average knowledge about housing schemes. Data also shows that 19.6% (98) participants did not answered to the question about their knowledge of housing schemes offered by government. The analysis shows that, the percentages of respondents regarding awareness of schemes are not very much satisfactory.

Table 6.16 Awareness about Government Housing Schemes

Awareness about Government Housing Schemes	Frequency	Percent
Yes	195	39.0
No	78	15.6
Some	129	25.8
Cannot Say	98	19.6
Total	500	100.0

Figure 6.17
Level of Awareness about Government Housing Schemes



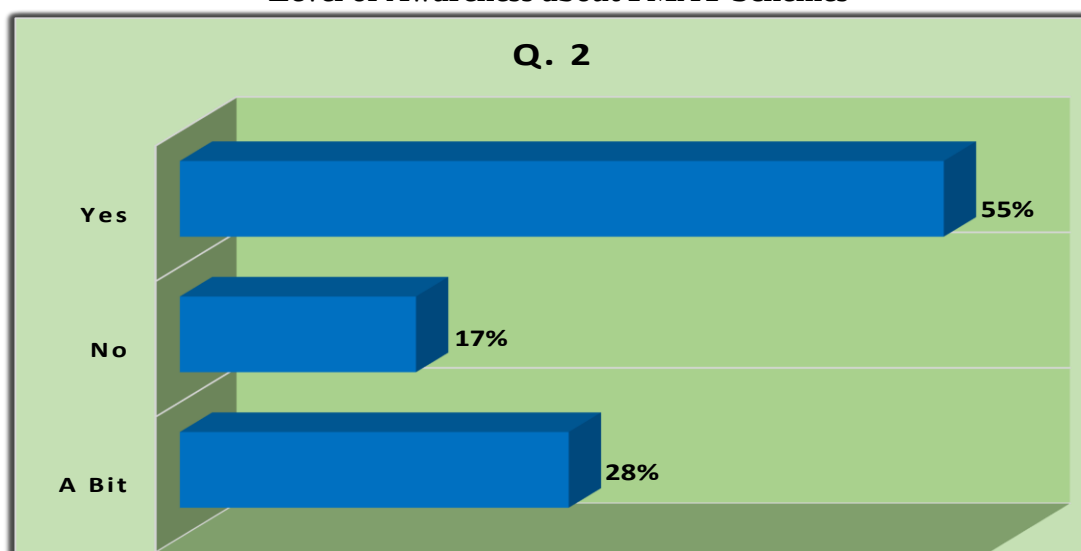
Source: Questionnaire/Schedule, Section B (Question no.1. Do you know about any housing scheme being offered by the government?)

The Pradhan Mantri Awaas Yojana (Urban) is an initiative of the Government of India which aims at providing affordable housing to the urban poor by the year 2022. The scheme was first launched on 1 June 2015. This is an initiative of the Government of India which aims at providing affordable housing to the urban poor by the year 2022. The scheme was first launched on 1 June 2015. The researcher tried to know how much people are aware about this scheme. It can be seen by table 6.17 and figure 6.18 that shows, out of 500 respondents, 55% (275) were aware of this scheme and 17% (85) respondents were not aware with such kind of schemes due to the low level of education etc. However, 28% (140) respondents were a bit aware with the Pradhan Mantri Awaas Yojana (Urban) scheme. Preference under the Scheme, subject to beneficiaries being from EWS/LIG segments, should be given to Manual Scavengers, Women (with overriding preference to widows), persons belonging to Scheduled Castes/Scheduled Tribes/Other Backward Classes, Minorities, Persons with disabilities and Transgender.

Table 6.17 Awareness about PMAY Schemes

Awareness about PMAY Schemes	Frequency	Percent
No	85	17.0
Yes	275	55.0
A Bit	140	28.0
Total	500	100.0

Figure 6.18
Level of Awareness about PMAY Schemes



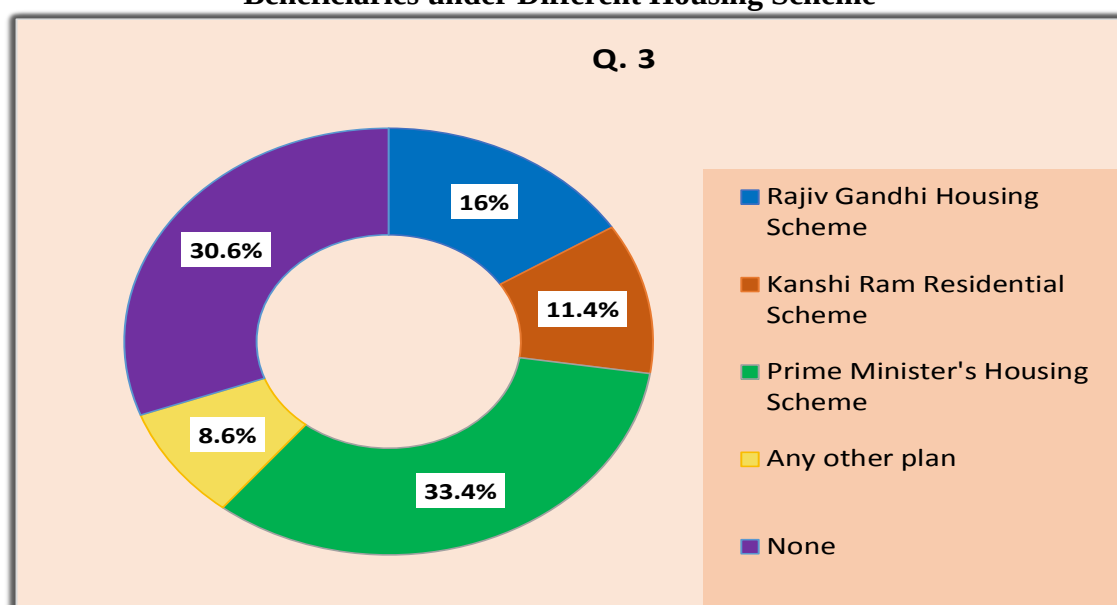
Source: Questionnaire/Schedule, Section B (Question no.2. Do you know about the Prime Minister's Housing Scheme being run by the government?)

Table 6.18 and figure 6.19 shows that percentage of beneficiaries benefitted under different housing scheme. Out of 500 respondents, 16% (80) respondents had been benefitted under the Rajiv Gandhi Housing Scheme, 11.4% (57) respondents had been benefitted under Kanshi Ram Residential Scheme, 33.4% (167) got house under pardhan mantri awaas yojana and 8.6% (43) respondents had been benefitted under any other plan run by government. The data analysis shows that 30.6% (153) respondents still had not been provided any house under any governmental scheme. It means they are compelled to live in slums areas, rain basera or any other governmental temporary arrangements.

Table 6.18 Beneficiaries under Different Housing Scheme

Beneficiaries under Different Housing Scheme	Frequency	Percent
Rajiv Gandhi Housing Scheme	80	16
Kanshi Ram Residential Scheme	57	11.4
Prime Minister's Housing Scheme	167	33.4
Other plan	43	8.6
Not under any plan	153	30.6
Total	500	100.0

Figure 6.19
Beneficiaries under Different Housing Scheme



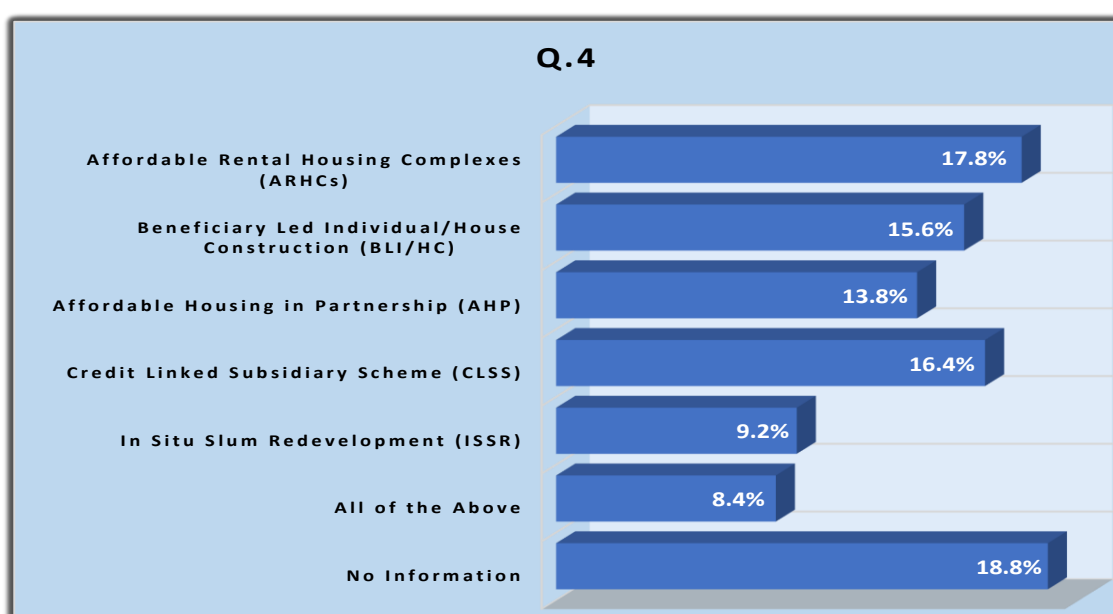
Source: Questionnaire/Schedule, Section B (Question no.3. Which housing scheme of the government has benefited to you?)

In-Situ Redevelopment of slums using land as a resource, with the participation of the private sector. This mission aims at leveraging the potential of land under slum areas and providing formal urban establishments to slum dwellers. The lending institutions will directly credit the interest subsidy to the beneficiaries' accounts which will result in reduced Equated Monthly Instalments (EMI) and reduced housing loan amount. In partnership with the Public and Private sector, affordable housing will be provided to the economically weaker sections. The States or Union Territories, either with different agencies or in partnership with different industries can plan affordable housing projects. Enhancement and construction of beneficiary led house – Under this component, the beneficiaries who are not able to avail the advantages of the above three components will be benefited. This mission provides assistance to families of EWS category to construct new houses or enhance the existing houses on their own to cover the beneficiaries. Table no 6.19 and figure 6.20 shows that the respondent's level of awareness about government housing scheme. 17.8% (89) respondents know about ARHC scheme, 15.6% (78) were aware about BLI/HC scheme, 13.8% (69) were about AHP scheme, 16.4% (82) about CLSS, about 9.2% (46) were aware about ISSR scheme and 8.4% (42) were aware about all the schemes, while 18.8% (94) have no any information.

Table 6.19 Awareness about Some specific Housing Schemes

Some specific Housing Schemes	Frequency	Percent
In Situ Slum Redevelopment (ISSR)	46	9.2
Credit Linked Subsidiary Scheme (CLSS)	82	16.4
Affordable Housing in Partnership (AHP)	69	13.8
Beneficiary Led Individual/House Construction	78	15.6
Affordable Rental Housing Complexes (ARHCs)	89	17.8
All of the Above	42	8.4
No Information	94	18.8
Total	500	100.0

Figure 6.20
**Level of Awareness about Some specific Housing Schemes, Like-
ARHC/BLI/CLASS/ISSR**



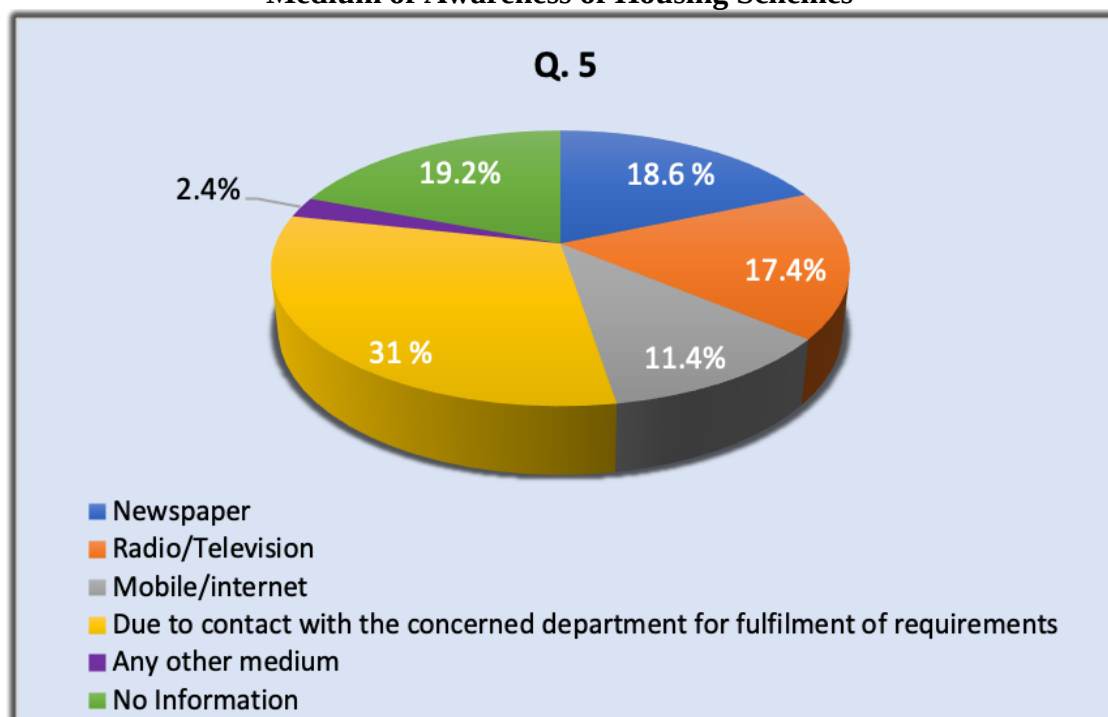
Source: Questionnaire/Schedule, Section B (Question no.4 Do you know about the following housing schemes proposed by the government?)

The general information about the government sponsored housing schemes are known to the beneficiary mostly from due to the concerned department 31% (155). The dissemination of information through print and electronic media was found to be 18.6% (93) and 17.4% (87) respectively. The awareness about the scheme was assessed through mobile/ internet is 11.4% (57) and 2.4% (12) respondents assessed information from different mechanism and still 19.2% (96) respondents there is no regarding to the government sponsored housing schemes. (Table 6.20 and figure 6.21)

Table 6.20 Medium of Awareness

Medium of Awareness	Frequency	Percent
Newspaper	93	18.6
Radio/Television	87	17.4
Mobile and internet	57	11.4
concern department	155	31
Other medium	12	2.4
No Information	96	19.2
Total	500	100.0

Figure 6.21
Medium of Awareness of Housing Schemes



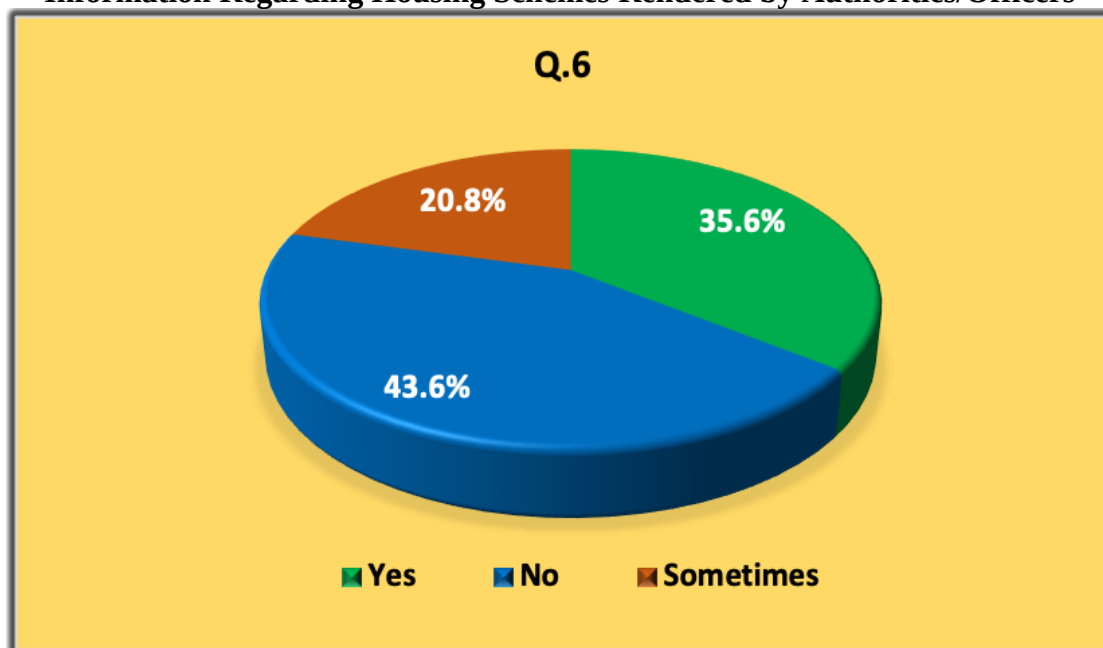
Source: Questionnaire/Schedule, Section B (Question no.5.Through which medium did you know about the government sponsored housing scheme?)

The success of a welfare programme heavily depends on its implementation process. A significant aspect of the process is the dissemination of information and sensitizing about the scheme at the ground level. Especially in the urban development programmes, the creation of awareness is critical towards achieving a high success rate in terms of implementation and thereon the accrual of benefits out of it. The local level officials at municipal and wards, as well as the elected representatives, have a crucial role in generating awareness and disseminating the information to the public. Table 6.21 and figure 6.22 shows that 43.6% (218) respondents had given negative answer to the above questions, however 35.6% (178) respondents gave the positive answered and 20.8% (104) respondents answered that sometimes authority informed him/her.

Table 6.21 Information Regarding Housing Schemes Rendered by Authorities/Officers

Information Regarding Housing Schemes Rendered by Authorities/Officers	Frequency	Percent
Yes	178	35.6
No	218	43.6
Sometimes	104	20.8
Total	500	100.0

Figure 6.22
Information Regarding Housing Schemes Rendered by Authorities/Officers



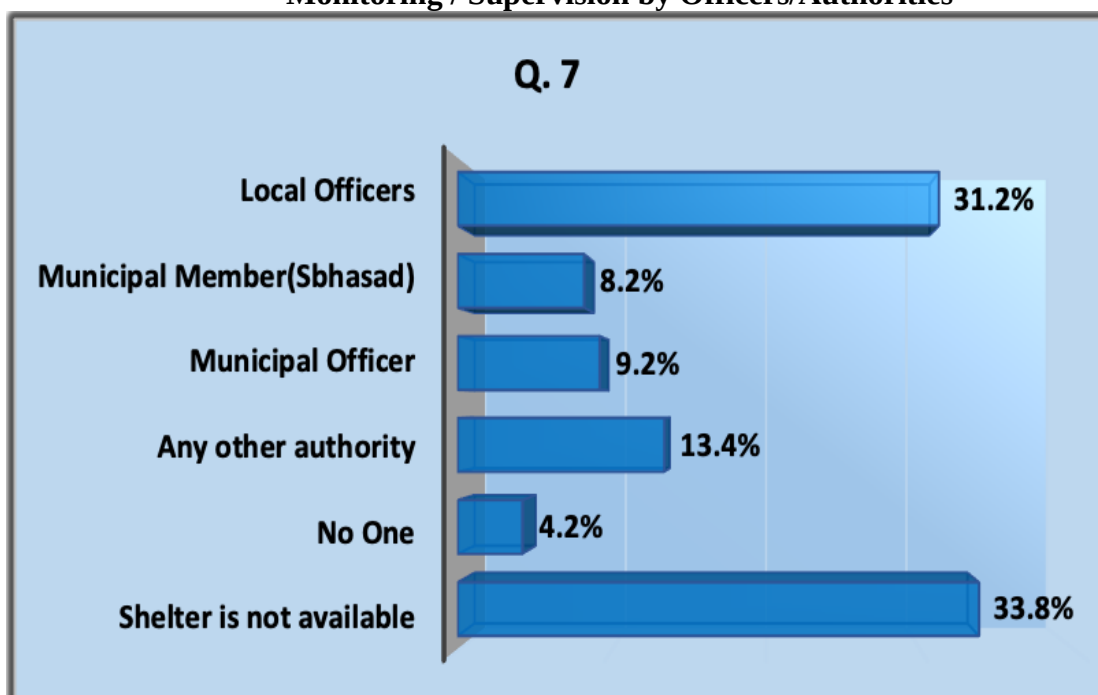
Source: Questionnaire/Schedule, Section B (Question no.6. Has any officer/ employee of the center/ State Government ever informed you about any of the housing schemes?)

Accordingly, the programs for Economic Weaker Sections, Kashi Ram Awaas Yojana Pardhan Mantri Awaas Yojana-U and others various housing schemes run by government often entrusted duties to be performed by the various stakeholders at different levels of government like at Centre, State, and District, Municipal, and wards level. Some of the crucial activities entrusted with them include orientating the beneficiaries about the scheme and sensitizing them at different levels of construction of houses, identifying land availability for landless beneficiaries, facilitating beneficiaries in availing benefits of other schemes of the Centre and State Governments through convergence, ensure timely completion of the construction of houses, grievance redressed, etc. Further, every scheme house is to be tagged to a local level functionary to monitor the progress of the house from time to time. Table 6.22 and figure 6.23 Shows that 31.2% (156) respondent gave the answer that the construction of houses under the scheme is monitored by local officers. According to 8.2% (41) respondents the supervising authorities are municipal members (sbhasad). According to 9.2% (46) respondents the supervising authorities are municipal officer. According to 13.4% (67) respondents the supervising authorities are any other authorities, 4.2% (21) respondents answered that construction is not supervised by any authority and 33.8% (169) respondents answered that they had not been provided shelter.

Table 6.22 Monitoring / Supervision by Officers/Authorities

Monitoring / Supervision by Officers/Authorities	Frequency	Percent
Local Officers	156	31.2
Municipal Member/Sbhasad	41	8.2
Municipal Officer	46	9.2
Any other authority	67	13.4
No One	21	4.2
Shelter is not available	169	33.8
Total	500	100.0

Figure 6.23
Monitoring / Supervision by Officers/Authorities



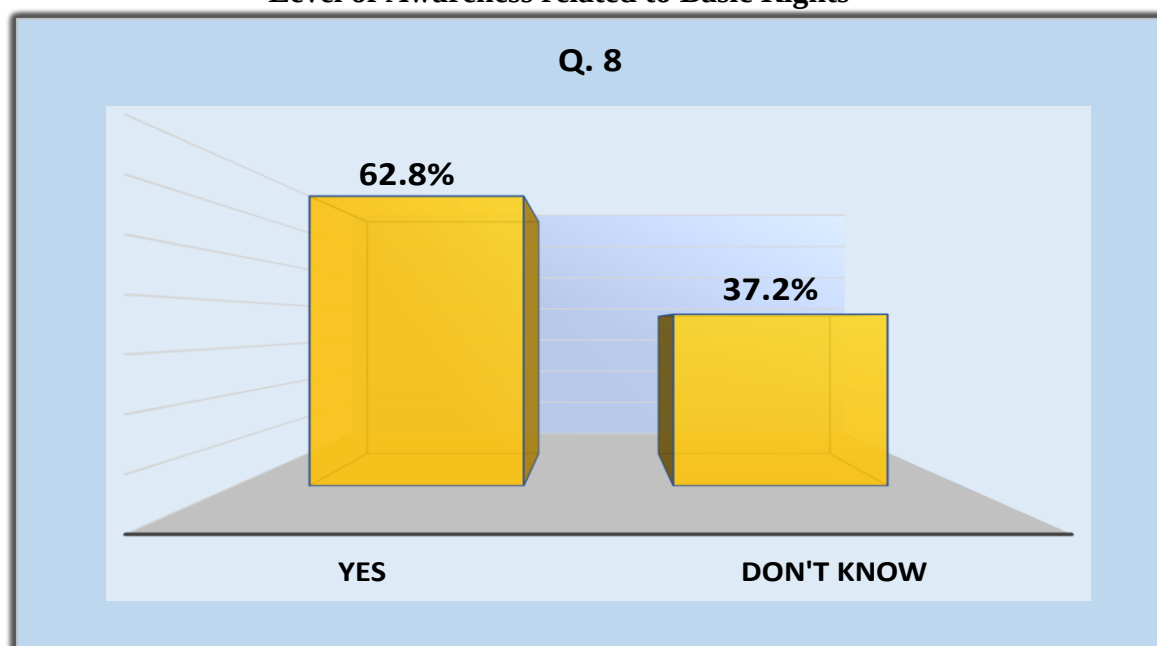
Source: Questionnaire/Schedule, Section B (Question no.7. Who monitors/ supervises the construction of house built under housing schemes?)

The way to conceptualise housing poverty is by defining what constitutes adequate housing. This covers basic amenities such as electricity, water supply, sanitation, and even sewage management. It also extends to the need for enough income to be able to access a housing loan or even rent a house. Housing poverty affects one's ability to be physically and mentally healthy, and economically and educationally productive. It affects one's capacity to access employment, and social relations. Therefore, formulating policies to tackle urban housing shortage must focus on expanding freedoms to enable people to function normally; this includes access to employment and social security, access to housing loans, tenure security, hygienic and disease-free surroundings, clean water, parks and open spaces, and social relations. Table 6.23 and figure 6.24 shows that level of awareness of respondents related with basic rights. 62.8% (314) respondents were aware about the basic rights and 37.2% (186) were not aware about their basic rights.

Table 6.23 Awareness related to Basic Rights

Awareness related to Basic Rights	Frequency	Percent
Yes	314	62.8
Don't Know	186	37.2
Total	500	100.0

Figure 6.24
Level of Awareness related to Basic Rights



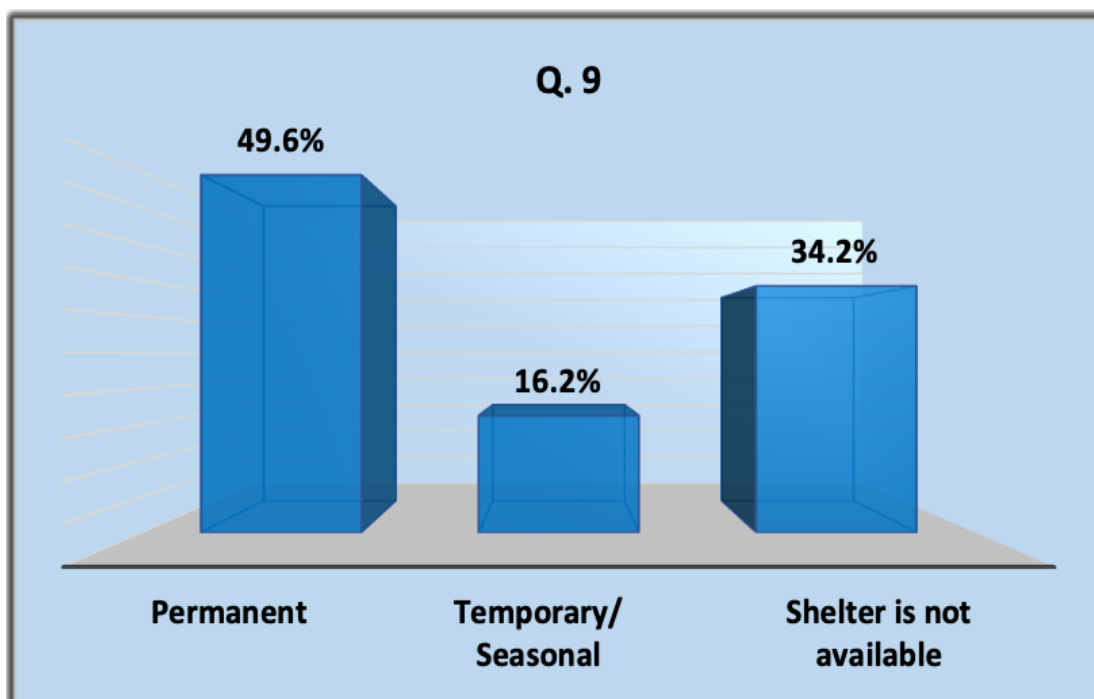
Source: Questionnaire/Schedule, Section B (Question no.8 Are you also entitled for clean water, toilet, electricity and ventilated shelter or accommodation?)

Affordable housing initiatives in India have catered to permanent migrants, while ignoring the needs of temporary and seasonal migrants. Seasonal migrants are not in search of permanent residence; rather low-cost rental accommodation would better suit their transient nature. In the absence of such accommodation, seasonal migrants are forced to live in de-humanised circumstances, be it slums, open spaces or in small, shared rental homes. Seasonal workers, quite often, also end up living in their workplaces. Table 6.24 and figure 6.25 shows nature of present resident that is 49.6% (248) respondents were living in permanent residence, 16.2% (81) were living in temporary/ seasonal residence and 34.2% (171) had no shelter.

