

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

January 25th, 2010

To
The Registrar
Supreme Court of India
New Delhi.

Subject: Right to life of urban homeless people.

Dear Sir,

The Commissioners of the Supreme Court had brought to the notice of the Hon'ble Supreme Court vide letter dated 13th January 2010 the appalling conditions of severe denials of the right to food and shelter of people living on the streets in Delhi, especially in the current context of extreme cold weather, which constituted a threat to their fundamental right to life. The Hon'ble Supreme Court had taken urgent notice of this matter and directed the Government of Delhi to immediately provide shelter to all those without shelter. Further, it was directed that these shelters must provide basic amenities such as blankets, water and mobile toilets.

In this letter, we would like to update briefly the Supreme Court on the steps taken by the Government of Delhi since the last order, and to elaborate further on our suggestions regarding steps that are imperative to safeguard the right to food and life of homeless people.

We would like to reiterate that, as mentioned in our previous letter, severe malnutrition and hunger are the underlying causes making people susceptible to extreme weather conditions. It is therefore important that steps such as issuing AAY ration cards and setting up community kitchens must also be undertaken with urgency. The Delhi High Court is seized of the issue of shelters for Delhi, and has issued appropriate instructions. However, these concerns regarding the well-being of homeless people are as relevant to people living on the streets in other cities in the country, several of which are also reeling under severe cold conditions like Delhi. Moreover, whereas winter is a period of severest crisis for homeless people, in that it is directly life-threatening, all seasons pose threats to homeless people, especially the rainfall. Even in other times, homeless people are subject to continuous violence and abuse. Finally, living in the open is a gross denial of the right to live *with*

dignity. Therefore similar directions need to be passed addressing the entire country, to defend and uphold the right to life with dignity, and the rights to food and shelter of all urban homeless men, women and children across the country.

1. Update on Shelters for Urban Homeless in Delhi

Pursuant to the order dated 20th January 2010, the Delhi government announced on 21 January 2010 that 37 temporary night shelters have been set up across the city to house 5000 homeless people. In addition, the Delhi government has reportedly made arrangements to open seven new shelters to house an additional 500 people¹. The Delhi government has thus opened forty two new temporary shelters to house 5500 people. With this, the total number of homeless shelters in Delhi is 76 (17 permanent and 58 temporary) with a capacity for 8900 men and 460 women², apart from shelter homes for street children with an officially stated capacity of about 2500³. Our conservative estimates for Delhi of the numbers of homeless men is 76,563, homeless women is 4164, and homeless children is 7568 (IGSSS: 2009, See Annexure 1)⁴. **This means that even with these welcome additions, only 13 percent of the homeless are covered by shelters in the winter.** If we take the less conservative estimate of homeless populations of 150,000 to which the Commissioners subscribe as more realistic, then the percentage of homeless people now covered goes down further to around 7 percent. The Commissioners of the Supreme Court conducted a rapid assessment survey of the 37 new shelters started by the MCD as an appraisal of the adequacy of the government's response. The following have been the main findings of the same:

- 1) **Actual existence of the shelter:** In some cases, the shelter is not yet opened to the people. E.g. in one shelter at Kashmiri Gate, the army is being housed in the shelter until 26th January and it shall be opened to homeless people, only once it is vacated by them.
- 2) **Capacity of the shelters:** On an average, most shelters have been projected to have a capacity of about 130-150 people. Yet, it was found that in actuality each of these were able to house only about 50 – 70 people on an average i.e. the overall capacity of these 37 shelters are only about 2200-2400 people as against the gross overestimation of 5000 people.
- 3) **Physical condition of the structure:** Almost all of the 37 shelters are MCD community halls located in buildings. A large signboard stating '*rain basera*' was found in front of all

¹ The Times of India (22 January 2010) *Abandoned building spruced up* Available from:

<http://timesofindia.indiatimes.com/city/delhi/Abandoned-building-spruced-up/articleshow/5486376.cms>

² Including capacity figures projected by old and new permanent and temporary shelters

³ Department of WCD *Childrens Homes List* Available from: <http://cwc.wcdel.in/ChildrenHomeList.aspx>

⁴ IGSSS (unpublished) *The Known Unknown: A Study of the Homeless people in Delhi*, See Annexure 1

the shelters. Due to the same, the existing physical infrastructure has the potential to provide for additional facilities such as parking facilities for rickshaw pullers and vendors.