Table 6.24 Status of Present Residence

Status of Present Residence	Frequency	Percent
Permanent	248	49.6%
Temporary/ Seasonal	81	16.2%
Shelter is not available	171	34.2
Total	500	100.0

Figure 6.25
Status of Present Residence



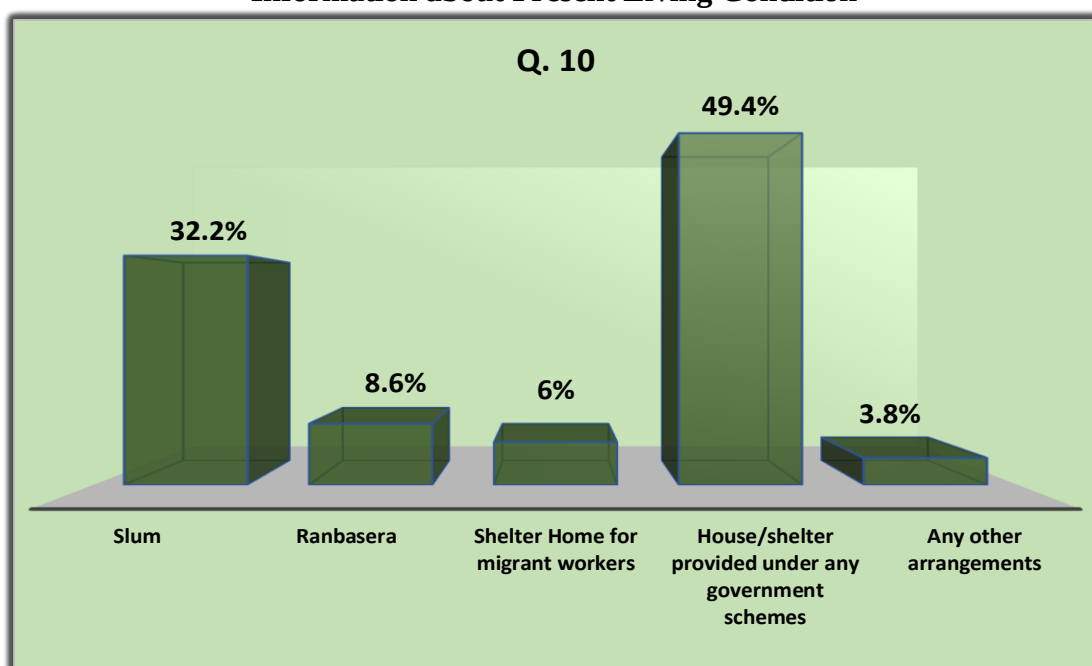
Source: Questionnaire/Schedule, Section B (Question no.9. What is the status of your present residence?)

The positive correlation between being a resident in slums and belonging to either the weaker economic sections or the low-income groups is beyond compelling. A dominant characteristic of those belonging to EWS or LIG is that they are generally informally employed. Urbanization in India, which has failed to generate productive, secure formal employment, explains to a certain extent the proliferation of slums. Unskilled or semi-skilled persons, in the absence of formal factory jobs, become part of the informal economy in cities. Slums in urban India tell the tale of how livelihood needs have coerced people to come to terms with living in desperate housing conditions. It has been pointed out that government agencies and state-owned enterprises are sitting on vast tracts of idle lands, which can be used for easing the shortage of affordable houses. Table 6.25 and figure 6.26 tested the hypothesis that is the status of human right to shelter and adequate housing for people in Lucknow as capital of U.P. is not satisfactory. In given table and figure 32.2% (161) respondents were living in slum areas, 8.6% (43) respondents were living in Ranbasera, 6% (30) were living in shelter home which was made for migrant workers, 49.4% (247) respondents had house which has been provided under different schemes and 3.8% (19) respondents were living in any other arrangements.

Table 6.25 Present Living Conditions of Respondents

Present Living Condition of Respondents	Frequency	Percent
Slum	161	32.2
Ranbasera	43	8.6
Shelter Home for migrant workers	30	6.0
House/shelter provided under any government scheme	247	49.4
Any other arrangements	19	3.8
Total	500	100.0

Figure 6.26
Information about Present Living Condition



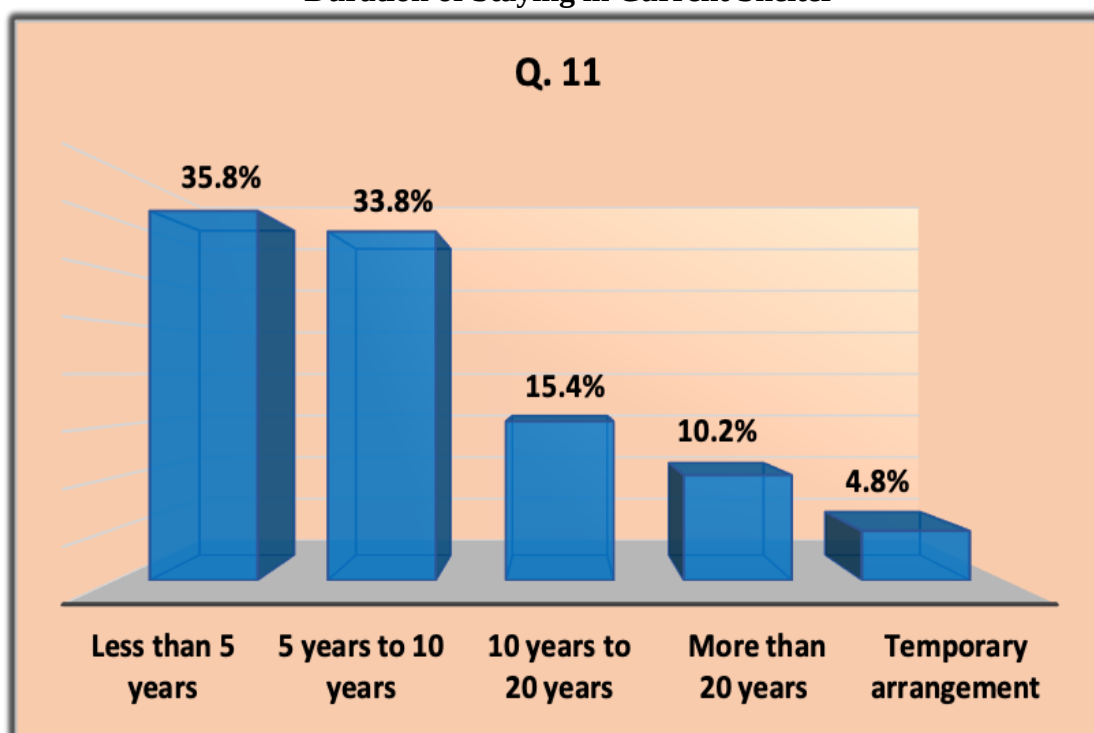
Source: Questionnaire/Schedule, Section B (Question no.10. What kind of shelter do you currently have?)

Table 6.26 and figure 6.27 shows the duration of living in current shelter that is 35.8% (179) respondents were living for less than 5 years in the current shelter, 33.8% (169) respondents were living for 5 to 10 years, 15.4% (77) were living for 10 to 20 years, 10.2% (51) were living for more than 20 years and 4.8% (24) were living in temporary arrangement.

Table 6.26 Duration of Staying in Current Shelter

Duration of Staying in Current Shelter	Frequency	Percent
Less than 5 years	179	35.8
5 years to 10 years	169	33.8
10 years to 20 years	77	15.4
More than 20 years	51	10.2
Temporary arrangement	24	4.8
Total	500	100.0

Figure 6.27
Duration of Staying in Current Shelter



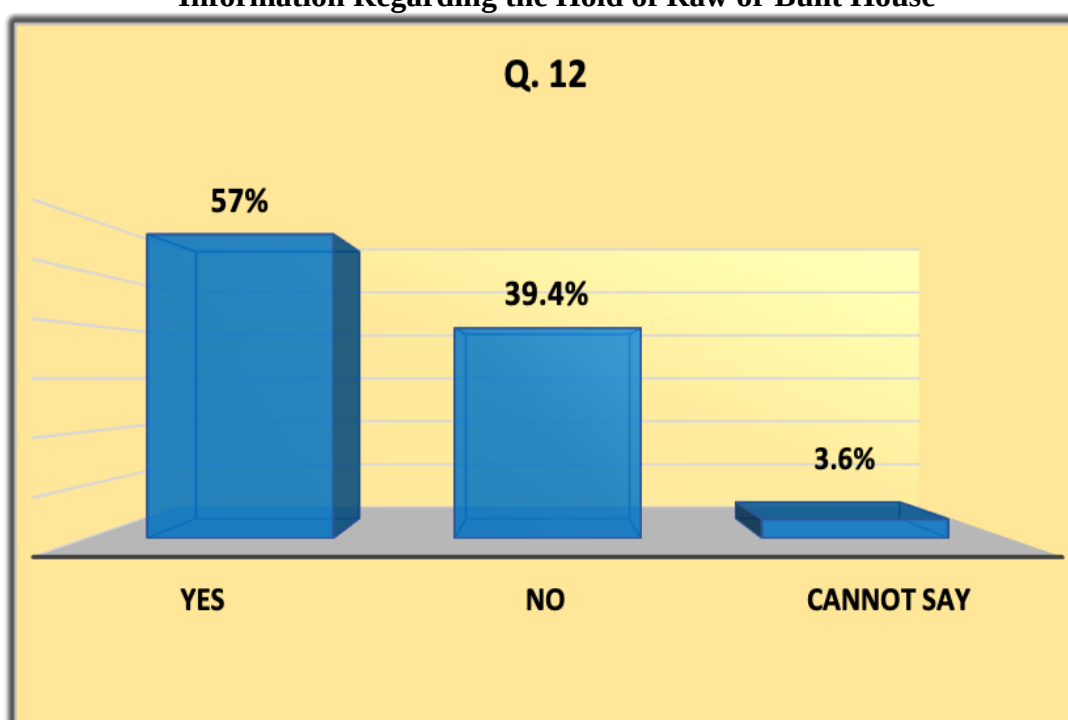
Source: Questionnaire/Schedule, Section B (Question no.11. How long have you been living in the current shelter?)

Table 6.27 and figure 6.28 shows the information about any built or raw house at any place in India. In this regard 57% (285) respondents had given the positive answer to this question, 39.4% (197) respondents had given the negative answer and 3.6% (18) respondents said nothing. The analysis shows that the aim of government to provide every one pucca house still has been not been completed.

Table 6.27 Information Regarding the Hold of Raw or Built House

Information Regarding the Hold of Raw or Built House	Frequency	Percent
Yes	285	57
No	197	39.4
Cannot Say	18	3.6
Total	500	100.0

Figure 6.28
Information Regarding the Hold of Raw or Built House



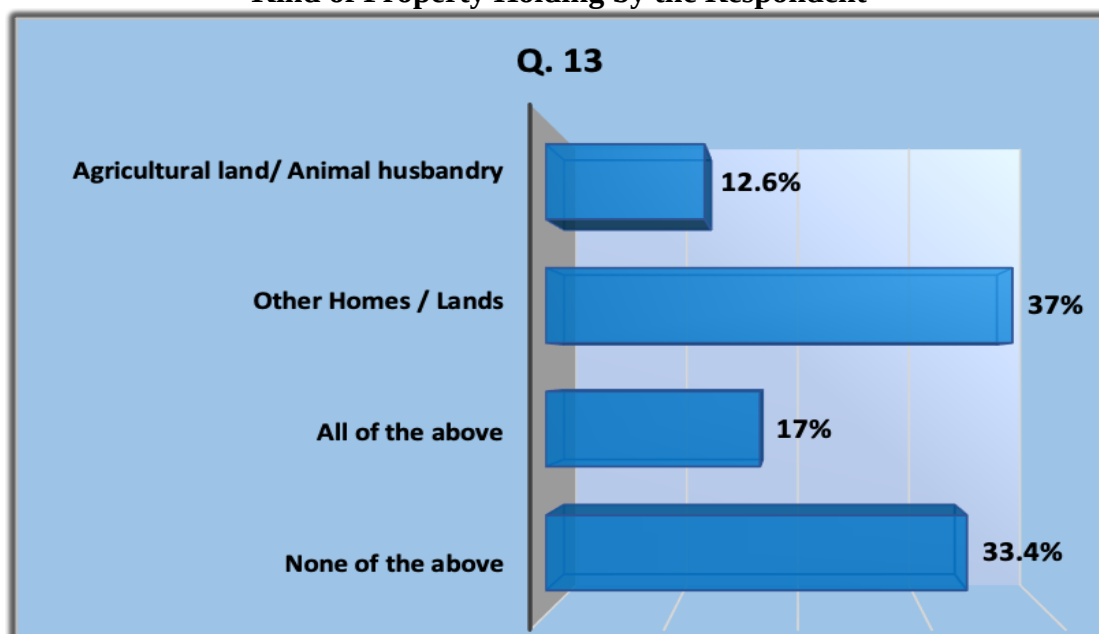
Source: Questionnaire/Schedule, Section B (Question no.12 Do you or any of your family members at any place in India is having a raw or built house?)

Table 6.28 and figure 6.29 show kind of property possessed by respondents, 12.6% (63) respondents have agricultural land /animal husbandry, 37% (185) respondents have other homes/ lands, 17% (85) have possessed all the above mentioned property and 33.4% (167) respondents have no any property or house.

Table 6.28 Kind of Property Holding by the Respondent

Kind of Property Holding by the Respondents	Frequency	Percent
Agricultural land/ Animal husbandry	63	12.6
Other Homes / Lands	185	37.0
All of the above	85	17.0
None of the above	167	33.4
Total	500	100.0

Figure 6.29
Kind of Property Holding by the Respondent



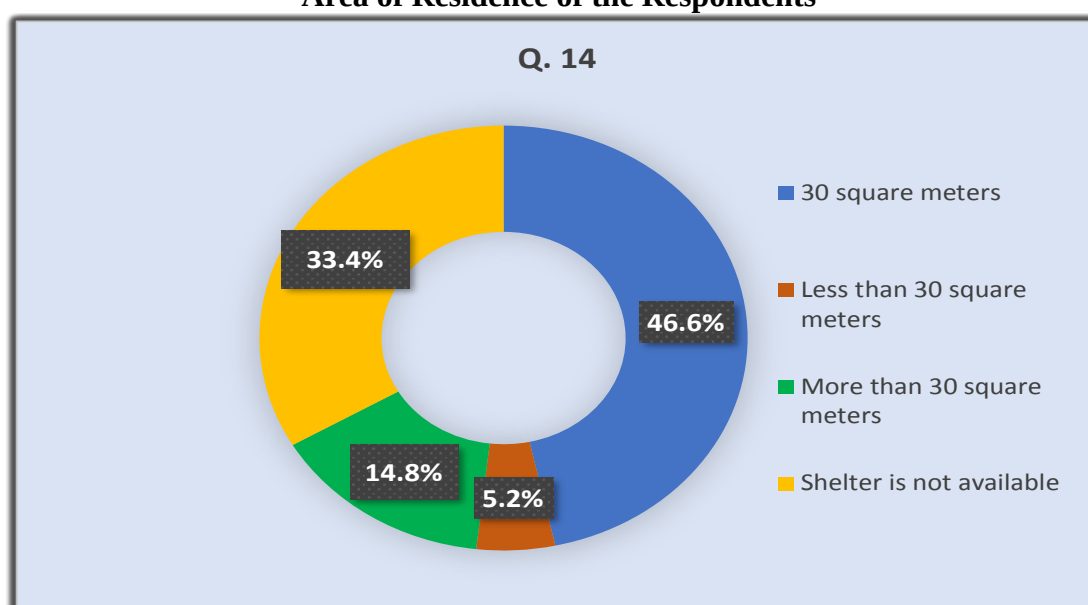
Source: Questionnaire/Schedule, Section B (Question no.13. What kind of property do you have?)

The carpet area of houses being constructed or enhanced under this component of the mission should be up to 30 square metres and 60 square metres for EWS and LIG, respectively in order to avail of this credit linked subsidy. The beneficiary, at his/her discretion, can build a house of larger Credit Linked Subsidy Scheme for EWS/LIG – Operational Guidelines Ministry of Housing and Urban Poverty Alleviation area but interest subvention would be limited to first Rs. 6 lakhs only. Table 6.29 and figure 6.30 described the housing carpet area of the respondents. 46.6% (233) respondents possessed the carpet area 30 square meters, 14.8% (74) respondents build house on more than 30 square meters carpet area and only 5.2% (26) respondents build their house less than 30 square meters carpet area, while shelter is not available to 33.4% (167) respondents.

Table 6.29 Carpet Area of House

Carpet Area of House	Frequency	Percent
30 square meters	233	46.6
Less than 30 square meters	26	5.2
More than 30 square meters	74	14.8
Shelter is not available	167	33.4
Total	500	100.0

Figure 6.30
Area of Residence of the Respondents



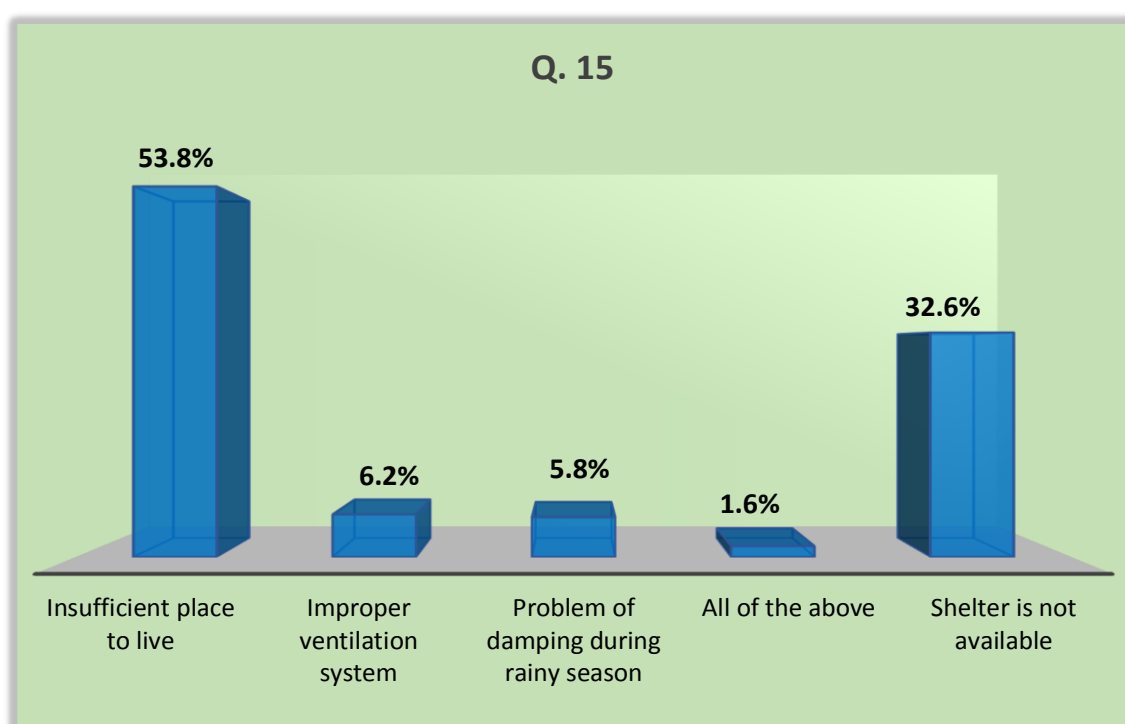
Source: Questionnaire/Schedule, Section B (Question no.14. If you currently have a residence, how much area do you have?)

Table 6.30 and figure 6.31 show the problem faced by respondents in his/her current shelter/house/resident. About 53.8% (269) respondents said that due to the increase in number of family and small size of houses, they have insufficient place to live. Lack of sufficient ventilation has been reported by 6.2% (31) respondents; lack of sufficient ventilation increases the impact of pollution emitted while cooking, as well as causes high temperature in the shelter house. In addition to this, these houses are very small in area, so there is less opportunity of exercise of right to privacy by the member living in these houses. Smoke and lack of ventilation pose health concerns in particular for the most vulnerable persons, such as new born babies, children from 0- to 5-year-old, lactating and pregnant mothers, older, disabled and chronically ill persons. 5.8% (29) respondents were facing the problem due to dumping during rainy season, 1.6% (8) were facing the entire problem discussed above. However, 32.6% (163) respondents had no shelter yet. It appears that households consider it as a problem but have no capacity to improve it potentially due to the lack of a viable alternative, lack of materials, funds or knowledge, additional they do not appear to be prioritizing it above the other shelter improvements.

Table 6.30 Problem Facing by Respondent in Current Shelter

Problem Facing by Respondent in Current Shelter	Frequency	Percent
Insufficient place to live	269	53.8
Improper ventilation system	31	6.2
Problem of damping during rainy season	29	5.8
Shelter is not available	163	32.6
All of the above	8	1.6
Total	500	100.0

Figure 6.31
Problem Facing by Respondent in Current Shelter



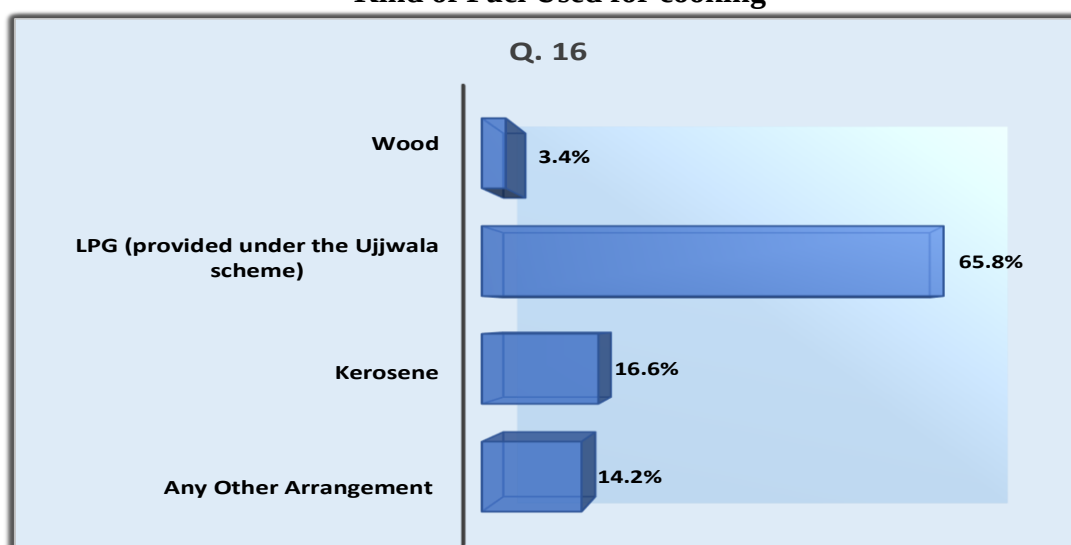
Source: Questionnaire/Schedule, Section B (Question no.15. What kind of problems do you face in the current shelter/ house/residence?)

Access to clean fuel such as LPG would tend to enhance the health of women, and thereby the quality of life, as well as air quality indicating it as a social investment. It is considered as one of the clean and efficient cooking fuels. The traditional forms of cooking fuel such as fire-wood and kerosene would lead to indoor pollution affecting the health of the members of the household and thereby lowering their productivity. 65.8% (329) respondents have been provided subsidy on LPG connections under the different housing schemes (Table 6.31 and figure 6.32). About 16.6% (83) of households were found using kerosene for cooking. 3.4% (17) respondents were using the wood for cooking the food and 14.2% (71) respondents said that they used any other arrangement for cooking. However, it was found that even few of them are unable to pay the subsidized fee, and therefore, LPG connection is not yet provided. LPG connection is provided at a subsidised rate under scheme to promote the usage of clean and efficient cooking fuel.

Table 6.31 Kind of Fuel Used for cooking

Kind of Fuel Used for cooking	Frequency	Percent
Wood	17	3.4
Kerosine	83	16.6
LPG (provided under the Ujjwala scheme)	329	65.8
Any Other Arrangement	71	14.2
Total	500	100.0

Figure 6.32
Kind of Fuel Used for cooking



Source: Questionnaire/Schedule, Section B (Question no.16. What kind of fuel do you use to cook food?)

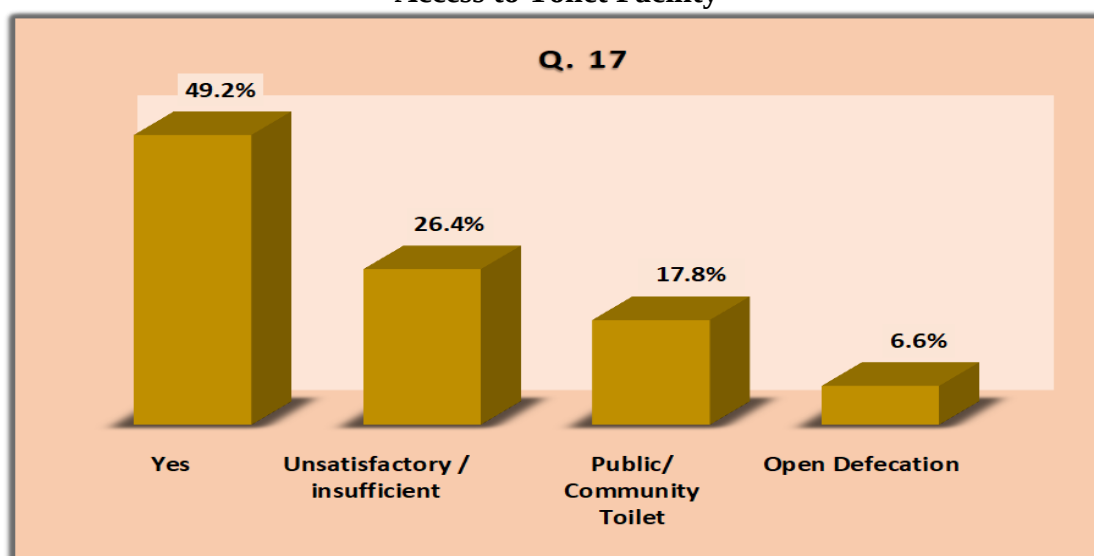
The incidences of a number of diseases like Cholera, Malaria, and Dengue, etc., occurs due to dirty and unhygienic environment and can be reduced by using clean toilets. This significant increase in usage of toilets is a result of the Swachh Bharat Mission campaign with a mandatory convergence of the mission with the housing scheme program. It is found that the overall usage of toilets by the Pardhan Mantri Awaas Yojana for Urban and others housing schemes households is increased. Table 6.32 and figure 6.33 shows that 49.2% (246) respondents use the personal toilets, it is found that 26.4% (132) respondents had unsatisfied or insufficient toilets facilities in their shelter. On the other hand, 17.8% (89) of households had been using toilet in public toilet or community toilet. The cases of open defecation were found to be 6.6% (33) in urban areas of Lucknow city in Uttar Pradesh. Although efforts have been made towards making urban area to be open defecation free by constructing more toilets, but the researcher found in the survey that those had no shelter and adequate housing, they used public toilet very much.

Table 6.32 Access to Toilet Facility

Access to Toilet Facility	Frequency	Percent
Yes	246	49.2
Unsatisfactory / insufficient	132	26.4
Public/ Community Toilet	89	17.8
Open Defecation	33	6.6
Total	500	100.0

Figure 6.33

Access to Toilet Facility



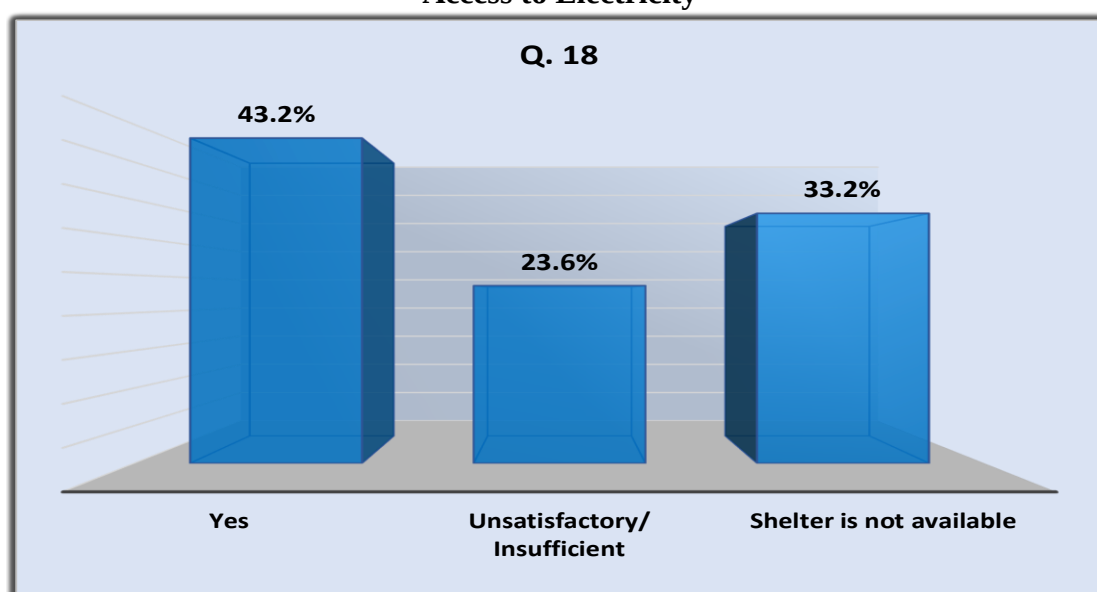
Source: Questionnaire/Schedule, Section B (Question no.17. Do you have access to toilet facilities in the current shelter?)

The access to electricity by the urban poor people has manifold benefits starting from improving healthcare due to clean energy, education, and increased economic activities in the urban areas. Although theoretically unclear, there is a general expectation that access to electricity could increase the educational attainment/performance of children. For example, better lighting helps the student to study (reading, homework, etc.) for long hours as compared to off-grid households that go dark in the early evening. In short, access to electricity can facilitate infrastructure for both improved quantity and quality of studying. Table 6.33 and figure 6.34 describes that 43.2% (216) respondents have access to electricity in their house in good condition, 23.6% (118) respondents have unsatisfactory/ insufficient access to electricity and 33.2% (166) respondents have no access to electricity facility because they have no shelter available for living.

Table 6.33 Access to Electricity

Access to Electricity	Frequency	Percent
Yes	216	43.2
Unsatisfactory/ Insufficient	118	23.6
Shelter is not available	166	33.2
Total	500	100.0

Figure 6.34
Access to Electricity



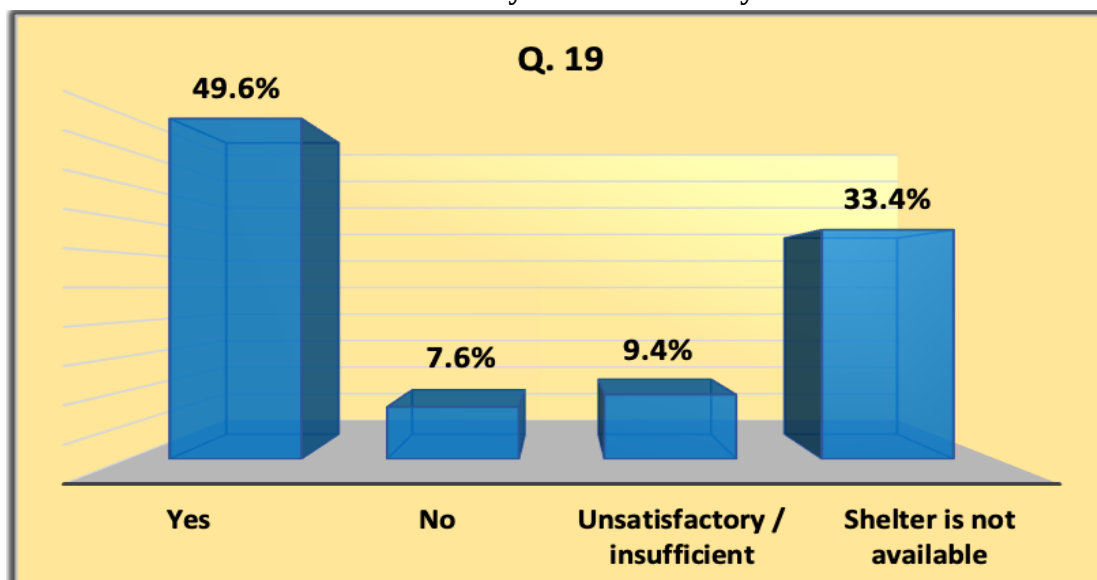
Source: Questionnaire/Schedule, Section B (Question no.18. Do you have access to electricity in the current shelter?)

As a fundamental right, the right to water entitles everyone, on the basis of no discrimination, to sufficient, safe, physically accessible and affordable water, which is of an acceptable quality, for personal and domestic uses. However, the poor and other marginalized groups have the greatest difficulty in accessing sufficient and safe water and adequate sanitation. The right to water as a prerequisite for the realization of the right to adequate housing has been well established and recognized in international law and in the mandates of various UN agencies, including by the Special Rapporteur on adequate housing. It reaffirms the right to water as indispensable for a dignified human life and for realizing other human rights, in particular the rights to food, health and housing. Specifically, it stated that the human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses. Deprived urban areas, including informal human settlements, and homeless persons, should have access to properly maintained water facilities. No household should be denied the right to water on the grounds of their housing or land status. Table 6.34 and figure 6.35 represents the availability of water facilities in current shelter that is 49.6% (248) respondents have good water facilities available, 7.6% (38) respondents have no facility of water in their shelter and 9.4% (47) respondents were not much satisfied with the water facilities available in their shelter, while 33.4% (167) respondents have no availability of shelter.

Table 6.34 Availability of Water Facility

Availability of water Facility	Frequency	Percent
Yes	248	49.6
No	38	7.6
Unsatisfactory / insufficient	47	9.4
Shelter is not available	167	33.4
Total	500	100.0

Figure 6.35
Availability of water Facility



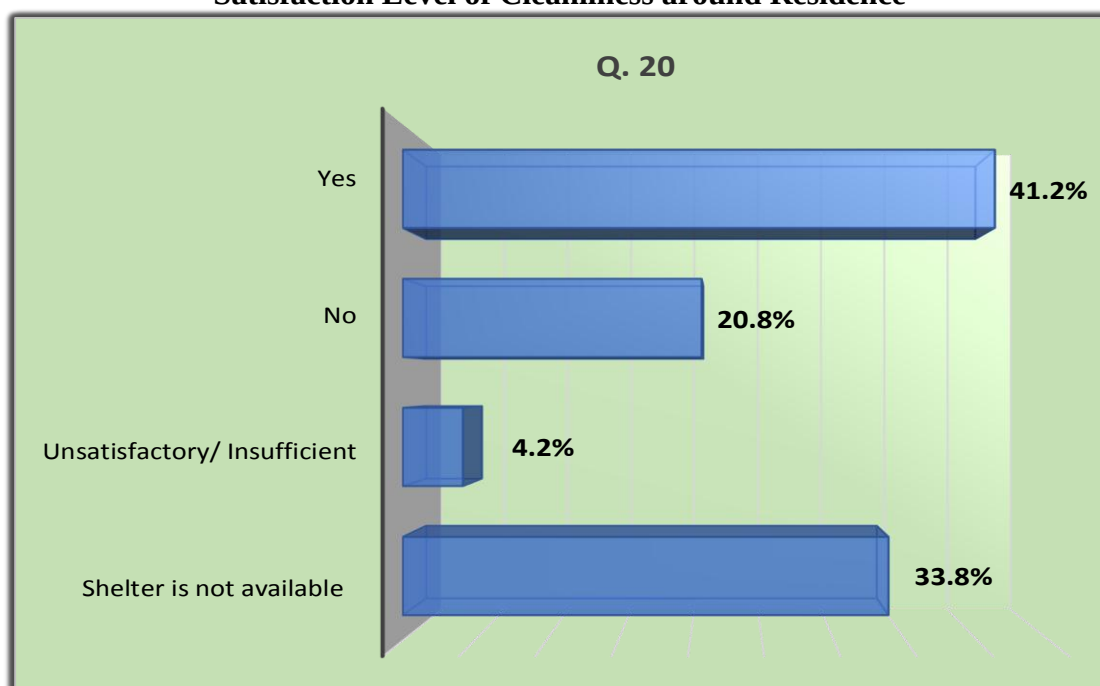
Source: Questionnaire/Schedule, Section B (Question no.19. Do you have drinking water facilities in the current shelter?)

Poverty is a state of deprivation of basic human needs. The idea of ‘housing poverty’ is analogous in that there is a benchmark in terms of requirements such as assured supply of water and electricity, minimum amount of space, and sanitation and hygiene. Table 6.35 and figure 6.36 shows that the satisfaction levels of cleanliness around residence. 41.2% (206) respondents have given positive answer, 20.8% (104) respondents have given negative answer, and 4.2% (21) respondents were unsatisfied with the cleanliness around the residence. However, still 33.8% (169) respondents had no shelter meaning thereby they lived in slum areas or other temporary arrangement.

Table 6.35 Satisfaction Level of Cleanliness around Residence

Satisfaction Level of Cleanliness around Residence	Frequency	Percent
Yes	206	41.2
No	104	20.8
Unsatisfactory/ Insufficient	21	4.2
Shelter is not available	169	33.8
Total	500	100.0

Figure 6.36
Satisfaction Level of Cleanliness around Residence



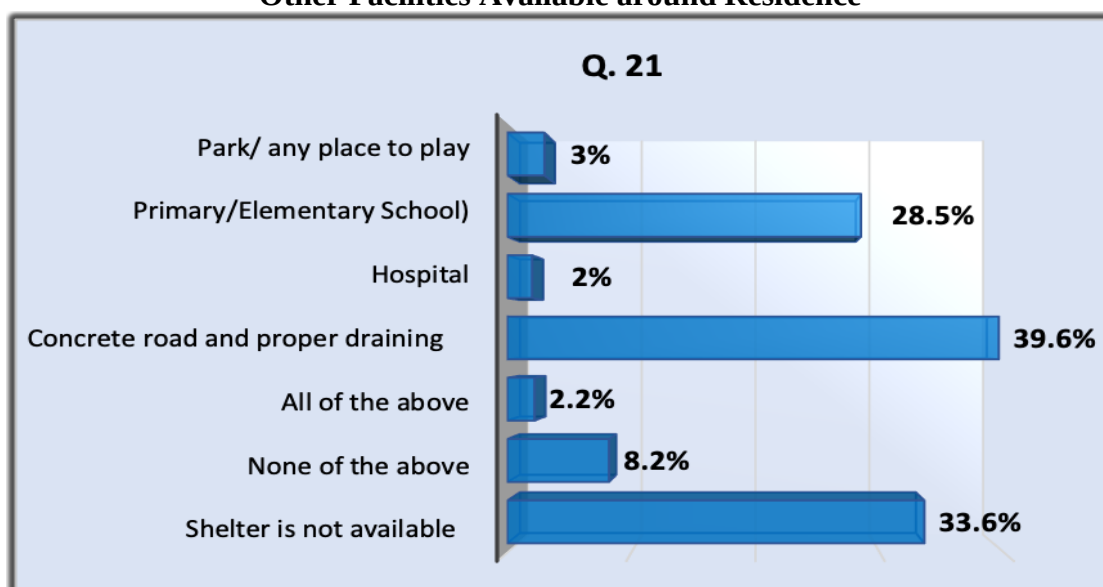
Source: Questionnaire/Schedule, Section B (Question no.20.Has any arrangement been made by the government for cleanliness around your residence?)

The objective of government housing schemes is not only to provide a pucca house but the overall up gradation of the lifestyle of the urban poor. The program helped in achieving a better standard of living as well as provided livelihood as a positive externality along with basic amenities around the house itself. In order to provide some basic amenities for a healthy and comfortable living along with the pucca house, the government has converged the scheme with other urban development programmes. It also analyses the benefits in terms of health, hygiene, education, child development, hospital facilities, road and proper draining and social inclusion drawn by schemes beneficiaries post construction period due to the pucca housing along with basic amenities. Table 6.36 and figure 6.37 shows that the facilities available around the residence of the respondent. 3% (15) respondents answered that the park/ place to play had been provided around their residence, 28.5% (57) respondents answered that primary/elementary school had been provided around their residence, 2% (10) respondents answered that hospital facilities had been made available around their residence, 39.6% (198) respondents said that concrete road and proper draining facility had been made available, 2.2% (11) respondents answered that all the above facilities had been made available and 8.2% (41) respondents said that none of the above facilities had been made available to them. However, 33.6% (169) respondents were still living without shelter means that they were not availing such kind of facilities.

Table 6.36 Other Facilities Available around Residence

Other Facilities Available around Residence	Frequency	Percent
Concrete road and proper draining	198	39.6
Hospital	10	2.0
Primary/Elementary School (Within 1.5 - 3 kilometres)	57	28.5
Park/ any place to play	15	3.0
None of the above	41	8.2
All of the above	11	2.2
Shelter is not available	168	33.6
Total	500	100.0

Figure 6.37
Other Facilities Available around Residence



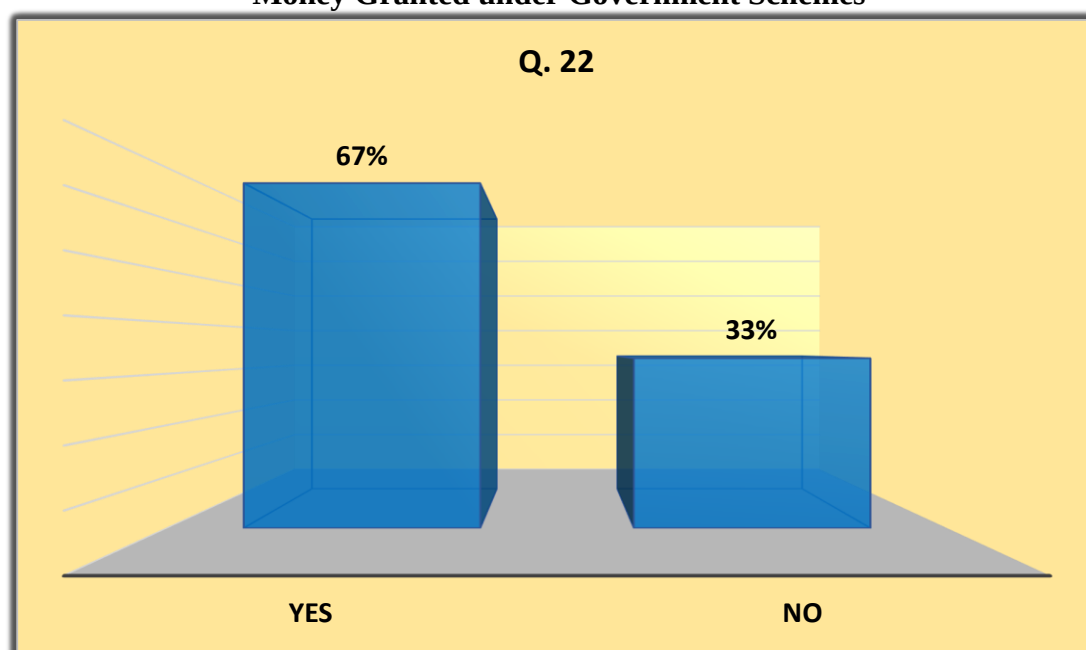
Source: Questionnaire/Schedule, Section B (Question no.21 Are the following facilities available around your residence?)

The Mission, in order to expand institutional credit flow to the housing needs of urban poor will implement credit linked subsidy component as a demand side intervention. Credit linked subsidy will be provided on home loans taken by eligible urban poor (EWS/LIG) for acquisition, construction of house. 67% (335) respondents answered yes while 33 % (165) respondents answered negatively.

Table 6.37 Money Granted under Government Schemes

Money Granted under Government Schemes	Frequency	Percent
Yes	335	67.0
No	165	33.0
Total	500	100.0

Figure 6.38
Money Granted under Government Schemes



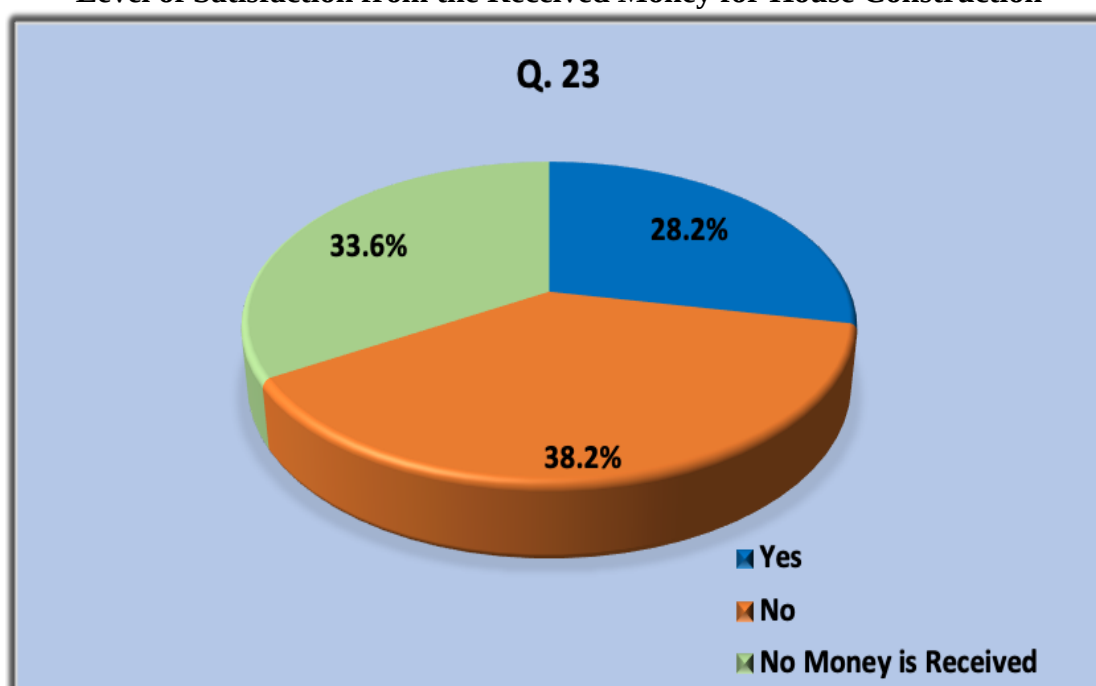
Source: Questionnaire/Schedule, Section B (Question no.22 Have you ever been provided some money by the government under any housing scheme?)

Table no 6.38 and figure 6.39 shows that 28.2% (141) respondents answered that the money provided for construction under government scheme is sufficient, 38.2 (191) respondent answered that money is not sufficient, 33.6 (168) respondents answered that they have not received any money.

Table 6.38 Satisfaction from the Received Money for House Construction

Satisfaction from the Received Money for House Construction	Frequency	Percent
Yes	141	28.2
No	191	38.2
No Money is Received	168	33.6
Total	500	100.0

Figure 6.39
Level of Satisfaction from the Received Money for House Construction



Source: Questionnaire/Schedule, Section B (Question no.23. Whether the money provided by the Government under housing scheme has been sufficient for construction work?)

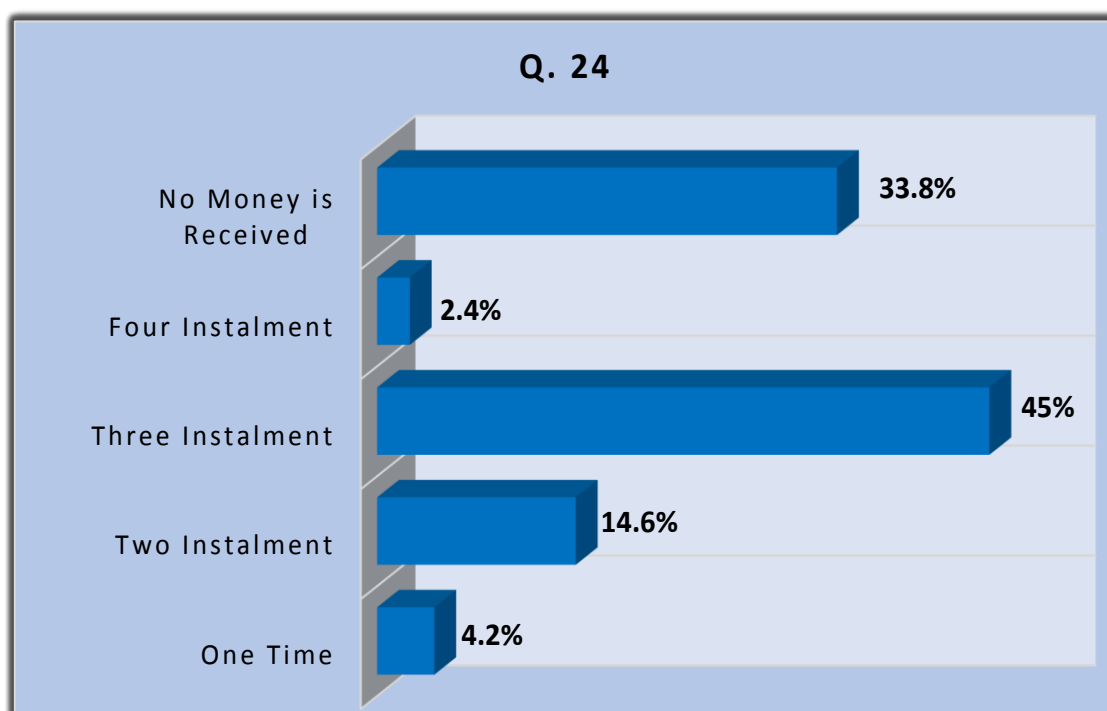
The States are allowed to decide on the total number of instalments to be paid to the beneficiary but there should be a minimum three instalments. The first instalment

should be released to the beneficiary bank account electronically within 7 days of administrative sanction. The 2nd and 3rd instalments can be mapped to foundation/plinth level and lintel/roof-cast level respectively, but there are no specific timelines for releasing the money to beneficiary's account after 1st instalment. In order to assess the time gap in fund flow to the beneficiary level, three parameters have been considered namely time taken for order sheet generation and Fund Transfer Order generation for three instalments. The 1st instalment is mapped with the date of administrative sanction, 2nd instalment is mapped with the plinth level, and 3rd instalment is mapped with lintel level of construction. Table 6.39 and figure 6.40 shows that money provided under different instalments such as 33.8% (169) respondent replied that they had received no money due to no shelter have been allotted to them, 2.4% (12) respondents got the money in four instalment, maximum 45% (225) got the money into three instalment, 14.6% (73) respondents got the money in two instalment and only 4.2% (21) respondents got the money in one time.

Table 6.39 Number of Instalments for Releasing of Money for House Construction

Number of Instalments for Releasing of Money for House Construction	Frequency	Percent
One Time	21	4.2
Two Instalment	73	14.6
Three Instalment	225	45.0
Four Instalment	12	2.4
No Money is Received	169	33.8
Total	500	100.0

Figure 6.40
Number of Instalments for Releasing of Money for House Construction



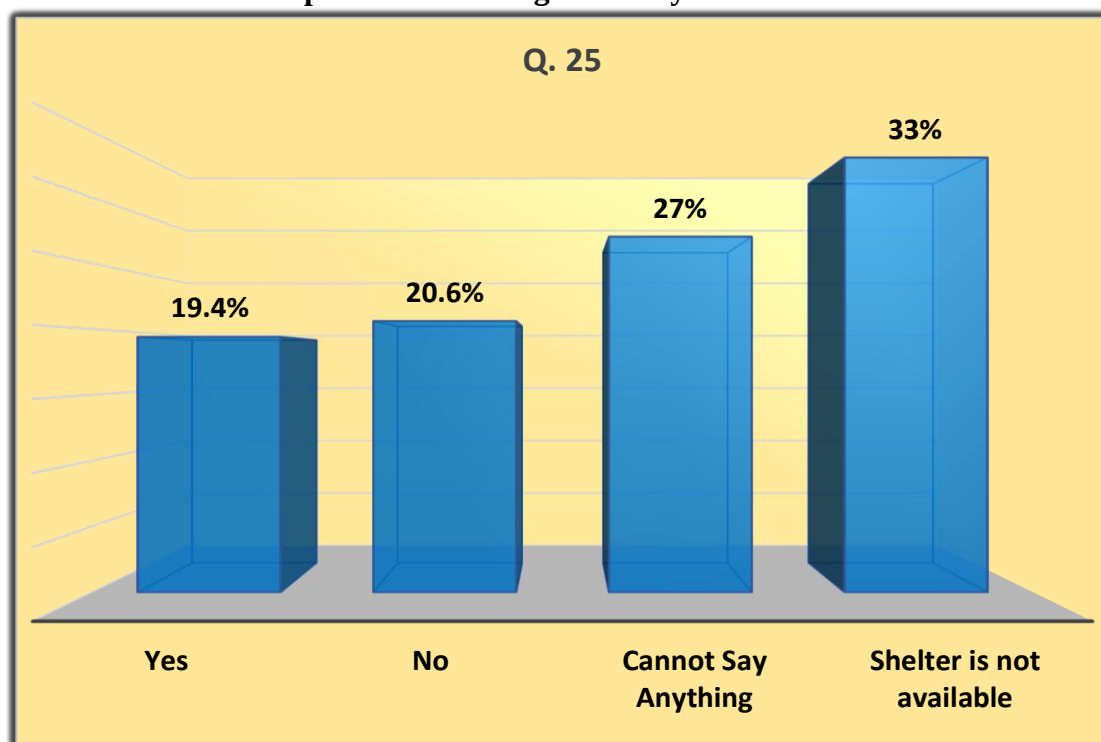
Source: Questionnaire/Schedule, Section B (Question no.24. How many installments are provided by the government for housing construction?)

To bring fairness and transparency in the selection of the beneficiaries, the municipal/sbhashad is supposed to undertake three major activities viz., verification of the Priority List, deletion of ineligible households, and listing out the households not included in the system generated priority list, but otherwise found eligible. Table 6.40 and figure 6.41 shows that the level of corruption involved in allotment of house under different housing scheme. In this connection researcher tried to find out the real transparency and accountability of the authorities. 19.4% (97) respondents replied in positively, 20.6% (103) replied in negative and 27% (135) replied that they cannot say anything. However, 33% (165) have not been provided shelter.

Table 6.40 Level of Corruption in Releasing of Money for House Construction

Level of Corruption in Releasing of Money for House Construction	Frequency	Percent
Yes	97	19.4
No	103	20.6
Cannot Say Anything	135	27.0
Shelter is not available	165	33.0
Total	500	100.0

Figure 6.41
Level of Corruption in Releasing of Money for House Construction



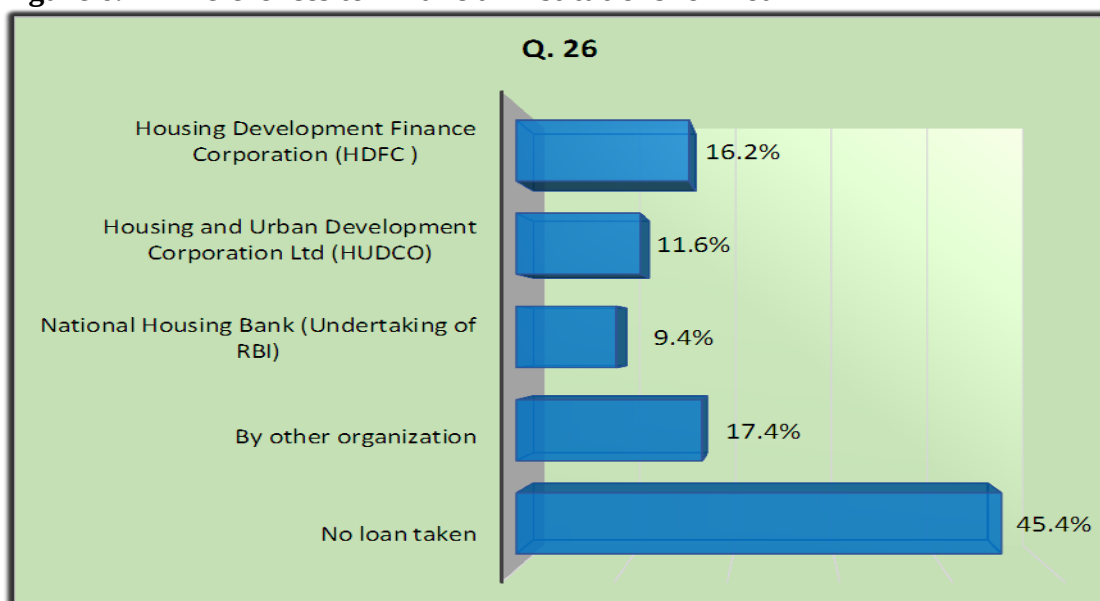
Source: Questionnaire/Schedule, Section B (Question no.25. Did you have to pay extra money as bribe under the housing scheme?)

In his study the researcher tested to know the preferences of potential beneficiaries regarding the institutions from where they prefer to borrow housing finance. The survey data is presented in Table 6.42 and figure 6.43. It is interesting to note that out of 500 respondents under this category, 16.2% (81) respondent prefer to borrow from Housing Development Finance Corporation bank (HDFC), 11.6% (58) from Housing and Development Corporation Limited (HUDCO), 9.4% (47) from National Housing Bank (Undertaking of RBI) and 17.4% (87) from any other organizations. However 45.4% (227) respondents have not taken loan. Although the unit assistance is sufficient enough to build a house as per the prescribed design (suggestive), one often tends to invest the additional amount to build comparatively a better house.