4) Facilities:

- a) Blankets: On an average, about 35 sets of blankets and durries have been dispatched at each centre. All the sets are new, neat and clean, but inadequate for the capacity projected for each shelter.
- b) Toilets: Since all the shelters are housed in community halls, each of the shelters on an average had about 2 toilets with urinals plus one separate bathroom. This is extremely inadequate for the projected capacity. However, most of the toilets still did not have a water connection. Mobile toilets at each of the shelters in extremely necessary.
- c) Lights: Electricity connections were supplied to all the shelters. There were sufficient lights inside the hall and in the toilets and bathrooms.
- d) Drinking Water: Drinking water had not yet been supplied to all shelters, the staff were making do with tap water. Water jugs were not present at all shelters and the staff informed that it was to be provided in the next two days.

At the same time we would like to bring it to the notice of the Supreme Court that people living on the streets will continue to need shelter even after the winter. Therefore, while immediately making a provision for temporary shelters to protect the people from the cold wave, over a longer period of time arrangements must be made for permanent shelters for the urban homeless for all cities. **All of the 37 above shelters are located in permanent buildings and should start functioning as permanent 24 hour shelters.**

The Delhi Master Plan makes a provision for one night shelter per 1 lakh population in Delhi, and therefore there is a requirement of at least 150 night shelters in the city of Delhi. The Delhi High Court is well seized of this issue, and has passed rulings to establish these shelters in a time bound manner. We propose that all state governments be directed to establish well-equipped shelters for the urban homeless at least in the ratio of one per lakh of population in every urban centre, within one year.

Further, while most of the homeless people are single men, there are families, single women and children without adult protection living on the streets of Delhi. The 1991 Census found 1 woman for almost 9 homeless men. A more recent study by IGSSS (reported attached as

Annexure 1) found that of the 88,410 homeless populations counted, 4164 were women and 7568 were children. Therefore **there is a need for special shelters for single women, homeless families, disabled and aged, mentally challenged, and recovery shelters for homeless patients. 30% of the shelters opened in every city should be especially reserved for these groups.**

As a basic feature of city planning, the 1990 Master Plan of the Delhi government clearly outlines a shelter: 'Shelter (as defined) is space, sufficient for household activities, physical-infrastructure with water, electricity, liquid and solid waste disposal, social infrastructure, education, health, recreational and other facilities, location in relation to transportation to the work place and education and other facilities'.

A study on the quality of the existing shelters for the homeless in Delhi conducted by the Tata Institute of Social Studies (reported attached in Annexure 2) found that most shelters were running out of existing buildings that were constructed for other purposes such as marriage halls, community halls etc. and therefore were not designed to meet the needs of a shelter. While in three shelters there were no toilet facilities available even in the rest they were not clean and there was not enough water. There were no clean beddings in any of the shelters as the contract for beddings had not been finalised by the government. Almost half the centres did not have the facilities for adequate and clean drinking waters. Other facilities like lockers etc. were also not available anywhere. Lockers are of vital importance for the urban poor, because they have no place in the world to store their belongings and savings, and literally have to live only with the clothes on their backs. The quality of the few shelters that exist is therefore very poor, with minimal facilities which do not meet the requirements of the homeless and is one of the main reasons for the underutilisation of the existing shelters⁵. **Some shelters are sub-human, barely better than being on the streets. Permanent shelters must be provided for the homeless with minimum facilities such as toilets, drinking water, bedding, lockers etc. being available.** Further the rules in the shelters must be flexible to suit the requirements of the homeless people such as being open till late in the night and also all day to facilitate use by homeless people who have night jobs.