Table 6.41 Preferences to Financial Institutions for Loan

Preferences to Financial Institutions for Loan	Frequency	Percent
Housing Development Finance Corporation(HDFC)	81	16.2
Housing and Urban Development Corporation Ltd (HUDCO)	58	11.6
National Housing Bank (Undertaking of RBI)	47	9.4
By other organization	87	17.4
No loan taken	227	45.4
Total	500	100.0

Figure 6.42 Preferences to Financial Institutions for Loan



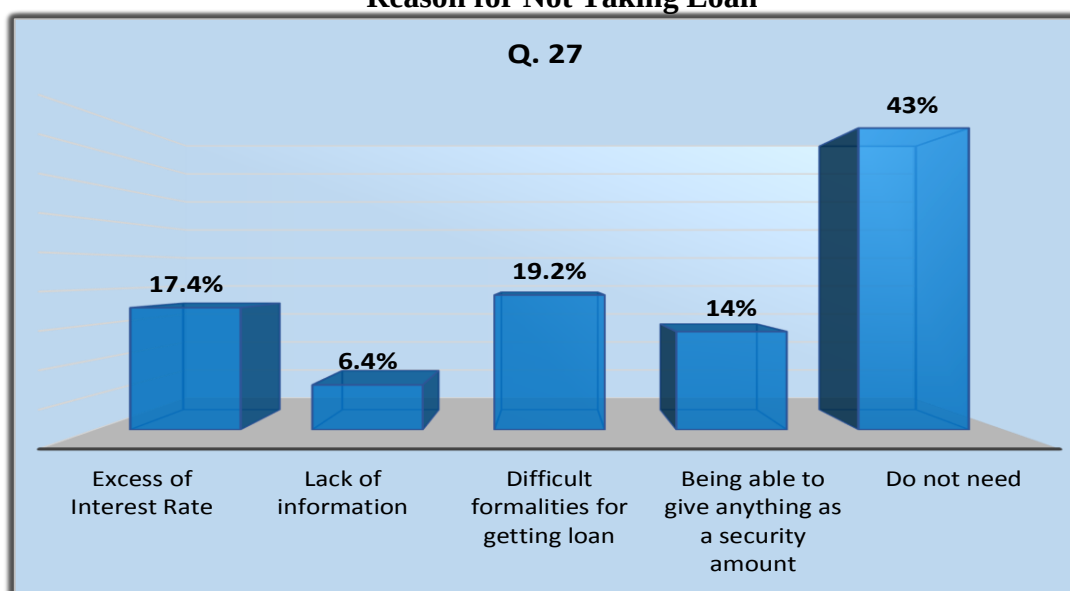
Source: Questionnaire/Schedule, Section B (Question no.26. Have you taken loan for the construction of house by any of the following government institutions?)

As indicated that housing loan beneficiaries (especially the potential beneficiaries) belong to different socio-economic background. Hence an attempt was made to know the reasons for not taking housing loan. Beneficiaries relied on informal source primarily due to less paper work as it becomes a deterrent for illiterate beneficiaries to apply for loans in banks and also the easy repayment options available in informal sources and also high rate of interest. The perception about individuals' accessibility to the banking system plays an important role in determining the extent of financial inclusion. Firstly, they do not have a stable income flow for which the banks do not have confidence in the repayment capacity of the households. Secondly, they often fail to produce the required documents, and the segments of people often find it a cumbersome procedure. Thirdly, the low level of financial/banking knowledge comes as an impediment in getting a loan from the formal sources. Table 6.43 and 6.44 described reasons of not taking loan. 17.4% (87) respondents answered that they have not taken loan due to excess of interest rate, 6.4% (32) respondents replied lack of information as the reason for not taking loan, and 19.2% (96) respondents replied that difficult formalities for getting loan and 14% (7) respondents gave the reason of their disability to give anything as a security amount for not taking loan were not being. However, 43% (215) respondents replied that any kind of loan is not needed to them.

Table 6.42 Reason for Not Taking Loan

Reason for Not Taking Loan	Frequency	Percent
Excess of Interest Rate	84	17.4
Lack of information	32	6.4
Difficult formalities for getting loan	96	19.2
Being able to give anything as a security amount	70	14.0
No Loan Taken	115	43.0
Total	500	100.0

Figure 6.43
Reason for Not Taking Loan



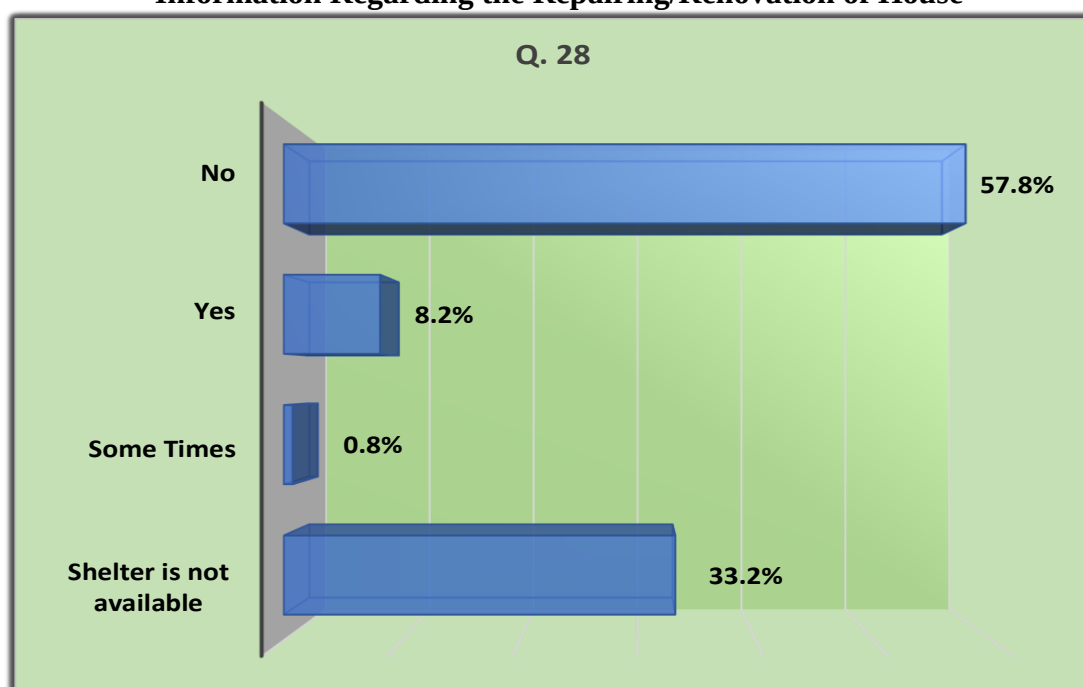
Source: Questionnaire/Schedule, Section B (Question no.27. What is the reason for not taking loan from Government Institutions (Banks) for the construction of house?)

Table 6.44 and figure 6.45 show the information regarding the repairing of houses. 57.8% (289) respondents had given the negative answer means the houses are not repaired; only 8.2% (41) respondents had given the positive answer. 0.8% (4) respondents said that sometimes houses have been repaired and 32.2% (166) respondents answered that they had no shelter means they have been compelled to live in slums areas or temporary houses. With regard to the house maintenance expenditure incurred by schemes beneficiaries, most of them have reported 'zero maintenance'.

Table 6.43 Information Regarding the Repairing/Renovation of House

Information Regarding the Repairing/Renovation of House	Frequency	Percent
Yes	41	8.2
No	289	57.8
Some Times	4	0.8
Shelter is not available	166	33.2
Total	500	100.0

Figure 6.44
Information Regarding the Repairing/Renovation of House



Source: Questionnaire/Schedule, Section B (Question no.28. Does the house is repaired by the government if required?)

Q29. What kind of improvement is needed in the accommodation provided by the government? If you have some suggestions, please mention.

1. There is a need for proper information flow, and the municipal level officials may need to take initiatives to explain features of the scheme to bankers and other formal financial sector stakeholders so that the access to formal credit could be made easy.
2. There is need to fix the accountability and to make the transparency regarding allotting the different housing schemes.
3. There should be increase the construction amount.
4. There should be increase the carpet area of house.
5. There should be a hard punishment if authorities demanding the bribe.
6. The quality of house should be increase
7. There should not be interference of intermediaries at any level to allotting the house.

Q30. If you have not received any accommodation from government and have some suggestion for the proper implementation of Housing Schemes, please mention.

Due to the lack of information about the housing programme scheme in slum area and the government is not taking any initiative regarding the housing scheme given to the poor people. It is important to know that the people belonging to slum area are eligible for getting the housing programme scheme under the Pradhan Mantri Awaas Yojana and others housing programme launched by State government. There should be transparency and accountability towards allotting the house to the poor people.

6.6. FINDINGS ON THE BASIS OF SURVEY

The researcher has also got the information through right to information (RTI) about the preferences given to the beneficiaries of the above schemes. The concerning authorities to whom the researcher has approached for this purpose, are District Urban Development Authority (DUDA), Chaupad Hospital Campus, Naval Kishor road Lucknow. The following questions have been asked to the authorities.

1. Is it mandatory for beneficiary to display on the wall of the house that House has been received under Pardhan Mantri Awaas Yojana?

According to the answer given by the authorities it is compulsory to display the name of 'pardhan mantri awaas yojana' on the wall of the house.

2. Is renovation or repairing being done of house received under Pardhan Mantri Awaas Yojana?

Concerned authorities replied that no such directions are given under the guidelines Pardhan Mantri Awaas Yojana

3. Is there a time limit for completion house by beneficiaries under Pardhan Mantri Awaas Yojana?

Concerned authorities replied that no such directions are given under the Pardhan Mantri Awaas Yojana.

4. Whether any preference is given to the beneficiary to build a house under the Pardhan Mantri Awaas Yojana

Concerned authorities replied that no such directions are given under the guidelines Pardhan Mantri Awaas Yojana

5. Is there any fixed and drafted map available for construction of house under Pardhan Mantri Awaas Yojana?

Concerned authorities replied in positive answer that the map has been set for the making of house under Pardhan Mantri Awaas Yojana

In India human right to shelter and adequate housing is the most challenging issue. It is very significant to know that in our country; about 30% populations are deprived from the basic human rights such as food, cloths, and shelter. Shelter is the big problem and most demanding human right issue across the world including India. In this regard, to provide shelter to needy people and to fulfil the demanding basic human rights especially shelter, government of India has launched a various poor housing policy such as Economically Weaker Section, Rajiv Gandhi Awaas Yojana and currently running plan is Pardhan Mantri Awaas Yojana for rural as well as urban area (PMAY-U), under the Ministry of Housing and Urban Affairs which is one of the largest housing programme in the world. This programme for providing house to the needy people particularly poor people is playing a significant role in fulfilling the dreams of crores of poor people. Now this housing programme is going to touch its

fifth year of implementation. The goal of this mission is to provide all weather pucca houses to all eligible beneficiaries of urban area of the country.

It is important to know that various Schemes of government have been launched to provide human right to shelter and adequate housing for socio-economically weaker sections. In this regard the researcher has tried to find out the real status of the different policy implementation of such as previous running policy like EWS, Rajiv Gandhi Awaas Yojana, Ambedkar awaas Yojana Kanshi Ram Awaas Yojana and Pardhan Mantri Awaas Yojana allotted to the beneficiaries inhabitants in the urban area of Lucknow City of Uttar Pradesh during the year of 2015-2020. Besides the Pardhan Mantri Awaas Yojana the researcher has also tried to find out the fact the real status of those people who are not awardee of Pardhan Mantri Awaas Yojana but they are provided houses under the other scheme launched by either state government or central government during the same time. In this scheme the researcher has included Kanshi Ram Awaas Yojana launched by State government. The Researcher has also focused on those households who have been awarded under the scheme of EWS housing programme run by development authority of the state government. The researcher has also focused on those people who are bound to survive their lives in slum area where the government has made temporary houses in the name of rainbasera. To find out the fact about the awardee of Pardhan Mantri Awaas Yojana, kanshi ram awaas yojana, EWS housing schemes and the condition of temporary houses (rainbasera) the researcher has chosen the area of Lucknow City. For the purposes present research work the researcher has approached to 500 respondents randomly through the questionnaire scheduled. For this purposes the researcher has constructed about 30 questionnaires to find the responses regarding the facilities provided under the schemes including the personal information of the respondents. In spite of questioners scheduled, the researcher has also approached to the concerning authorities to find out the some information regarding awarded money to the schemes, available facilities, land area and time duration of construction of the houses, there repair through Right to Information. By observing and data analysis the researcher has founded some findings which are as fallows as:

- ❖ The survey revealed that the socio-economic status of the respondents is not good; they live their life below the poverty line.

- ❖ Most of the inhabitants of the slum area are using dry wood and kerosene for cooking, while the central government is promoting that it has provided the Ujjwal scheme for the poor people. In fact the condition of the inhabitants of the slum area is very pathetic.
- ❖ The researcher found in the survey that there is a lack of information about the housing program scheme in the slum area and the government is not taking any initiative regarding the housing scheme given to the poor people. It is important to know that the slum area people are eligible to get the housing program scheme under various housing program launched by the central/state government.
- ❖ The education level of beneficiaries of aforesaid schemes is very low. The low level of education of the beneficiaries of the above scheme indicates that the respondents are not very much aware about the aforesaid schemes.
- ❖ Most of the respondents are engaged in various activities like housing construction, labor in non-formal sectors. Some of the respondents are working as hawkers, vendors, manual scavengers and sweepers. This indicates that most of the respondents are living their life in economic crises and adverse conditions and they cannot afford the cost of housing.
- ❖ Most of the respondents are living in nuclear family. The area allotted for the above schemes is very narrow. The allotted area should be increased so that the defendants can live their lives with dignity.
- ❖ Scholar found that maximum respondents are well aware of the exact amount given under the housing schemes in three instalments. In this regard, the researcher has also asked this question to the concerned authority through the Right to Information Act and the respondent has also come out from the authority. It is found that the amount provided under different housing schemes such as pardhan mantri awaas yojana is not sufficient because of very high price of the construction materials. Therefore, the government should increase the given amount.
- ❖ Most of the respondents have to pay some bribe to get the benefits of the schemes. While some respondents did not respond, they remained silent on the bribery question.
- ❖ The researcher found that the respondents belonging to the slum areas have been living there for a long time. The government should pay attention to them and

give shelter. It is very surprising that the people living in the slum area are deprived of basic facilities like portable water supply, electricity and sanitation or these facilities are available in lesser quantity. This is against the notion of Swachh Bharat Abhiyan launched by the Central Government.

- ❖ With regard to electricity connections, about 23.6 % out of the total households do not have access to electricity.
- ❖ The researcher found that about 33.5% Respondents are forced to live in slums, rain shelters and others temporarily. The average income of 61.8% families is between Rs.5000 to Rs.10000 per month. Most of the slum dwellers get their livelihood as working labour, street vending, domestic help etc.
- ❖ 26.4% families are not satisfied with the toilet facility system. They have to defecate in the open.
- ❖ The researcher has also come to know about the preference given to the beneficiaries of the above schemes through Right to Information (RTI). The reply given by the officials in this regard has not been very satisfactory.

6.7 SOME PHOTOGRAPHS OF FIELD SURVEY

Photo 1 – Researcher discussing on housing issues with concerning officer



Photo 2 – Condition of slum areas



Photo 3 – Researcher asking the question to the people living in slum areas



Photo 4 – Researcher visit in slum areas for field and Survey work



Photo 5 – Researcher collecting information from respondents



Photo 6 – Researcher collecting information from respondents



Photo.7. Researcher Discussing with Beneficiary of PMAY**Photo.8. Researcher Discussing with Beneficiary of PMAY**



CHAPTER-7
CONCLUSION
AND
SUGGESTIONS



CHAPTER-7

CONCLUSION AND SUGGESTIONS

House is a place where everyone can live his life with peace, security and privacy. It gives strength to mankind to live his life with decency and also develop his mental and physical capacity. The necessity of shelter is universally recognised but still the people of the world face the problem of being homeless or forced to live in pathetic conditions. Urbanization and industrialization are the two main causes of housing shortage. Rapid urbanization has given rise to some important concerns for inclusive and better city planning, one of which is certainly affordable housing and the other, the possibility of bridging the housing shortage in any city in the country. Urban poor in our country have always been marginalized in terms of access to basic rights of housing along with basic amenities of clean drinking water, drainage, healthcare and others.

Access to quality shelter is still a major challenge before the nation and there is an urgent need to take appropriate steps¹. The urban poor have the inability to access decent, safe land even for minimum housing requirements. Empirical evidence suggests that there is a direct relationship between tenure insecurity and poverty. Poverty and tenure insecurity is a vibrant cycle that is difficult for the poor to break. Security of tenure is an important factor for poverty alleviation. Across the world, developing countries have struggled to address the housing problem. Some countries have relied on public or institutional construction housing while some countries have adopted a market-driven approach with private sector participation.²

According to the report of the Technical Group on Urban Housing Shortage, the estimated total housing shortfall in the 12th plan period i.e. beginning of 2012 would be 18.78 million out of which 56% and 39% housing shortfall is one LIG housing in EWS respectively. The schemes launched by the Central and State Government including RAY, JNNURM, PMAUU etc. are expected to meet the urban

¹ Madhu Bharti & Sriram Dive, "Housing Policies: Common Goals and Diverse Approaches to Social Housing in India and other Countries", *available at*: <https://www.pdpu.ac.in/downloads/SPM-JEM2020Chapter4.pdf> (last visited on September, 20 2020)

² *Ibid.*

housing shortage. However, the government is not in a position to meet the acute housing shortage on its own and is therefore trying to involve the private sector in the process by providing incentives. The government has emphasized on promoting public private partnerships for undertaking housing projects through the 'National Housing and Habitat Policy, 2007'. The "Housing for All" scheme by 2022³ was further modified to incorporate some changes as per the new agenda of the Government of India.

House is where the institution of the family is nurtured and the sense of belonging grows. It is a place where values, aspirations, future expectations, social, cultural identity and personality of human beings are reflected. Hence maintaining a harmonious environment with all the major qualities of the house is essential for the psychological well-being of man.

Housing is widely accepted as a human right. At the same time, it is a major driving force of the economy and is often an individual's greatest asset. The situation within the housing sector is of utmost importance to the social and economic development of the society and there is a need to openly identify problems within the sector in order to develop and implement viable policy options. However, the human right to shelter and adequate housing is not more than just four walls and a roof. It is the right of every person to have a secure home for his livelihood and live in peace and dignity. Home is not meant to be just a roof over the head, but an accessible livable space that requires personal space, security, adequate lighting and ventilation, secure infrastructure, protection from weather, and adequate regard to work and basic amenities and meets basic human needs for space at a reasonable cost⁴.

A human rights-based approach to housing, consistent with international human rights laws and standards, requires the recognition of adequate housing in a universal and free form, which provides everyone with the security of tenure, access to affordable housing, essential services, and guarantee protection from intrusion. It is

³ Durga Shankar Mishra, "Affordable Housing in Urban Areas" 8-9 Housing for all, Yojana Magazine, vol 61 (2107)

⁴ National Human Rights Commission, India, "Know Your Rights Series: Right to Adequate Shelter" (NHRC, 2011) available at: https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf (last visited on September 6, 2020)

the responsibility of the government to ensure that every citizen has a safe and healthy place to live, work and lead a life of dignity.

The World Health Organization states that housing is one of the basic necessities for human survival. For an ordinary citizen owning a house provides significant economic and social security and status in the society. In other words, by ensuring the right to adequate housing in urban areas, the need for increased quality of life and opportunity for development is addressed. A large number of urban households especially belong to weaker sections that are unable to access good housing and civic amenities due to low income. Human rights have historically been considered within the realm of individual rights such as right to health, right to livelihood, right to shelter and employment, etc., but now human rights are acquiring a multidimensional dimension. Property rights are also considered to be part of the new dimension to a large extent.

Therefore, the claim of adverse possession should also be read in that context. A human rights based approach to housing, in line with international human rights laws and standards, requires the recognition of adequate housing as a universal and independent but indivisible, interdependent and inter-related human right (linked to all other human rights) which guarantees everyone the security of tenure, access to affordable housing and essential services, and protection from forced intrusion. Indian jurisprudence consistently and explicitly recognizes an independent human right to adequate housing. It accepts shelter/accommodation as an essential component of the right to life, and by relying on other associated rights and state policy.

The human right to shelter and adequate housing is very important and integral to the existence of every human being. The right to adequate housing has been recognized as a universal right all over the world at the international as well as national level. Refusal to grant such a right violates other inalienable human rights such as employment, education, health, social relations, participation in decision-making and a dignified life of the individual. These are the some international arrangements relating to Shelter and adequate housing for human being such as The Universal Declaration of Human Rights, 1948 the first clear articulation of all rights, such as civil and political, as well as socio-economic and cultural rights provided by this declaration. The story of that historical breakthrough, where henceforth human

rights would become the currency of international standards and comparisons, offered an inspiration for all the people of the world, regardless of the political regime in place or the level of industrial or political development. Indeed, at the time the US was a major promoter of the development of all these rights.⁵

That the human right to adequate housing is also inextricably linked to a range of other human rights, including the rights necessary to meet an adequate standard of living.⁶ Adequate housing is the foundation for the construction of sustainable communities and human settlements. It enables people to be productive, healthy and contributes to access to education, which are all fundamental preconditions for human development. There are five principles that determine housing adequacy: availability, accessibility, affordability, acceptability and adaptability. The achievement of these principles determines the success of housing policies and interventions such as resettlement sites. When these principles guide a development process that seeks to meet housing needs as a fundamental human right, it leads to housing justice⁷. Judicial treatment of the right to adequate housing in India has been adequate or wholly consistent with the concept of the right, as expressed in international law, policy and standards, which, inter alia, include the General Committee of the Economic Committee includes comments 4 and 7. Basic principles and guidelines on social and cultural rights, development-based eviction and displacement, guiding principles on security of tenure for the urban poor, the Habitat Agenda,⁸ the New Urban Agenda,⁹ and other United Nations Declarations, as well as adequate housing as the report of the Special Rapporteur¹⁰.

⁵Eide, A. et al. (ed.), *Economic, Social and Cultural Rights: a Textbook* (Dordrecht: Martinus Nijhoff Publishers 2nd edn., 2001)

⁶ United Nations High Commissioner for Human Rights, “The Right to Adequate Housing”, Fact Sheet No 21/Rev.1,(Geneva, 2014) *available at*: https://www.ohchr.org/Documents/Publications/FS21_rev_1_Housing_en.pdf. (last visited on January 16, 2020)

⁷ M.Nagraj “*Shelter*” 21Housing and Urban Development Corporation Ltd 5,7 and 8(2020) *available at*: <https://hudco.org/writereaddata/Eb/Hudco-Shelter/Hudco-Shelter.html#p=69> (last visited on January 16, 2021)

⁸ The Habitat Agenda Goals and Principles, Commitments and the Global Plan of Action, 1996, *available at*: http://www.un.org/en/events/pastevents/pdfs/habitat_agenda.pdf (last visited on March 1, 2019).

⁹ New Urban Agenda, 2016, *available at*: <https://habitat3.org/the-new-urban-agenda/> (last visited on March 1, 2019).

¹⁰ For reports of the Special Rapporteurs on “The Right to Adequate Housing”(reports of the Special Rapporteurs, 2014)*available at*: <https://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx> (last visited on March 2, 2019).

The passage of cases shows that the courts recognize various aspects of the right to housing as part of Article 21 ('right to life') of the Constitution of India, limiting judicial intervention to affect the right. To some extent, the lack of a strong policy framework outlining the contours of the right could be attributed to the consistent treatment of the right by the judiciary.

The involvement of the judiciary with the affirmative obligations of the state to fulfil the right to adequate housing is mostly recommendatory and directive in nature always results in proportionate relief and remedy. For example, in a number of cases, courts acknowledge the condition of the urban poor and homeless, the relief provided by the courts secures their right to adequate, affordable housing in the city. Courts provide relief in cases where no state policy exists to provide affordable housing Courts have provided relief using a human rights approach, even in cases where courts have found sufficient It is directed to fulfil its positive obligations to ensure housing. Right to shelter to poor people, with monitoring mechanism, implementation of these instructions are strictly followed. Although in some of the cases dealing with the right to adequate housing in India pertain to the negative obligations of the state, specifically the protection against forced and arbitrary evictions. The relief provided in such cases is often limited to invalidating the eviction, if certain conditions related to due process are not met. In some cases, courts have directed the provision of alternative accommodation before carrying out the eviction.

Thus, Indian judiciary has unequivocally established the human right to shelter and adequate housing as an integral aspect of the 'right to life' guaranteed under Article 21 of the Constitution of India. Moreover, the Supreme Court and various High Courts has expounded the various facets of adequate housing not limited merely to shelter, and also emphasized the positive duties of the State towards fulfilling the right. The judiciary has been protected the rights of individual and also impose obligation on the government as well as private machineries which are responsible for providing right to shelter and adequate housing to the homeless people.

As per the statistics of committee on Slum Statistics/census, 2011, Government of India, about 10.8 million urban population of Uttar Pradesh is living

in slums, which constitute about 24% in urban population¹¹. Having a home is a human right which, sadly, is not available to a large portion of the Indian population as well in state of Uttar Pradesh also. Lucknow city is the capital of Uttar Pradesh state as well as the district headquarter of Lucknow district and politically well-known constituency in India. The city has 609 slums with 148117 households. Out of the total slums 502 are notified slums and the remaining 107 are non-notified. About 27% of the city population lives in slums. Among the slum population,¹² 77% belongs to OBC and SC division of social groups and 69% are living below the poverty line (BPL). It is found that the slums are having a housing deficit of 78303. In concern to Infrastructure, 73% of the slum households do not have full access to individual water supply connections. It is also found that about 27% of the slum households practice open defecation¹³.

After analyzing the different international law instruments, national legislative framework, policy decisions and variety of judgments rendered by the Indian courts, the researcher has arrived at some conclusion. The chapter wise conclusion of the research work is as following:

The chapter I is Introductory in nature which summaries the entirety of the thesis, which has discussed at length in the chapters to follow. This chapter includes the need and importance of shelter in one's life, housing crises at global and national level and proclamations of human right to shelter and adequate housing, provided by the human rights instruments international level, regional and national level. The chapter further mentions about the objectives, hypothesis, and adopted research methodology for the present work. The researcher also discussed the reviewed literature for this study in this chapter. The scopes of the study, limitations of the study and scheme of chapters have also been discussed here. The human right to shelter and adequate housing is the basic human right without this right the life will be very miserable and the violation of shelter right of human beings, other rights of also

¹¹ Government of India, "Slum Free City Plan of Action – Lucknow" (Regional Centre for Urban and Environmental Studies, Sponsored by Ministry of Urban Development, Osmania University, Hyderabad, 2020), *available at*: http://mohua.gov.in/upload/uploadfiles/files/21UP_lucknow_sfcp-min.pdf. (last visited on January 12, 2021)

¹² Government of India "Office of the Registrar General & Census Commissioner, India" (Ministry of Home Affairs, 2011) *available at*: <https://censusindia.gov.in/2011-common/censusdata2011.html> (last visited on July 20, 2020)

¹³ *Ibid*

have been affected.

Therefore it is not only more than just four walls and a roof. It is the right of every person's to gain and sustain a safe and secure home for their livelihood, to live in peace and dignity for their own community. It is not merely having a roof over one's head; rather, it requires an accessible habitable space that fulfills the basic needs of humans to personal space, security, adequate lighting and ventilation, safe infrastructure, protection from weather, and adequate location with regard to work and basic facilities—all at a reasonable cost. However, housing is widely acknowledged as a human right. The right to adequate housing has recognized as a universal right at the international level and proclaimed in numerous national constitutions throughout the world. Ensuring the right to adequate housing in urban areas, the need to enhance quality of life to live and opportunity of growth is addressed. A large number of urban households especially those belonging to the vulnerable sections, are unable to access good housing and civic amenities due to low income. The World Health Organisation, also states that housing is one of the basic requirements for human survival. For a normal citizen owning a house provides significant economic and social security and status in society.

The chapter II deals with the concept and historical developments of human right to shelter and adequate housing. The researcher has described the changing idea of house from ancient to present time through describing it at various phases. In this chapter researcher has also mentioned about the concept and meaning of shelter and adequate housing provided under different international, national and regional documents apart from the concept and meaning the various definition has also been mentioned in this chapter which has given by various census reports, jurist/scholars as well as international and national documents.

The concept of shelter and adequate housing is not new it is traced back from the very ancient time where the men made houses from mud and grass for their live. With the passage of time and effect of the civilization the concept has been changed in regard to the shelter right. A roof on one's head is a dream that every human being aspires for. While the rich and famous create impressive houses for themselves, the poor man tries to build shelter of a plastic tent only for his family. Housing, at one time was never an issue in the Indian context. With rising urban population growth due to natural increase, migration and reclassification

factors, the urban sector of India is suffering from an extreme housing shortage, the bulk of which fall under the Economically Weaker Section (EWS) and Lower Income Group (LIG) categories. Housing policies of the Government of India have come a long way since the 1950s. While at the start of “planned development” the policies were more welfare centric, later on these came to be driven by a well-defined constellation of economic interests. At the same time, the role of the government has also changed gradually from being a provider of housing to being merely a facilitator of housing activity.

The term “shelter,” which is often used to define housing, has a strong connection to the ultimate purpose of housing throughout the world. Shelter is the place where human lives. Shelter provides protection from weather and any kind of danger. It provides the place where human can rest safely and carry their usual developmental activities. Shelter also provides the place for privacy and facilities for storing the belongings. The two types of shelter have been categorized that is permanent shelter and temporary shelter. Since India’s independence in 1947, the state has categorised homes of lower-income groups “slums” and considered them disfigurement on the city’s image.

The global “slum-free city” ideology has furthered this trend. Though state housing policies have adopted different forms over the years, they have largely focused on obliterating low-income settlements. National public discourse on housing and land is now dominated by notions of individual ownership, with state policy prioritizing market interventions. The growing reliance on the private sector to meet India’s housing shortage has financialized housing provision, reducing housing from a human right to a marketable commodity for those who can afford it and resulting in the failure of the state to invest in public housing. Over 17 per cent of India’s urban population lives in inadequate settlements without access to essential services and over three million urban dwellers are homeless, unable to afford housing. Further the various definitions have been provided by the different authorities. The Webster’s dictionary as one of the explanation for concept “housing” means dwellings provided for people.

The census of India, 1872 a house was defined as “any permanent structure which on land, serves or would serve for the accommodation of human beings, or

of animals, or goods of any description provided always that it could not be struck and removed bodily like a tent or a mud hut”. An attempt was also made to classify the houses as of the 'better sort' and of 'inferior sort. According to the census of India, 2001 a house is a structure with a roof and consists of ‘a building or part of a building having a separate main entrance from the road used or recognized as a separate unit’. So pavement-dwellers are classed as homeless while many residents of slums or squatter settlements are not though they would be included in most Western definitions of homelessness. While pavement-dwellers do have a roof this is defined as temporary or inadequate (kutchra), lacking in secure or pukka construction.

The Central Statistical Bureau (CSB) for statistical purposes defines the concept “housing (housing unit)” as separated and independent place of residence, intended for living for one household, or place of residence, which is not intended for living, but which was used by the household during the census as a permanent residence. “Housing” includes occupied conventional dwellings and other housing units. Usually the housing has fixed address. According to the UN Special Rapporteur which has define adequate housing that 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’ Adequate housing must provide more than four walls and a roof. A number of conditions must be met before particular forms of shelter can be considered to constitute “adequate housing.” These elements are just as fundamental as the basic supply and availability of housing. For housing to be adequate, it must, at a minimum, meet the following criteria: security of tenure; availability of services, materials, facilities and infrastructure: affordability; habitability; accessibility: location: cultural adequacy.

The chapter III has emphasized the international declaration, conventions and documents as well as regional documents in which relating to human right to shelter and adequate housing provisions are provided. Such as Right to Shelter Within the Framework of United Nations; Right to adequate housing means at least a roof over one’s head including adequate privacy enough space, ease of access adequate security, it also includes security of occupancy, structural stability as well as durability with adequate lighting, heating and ventilation. In the concept of right to

adequate housing, there must be adequate basic infrastructure for water supply, sanitation and waste management facilities. Further the various conventions also mentioned regarding to the shelter is human rights such as: International Convention on the Elimination of All Forms of Racial Discrimination, 1965, The International Covenant on Economic, Social and Cultural Rights, 1966 sustainable development goal are also discussed in this chapter. Human right to Shelter and adequate housing related Provision for Specific Groups has discussed such as; Refugees, Tribal and Indigenous Peoples, Rights of Disabled Persons, Women, Children, Migrants. In this chapter the various resolutions has discussed. Researcher has also discussed the Observance of International Years; these are the international years currently observed by the United Nations.

The United Nations designates specific days, weeks, years and decades as occasions to mark particular events or topics in order to promote, through awareness and action, the objectives of the Organization. Such as: International Year of Shelter for the Homeless. Along with the main documents and conventions researcher has also discussed the regional agreements for right to shelter in which the provisions regarding human right to shelter and adequate housing has been provided. These agreements are the main regional treaties protecting human rights– such as the European Convention on Human Rights, the American Convention on Human Rights and the African Charter of Human and Peoples Rights.

The Universal Declaration of Human Rights, 1948 proclaims the rights that everyone has for being human beings. It is not binding, but this sets a common standard for the nation and the people. By this, human rights and fundamental freedoms have been recognized at the international level. This declaration explains all types of human rights that apply to all persons without discrimination, including housing right. In particular, Articles 25 (1) of this declaration is used to protect housing right. Apart from this, right to food, right to clothing, 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 are also available. International Covenant on Civil and Political Rights, 1966 speaks of civil and political rights. It imposes duties on states to ensure the civil and political rights of citizens and non- citizens residing in the country. Through this covenant recognized the right to life under Article 6, the right not to be

subjected to subject to torture or to cruel, inhuman or degrading treatment or punishment under Article and the right not to be subjected to arbitrary or unlawful interference in one's privacy, family or home under Article 17.

Basically Article 11 of the International Covenant on Economic, Social and Cultural Rights, 1966 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. It empowers all people, whether citizens or non-citizens, to respect and promote their social beliefs and culture as well as economic conditions also. The Convention on the Elimination of All Forms of Racial Discrimination, 1965 this convention is based on the principles of the dignity and equality inherent in all human beings. Article 5 clause e (iii) of this Convention provided the right to housing under Economic, social and cultural rights. In addition Article 5 stated that in compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law.

The Vancouver Declaration on Human Settlements, 1976 Section III (8) and its preamble recognized the adequate shelter is a basic human right and imposes obligation on governments to ensure their attainment by all people, beginning with direct assistance to the least advantaged through guided programmes of self-help and community action. United Nations Declaration on the Right to Development, 1986 Article 8(1) of this declaration imposes obligation on states should undertake, at the national level, all necessary measures for the realization of the right to housing, apart housing rights others rights also recognized right to development and shall ensure, inter-alia, equality of opportunity for all in their access to basic resources, education, health services, food, employment and the fair distribution of income.

The convention on the Elimination of all Form of discrimination against Women, 1979 is directed that all people and states to stop discrimination against women, and they will try to defeat atrocities against women such as sexual harassment, discrimination at workplaces, and discrimination in health. And to eliminate discrimination against women in rural areas in order to ensure, on a basis of

equality of men and women adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications. The convention on the rights of the Child, 1989 is the world's first binding convention that protects the human rights of children including housing right of the children.

This convention imposes duties on the state that each state will make appropriate arrangements for the protection of the human rights of children, including housing right. Besides, the Convention also establishes various rights, including's the child's right to express themselves, religion, association, privacy, rights against sexual exploitation, medical care, education, and the right to legal access to the courts. The various United Nations bodies/ commissions and committees which have work for right to shelter and adequate housing. Its brief expanded over time to allow it to respond to the whole range of human rights problems and it set standards to govern the conduct of States. It also acted as a forum where countries large and small, non-governmental groups and human rights defenders from around the world voiced their concerns.

Apart from this the many resolutions have been passed for the protection of homelessness. The resolutions provided the adequate housing as a component of the right to an adequate standard of living. Further the Special Rapporteur on adequate housing must apply a gender perspective in the reports on developments in the realization of the right to adequate housing, particularly with respect to gender-specific vulnerabilities in access to adequate housing and land. The United Nations Housing Rights Programme has also provided protection of housing right. The very objective of this programme is development of a system to monitor and evaluate progress in the realization of housing rights.

The International Year of Shelter for the Homeless (IYSH) launched a new major initiative to stimulate effective action at the national and international levels to improve the shelter conditions of the homeless, the poor and the disadvantaged throughout the world. Responsibility for organizing and coordinating the activities for the Year was entrusted to the Commission on Human Settlements at the intergovernmental level, and the United Nations Centre for Human Settlements, UNCHS (Habitat), at the secretariat level. After the discussing of main convention, declaration and U N programmes, there are three regional treaties also discussed here

which have given protection of human rights, including the right to housing such as the European Convention on Human Rights, the American Convention on Human Rights and the African Charter of Human and Peoples Rights – all recognize the right to life, the right not to be subjected to cruel, inhuman or degrading punishment and the right not to be subjected to arbitrary or illegal interference in one's private or family life or in one's home.

These civil and political rights guarantee a partial protection of the right to adequate housing. The right to adequate housing is enshrined in many international human rights instruments. Most notably among these are the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights. During the 1990s, the right to adequate housing gained further increasing recognition among the human rights community, and many governments adopted or revised housing policies to include various dimensions of human rights.

The Chapter IV has explains and discusses the Indian law, policy and programme as well as fifth year plan, it has been detailed analysis of various laws, and policy and programme related to the human right to shelter and adequate housing. Many national and municipal laws in a number of countries around the world provide for the guarantee of the human rights to adequate shelter and land. India also has certain constitutional provisions and laws that make it obligatory for the state to provide the right to adequate shelter to all its citizens. The Constitution of India is firmly grounded in the principles of liberty, fraternity, equality and justice. The fundamental rights and directive principle of state policy has been mention in this chapter. The right to social and economic justice and human right to shelter and adequate housing are so inseparably intertwined that together they form a meaningful component of the right to life. The framers of the Indian constitution strike a delicate balance between individual liberty and social good. The researcher has also been emphasis in his work reasons that people are forced to live in the shelter home (rainbasera) whether permanent or temporary and slums areas in India general as well as Lucknow city of Uttar Pradesh in particular along with the concerned laws, policy and Programmes. Under the chapter concern with national legal framework for the protection of human Right to shelter and adequate housing has also disused Impact the absence of direct and special legislation on human right shelter and adequate

housing in India, the Constitution of India provides such rights indirectly in article 21 rights to life and personal liberty.

Many national and municipal laws in a number of countries around the world provide for the guarantee of the human right to adequate housing and land. India also has certain constitutional provisions and laws that make it obligatory for the state to provide the right to adequate housing to all its citizens. The Constitution of India is firmly grounded in the principles of liberty, fraternity, equality and justice. The interplay of article 19(1) (e) and article 21 of the Indian Constitution; there have been also several important judgments that have clearly established the relation between the right to housing and right to life as guaranteed by Article 21 and article 19(1) (e) The implications of article 21 on the issue of the right to shelter by pavement dwellers prescribe that the eviction of pavement and slum dwellers will live, in vicious circles, to the deprivation of their employment, their livelihood, and therefore, to the right to life. The economic compulsions under which these persons are forced to live in slums or on pavements impart to their occupation the character of a fundamental right.

This derivation gaining importance now because of a “paradigm shift” The rural-urban mobility is now at its peak as the “little community” is deserting their home and hearths in the village and migrating to big cities for survival. Rural-urban migration is a universal phenomenon. When villagers have no means of livelihood in the village they move in the quest for existence. Food, clothing, and shelter go hand in hand to give meaning to life. "Life means something more than animal existence and inhibition against the deprivation of life extends to all those limits and faculties by which life is enjoyed. Moreover, other legislation like the Slum Areas (Improvement and Clearance) Act, 1956; the Urban Land Ceiling and Regulation Act, 1976; the Protection of Human Rights Act, 1993; the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; the Planning and Building Legislation Amendment (Housing Affordability and Other Matters) Act 2017. Apart from central legislation there are several legislation has been passed by state of Uttar Pradesh like, the U. P. (Regulations of Building Operations) Act, 1958; the Uttar Pradesh Awaas Evam Vikas Parishad Adhiniyam, 1965; the Uttar Pradesh Urban Planning and Development Act, 1973. As well as the various five year plans (yोजना), policies, programmes and schemes has also passed

by the respective governments which are playing a very important role for governing and protecting the human right to shelter and adequate housing to the poor people. Such as; Subsidized Housing Scheme, 1952; Low Income Housing Scheme, 1954; The Housing Scheme For Plantation Workers, 1956; Housing and Urban Development Corporation, Environmental Improvement of Urban Slums (EIUS), 1972; The Housing Development Finance Corporation (HDFC), 1977; National Housing Policy, 1987; National Housing Policy, 1990; National Housing Policy, 1994; National Slum Development Program (NSDP), 1997; National Housing and Habitat Policy, 1998; Valmiki Ambedkar Awaas Yojana (VAMBAY), 2001; Jawaharlal Nehru National Urban Renewal Mission (JNNURM), 2005; National Urban Housing and Habitat Policy (NUHHP) 2007; Rajiv Awaas Yojana (RAY), 2011; Pradhan Mantri Awaas Yojana, 2015. In the concluding observation find out that there is need to make direct legislation for addressing the housing problems as well as the controlling, punishing and proper implementation of policies and programme is required.

Chapter V discusses and critically evaluate the various judgments given by the Hon'ble Supreme Court and different High Courts in India to make the right to shelter and adequate housing available to the people of the country. There are a number of cases where in the judiciary played a positive role towards the protection of human right to shelter and has given direction to the government for the proper implementation of various Programmes and policies to remove the problem regarding shortage of the human right to shelter and adequate housing. In the various cases Indian judiciary also expanded the meaning of Article 21 that is related to the right to life and liberty and 19(1) (e) that is related with the freedom of reside in the territory of India within the light of right to life with dignity. The Supreme Court of India and various others High Courts in his judgments interprets the Constitution on enforceability of social rights, especially the right to shelter and adequate housing in the context of these pressing housing needs and frequent forceful evictions of slum dwellers.

Further the Indian judiciary does consistently and unequivocally recognizes an independent human right to adequate housing, it does acknowledge shelter/housing as an essential component of the right to life, and protects many aspects of the right to adequate housing by relying on other associated rights and state policy. The path of

cases reveals that the courts recognize in various aspects of the right to housing as part of Article 21 of the Constitution of India ‘right to life’, judicial intervention to effectuate the right is unlimited. To some extent, the lack of a strong policy framework outlining the contours of the right could be attributed to the consistent treatment of the right by the judiciary. The judiciary’s engagement with the positive obligations of the state to fulfil the right to adequate housing is mostly recommendatory and directory in nature does always result in proportionate relief and remedy. For example, in the number of cases, courts acknowledge the conditions of the urban poor and the homeless, the relief provided by the courts necessarily secure their right to adequate, affordable housing in the city. The courts provided relief in cases where there are no exists a state policy to provide affordable housing courts have provided relief using the human rights approach as the basis even in cases where courts have directed the state to fulfil its positive obligations to ensure the adequate housing and right to shelter to the poor people, the implementation of these directives is strictly followed, with the monitoring mechanism.

Although in some of the cases dealing with the right to adequate housing in India pertain to the negative obligations of the state, specifically the protection against forced and arbitrary evictions. The relief provided in such cases is often limited to invalidating the eviction, if certain conditions related to due process are not met. In some cases, courts have directed the provision of alternative accommodation before carrying out the eviction.

Moreover, the Supreme Court and various High Courts has expounded the various facets of adequate housing not limited merely to shelter, and also emphasized the positive duties of the State towards fulfilling the right. Such as:

Francis Coralie v. Union Territory of Delhi, Olga Tellis v. Bombay Municipal Corporation, Shantistar Builders v. Narayan Khimalal Totame and others, P.G. Gupta v. State of Gujarat, U.P. Awaas Evam Vikas Parishad v. Friends Coop. Housing Society Ltd, Chameli Singh v. State of Uttar Pradesh,, E.R. Kumar v. Union of India, Sudama Singh v. Government of Delhi, P.K. Koul v. Estate Officer, Suresh Kumar Singh v. Sate of U.P.

Chapter VI discussed the Status, Issues and Challenges of Human Right to Shelter and Adequate Housing in Lucknow City of Uttar Pradesh. This chapter contains

information about the study area, analysis of data, interpretation and results. The purpose of this chapter is to analysis information gathered in this study entitled, “A Socio-Legal Study of Human Right to Shelter and Adequate Housing with Reference to Lucknow City in Uttar Pradesh” According to best, “Interpretation and result part is the heart of the research report. Through textual discussion, tabular and graphs, the data is critically analysed and reported”. A detailed primary survey was conducted during May to July, 2019 and January, 2020 to March, 2021 across the selected locations of urban areas of Lucknow city in Uttar Pradesh. The study locations were randomly zone wise-selected. The responses from the respondent of the study areas were satisfactory. The required information and data have been collected from the 500 respondents. The survey aims to examine the living conditions and awareness of the people towards the human right to shelter and adequate housing. The whole data has been analysed by applying the Statistical Package for Social Sciences (SPSS) software and interpretation and conclusion have been drawn from the findings of the empirical study.

With the method of observation and techniques of data analysis the researcher has found that the Socio- economic condition of the respondents is not well. A number of people are living under below poverty line. It has also been found that the maximum no. of inhabitants of slum area are using dry wood and kerosene oil for coking food while the central government has been propagating that it has provided Ujjawal Yojana for all poor people. The people are also not properly aware about the governmental housing schemes and bound to live in a pathetic condition though they are eligible for getting economic support under the various housing programme and schemes launched by central/State government. The one reasons of this is also the low level of literacy and education of the people of concerned area and the maximum respondents are engaged in miscellaneous work, such as housing building, labouring in non-formal sectors. Some respondents are working as hawkers, vendors, manual scavengers and sweepers in households. It indicates that mostly respondents are surviving their lives in economic crises and unfavorable conditions and they cannot afford the cost of housing. It is found that the amount provided under different housing schemes such as pardhan mantri awaas yojana is not sufficient because of very high price of the construction materials. The beneficiaries also have to face the issue of corruption in getting the benefit of schemes that they have to pay some bribe

to get the benefit of the schemes. It is also noteworthy that the people living in slum area are deprived even from basic facilities such as portable water supply, electricity and sanitation which are a clear cut violation of the notion of right to life with dignity.

Findings:

On the basis of the research work under the scheme of various chapters the researcher has found some significant findings that can be discussed as follows:

General Findings:

1. Though various policies, schemes and programs have been framed by the concerned government, there is still a lack of proper implementation of policies and schemes at the national and international level related to the human rights to provide shelter and adequate housing.
2. Lack of employment and poverty force rural Indians to move from their villages to urban workplaces. Seasonal migration is expected to increase in numbers. And it is also have been a major factor in the housing unavailability in the urban areas.
3. In modern scenario, joint family system has been replaced by nuclear family. And it is the main factor for increasing housing problem in urban areas. The consequences of nuclear families have resulted in an increase in the number of people living in slums and illegal settlements.
4. The rapid increase in human rights violations is a major factor in the non-availability of housing for the urban people as the nation has failed to protect the human rights of its citizens. The state has failed to formulate and implement strategies to eradicate the homelessness problem, with clear goals, and timelines. Housing laws do not make provisions to prohibit discrimination, stigma and negative stereotypes against homeless people. Access to affirmative legal remedies for rights violations has also not been ensured. And it does not regulate third party actors so that their actions are consistent with the eradication of homelessness and do not discriminate directly or indirectly against homeless people.

5. Human rights are interdependent, indivisible and interrelated. Violation of the right to adequate housing can affect the enjoyment of a wide range of other human rights. Access to adequate accommodation may be a precondition for enjoying the pleasure of right to work, the right to privacy and the right to development of family life, social security, vote, privacy or education and many human rights. Due to lack of proper place to live, man also had to face many mental and physical problems. In India, 1.7 million to 3 million people are homeless and over 65 million live in informal settlements without adequate housing.
6. The Ministry of Housing & Urban Poverty Alleviation is the apex authority of the Government of India. Its main objectives are formulation of housing policy and programme, review of plan implementation, collection and dissemination of data on housing, construction materials/techniques, and general measures for reduction of building costs. In addition, it is also entrusted with the responsibility of implementing specific programs for urban employment and urban poverty alleviation, including provision of basic amenities to the urban poor and support for setting up micro-enterprises by skill development of the poor. Later, the matters of housing and urban development have been entrusted to the state governments by the Constitution of India. Many of these functions have been delegated to urban local bodies by the Constitutional 74th Amendment Act. Although these are essentially state subjects. The Government of India plays a coordinating and monitoring role here and also supports these programs through centrally sponsored schemes.
7. The Indian judiciary has clearly established the human right to shelter and adequate housing as an integral aspect of the 'right to life' guaranteed under Article 21 of the Constitution of India. Moreover, the Supreme Court and various High Courts have not only limited the various aspects of adequate housing to shelter, and also emphasized the affirmative duty of the state to fulfil the right. In this way the judiciary protected the rights of the individual and imposed the obligation on the government as well as the private machinery which are responsible for providing the right of shelter and adequate housing to the homeless people.
8. According to the census, 2011 approximately 1.77 million people are homeless in India, out of which 65.3% are concentrated in the five states; Uttar Pradesh,

Maharashtra, Rajasthan, Madhya Pradesh, Andhra Pradesh, Gujarat. According to the Statistics/census, 2011, Government of India, about 10.8 million urban population of Uttar Pradesh is living in slums, which constitute about 24% in urban population. To know the actual status of housing the researcher has done field survey in the city of Lucknow and for this purpose, he collected 500 hundred questionnaires filled by the adult person on a random basis.

9. The researcher also personally contacted 500 hundred respondents to know the actual status of various beneficiaries and non-beneficiaries under various government housing schemes who are socio-economically poor and analyze the reasons why a person is compel to live in slum areas, rainbasera.
10. The research estimated that around 33.5% Respondents are forced by the government to live in slums, rain shelters and other temporary arrangements. In India, as part of the ongoing PMAY (U) mission, the 'Angikaar' initiative was designed as a social awareness campaign for those PMAY U beneficiaries whose houses have been completed to improve the housing services they consume. It intends to help beneficiaries acclimatise better to their new surroundings through social behaviour change. Door-to-door awareness campaigns were to be carried out about other central government schemes, the most important ones canvassed being the Pardhan Mantri Ujjawala Yojana to enable access to LPG by BPL households, and Ayushman Bharat Yojana (ABY) to provide health insurance to all poor and vulnerable households. At present, PMAY (U) has 11.2 million, Ujjwala has 8 crore and Ayushman Bharat Yojana has 11 million beneficiary households. Our findings indicate that households for whom convergence can be achieved are likely to exhibit sustained increase in their consumption of housing services.
11. Despite various laws, guidelines, policies and schemes as well as various judgments declared by various courts in India to protect the human right to shelter and adequate housing, India is still grappling with the unfulfilled basic housing needs of thousands of its citizens. However, we represent the largest democracy in the world and have a truly remarkable constitution; millions are still living in inhumane conditions on footpaths, in illegal settlements, hamlets, slums or unauthorized slums and are in constant danger of being evicted.

12. The state should take appropriate legislative and other measures within its available resources, so as to achieve progressive realization of this right. No one may be evicted from their house, or their house demolished, without the order of the Court, after considering all the relevant circumstances. No law can permit arbitrary eviction.

Findings related to Lucknow City, Uttar Pradesh:

- ❖ The survey revealed that the socio-economic status of the respondents is not good; they live their life below the poverty line.
- ❖ Most of the inhabitants of the slum area are using dry wood and kerosene for cooking, while the central government is promoting that it has provided the Ujjwal scheme for the poor people. In fact the condition of the inhabitants of the slum area is very pathetic.
- ❖ The researcher found in the survey that there is a lack of information about the housing program scheme in the slum area and the government is not taking any initiative regarding the housing scheme given to the poor people. It is important to know that the slum area people are eligible to get the housing program scheme under various housing program launched by the central/state government.
- ❖ The education level of beneficiaries of aforesaid schemes is very low. The low level of education of the beneficiaries of the above scheme indicates that the respondents are not very much aware about the aforesaid schemes.
- ❖ Most of the respondents are engaged in various activities like housing construction, labor in non-formal sectors. Some of the respondents are working as hawkers, vendors, manual scavengers and sweepers. This indicates that most of the respondents are living their life in economic crises and adverse conditions and they cannot afford the cost of housing.
- ❖ Most of the respondents are living in nuclear family. The area allotted for the above schemes is very narrow. The allotted area should be increased so that the defendants can live their lives with dignity.
- ❖ Scholar found that maximum respondents are well aware of the exact amount given under the housing schemes in three instalments. In this regard, the researcher has also asked this question to the concerned authority through the Right to Information Act and the respondent has also come out from the authority.

It is found that the amount provided under different housing schemes such as pardhan mantri awaas yojana is not sufficient because of very high price of the construction materials. Therefore, the government should increase the given amount.

- ❖ Most of the respondents have to pay some bribe to get the benefits of the schemes. While some respondents did not respond, they remained silent on the bribery question.
- ❖ The researcher found that the respondents belonging to the slum areas have been living there for a long time. The government should pay attention to them and give shelter. It is very surprising that the people living in the slum area are deprived of basic facilities like portable water supply, electricity and sanitation or these facilities are available in lesser quantity. This is against the notion of Swachh Bharat Abhiyan launched by the Central Government.
- ❖ With regard to electricity connections, about 23.6 % out of the total households do not have access to electricity.
- ❖ The researcher found that about 33.5% Respondents is forced to live in slums, rain shelters and others temporarily. The average income of 61.8% families is between Rs.5000 to Rs.10000 per month. Most of the slum dwellers get their livelihood as working labour, street vending, domestic help etc.
- ❖ 26.4% families are not satisfied with the toilet facility system. They have to defecate in the open.
- ❖ The researcher has also come to know about the preference given to the beneficiaries of the above schemes through Right to Information (RTI). The reply given by the officials in this regard has not been very satisfactory.

TESTING OF HYPOTHESIS

The following hypotheses have been tested to collect finding and conclude the work of present study:

1. There is no specific law on human right to shelter and adequate housing in India to address the problem in a comprehensive manner.

On the basis of research work, it is found that India has not yet enacted any specific law relating to the human right to shelter and adequate housing to address the problem in a comprehensive manner. This means that people in India are not having any direct legislation to protect their shelter related rights. The constitution of India is safeguarding the right to shelter and housing under the spirit of Article 21 that is life and liberty of the individual. The honourable judiciary has extended and expanded the ambit of right to life through its various important decisions. Further the right to shelter has also been protected with the adoption of various programmes and policies to implement the direction of courts given time to time. This important to mention here since these are the guidelines of courts and not yet converted into legislation thus not completely binding on government.

Therefore, despite the indirect laws, constitutional provisions and judicial decisions are available for right to adequate housing of the citizens of India there is an immense and urgent need for having a specific and comprehensive legislation to deal with the issue of homelessness hence, it can be said that the hypothesis has been proved.

2. Judiciary has been playing a vital role in the protection of human right to shelter and adequate housing for socio-economically marginalized groups.

On the basis of research work, it is found that the Indian judiciary has played an essential role in protecting the human right to shelter and adequate housing, even in the absence of any specific law relating to housing in India. The Indian Court has given several decisions to protect the human right to shelter and adequate housing in the light of the constitutional provisions under the ambit of right to life and personal liberty, right to equality, right to residence and right to live with dignity such as *Francis Coralie v. Union Territory of Delhi, 1981* the court stated that, 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 and shelter over the head and facilities for reading, writing and expressing one in diverse forms, freely moving about and mixing and commingling with fellow beings. In another important case like ***Shantistar Builders v. Narayan Khimalal Totame, 1990*** The Honourable Supreme Court has observed that the food, clothing and shelter are the basic needs of life. It also pointed out the difference between the need of an animal and a human being for shelter has to be kept in view. For the animal it is the bare protection of the body; for a human being it has to be a suitable accommodation which would allow him to grow in every aspect – physical, mental and intellectual. ***In case of P.G. Gupta v. State of Gujarat, 1995*** the Honourable Supreme Court considered the mandate of human right to shelter and adequate housing read it into Article 19(1) (e) and Article 21 of the Constitution of India as well as the Universal Declaration of Human Rights, 1948 and the Convention of Civil, Economic and Cultural Rights and held that it is the duty of the State to construct houses at reasonable cost and make them easily accessible to the poor. Further In case of ***U.P. Awaas Evam Vikas Parishad v. Friends Coop. Housing Society Ltd, 1996*** Honourable Supreme Court has stated that, the right to shelter is a fundamental right, which springs from the right to residence under Article 19 (1) (e) and the right to life under Article 21. In the case of ***Chameli Singh v. State of Uttar Pradesh, 1996*** Honourable Supreme Court of India considered that the right to live guarantee in any civilized society implies the right to food, water, decent environment, education, medical care and shelter and all civil, political, social and cultural rights enshrined in the Universal Declaration of Human Rights and Convention or under the Constitution of India cannot be exercised without these basic human rights. In the case of ***E.R. Kumar v. Union of India, 2016*** Honourable Supreme Court of India directing the government and its authorities to ensure that at least temporary shelters are provided for the homeless to protect them during the winter season and pointed out the right to shelter of homeless persons in urban areas, by establishing a committee to examine the slow progress with regard to the creation of shelter homes by states/union territories across India. Allahabad High Court in his very recent judgment that is ***Suresh Kumar Singh v. Sate of U.P., 2019*** has emphasized that the significance of shelter right to the people and this right connected with the fundamental right given

under the constitution of India and imposes the obligation on state to providing this right and observed that right to shelter a fundamental right. As well as point out that the state has constitutional duty to provide house sites to poor.

Therefore, it can be said that the both the Supreme Court and High Courts has played an essential role in protecting and safeguarding the right to shelter and adequate housing. Hence, it can say that the hypothesis has been proved.

3. Human right to shelter and adequate housing is still a challenging issue due to the improper implementation of various shelter and adequate housing schemes and policies.

The right to shelter and adequate housing has always been a centric issue for the respective government since form the independence. The housing necessities have also been addressed in various five year plans. Besides several other housing related specific schemes and policies have been formulated time to time such as Subsidized Housing Scheme, 1952 Low Income Housing Scheme, 1954, National Housing Policy, 1987, National Housing Policy, 1990 National Housing Policy, 1994, National Slum Development Program (NSDP), 1997, National Housing and Habitat Policy, 1998, Valmiki Ambedkar Awaas Yojana (VAMBAY), 2001, National Urban Housing and Habitat Policy (NUHHP), 2007, Rajiv Awaas Yojana (RAY), 2011. Moreover the Ministry of Housing & Urban Poverty Alleviation which is the apex authority of the Government of India is playing a great role to provide shelter to the people of India under Pardhan Mantri Awaas Yojana across the country. The ministry is emphasizing and monitoring formulation of housing policies and programmes, review of the implementation of schemes, collection, and dissemination of data on housing, building materials/techniques, and adopting general measures for the reduction of building costs. But this is heart-breaking to mention that though the several of schemes are there but still there is a long way to go to achieve the aim of a roof for all. The statistic reveals that still there is a gap between aspiration and reality.

According to the Government of India, Minister of Housing and Urban Affairs the total physical progress of Houses in India under Pardhan Mantri Awaas Yojana till the date of July 22, 2021, such as: the project proposal considered, 24,678, the sanctioned of house is 112.95 lakh, the grounded houses is 83.25 lakh, and the

completed/delivered houses is 50.04 lakh. In the state of Uttar Pradesh statistics of houses are such as Project Proposal Considered, 4393, sanctioned of houses, 17, 26,781, grounded house is 12, 99,856 and completed/delivered house is 8,62,532. Hence it can be said that there is a need to proper implementation of various schemes and policies to fulfil the above gap for providing everyone the human right to shelter and adequate housing.

4. The status of human right to shelter and adequate housing for people in Lucknow as capital of U.P. is not satisfactory.

Uttar Pradesh is the most populous state of India. According to census 2011, total population of Uttar Pradesh is 19, 95, 81,475. The people of Uttar Pradesh are facing problems in realising their various basic rights including shelter. Though there are centrally sponsored schemes as well as state specific policies running in U.P. but still big numbers of people are not having a safe shelter for residing there. According to the statistics of committee on Slum Statistics/census, 2011, Government of India, about 10.8 million urban population of Uttar Pradesh is living in slums, which constitute about 24% in urban population. Lucknow which is capital city of Uttar Pradesh is not free from this; the city has 609 slums with 148117 households. Out of the total slums 502 are notified slums and the remaining 107 are non-notified. About 27% of the city population lives in slums. Among the slum population, 77% belongs to OBC and SC division of social groups and 69% are living below the poverty line (BPL). It is found that the slums are having a housing deficit of 78303. In concern to Infrastructure, 73% of the slum households do not have full access to individual water supply connections. It is also found that about 27% of the slum households practice open defecation. To cross check the secondary data the researcher has done field survey of Lucknow in U.P. through personal interview, Questionnaire, RTI method and observance. The survey revealed that about 33.8% people still are not availing house under any government housing schemes and they are deprived their basic Human right to shelter and adequate housing. Hence it is proved that the status of human right to shelter and adequate housing for people in Lucknow city of U.P. is not much satisfactory.

SUGGESTIONS:

On the basis of the above findings the researcher has offered some suggestions to be incorporated at the national level in general and at the state (Uttar Pradesh) level particular which are mentioned as follows:

1. The Government of India should take the initiative to enact a unique and specific law on human right to shelter and adequate housing in India to address this problem in a comprehensive manner as well as make specific legislation at the Central and State level so that India To ensure the right to shelter enshrined in Article 21 of the Constitution of India. The law should also have a provision to ensure responsibility for its implementation for both the public and private sectors. Apart from this there should be proper implementation of various shelter and adequate housing schemes and policies.
2. There is a need for adequate monitoring mechanism to ensure timely enforcement; Prevention of misappropriation/diversion of funds; ensuring transparency; and, promoting accountability. There should be transparency in all aspects of government, especially those relating to planning and budgeting for the elimination of inequalities and accountability of all actors to adhere to plans and budgets is essential to ensure that no one is left behind. Individuals and groups who do not have adequate house access should be informed of plans to ensure their access to services. Also, if the plans do not materialize, or are not suitable, the grievance mechanism should be made aware to contact.
3. The authorities should be more answerable and accountable because it is an important tool in supporting people to claim their rights, as it helps governments become more responsive to the voices of the poor and marginalized populations. It strengthens the ability of governments to create an enabling environment for service delivery, thereby contributing to the removal of inequalities. Settlements in all cities through provision of long term security of tenure, better permanent housing and access to basic services.
4. The central government should develop a comprehensive human rights based national law on the human right to adequate housing, which is in accordance with international human rights standards, the Constitution of India and India's international legal obligations. All law and policy processes must be participatory and involve affected people and civil society.

5. The state must give proper attention to the direction given by the Supreme Court of India and various High Courts, which have established that the human right to adequate housing is an integral component of the right to life, and which have recognised the indivisibility and inter-relatedness of human rights, including the rights to housing and work / livelihood.
6. The various concerned central government ministries, including Ministry of Housing and Urban Poverty Alleviation, Ministry of Urban Development, Ministry of Social Justice and Empowerment, and Ministry of Rural Development should collaborate and work together to ensure that housing, land and related rights are protected and realised across India. So that the housing right accessible to all.
7. The right to adequate housing is a basic human right and has long been recognized as such by international law. Making this right a reality for all people requires action and commitment from all levels of government. The role of local governments in realizing the right to adequate housing is greater than ever before, and there's a pressing need for local governments to build partnerships with civil society in order to achieve this goal.
8. There should be availability of basic services along with the right to shelter and adequate housing, the right to water entitles everyone, on the basis of non-discrimination, to sufficient, safe, physically accessible and affordable water, which is of an acceptable quality, for personal and domestic uses. However, the poor and other marginalized groups have the greatest difficulty in accessing sufficient and safe water and adequate sanitation. In many slums and informal settlements around the world, having no water connection means that residents have to pay higher prices to buy water from distribution tankers. In rural areas, women and children often have to walk great distances in search of water to meet minimum household needs. Diseases associated with contaminated drinking water and unsanitary living conditions are among the leading causes of ill health, and a significant contributor to infant and child mortality in developing countries
9. There should be maximum awareness spread related to housing schemes launched by government for the poor people. The most important thing is to spread awareness and education among the beneficiaries about the housing

schemes run by the government. Due to lack of awareness the beneficiaries are not able to avail the benefits of the scheme. Thus, it is the responsibility of the government to spread awareness among the masses, by telling them about their right to adequate housing, with the help of media and Non - Governmental Organisations., civil societies, and area people participation.

- 10.** The obvious problem with providing adequate housing to the beneficiaries is insufficient political will. Political will can bring homeless people closer to the dream of housing facilities. Strong political will and leadership can achieve extraordinary achievements in providing housing facilities to the beneficiaries.
- 11.** Due to urbanization, slum areas are increasing in a haphazard manner in the urban and peri-urban areas of the cities. Thus, there must be proper slum identification and mapping in the macro as well as micro-level in the cities, to ensure a more holistic and systematic evaluation. By this identification and mapping, the government can more effectively benefit the slum dwellers from housing schemes.
- 12.** Another issue is the failure of governments to include slum dwellers as part of holistic housing schemes. This is often due to the inability of corrupt governments to keep pace with urbanization. Thus, there is an urgent need to have transparency, accountability, and rule of law in the government by eliminating corruption.
- 13.** The human right to adequate housing is integral to the realisation of other basic rights of children. Adequate housing is of particular importance for children as the environment in which they grow up and the living conditions they have to confront, greatly impact their physical, emotional and psychological development. A child's self-confidence and identity depends significantly on her/his access to a secure place to live in peace and dignity. The absence of a secure environment may lead to deprivation of many basic rights of children, including their right to health, education, and protection from economic exploitation and abuse, and even the right to a legal identity.
- 14.** The durable solution should be adopted and followed by the government to protect and provide shelter to the slum people and homelessness person.



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APPENDICES



QUESTIONNAIRE ON SHELTER AND ADEQUATE HOUSING

(Response from Homeless & Inadequately Housed Persons in the Study Area)

Dear Respondent,

I request you to fill this questionnaire. The title of my research work is “A SOCIO-LEGAL STUDY OF HUMAN RIGHT TO SHELTER AND ADEQUATE HOUSING WITH REFERENCE TO LUCKNOW CITY IN U.P.” The information provided by you will be kept completely confidential and will be used for research purposes only. The researcher will always be grateful for your cooperation.

Rajit Ram Sonkar

(Research Scholar)

Dr. Rashida Ather

(Supervisor)

Assistant professor

Department of Human Rights
Babasaheb Bhimrao Ambedkar (A Central) University, Lucknow

SECTION A

Socio-Economic and Personal Demography of Respondent

A. Gender:	(1) Male	(2) Female	(C) Others/Third Gender
B. Community:	(1) General	(2) Others Backward Caste	
	(3) Schedule Caste/Schedule Tribe	(4) Minority	
C. Age:	(1) 18-30	(2) 30-50	(3) 50- 60
	(4) 60 years above		
D. Marital Status:	(1) Married	(2) Unmarried	
	(3) Widow/Widower	(4) Divorcee	
E. Education Status:	(1) Illiterate	(2) Primary /Elementary Education	
	(3) High School/Intermediate	(4) Graduation / Post-Graduation	
	(5) Other		
F. Sources of income:	(1) Government Service	(2) Private Service	
	(3) Self Employed	(4) Labour	
	(5) Agriculture	(6) Other	
G. Monthly Income:	(1) Less than Rs. 5000	(2) Rs 5000 to Rs 10000	
	(3) Rs 10000 to Rs 20000	(4) Other	

H. Structure / Type of Family: (1) Nuclear (2) Joint

I. Number of Family Members:

J. Location/Area:

SECTION B

Q1. Do you know about any housing scheme being offered by the government?

- (1) Yes (2) No
(3) To some extent (4) Can't say anything

Q2. Do you know about the Prime Minister's Housing Scheme being run by the government?

- (1) Yes (2) No (3) A bit

Q3. Which housing scheme of the government has benefited you?

- (1) Rajiv Gandhi Housing Scheme (2) Kanshi Ram Residential Scheme
(3) Prime Minister's Housing Scheme (4) Any other plan
(5) None

Q4. Do you know about the following housing schemes proposed by the government?

- (1) In Situ Slum Redevelopment (ISSR)
(2) Credit Linked Subsidiary Scheme (CLSS)
(3) Affordable Housing in Partnership (AHP)
(4) Beneficiary Led Individual/House Construction (BLI/HC)
(5) Affordable Rental Housing Complexes (ARHCs)
(6) All of the above
(7) No information

Q5. Through which medium did you know about the government sponsored housing scheme?

- (1) Newspaper (2) Radio /television (3) Mobile/ internet
(4) Due to contact with the concerned department for fulfilment of requirements

(5) Any other medium

(6) No information

Q6. Has any officer/ employee of the centre/ State Government ever informed you about any of the housing schemes?

(1) Yes

(2) No

(3) Sometimes

Q7. Who monitors/ supervises the construction of house has been built under housing schemes?

(1) Local Officers

(2) Municipal Member (Sbhasad)

(3) Municipal Officers

(4) Any Other Authorities

(5) No One

(6) Shelter is not available

Q8. Are you also entitled for clean water, toilet, electricity and ventilated shelter or accommodation?

(1) Yes

(2) Don't Know

Q9. What is the status of your present residence?

(1) Permanent

(2) Temporary/ Seasonal

(3) Shelter is not available

Q10. What kind of shelter do you currently have?

(1) Slum

(2) Ranbasera

(3) Shelter Home for Migrant Workers

(4) House/shelter provided under any government scheme

(5) Any other arrangements

Q11. How long have you been living in the current shelter?

(1) Less than 5 years

(2) 5 to 10 years

(3) 10 to 20 years

(4) More than 20 years

(5) Temporary arrangement

Q12. Do you or any of your family members at any place in India is having a raw or built house?

- (1) Yes (2) No (3) Can't say anything

Q13. What kind of property do you have?

- (1) Agricultural land/ Animals (2) Other Homes / Lands
(3) All of the above (4) None of the above

Q14. If you currently have a residence, how much area do you have?

- (1) 30 square meters (2) Less than 30 square meters
(3) More than 30 square meters (4) Shelter is not available

Q15. What kind of problems do you face in the current shelter/ house/residence?

- (1) Insufficient place to live
(2) Improper ventilation system (3) Problem of damping during rainy season
(4) Shelter is not available (5) All of the above

Q16. What kind of fuel do you use to cook food?

- (1) Wood (2) Kerosene
(3) LPG Gas (provided under the Ujjwala scheme) (4) Any other arrangement

Q17. Do you have access to toilet facilities in the current shelter?

- (1)Yes (2) Unsatisfactory / insufficient (3) Public/ Community Toilet
(4)Open Defecation

Q18. Do you have access to electricity in the current shelter?

- (1) Yes. (2) No
(3) Unsatisfactory / insufficient (4) Shelter is not available

Q19. Do you have drinking water facilities in the current shelter?

- (1) Yes. (2) No
(3) Unsatisfactory / insufficient (4) Shelter is not available

Q20. Has any arrangement been made by the government for cleanliness around your residence?

(1) Yes

(2) No

(3) Unsatisfactory / insufficient

(3) Shelter is not available

Q21. Are the following facilities available around your residence?

(1) Concrete road and proper draining

(2) Hospital

(3) Primary/Elementary School

(4) Park/ any place to play

(Within 1.5 -3 kilometres)

(5) None of the above

(6) All of the above

(7) Shelter is not available

Q22. Have you ever been provided some money by the government under any housing scheme?

(1) Yes

(2) No

Q23. Whether the money provided by the Government under housing scheme has been sufficient for construction work?

(1) Yes

(2) No

(3) No money is received

Q24. How many instalments are provided by the government for housing construction?

(1) One time

(2) Two instalments

(3) Three Instalments

(4) Four Instalments

(5) No money is received

Q25. Did you have to pay extra money as bribe under the housing scheme?

(1) Yes

(2) No

(3) Can't say anything

(4) Shelter is not available

Q26. Have you taken loan for the construction of house by any of the following government institutions?

(1) Housing Development Finance Corporation(HDFC)

(2) Housing and Urban Development Corporation Ltd (HUDCO)

(3) National Housing Bank (Undertaking of RBI)

(4) By other organization

(5) No loan taken

Q27. What is the reason for not taking loan from Government Institutions (Banks) for the construction of house?

(1) Excess of interest rate

(2) Lack of information

(3) Difficult formalities for getting loan

(4) Being able to give anything as a security amount

Q28. Does the house is repaired by the government if required?

(1) Yes

(2) No

(3) Sometimes

(4) Shelter is not available

Q29. What kind of improvement is needed in the accommodation provided by the government? If you have some suggestions, please mention.

Q30. If you have not received any accommodation from government and have some suggestion for the proper implementation of Housing Schemes, please mention.



जिला नगरीय विकास अभिकरण, (डूडा) लखनऊ

चौपड़ अस्पताल परिसर (नवल किशोर रोड, लखनऊ)

पत्रांक संख्या ...1497/ए0पी0ओ0/डूडा/2018

दिनांक 14/10, 2019

श्री राजित राम सोनकर,
शोध छात्र,
मानवाधिकार विभाग,
बीबीएयू विद्या बिहार रायबरेली रोड,
लखनऊ।

उपर्युक्त विषयक अपने पत्र दिनांक 11.09.2019 का संदर्भ ग्रहण करने का कष्ट करें जो कि इस कार्यालय को दिनांक 17.09.2019 को प्राप्त हुआ है जिसमें आप द्वारा अपने पत्र में उल्लिखित 5 बिन्दुओं पर सूचना चाही गयी है।

बिन्दु संख्या-1 में अवगत कराना है कि सूचना प्राप्त करने हेतु आवश्यक धनराशि डूडा कार्यालय में जमा करायें।

बिन्दु संख्या-2 में प्रधान मंत्री आवास योजना (शहरी) के घटक बी0एल0सी0-एन के तहत आवेदक के पास भूमि के उपलब्धता एवं अन्य वॉछित अन्य अभिलेखों के आधार पर दो कमरे, किचन एवं शौचालय निर्माण हेतु रू0 2.50 लाख तीन चरणों में अनुदान दिये जाने का प्राविधान है।

बिन्दु संख्या-3 में अवगत कराना है कि मदवार धनराशि का आवंटन नहीं किया जाता है।

बिन्दु संख्या-4 एवं 5 का उत्तर बिन्दु संख्या-1 के अनुसार।

भवदीय,

(संजीव सिन्हा)

सहा0परि0अधि0 / सहा0ज0सू0अधि0

सेवा में,
जन सूचना अधिकारी
शहरी राज्य विकास प्राधिकरण,
लखनऊ, 226001

विषय:- जिले में आश्रय विहीन व्यक्तियों को उपलब्ध कराये गये आश्रय के सन्दर्भ में सूचना।

महोदय/महोदया

प्रार्थी राजित राम सोनकर बाबासाहेब भीमराव अम्बेडकर विश्वविद्यालय के मानवाधिकार विभाग का शोध छात्र है। प्रार्थी का Topic- Right to Shelter in India: A Socio-Legal Study of Urban Areas in Lucknow City of U.P. प्रार्थी को अपने शोध कार्य के सन्दर्भ में निम्नलिखित सूचनायें, शहरी जिला विकास प्राधिकरण, लखनऊ से वांछनीय है जो कि प्रार्थी के शोध कार्य को पूर्ण करने में सहायक है।

अतः प्रार्थी, महोदय से सविनय निवेदन करता है कि निम्नवत् सूचनायें प्रदान करने की कृपा करें।

वांछित सूचनाएँ-

1. प्रधानमंत्री आवास योजना के अन्तर्गत वर्ष 2014 से 2019 तक वित्तीय आवंटन का ब्योरा तथा आवंटित राशि के उपयोग का विवरण।
2. लाभार्थियों के मकान के अन्तर्गत कौन-कौन सी सुविधाएँ प्रदान करने का प्रावधान है।
3. लाभार्थियों को किस पद के लिए कितनी धनराशि आवंटित की जाती है। कृपया विवरण दें-
 - मजदूरी
 - निर्माण सामग्री
 - अन्य पद
4. लाभार्थियों का वर्गानुसार विवरण तथा जोन अनुसार लाभार्थियों का विवरण-

वर्ग	संख्या	धनराशि
5. लाभार्थियों की जोन अनुसार संख्या एवं नाम की सूची प्रदान कराने की कृपा करें।

प्रार्थी
राजित राम सोनकर
शोध छात्र
मानवाधिकार विभाग
बी०बी०ए०यू०
विद्या विहार, रायबरेली रोड, लखनऊ-226025

सेवा में,
जन सूचना अधिकारी
शहरी राज्य विकास प्राधिकरण,
लखनऊ, 226021

विषय:- जिले में आश्रय विहीन व्यक्तियों को उपलब्ध कराये गये आश्रय के सन्दर्भ में सूचना।

महोदय/महोदया

प्रार्थी राजित राम सोनकर बाबासाहेब भीमराव अम्बेडकर विश्वविद्यालय के मानवाधिकार विभाग का शोध छात्र है। प्रार्थी का Topic- Right to Shelter in India: A Socio-Legal Study of Urban Areas in Lucknow City of U.P. प्रार्थी को अपने शोध कार्य के सन्दर्भ में निम्नलिखित सूचनायें, शहरी जिला विकास प्राधिकरण, लखनऊ से वांछनीय है जो कि प्रार्थी के शोध कार्य को पूर्ण करने में सहायक है।

अतः प्रार्थी, महोदय से सविनय निवेदन करता है कि निम्नवत् सूचनायें प्रदान करने की कृपा करें।

वांछित सूचनाएँ-

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वर्ग	संख्या	धनराशि
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दिनांक
11/09/2019

प्रार्थी
राजित राम सोनकर
शोध छात्र
मानवाधिकार विभाग
बी०बी०ए०यू०
विद्या विहार, रायबरेली रोड, लखनऊ-226025

सेवा में,
जन सूचना अधिकारी
शहरी जिला विकास प्राधिकरण,
लखनऊ, 226001

विषय:- जिले में आश्रय विहीन व्यक्तियों को उपलब्ध कराये गये आश्रय के सन्दर्भ में सूचना।

महोदय/महोदया

प्रार्थी राजित राम सोनकर बाबासाहेब भीमराव अम्बेडकर विश्वविद्यालय के मानवाधिकार विभाग का शोध छात्र है। प्रार्थी का Topic- Right to Shelter in India: A Socio-Legal Study of Urban Areas in Lucknow City of U.P. प्रार्थी को अपने शोध कार्य के सन्दर्भ में निम्नलिखित सूचनायें, शहरी जिला विकास प्राधिकरण, लखनऊ से वांछनीय है जो कि प्रार्थी के शोध कार्य को पूर्ण करने में सहायक है।

अतः प्रार्थी, महोदय से सविनय निवेदन करता है कि निम्नवत् सूचनायें प्रदान करने की कृपा करें।

वांछित सूचनाएँ-

1. प्रधानमंत्री आवास योजना के अन्तर्गत वर्ष 2014 से 2019 तक वित्तीय आवंटन का ब्योरा तथा आवंटित राशि के उपयोग का विवरण।
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4. लाभार्थियों का वर्गानुसार विवरण तथा जोन अनुसार लाभार्थियों का विवरण-

वर्ग	संख्या	धनराशि
5. लाभार्थियों की जोन अनुसार संख्या एवं नाम की सूची प्रदान कराने की कृपा करें।

दिनांक
11/09/2019

प्रार्थी
राजित राम सोनकर
शोध छात्र
मानवाधिकार विभाग
बी०बी०ए०यू०
विद्या विहार, रायबरेली रोड, लखनऊ-226025



जिला नगरीय विकास अभिकरण, (डूडा) लखनऊ

चौपड़ अस्पताल परिसर (नवल किशोर रोड, लखनऊ)

पत्रांक संख्या. 1028/पीओ/डूडा/2020-21

दिनांक 22/10/2020

फोन नं० 0522-4105535

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बाबा साहेब भीमराव अम्बेडकर विश्वविद्यालय,
विद्या विहार रायबरेली रोड, लखनऊ-226025

विषय:- सूचना का अधिकार अधिनियम 2005 की धारा-6(1) के अन्तर्गत सूचना उपलब्ध कराये जाने के सम्बन्ध में।

उपरोक्त विषयक आप द्वारा प्रेषित पत्र जो कि इस कार्यालय को दिनांक 22.10.2020 को प्राप्त हुआ है के सम्बन्ध में सूचना का विवरण निम्नानुसार है:-

बिन्दु संख्या-1 अनिवार्य है।

बिन्दु संख्या-2 इस सम्बन्ध में गाइडलाइंस में कोई निर्देश नहीं है।

बिन्दु संख्या-3 का उत्तर बिन्दु संख्या -2 के अनुसार।

बिन्दु संख्या-4 का उत्तर बिन्दु संख्या -2 के अनुसार।

बिन्दु संख्या-5 प्रधानमंत्री आवास योजना के अन्तर्गत नक्शा निर्धारित है।

भवदीय,

(संजीव सिन्हा)

जन सूचना अधि०/सहा० परि० अधि०

सेवा में,

जन सूचना अधिकारी

शहरी जिला विकास प्राधिकरण

लखनऊ 226014

विषय: जिले में आश्रय विहीन व्यक्तियों को उपलब्ध कराये गये आश्रय के संदर्भ में सूचना।

महोदय/ महोदया

प्रार्थी राजित राम सोनकर बाबासाहेब भीम राव अंबेडकर विश्वविद्यालय के मानवाधिकार विभाग का शोध छात्र हैं। प्रार्थी का Topic- Right to Shelter in India: A Socio-Legal Study of Urban Areas in Lucknow City of U.P. प्रार्थी को अपने शोध कार्य के संदर्भ में निम्नलिखित सूचनाएँ, शहरी जिला विकास प्राधिकरण, लखनऊ से वांछनीय हैं जो कि प्रार्थी के शोध कार्य को पूर्ण करने में सहायता हैं।

अतः प्रार्थी, महोदय से निवेदन करता है कि निम्नवत सूचनाएँ प्रदान करने की कृपा करें।

वांछित सूचनाएँ:-

1. क्या लाभार्थी को प्रधानमंत्री आवास योजना के अंतर्गत मिले आवास का " प्रधानमंत्री आवास योजना" से संबंधित शब्दावली को दर्शना अनिवार्य हैं ?
2. प्रधानमंत्री आवास योजना के अंतर्गत मिले आवास की सरकार द्वारा भविष्य में किसी तरह का पुनः निर्माण अथवा मरम्मत कराया जाता है यदि हाँ तो विवरण दे।
3. क्या प्रधानमंत्री आवास योजना को लाभार्थी द्वारा पूरा कराये जाने कि समय सीमा है यदि हाँ तो कितना ?
4. प्रधानमंत्री आवास योजना के अंतर्गत लाभार्थी को मकान बनाने के लिए क्या कोई वरियता दी जाती है यदि है तो किस आधार पर।
5. प्रधानमंत्री आवास योजना बनवाने के लिए क्या कोई नक्सा (MAP) निर्धारित है ।

दिनांक
21/10/2020

प्रार्थी

राजित राम सोनकर

शोध छात्र

मानवाधिकार विभाग

बी. बी. ए. यू.

विद्या विहार रायबरेली रोड लखनऊ -226025

संख्या-62/2016/623/69-1-2016-14(139)/2015 टी.सी.

प्रेषक,

श्रीप्रकाश सिंह

सचिव

उत्तर प्रदेश शासन।

सेवा में,

निदेशक,

राज्य नगरीय विकास अभिकरण (सूडा)

उत्तर प्रदेश, लखनऊ।

नगरीय रोजगार एवं गरीबी

लखनऊ दिनांक : 21 मार्च, 2016

उन्मूलन कार्यक्रम विभाग।

विषय- 'प्रधानमंत्री आवास योजना-सबके लिए आवास (शहरी) मिशन' का क्रियान्वयन।

महोदय

भारत सरकार द्वारा 'प्रधानमंत्री आवास योजना-सबके लिए आवास (शहरी) मिशन' का शुभारम्भ दिनांक 25.06.2015 को किया गया है तथा मिशन के क्रियान्वयन हेतु "स्कीम दिशा-निर्देश 2015" निर्गत किये गये हैं। यह मिशन वर्ष 2022 तक शहरी क्षेत्र के सभी पात्र परिवारों/लाभार्थियों को आवास प्रदान करने के लिए क्रियान्वयन अभिकरणों को केन्द्रीय सहायता प्रदान करेगा। मिशन के अन्तर्गत आर्थिक रूप से कमजोर वर्ग (ई0डब्ल्यू0एस0) तथा निम्न आय वर्ग (एल0आई0जी0) के परिवारों को लाभान्वित किया जायेगा। आर्थिक रूप से कमजोर वर्ग (ई0डब्ल्यू0एस0) ₹0 3.00 लाख तक वार्षिक आय वर्ग वाले परिवार माने जायेंगे तथा निम्न आय वर्ग (एल0आई0जी0) 3.00 लाख रुपये से 6.00 लाख ₹0 तक की वार्षिक आय वर्ग वाले परिवार माने जायेंगे। मिशन का उद्देश्य आधारभूत सिविक अवस्थापना सहित 30 वर्गमीटर के कारपेट एरिया तक के आवासों के निर्माण में सहायता प्रदान करना है। निर्मित आवासों का न्यूनतम आकार राष्ट्रीय भवन संहिता (एन0बी0सी0) में प्रदान किये गये मानकों के अनुरूप होगा।

2. 'प्रधानमंत्री आवास योजना-सबके लिए आवास (शहरी) मिशन' के अन्तर्गत जारी दिशा-निर्देशों के क्रियान्वयन के सम्बन्ध में शासन द्वारा सम्यक विचारोपरान्त निम्न निर्णय लिए गये हैं:-

(1) भारत सरकार द्वारा केन्द्र पुरोनिधानित योजनाओं के फण्डिंग पैटर्न आदि के निर्धारण के सम्बन्ध में गठित मुख्य मंत्रियों के उप समूह के द्वारा दी गई संस्तुति के परिप्रेक्ष्य में योजनाओं में फण्डिंग पैटर्न 60:40 निर्धारित किया गया है, जिसे वित्त विभाग, 30प्र0 शासन के शासनादेश सं0-8/2015/बी-1-4058/दस-2015-13/2015 दिनांक 09.11.2015 द्वारा लागू कर दिया गया है। प्रधानमंत्री आवास योजना-सबके लिए आवास (शहरी) मिशन के लिए केन्द्रांश 60 प्रतिशत निर्धारित किया गया है। शेष 40 प्रतिशत व्यय राज्य सरकार द्वारा वहन किया जायेगा।

(2) प्रधानमंत्री आवास योजना-सबके लिए आवास (शहरी) मिशन को 04 घटकों में विभाजित किया

गया है:-

(क) ऋण आधारित ब्याज सब्सिडी योजना-

इस घटक के अन्तर्गत शहरी क्षेत्र के आर्थिक रूप से कमजोर वर्ग (ई0डब्ल्यू0एस0) तथा निम्न आय वर्ग (एल0आई0जी0) के लिये आवास निर्माण हेतु बैंक से लिये गये गृह ऋण के ब्याज पर सब्सिडी दी जायेगी। यह ब्याज सब्सिडी 6.5 प्रतिशत की दर से 15 वर्ष की अवधि के लिये केन्द्र सरकार द्वारा उपलब्ध करायी जायेगी। ऋण आधारित सब्सिडी केवल रूपया 6.00 लाख तक ऋण राशि के लिये होगी। रूपया 6.00 लाख से अधिक का ऋण गैर सब्सिडीकृत दर पर होगा। ऋण आधारित सब्सिडी आवासों का नव निर्माण, कमरों का विस्तार, रसोई, शौचालय आदि के लिये दिया जायेगा। ई0डब्ल्यू0एस0 वर्ग के लिये आवास का आकार अधिकतम 30 वर्ग मीटर (कार्पेट एरिया) तथा एल0आई0जी0 वर्ग के लिये आवास का आकार अधिकतम 60 वर्ग मीटर (कार्पेट एरिया) तक होगा। आवास एवं शहरी विकास कारपोरेशन (हड्को) और राष्ट्रीय आवास बैंक (एन0एच0बी0) को सब्सिडी के वितरण एवं प्रगति की निगरानी के लिए भारत सरकार द्वारा केन्द्रीय नोडल एजेंसी (सी0एन0ए0) के रूप में नामित किया गया है। लाभार्थी की पहचान के लिए आधारकार्ड/वोटर आई0डी0 कार्ड, लाभार्थी के पैतृक जनपद के राजस्व प्राधिकारी से जारी आवास स्वामित्व प्रमाण-पत्र को आधार माना जायेगा। केन्द्रीय क्षेत्र की योजना होने के कारण राज्य सरकार से कोई अंशदान अपेक्षित नहीं है।

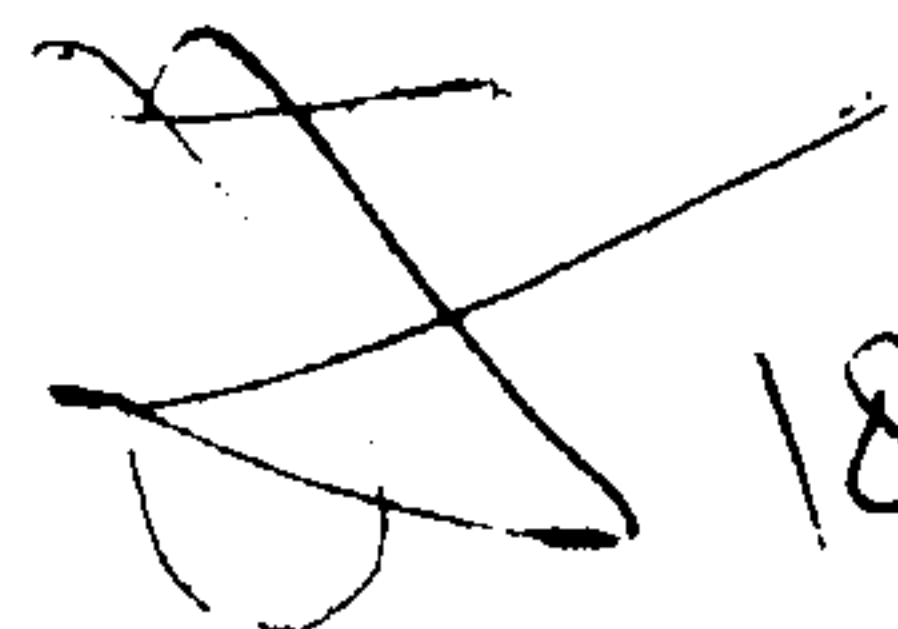
उक्त घटक के पात्र लाभार्थियों-ई0डब्ल्यू0एस0/एल0आई0जी0 वर्ग के परिवारों के लिये आय प्रमाण-पत्र, आवास स्वामित्व प्रमाण-पत्र, पहचान-पत्र आदि का सत्यापन एवं ऋण प्रार्थना-पत्रों तथा उससे सम्बन्धित दस्तावेजों को तैयार करने हेतु राज्य नगरीय विकास अभिकरण(सूडा) को एजेंसी के रूप में नामित किये जाने का निर्णय किया गया है।

(ख) भूमि का संसाधन के रूप में उपयोग करके "स्वस्थाने" स्लम पुनर्विकास-

इस घटक के अन्तर्गत केन्द्र सरकार की भूमि/राज्य सरकार की भूमि/शहरी निकाय की भूमि एवं निजी स्वामित्व की भूमि पर बसे स्लमों के सभी पात्र स्लमवासियों को आवास प्रदान करने के लिये निजी सहभागिता से भूमि का संसाधन के रूप में उपयोग किया जायेगा और उसी भूमि को स्व-स्थाने(इन-सीट्र) पुनर्विकास के लिये लिया जायेगा। स्लम पुनर्विकास के लिये निजी भागीदार का चयन खुली बोली प्रक्रिया के माध्यम से किया जायेगा। स्लमों पर स्व-स्थाने (इन-सीट्र) पुनर्विकास की परियोजनाओं को व्यवहार्य बनाने के लिये प्रदेश सरकार द्वारा अतिरिक्त फर्शी क्षेत्र अनुपात (एफ0ए0आर0)/हस्तान्तरण विकास अधिकार (टी0डी0आर0) आदि देकर प्रोत्साहित किया जायेगा।

स्लम पुनर्विकास परियोजना के अन्तर्गत दो संघटक हैं:-

- (1) "स्लम पुनर्वास संघटक" जो पात्र स्लम वासियों को बुनियादी सिविक अवसंरचना के साथ आवास प्रदान करेगा।

 18/37 2011

(2) "मुक्त बिक्री संघटक" जो विकासकर्ताओं को बाजार में बिक्री के लिए उपलब्ध होगा ताकि परियोजना को क्रास सब्सिडी दी जा सके।

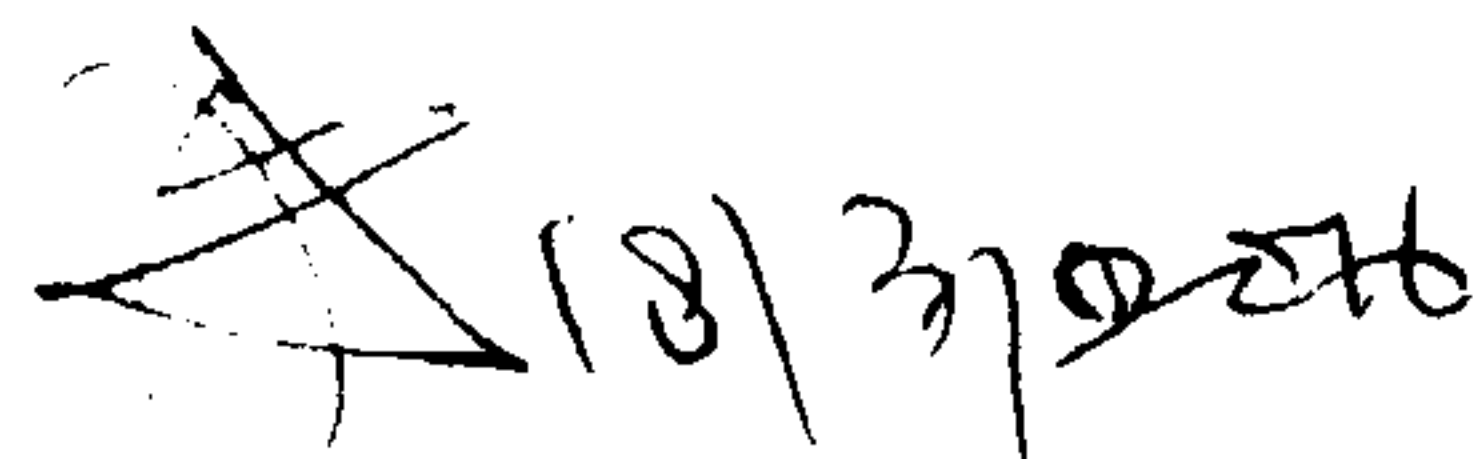
स्लम पुनर्विकास परियोजना के लिये खुली बोली से सकारात्मक प्रीमियम अथवा नकारात्मक प्रीमियम प्राप्त हो सकता है। सकारात्मक प्रीमियम के मामले में, उच्चतम सकारात्मक प्रीमियम वाले विकासकर्ता का चयन किया जायेगा। नकारात्मक प्रीमियम के मामले में निम्नतम नकारात्मक प्रीमियम का प्रस्ताव करने वाले बोलीकर्ता का चयन किया जाएगा।

स्लम पुनर्विकास परियोजना के लिए प्रत्येक नगर निकाय का एकल परियोजना खाता होगा, जहाँ सकारात्मक प्रीमियम, केन्द्र सरकार से प्राप्त स्लम पुनर्वास अनुदान तथा राज्य सरकार अथवा अन्य स्रोत से प्राप्त धनराशि को जमा कराया जाएगा और उन्हें नकारात्मक प्रीमियम वाली सभी स्लम पुनर्वास परियोजनाओं के वित्त पोषण के लिए उपयोग में लाया जाएगा। निर्माण अवधि के दौरान पात्र लाभार्थियों को ट्रांजिट आवास की सुविधा विकासकर्ता द्वारा उपलब्ध करायी जाएगी। पुनर्विकास स्लम परियोजनाओं में शारीरिक रूप से विकलांग व्यक्ति और वरिष्ठ नगरिकों को भूतल अथवा नीचे के मंजिलों में आवास आवंटन को प्राथमिकता दी जायेगी।

ऐसी सभी परियोजनाओं में पात्र स्लमवासियों के लिये सभी निर्मित आवासों हेतु ₹0 1.00 लाख प्रति आवास औसतन का स्लम पुनर्विकास अनुदान भारत सरकार द्वारा दिया जायेगा। वित्त विभाग के शासनादेश दिनांक 09-11-2015 द्वारा इस योजना में केन्द्रांश एवं राज्य सरकार का फंडिंग पैटर्न 60:40 निर्धारित किया गया है। अतः यह निर्णय लिया गया है कि केन्द्रीय सहायता ₹0 1.00 लाख के सापेक्ष प्रदेश सरकार द्वारा ₹0 0.67 लाख स्वीकृत किया जायेगा। इस घटक के अन्तर्गत केवल उन्हीं स्लमवासियों को लाभान्वित किया जायेगा जो योजना लागू होने की तिथि 25-6-2015 को व उससे पूर्व स्व-स्थाने निवास कर रहे हों, जिसके लिए प्रमाण स्वरूप निवास प्रमाण-पत्र, आधार कार्ड, वोटर आईडीकार्ड, राशन कार्ड, विद्युत कनेक्शन बिल, बैंक पासबुक अथवा ड्राइविंग लाइसेंस में से कोई एक प्रमाण प्रस्तुत करना होगा।

(ग) भागीदारी में किफायती आवास(ए0एच0पी0)

इस घटक के अन्तर्गत आर्थिक रूप से कमजोर वर्गों (ई0डब्ल्यू0एस0) के लिये निजी क्षेत्रों में भागीदारी के माध्यम से किफायती आवासों के निर्माण हेतु वित्तीय सहायता उपलब्ध करायी जायेगी। किफायती आवासों की उपलब्धता बढ़ाने हेतु प्रदेश सरकार द्वारा अपनी एजेन्सियों अथवा निजी क्षेत्र के विकासकर्ताओं के साथ भागीदारी से किफायती आवास परियोजनायें तैयार की जायेंगी। आवासों को किफायती एवं क्रय क्षमता के अनुरूप बनाने के लिए प्रदेश सरकार द्वारा आवासों के विक्रय मूल्य की ऊपरी सीमा का निर्धारण किया जायेगा। राज्य सरकार द्वारा इस प्रयोजनार्थ अन्य रियायतों जैसे किफायती लागत पर भूमि, स्टाम्प शुल्क में छूट, अतिरिक्त एफ.ए.आर./टी.डी.आर. आदि सुविधाओं को उपलब्ध कराया जायेगा। किफायती आवास परियोजनाओं में अन्य वर्गों के लिये आवासों का निर्माण सम्मिलित होगा किन्तु परियोजना इस घटक के अन्तर्गत तभी अनुमोदित की जा सकेगी जब उसमें



न्यूनतम 35 प्रतिशत आवास ई.डब्ल्यू.एस. वर्ग के लिये प्रस्तावित होंगे तथा परियोजना में निर्मित हो जाने वाली आवासों की न्यूनतम संख्या 250 होगी। आवासों का आवंटन राज्य स्तरीय स्वीकृति एवं निगरानी समिति द्वारा अनुमोदित पारदर्शी प्रक्रिया द्वारा किया जायेगा।

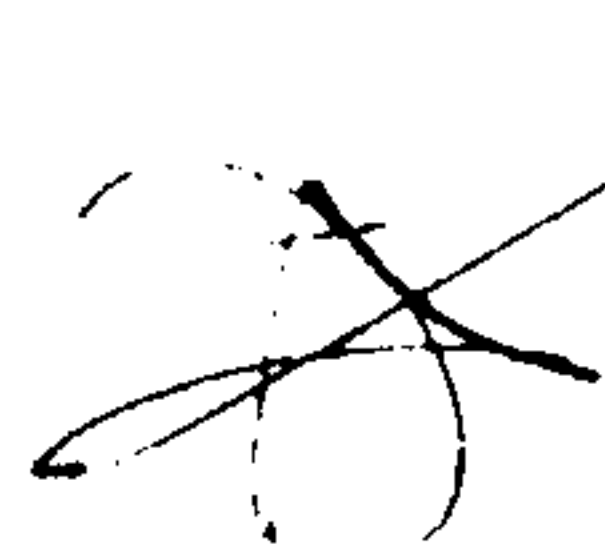
इस घटक के अन्तर्गत भारत सरकार द्वारा ई.डब्ल्यू.एस. आवासों के लिए प्रति आवास की दर से ₹0 1.50 लाख केन्द्रीय सहायता उपलब्ध करायी जायेगी। अतः यह निर्णय लिया गया है कि वित्त विभाग के शासनादेश दिनांक 09-11-2015 के अनुसार इस योजना में 60 प्रतिशत केन्द्रांश के सापेक्ष 40 प्रतिशत राज्यांश अर्थात् ₹0 1.50 लाख केन्द्रांश के सापेक्ष ₹0 1.00 लाख प्रति आवास प्रदेश सरकार द्वारा सहायता उपलब्ध करायी जायेगी। आवासों का निर्माण किफायती बनाने के लिये महायोजना में विभिन्न छूटों पर विचार हेतु प्रमुख सचिव/सचिव, आवास एवं शहरी नियोजन विभाग की अध्यक्षता में एक समिति का गठन किया जायेगा।

(घ) लाभार्थी आधारित व्यक्तिगत आवास का निर्माण अथवा विस्तार

इस घटक में अन्य घटकों का लाभ न ले पाने वाले अभ्यर्थियों को सम्मिलित किया गया है। आर्थिक रूप से कमजोर वर्ग के पात्र परिवारों को स्वयं उसके द्वारा नये आवासों के निर्माण अथवा मौजूदा आवास के सुधार के लिए ₹0 1.50 लाख की केन्द्रीय सहायता भारत सरकार द्वारा उपलब्ध करायी जायेगी। ऐसे लाभार्थियों को "सब के लिए आवास कार्ययोजना" में शामिल होना आवश्यक होगा। योजना का लाभ लेने के लिए इच्छुक लाभार्थी शहरी स्थानीय निकाय/जिला विकास अभिकरण (इडा) में आवेदन करेंगे। लाभार्थी द्वारा दी गयी सूचना तथा उसके द्वारा प्रस्तुत की गयी आवास की भवन निर्माण योजना को शहरी स्थानीय निकाय/इडा कार्यालय द्वारा प्रमाणित किया जाएगा ताकि भूमि के स्वामित्व, लाभार्थी की आर्थिक स्थिति एवं अन्य पात्रताओं का पता लगाया जा सके। आवेदन पत्रों के आधार पर शहरी स्थानीय निकाय/इडा द्वारा एकीकृत शहरी आवास परियोजना तैयार की जाएगी जिसमें प्रस्तावित आवासों का निर्माण शहर की आयोजना मानकों के अनुरूप होगा तथा स्कीम का कार्यान्वयन एकीकृत रूप में होगा। ऐसी परियोजनाएं राज्य स्तरीय स्वीकृति एवं निगरानी समिति द्वारा अनुमोदित की जाएंगी।

आर्थिक रूप से कमजोर वर्ग (ई0डब्ल्यू0एस0) के पात्र लाभार्थियों को भारत सरकार से ₹0 1.50 लाख की केन्द्रीय सहायता इस घटक के अन्तर्गत उपलब्ध करायी जाएगी। यह निर्णय लिया गया कि वित्त विभाग के शासनादेश दिनांक 09.11.2015 के अनुसार 60 प्रतिशत केन्द्रांश के सापेक्ष, 40 प्रतिशत राज्यांश अर्थात् ₹0 1.50 लाख केन्द्रांश के सापेक्ष ₹0 1.00 लाख, राज्यांश के रूप में प्रति आवास सहायता उपलब्ध करायी जायेगी। भवन निर्माण लागत की शेष धनराशि लाभार्थी द्वारा अंशदान के रूप में स्वयं वहन किया जायेगा।

3. प्रधानमंत्री आवास योजना सबके लिए आवास (शहरी) के कार्यान्वयन के लिए भारत सरकार के दिशा-निर्देशों के अनुसार राज्य सरकार की ओर से "मेमोरेण्डम आफ एग्रीमेन्ट" (एम0ओ0ए0) सचिव, नगरीय रोजगार एवं गरीबी उन्मूलन कार्यक्रम विभाग, 30प्र0 शासन द्वारा हस्ताक्षरित कर भारत सरकार

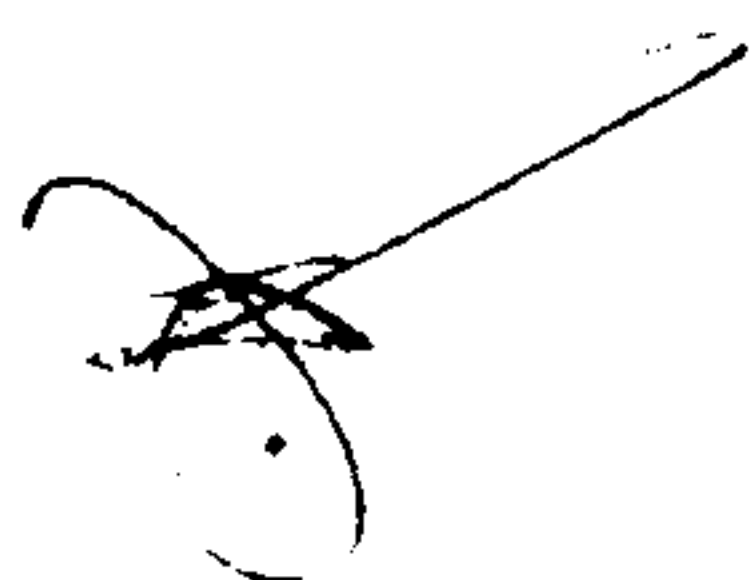


को प्रेषित किया जा चुका है। प्रधानमंत्री आवास योजना-सबके लिए आवास (शहरी) हेतु निर्धारित की गयी अनिवार्य शर्तों की समय सीमा मिशन अवधि 2022 तक है। अनिवार्य शर्तों की समय सीमा का उल्लेख वर्षवार करते हुए सहमति भारत सरकार को प्रेषित की जा चुकी है। उक्त अनिवार्य शर्तें तथा उन्हें लागू करने की समय सीमा निम्नानुसार है:-

क्र. सं.	शर्तें (अथवा कार्यकारी आदेश/अधिसूचना/कानून बनाने के माध्यम से)	समय सीमा (वर्ष-वर्ष)
1	राज्य शहर/कस्बे के मास्टर प्लान में चिह्नित रिहायशी जोन में आने वाली भूमि के मामले में अलग से गैर कृषि अनुमति की शर्त को समाप्त करेंगे।	लागू है।
2	राज्य कफायती आवास के लिए चिह्नित भूमि वाले मास्टर प्लान तैयार/संशोधित करेंगे।	वर्ष, 2016-17
3	राज्य ले-आउट अनुमोदनों और निर्माण करने की अनुमति हेतु एकल खिड़की, समयबद्ध स्वीकृति प्रणाली कार्यान्वित करेंगे।	लागू है।
4	राज्य ईडब्ल्यूएस/एलआईजी आवास के लिए पूर्व अनुमोदित निर्माण करने की अनुमति और ले-आउट अनुमोदन प्रणाली अपनाएंगे अथवा निश्चित निर्मित क्षेत्रफल/प्लॉट क्षेत्रफल से कम क्षेत्र के लिए अनुमोदन से छूट प्रदान करेंगे।	लागू है।
5	राज्य प्रथम पक्ष द्वारा परिचालित मॉडल किराया अधिनियम अनुरूप नियम बनायेंगे अथवा मौजूदा किराया नियमों में संशोधन करेंगे।	वर्ष, 2017-18
6	राज्य अतिरिक्त फर्शी क्षेत्र अनुपात (एफओएओआरओ)/फर्शी स्थल संसूचक (एफओएसओआईओ) अंतरणीय विकास अधिकार (टीओडीओआरओ) प्रदान करेंगे और स्लम पुनर्विकास और कम लागत आवास के सघनता मानदंडों में छूट प्रदान करेंगे।	अतिरिक्त एफओएओ आरओ का प्राविधान लागू है। टीओडीओआरओ एवं सघनता मानदंडों हेतु समय सीमा वर्ष, 2016-17

4. प्रधानमंत्री आवास योजना के दिशा निर्देशानुसार कार्य योजनाओं और परियोजनाओं के अनुमोदन के लिए मुख्य सचिव की अध्यक्षता में राज्य स्तरीय स्वीकृति और निगरानी समिति (एसओएलओएसओएमओसीओ) का निम्नवत् गठन किया गया है:-

1.	मुख्य सचिव	अध्यक्ष
2.	प्रमुख सचिव/सचिव, नगरीय रोजगार एवं गरीबी उन्मूलन कार्यक्रम विभाग, उओप्रओशासन	उपाध्यक्ष
3.	प्रमुख सचिव/सचिव, नगर विकास, उओप्रओशासन	सदस्य
4.	प्रमुख सचिव/सचिव, वित्त विभाग, उओप्रओशासन	सदस्य
5.	प्रमुख सचिव/सचिव, राजस्व उओप्रओशासन	सदस्य
6.	प्रमुख सचिव/सचिव, आवास एवं शहरी नियोजन, उओप्रओशासन	सदस्य
7.	प्रमुख सचिव/सचिव, पर्यावरण, उओप्रओशासन	सदस्य



8.	संयोजक राज्य स्तरीय बैंकर्स समिति	सदस्य
9.	मुख्य नगर एवं ग्राम नियोजक, 30प्र0।	सदस्य
10.	निदेशक, राज्य नगरीय विकास अभिकरण(सूडा)/ मिशन डायरेक्टर।	सदस्य सचिव

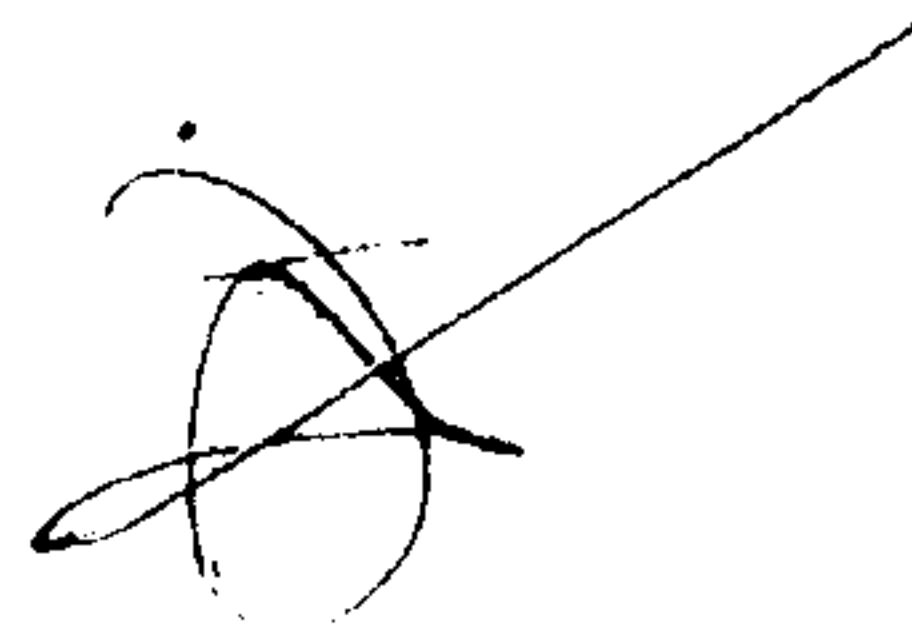
5. मिशन के दिशा निर्देशों के क्रम में राज्य नगरीय विकास अभिकरण (सूडा) को राज्य स्तरीय नोडल एजेंसी (एस0एल0एन0ए0) नामित किया गया है। राज्य नगरीय विकास अभिकरण के अधीन राज्य स्तरीय मिशन निदेशालय का गठन किये जाने का निर्णय लिया गया है एवं निदेशक, सूडा को मिशन निदेशक नामित किया गया है।

6. योजनान्तर्गत कार्यान्वयन एजेंसियों द्वारा प्रस्तुत डीपीआर के तकनीकी-आर्थिक मूल्यांकन करने के लिए राज्य स्तरीय मूल्यांकन समिति (एस0एल0ए0सी0) का गठन किया गया है, जिसमें निम्न सदस्य होंगे:-

- (1) मिशन निदेशक अथवा उनके द्वारा नामित तकनीकी अधिकारी।
- (2) निदेशक, आवास बन्धु अथवा उनके द्वारा नामित अधिकारी।

राज्य स्तरीय मूल्यांकन समिति (एस0एल0ए0सी0) अपनी मूल्यांकन रिपोर्ट टिप्पणियों और संस्तुतियों सहित एस0एल0एस0एम0सी0 का अनुमोदन प्राप्त करने के लिए राज्य स्तरीय नोडल एजेंसी को प्रस्तुत करेगी।

7. शहरों में आवासों की वास्तविक मांग के आकलन हेतु उचित माध्यम से मांग-सर्वेक्षण कराया जायेगा। मांग-सर्वेक्षण व अन्य उपलब्ध आकड़ों के आधार पर, "सबके लिये आवास कार्य योजना" (एच0एफ0ए0पी0ओ0ए0) तैयार करायी जायेगी। सबके लिये आवास कार्ययोजना तैयार करते समय नगरीय निकाय में पहले से उपलब्ध किफायती आवासों के स्टॉक पर विचार किया जायेगा। आवास कार्ययोजना के आधार पर संसाधनों और प्राथमिकता को दृष्टिगत रखते हुए वर्ष 2022 तक कार्य को विभाजित करके "वार्षिक कार्यान्वयन योजना" (ए0आई0पी0) तैयार की जायेगी। विभिन्न योजनाओं के अन्तर्गत पूर्व में निर्मित किये गये आवासों को एच0एफ0ए0पी0ओ0ए0 तथा ए0आई0पी0 तैयार करते समय ध्यान में रखा जाएगा। केन्द्रीय वित्तीय सहायता के आकलन हेतु तैयार की गयी एच0एफ0ए0पी0ओ0ए0 और ए0आई0पी0 पर राज्य स्तरीय स्वीकृति एवं निगरानी समिति के अनुमोदनोपरान्त प्रस्ताव भारत सरकार को प्रेषित किया जाएगा। भारत सरकार की केन्द्रीय स्वीकृति एवं निगरानी समिति (सी0एस0एम0सी0) द्वारा उक्त प्रस्तावों पर विचार किया जायेगा। एच0एफ0ए0पी0ओ0ए0 और कार्यों की उपलब्धता के अनुसार प्रत्येक शहरी निकाय के लिए मिशन के सभी घटकों के अन्तर्गत अलग-अलग विस्तृत परियोजना रिपोर्ट (डी0पी0आर0) तैयार किया जायेगा और उन सभी डी0पी0आर0 पर राज्य स्तरीय स्वीकृति एवं निगरानी समिति का अनुमोदन प्राप्त किया जायेगा। एक लाभार्थी सभी विकल्पों अर्थात् 04 घटकों में से केवल एक घटक का लाभ प्राप्त करने के लिए पात्र होगा।



8. इस मिशन के अन्तर्गत प्रौद्योगिकी उप-मिशन बनाया जायेगा, जो आवासों के तीव्र एवं गुणवत्तापरक निर्माण के लिये आधुनिक, अभिनव एवं हरित प्रौद्योगिकियों तथा भवन सामग्री के प्रयोग के सम्बन्ध में सहायता प्रदान करेगा। केन्द्र सरकार की सहायता से प्रदेश तथा शहर स्तर पर तकनीकी और परियोजना प्रबन्धन कक्ष का गठन किया जायेगा। इनके द्वारा आयोजना, अभियान्त्रिकी, सामाजिक गतिशीलता तथा वित्तीय आयोजना आदि विभिन्न क्षमताओं पर विचार कर सुझाव प्रस्तुत किये जायेंगे। राज्य स्तरीय तकनीकी कक्ष तथा शहर स्तरीय तकनीकी कक्ष के गठन के लिये केन्द्र सरकार द्वारा 75 प्रतिशत एवं राज्य सरकार द्वारा 25 प्रतिशत की वित्तीय सहायता उपलब्ध करायी जायेगी।

9. प्रदेश सरकार द्वारा निर्माण की गुणवत्ता सुनिश्चित करने के लिए थर्ड पार्टी एजेन्सियों को शामिल करते हुए गुणवत्ता निगरानी और आश्वासन रिपोर्ट तैयार करायी जायेगी। इस हेतु केन्द्र सरकार द्वारा 75 प्रतिशत तथा राज्य सरकार द्वारा 25 प्रतिशत वित्तीय सहायता दी जायेगी। प्रदेश सरकार द्वारा मिशन के अन्तर्गत कार्यान्वित की जा रही परियोजनाओं की लेखा परीक्षा करायी जाएगी। यह लेखा परीक्षाएं राष्ट्रीय एवं प्रादेशिक तकनीकी संस्थाओं तथा अन्य विश्वसनीय संस्थाओं के माध्यम से करायी जाएगी। सोशल आडिट प्लान में भारत सरकार द्वारा शत-प्रतिशत वित्तीय सहायता प्रदान की जायेगी। "सबके लिये आवास कार्ययोजना" तैयार करने के लिए भी भारत सरकार द्वारा 75 प्रतिशत तथा राज्य सरकार द्वारा 25 प्रतिशत के आधार पर वित्तपोषण किया जायेगा। केन्द्रीय सहायता 40%, 40% व 20% की तीन किशतों में जारी की जायेगी। इसी अनुपात में राज्यांश भी जारी किया जायेगा। अगली किशत प्राप्त करने के लिए पूर्व में अवमुक्त किशत के 70 प्रतिशत का उपयोगिता प्रमाण-पत्र प्रस्तुत करना होगा। योजना के अन्तर्गत जारी की गयी सहायता को अलग खाते में रखा जायेगा। सबके लिए आवास कार्ययोजना (एच0एफ0ए0पी0ओ0ए0) के आधार पर भारत सरकार से वित्तीय सहायता की अपेक्षाओं को प्रक्षेपित किया जायेगा। प्रदेश सरकार द्वारा प्रत्येक वर्ष वार्षिक कार्यान्वयन योजना (ए0आई0पी0) प्रस्तुत की जायेगी, जिसके आधार पर भारत सरकार द्वारा वार्षिक बजट का निर्धारण किया जाएगा।

10. इस सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि शासन द्वारा लिये गये उपरोक्त निर्णयों के अनुसार समयबद्ध रूप से कार्यवाही सुनिश्चित करने का कष्ट करें तथा कृत कार्यवाही से शासन को भी नियमित रूप से अवगत कराने का कष्ट करें।

भवदीय,
18/3/2018
(श्रीप्रकाश सिंह)
सचिव

संख्या-162-2016/65 (1)/69-1-2016, तदिनांक।

उपरोक्त की एक प्रति निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित की जा रही है:-

- 1- निजी सचिव, मा० मंत्री जी, नगरीय रोजगार एवं गरीबी उन्मूलन कार्यक्रम विभाग, उ०प्र० शासन।
- 2- निजी सचिव, मुख्य सचिव उ०प्र० शासन।
- 3- संयुक्त सचिव(हाउसिंग फार आल) आवास और शहरी गरीबी उपशमन मंत्रालय, निर्माण भवन, नई दिल्ली।
- 4- प्रमुख सचिव, वित्त विभाग, उ०प्र० शासन।
- 5- प्रमुख सचिव, नियोजन विभाग, उ०प्र० शासन।
- 6- प्रमुख सचिव/सचिव, आवास एवं शहरी नियोजन विभाग, उ०प्र० शासन।
- 7- प्रमुख सचिव, समाज कल्याण विभाग, उ०प्र० शासन।
- 8- प्रमुख सचिव, न्याय विभाग, उ०प्र० शासन।
- 9- प्रमुख सचिव, राजस्व विभाग, उ०प्र० शासन।
- 10- प्रमुख सचिव, खाद्य एवं रसद विभाग, उ०प्र० शासन।
- 11- प्रमुख सचिव, लोक निर्माण विभाग, उ०प्र० शासन।
- 12- प्रमुख सचिव, स्टाम्प एवं रजिस्ट्रेशन विभाग, उ०प्र० शासन।
- 13- प्रमुख सचिव, पर्यावरण विभाग, उ०प्र० शासन।
- 14- निदेशक, (हाउसिंग फार आल निदेशालय), भारत सरकार आवास एवं शहरी गरीबी उपशमन मंत्रालय, निर्माण भवन, नई दिल्ली।
- 15- सचिव, नगर विकास विभाग, उ०प्र० शासन।
- 16- समस्त जिलाधिकारी/अध्यक्ष, इडा, उत्तर प्रदेश।
- 17- आवास आयुक्त, उत्तर प्रदेश।
- 18- नगर आयुक्त, समस्त नगर निगम, उत्तर प्रदेश।
- 19- उपाध्यक्ष, समस्त विकास प्राधिकरण, उत्तर प्रदेश।
- 20- निदेशक, स्थानीय निकाय, उत्तर प्रदेश।
- 21- निदेशक, राज्य नगरीय विकास अभिकरण, उत्तर प्रदेश।
- 22- निदेशक, सी०एण्ड डी०एस०, जल निगम, उ०प्र०, लखनऊ।
- 23- निदेशक, आवास बन्धु, उत्तर प्रदेश।
- 24- मुख्य नगर एवं ग्राम नियोजक, उत्तर प्रदेश।
- 25- संयोजक, राज्य स्तरीय बैंकर्स समिति, उत्तर प्रदेश।

आज्ञा से,

(एच०पी० सिंह)

विशेष सचिव।

सं. 14457 मप्र-8716
10-8-2016

संख्या-215/2016/2936/आठ-1-16-08विविध/16टी.सी.

प्रेषक,

सदा कान्त,
प्रमुख सचिव
उत्तर प्रदेश शासन।

AD (Syd)
10/8/16

सेवा में,

1- आवास आयुक्त

उत्तर प्रदेश आवास एवं विकास परिषद,
लखनऊ।

3- अध्यक्ष,

समस्त विशेष क्षेत्र विकास प्राधिकरण,
उत्तर प्रदेश।

2- उपाध्यक्ष

समस्त विकास प्राधिकरण
उत्तर प्रदेश।

4- अध्यक्ष

नियंत्रक प्राधिकारी
समस्त विनियमित क्षेत्र, उत्तर प्रदेश।

आवास एवं शहरी नियोजन अनुभाग-1

लखनऊ : दिनांक : 09 अगस्त, 2016

विषय : प्रदेश में संचालित विभिन्न आवासीय योजनाओं/कार्यक्रमों की केन्द्र पुरोनिधानित "प्रधानमंत्री आवास योजना - सबके लिए आवास (शहरी) मिशन" के साथ "डवटेलिंग" किये जाने के सम्बन्ध में।

महोदय,

भारत सरकार द्वारा "प्रधानमंत्री आवास योजना - सबके लिए आवास (शहरी) मिशन" का शुभारम्भ दिनांक 25.06.2015 को किया गया है। यह मिशन 2022 तक शहरी क्षेत्र के सभी पात्र परिवारों/लाभार्थियों को आवास प्रदान करने के लिए कार्यान्वयन अभिकरणों को केन्द्रीय सहायता प्रदान करेगा। मिशन के अन्तर्गत आर्थिक रूप से कमजोर वर्ग (ई.डब्ल्यू.एस.) रु. 3.00 लाख तक वार्षिक आय वाले परिवार तथा निम्न आय वर्ग (एल.आई.जी.) रु. 3.00 लाख से रु. 6.00 लाख तक की वार्षिक आय वाले परिवारों को लाभान्वित किया जायेगा। भारत सरकार द्वारा इस मिशन के लिए केन्द्रांश 60 प्रतिशत निर्धारित किया गया है, जबकि शेष 40 प्रतिशत व्यय राज्य सरकार द्वारा वहन किया जाएगा। मिशन के निम्न चार घटक हैं :-

(क) ऋण आधारित ब्याज सब्सिडी योजना।

(ख) भूमि का संसाधन के रूप में उपयोग करके "स्वस्थाने" स्लम पुनर्विकास।

(ग) भागीदारी में किफायती आवास (अफोर्डेबल हाउसिंग इन पार्टनरशिप)।

(घ) लाभार्थी आधारित व्यक्तिगत आवास का निर्माण अथवा विस्तार।

2- "प्रधानमंत्री आवास योजना - सबके लिए आवास (शहरी) मिशन" के दिशा-निर्देशों के क्रम में नगरीय रोजगार एवं गरीबी उन्मूलन कार्यक्रम विभाग, उत्तर प्रदेश शासन के शासनादेश संख्या-162/2016/623/69/1/2016-14-139/2015टी.सी. दिनांक 21.3.2016 (छायाप्रति संलग्न) के माध्यम से मिशन के क्रियान्वयन हेतु दिशा-निर्देश जारी किए गए हैं तथा राज्य नगरीय विकास अभिकरण (सूडा) को राज्य स्तरीय "नोडल एजेंसी" नामित किया गया है। मिशन के अन्तर्गत

प्रस्तावित घटकों/योजनाओं का क्रियान्वयन नगरीय रोजगार एवं गरीबी उन्मूलन कार्यक्रम विभाग, उत्तर प्रदेश शासन तथा आवास एवं शहरी नियोजन विभाग, उत्तर प्रदेश शासन के अधीन कार्यरत अभिकरणों के माध्यम से सुनिश्चित कराया जाना है। तत्क्रम में "प्रधानमंत्री आवास योजना - सबके लिए आवास (शहरी) मिशन" के निम्न दो घटकों/योजनाओं को आवास एवं शहरी नियोजन विभाग द्वारा संचालित योजनाओं से सम्बद्ध/डवटेल किया जा सकता है :-

(क) भागीदारी में किफायती आवास (अफोर्डेबल हाउसिंग इन पार्टनरशिप) -

इस घटक के अन्तर्गत आर्थिक रूप से कमजोर वर्गों (ई.डब्ल्यू.एस.) के लिए निजी क्षेत्र की भागीदारी के माध्यम से किफायती आवासों के निर्माण हेतु वित्तीय सहायता उपलब्ध कराई जाएगी। किफायती आवासों की उपलब्धता बढ़ाने हेतु प्रदेश सरकार द्वारा अपनी एजेन्सियों अथवा निजी क्षेत्र के विकासकर्ताओं के साथ भागीदारी से किफायती आवास परियोजनाएं तैयार की जाएंगी। आवासों को किफायती एवं क्रय क्षमता के अनुरूप बनाने के लिए निर्मित भवनों की सीलिंग कास्ट ई.डब्ल्यू.एस. एवं एल.आई.जी. हाउसिंग नीति विषयक शासनादेश दिनांक 05.12.2013 (समय-समय पर यथासंशोधित) के अनुसार होगी तथा विकासकर्ताओं को उक्त शासनादेश के अनुसार निःशुल्क अतिरिक्त एफ.ए.आर. एवं अन्य सुविधाएं अनुमन्य होंगी। किफायती आवास परियोजनाओं में अन्य वर्गों के लिए आवासों का निर्माण सम्मिलित होगा, किन्तु परियोजना इस घटक के अन्तर्गत तभी अनुमोदित की जा सकेगी, जब उसमें न्यूनतम 35 प्रतिशत आवास ई.डब्ल्यू.एस. वर्ग के लिए प्रस्तावित होंगे तथा परियोजना में निर्मित किए जाने वाले आवासों की न्यूनतम संख्या 250 होगी। परियोजनान्तर्गत पात्र लाभार्थियों का चयन राज्य नगरीय विकास अभिकरण (सूडा) द्वारा स्थानीय स्तर पर किया जाएगा तथा आवासों का आवंटन राज्य स्तरीय स्वीकृति एवं निगरानी समिति के अनुमोदन से सम्बन्धित अभिकरण द्वारा किया जाएगा।

इस घटक योजना के अन्तर्गत भारत सरकार द्वारा ई.डब्ल्यू.एस. आवासों के लिए प्रति आवास की केन्द्रीय सहायता उपलब्ध कराई जाएगी। वित्त विभाग, उ.प्र. शासन के शासनादेश दिनांक 09.11.2015 के अनुसार इस योजना में 60 प्रतिशत केन्द्रांश के सापेक्ष 40 प्रतिशत राज्यांश के रूप में प्रदेश सरकार द्वारा सहायता उपलब्ध कराई जाएगी।

(ख) ऋण आधारित ब्याज सब्सिडी योजना -

इस घटक के अन्तर्गत शहरी क्षेत्र के आर्थिक रूप से कमजोर वर्ग (ई.डब्ल्यू.एस.) तथा निम्न आय वर्ग (एल.आई.जी.) के लिए आवास निर्माण हेतु बैंक से लिए गये ऋण के ब्याज पर सब्सिडी दी जाएगी। यह सब्सिडी 6.5 प्रतिशत की दर से 15 वर्ष की अवधि के लिए केन्द्र सरकार द्वारा उपलब्ध कराई जाएगी। ऋण आधारित सब्सिडी केवल रु. 6.0 लाख तक ऋण राशि के लिए होगी। रुपया 6.00 लाख से अधिक का ऋण गैर सब्सिडीकृत दर पर होगा। ऋण आधारित सब्सिडी आवासों का नव निर्माण, कमरों का विस्तार, रसोई, शौचालय आदि के लिए दी जाएगी।

ई.डब्ल्यू.एस. वर्ग के लिए आवास का आकार अधिकतम 30 वर्गमीटर (कारपेट एरिया) तक तथा एल.आई.जी. वर्ग के लिए आवास का अधिकतम 60 वर्गमीटर (कारपेट एरिया) तक होगा। आवास एवं शहरी विकास कारपोरेशन (हडको) और राष्ट्रीय आवास बैंक (एन.एच.बी.) को सब्सिडी के वितरण एवं प्रगति की निगरानी के लिए भारत सरकार द्वारा केन्द्रीय नोडल एजेंसी के रूप में नामित किया गया है। इस घटक के पात्र लाभार्थियों - ई.डब्ल्यू.एस./एल.आई.जी. वर्ग के सत्यापन एवं ऋण प्रार्थना-पत्रों तथा उससे सम्बन्धित दस्तावेजों को तैयार करने हेतु राज्य नगरीय विकास अभिकरण (सूडा) को एजेंसी के रूप में नामित किया गया है। आवास एवं शहरी नियोजन विभाग के अधीन कार्यरत अभिकरण इस योजना का लाभ उठाने के लिए हडको एवं राष्ट्रीय आवास बैंक से समन्वय कर सकते हैं। केन्द्र सरकार की योजना होने के कारण राज्य सरकार से इसमें कोई अंशदान अपेक्षित नहीं है।

3. प्रदेश में शहरी निर्धनों को आर्थिक क्षमतानुसार आवास की सुविधा उपलब्ध कराने हेतु आवास एवं शहरी नियोजन विभाग, उ.प्र. शासन द्वारा संचालित योजनाओं के अन्तर्गत केन्द्र पुरोनिधानित "भागीदारी में किफायती आवास तथा ऋण आधारित ब्याज सब्सिडी योजना" से "डवटेलिंग" करते हुए कार्यदायी संस्थाओं/निजी विकासकर्ताओं द्वारा केन्द्रीय अनुदान का लाभ प्राप्त किया जा सकता है। उ.प्र. शासन के आवास एवं शहरी नियोजन विभाग द्वारा संचालित 'सबके लिए आवास', निजी क्षेत्र के अन्तर्गत विकसित परियोजनाओं में अनिवार्य ई.डब्ल्यू.एस. एवं एल.आई.जी. के निर्माण तथा अफोर्डेबल हाउसिंग के अन्तर्गत की जा रही परियोजनाओं को इस मिशन से सम्बद्ध किया जा सकता है।

4. भागीदारी में किफायती आवास घटक 'डवटेलिंग' के अनुमोदन हेतु सम्बन्धित अभिकरण/विकासकर्ता द्वारा यदि योजना नगर निगम/नगर पालिका क्षेत्र के अन्तर्गत है, तो सूडा के माध्यम से तथा अन्य समस्त क्षेत्रों से सम्बन्धित योजनाओं को निदेशक, आवास बन्धु के माध्यम से नगरीय रोजगार एवं गरीबी उन्मूलन कार्यक्रम विभाग के शासनादेश संख्या-162/2016/623/69-1-2016-14(139)/2015टी.सी., दिनांक 21.03.2016 में निर्धारित प्रक्रियानुसार राज्य स्तरीय मूल्यांकन समिति को प्रस्तुत किया जाएगा। राज्य स्तरीय मूल्यांकन समिति अपनी मूल्यांकन रिपोर्ट टिप्पणियों और संस्तुतियों सहित मुख्य सचिव, उत्तर प्रदेश शासन की अध्यक्षता में गठित राज्य स्तरीय स्वीकृति की निगरानी समिति को प्रस्तुत करेगी। केन्द्र पुरोनिधानित योजनाओं से 'डवटेलिंग' हेतु प्रस्तावित योजनाओं को केन्द्रीय अनुदान एवं राज्यांश के रूप में वित्तीय सहायता नगरीय रोजगार एवं गरीबी उन्मूलन कार्यक्रम विभाग, उत्तर प्रदेश शासन के शासनादेश दिनांक 21.3.2016 में निर्धारित प्रक्रिया एवं शर्तों के अनुसार उपलब्ध होगी।

5. उपरोक्त के क्रम में मुझे यह कहने का निदेश हुआ है कि आवास एवं विकास परिषद, विकास प्राधिकरणों, विशेष क्षेत्र विकास प्राधिकरणों, विनियमित क्षेत्रों के नियंत्रक प्राधिकारियों तथा निजी क्षेत्र के विकासकर्ताओं द्वारा आवास एवं शहरी नियोजन विभाग के अधीन संचालित विभिन्न आवासीय योजनाओं/कार्यक्रमों के अन्तर्गत निर्मित किए जाने वाले ई.डब्ल्यू.एस. एवं एल.आई.जी. भवनों की "प्रधानमंत्री आवास योजना - सबके लिए आवास (शहरी) मिशन" के

दिशा-निर्देशों के अनुसार "डवटेलिंग" करते हुए योजनाओं का क्रियान्वयन सुनिश्चित करने का कष्ट करें, जिससे कि उक्त मिशन का प्रदेश के शहरी निर्धनों को अधिक से अधिक लाभ प्राप्त हो सके।

संलग्नक - उपरोक्तानुसार।

भवदीय,

सदा कान्त
प्रमुख सचिव

संख्या-215/2016/2936(1)/आठ-1-2016, तद्दिनांक।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. अध्यक्ष, समस्त विकास प्राधिकरण, उ.प्र.।
2. अध्यक्ष, आवास बन्धु, उत्तर प्रदेश।
3. सचिव, आवास एवं शहरी नियोजन विभाग, उत्तर प्रदेश शासन।
4. सचिव, नगरीय रोजगार एवं गरीबी उन्मूलन कार्यक्रम विभाग, उत्तर प्रदेश शासन।
5. निदेशक, राज्य नगरीय विकास अभिकरण (सूडा)।
6. अधिशासी निदेशक, आवास बन्धु, उ.प्र.।
7. अध्यक्ष, क्रेडाई, उत्तर प्रदेश।
8. मुख्य नगर एवं ग्राम नियोजक, नगर एवं ग्राम नियोजन विभाग, उ.प्र.।
9. समस्त विशेष सचिव, आवास एवं शहरी नियोजन विभाग, उ.प्र. शासन।
10. समस्त अनुभाग अधिकारी, आवास एवं शहरी नियोजन विभाग, उ.प्र. शासन।
- ✓ 11. निदेशक, आवास बन्धु, उ.प्र. को इस आशय से प्रेषित कि इस शासनादेश को समस्त सम्बन्धितों को अपने स्तर से उपलब्ध कराते हुए इसे आवास एवं शहरी नियोजन विभाग की वेबसाईट पर तत्काल अपलोड कराना सुनिश्चित करें।
12. गार्ड बुक।

आज्ञा से,

शिव जनम चौधरी
विशेष सचिव

सं 1446/अ.वे-1/6
10/8/2016

संख्या-216/2016/2937/आठ-1-16-08विविध/16टी.सी.

प्रेषक,

सदा कान्त,

प्रमुख सचिव

उत्तर प्रदेश शासन।

सेवा में,

1- आवास आयुक्त

उत्तर प्रदेश आवास एवं विकास परिषद,
लखनऊ।

2- अध्यक्ष,

समस्त विशेष क्षेत्र विकास प्राधिकरण,
उत्तर प्रदेश।

2- उपाध्यक्ष

समस्त विकास प्राधिकरण
उत्तर प्रदेश।

4- अध्यक्ष

नियंत्रक प्राधिकारी
समस्त विनियमित क्षेत्र, उत्तर प्रदेश।

आवास एवं शहरी नियोजन अनुभाग-1

लखनऊ : दिनांक : 09 अगस्त, 2016

विषय : "प्रधानमंत्री आवास योजना - सबके लिए आवास (शहरी) मिशन" के घटक 'ख' - "भूमि का संसाधन के रूप में उपयोग करके "स्वस्थाने" स्लम पुनर्विकास" के क्रियान्वयन के सम्बन्ध में।

महोदय,

भारत सरकार द्वारा "प्रधानमंत्री आवास योजना - सबके लिए आवास (शहरी) मिशन" का शुभारम्भ दिनांक 25.06.2015 को किया गया है। यह मिशन 2022 तक शहरी क्षेत्र के सभी पात्र परिवारों/लाभार्थियों को आवास प्रदान करने के लिए कार्यान्वयन अभिकरणों को केन्द्रीय सहायता प्रदान करेगा। मिशन के अन्तर्गत आर्थिक रूप से कमजोर वर्ग (ई.डब्ल्यू.एस.) तथा निम्न आय वर्ग (एल.आई.जी.) के परिवारों को लाभान्वित किया जायेगा। आर्थिक रूप से कमजोर (ई.डब्ल्यू.एस.) रु. 3.00 लाख तक वार्षिक आय वर्ग वाले परिवार माने जायेंगे तथा निम्न आय वर्ग (एल.आई.जी.) रु. 3.00 लाख से 6.00 लाख तक की वार्षिक आय वर्ग वाले परिवार माने जायेंगे। मिशन का उद्देश्य आधारभूत सिविक अवस्थापना सहित 30 वर्गमीटर के कारपेट एरिया तक के आवासों के निर्माण में सहायता प्रदान करना है। निर्मित आवासों का न्यूनतम आकार राष्ट्रीय भवन संहिता (एन.बी.सी.) में प्रदान किए गए मानकों के अनुरूप होगा।

2- भारत सरकार द्वारा "प्रधानमंत्री आवास योजना - सबके लिए आवास (शहरी) मिशन" हेतु जारी गाईडलाइन्स में मिशन को 4 घटकों में निम्नवत विभाजित किया गया है :-

(क) ऋण आधारित ब्याज सब्सिडी योजना।

(ख) भूमि का संसाधन के रूप में उपयोग करके "स्वस्थाने" स्लम पुनर्विकास।

(ग) भागीदारी में किफायती आवास (ए.एच.पी.)।

(घ) लाभार्थी आधारित व्यक्तिगत आवास का निर्माण अथवा विस्तार।

3- मिशन के घटक "ख" - "भूमि का संसाधन के रूप में उपयोग करके "स्वस्थाने" स्लम का विकास" का उद्देश्य स्लम से आच्छादित भूमि के पोटेन्शियल का उपयोग संसाधन के रूप में

करते हुए पात्र स्लम आवासी को आवास उपलब्ध कराना है। भारत सरकार द्वारा जारी गाईडलाइन्स के विभिन्न घटकों के क्रम में आवास एवं शहरी नियोजन विभाग से सम्बन्धित अभिकरणों के स्तर पर उनके कार्य क्षेत्र में पड़ने वाले ऐसे स्लम जिनकी भूमि का स्वामित्व सम्बन्धित अभिकरण के अन्तर्गत निहित हो, पर इस घटक के अन्तर्गत परियोजनायें बनायी जा सकती हैं, जिन पर मिशन की गाईड-लाइन्स में उल्लिखित विभिन्न मदों यथा - एफ.ए.आर. में वृद्धि/टी.डी.आर. दिये जाने, भू-प्रयोग परिवर्तन की देयता के सम्बन्ध एवं भूखण्डों के अमलगमेशन इत्यादि पर केस-टू-केस के आधार पर छूट दिये जाने पर शासन द्वारा विचार किया गया।

इस सम्बन्ध में मुझे यह कहने का निदेश हुआ है कि आवास एवं शहरी नियोजन विभाग के अधीनस्थ अभिकरण अपने कार्य क्षेत्र में पड़ने वाले विभिन्न स्लमों को "प्रधानमंत्री आवास योजना - सबके लिए आवास (शहरी) मिशन" के घटक 'ख' - "भूमि का संसाधन के रूप में उपयोग करके "स्वस्थाने" स्लम पुनर्विकास" की गाइड लाइन के अनुसार परियोजनाएं प्रस्तुत करें।

भवदीय,

सदा कान्त
प्रमुख सचिव

संख्या-216/2016/2937(1)/आठ-1-2016, तददिनांक।

उपर्युक्त की प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. अध्यक्ष, समस्त विकास प्राधिकरण, उ.प्र.।
2. अध्यक्ष, आवास बन्धु, उत्तर प्रदेश।
3. सचिव, आवास एवं शहरी नियोजन विभाग, उत्तर प्रदेश शासन।
4. सचिव, नगरीय रोजगार एवं गरीबी उन्मूलन कार्यक्रम विभाग, उत्तर प्रदेश शासन।
5. निदेशक, राज्य नगरीय विकास अभिकरण (सूडा)।
6. अधिशासी निदेशक, आवास बन्धु, उ.प्र.।
7. अध्यक्ष, क्रेडाई, उत्तर प्रदेश।
8. मुख्य नगर एवं ग्राम नियोजक, नगर एवं ग्राम नियोजन विभाग, उ.प्र.।
9. समस्त विशेष सचिव, आवास एवं शहरी नियोजन विभाग, उ.प्र. शासन।
10. समस्त अनुभाग अधिकारी, आवास एवं शहरी नियोजन विभाग, उ.प्र. शासन।
11. निदेशक, आवास बन्धु, उ.प्र. को इस आशय से प्रेषित कि इस शासनादेश को समस्त सम्बन्धितों को अपने स्तर से उपलब्ध कराते हुए इसे आवास एवं शहरी नियोजन विभाग की वेबसाईट पर तत्काल अपलोड कराना सुनिश्चित करें।
12. गार्ड बुक।

आज्ञा से,

शिव जनम चौधरी
विशेष सचिव