2. Situation of Urban Homeless Across the Country

All the issues raised above (and in our previous letter dated 13 January 2010) in the context of Delhi are also applicable to homeless people in other cities and towns across the country.

⁵ This was also a finding of the IGSSS study, see Annexure 1

Further, the response of the governments in all Indian cities to the needs of homeless people is woefully inadequate. For instance, while it is estimated that there are about 20000 homeless people in Lucknow, the city has only 8 temporary shelters and 1 permanent shelter. There are NO shelters in Mumbai or Patna. On the other hand about 450 deaths in Uttar Pradesh, 40 deaths in Bihar and 30 deaths in Jharkhand have been reported this winter season⁶.

The issue of homeless people was also raised in our 8th report to the Supreme Court, where we state, "... our field studies confirm distressingly that large numbers of the most vulnerable women and men, boys and girls in the country, are uncovered or inadequately covered by any government food schemes. An estimated eighty to two hundred million still sleep hungry every night." It is indeed about these excluded and hungry people that the Supreme Court in its earlier order expressed deep worry:

'...it is a matter of concern for all. In our opinion, what is of utmost importance is to see that food is provided to the aged, infirm, disabled, destitute women, destitute men who are in danger of starvation, pregnant and lactating women and destitute children, especially in cases where they or members of their family do not have sufficient funds to provide food for them. In case of famine, there may be shortage of food, but here the situation is that amongst plenty there is scarcity. Plenty of food is available, but distribution of the same amongst the very poor and the destitute is scarce and non-existent leading to mal-nourishment, starvation and other related problems'. (Order dated 23rd July 2001, CWP 196/2001)

It is important therefore that all state governments be directed to build shelters for the urban homeless, in sufficient numbers and with appropriate facilities to enable them to enjoy their right to life with dignity.

3. Access to Food for the Homeless

As mentioned in our previous letter in spite of repeated reminders from the Supreme Court Commissioners, the Government of Delhi is yet to distribute ration cards to homeless people in Delhi for nearly 3 years after these directions. The Commissioners had directed the Delhi state government in its letter dated March 2007 to cover all homeless populations by AAY cards in six months from the date of instruction. The Delhi government decided in the deliberations of the cabinet that the homeless families would be identified among the

⁶ The Times of India (22nd January 2010) *500 dead and still counting* Available from: <http://lite.epaper.timesofindia.com/mobile.aspx?article=yes&pageid=17&edlabel=CAP&mydateHid=22-01-2010&pubname=&edname=&articleid=Ar01700&format=&publabel=TOI>

poorest of the poor, or Antyodaya. In compliance with these decisions and instructions, the Commissioner of Food and Civil Supplies, Government of Delhi, undertook with the help of civil society organisations a massive survey over the seven months of homeless families in many corners of the city. Up to now, it completed the survey of around 15,000 urban homeless families. While some of these people were symbolically given ration cards by the Chief Minister in a public function on August 15th, 2009, none of them have yet been able to lift any rations using these cards. Further, most of those identified by the survey are yet to even receive ration cards. **AAIY ration cards must be distributed to the 15,000 homeless families who have already been identified and further survey must be conducted to ensure that all the homeless people in Delhi are given ration cards, within a maximum period of three months.**

The Government of Delhi has stated that the ration cards given to homeless people will be valid only for 3 months, after which it can be renewed based on verification. This is very impractical and will cause great difficulty to not only the homeless people but also the administration to carry out a verification process every three months. Further it has been seen that homeless populations are not a transient and temporary category. In fact, a study ('Living Rough' by the Centre for Equity Studies) conducted for the Planning Commission confirmed that a sizeable number of homeless people, almost 60%, have lived in the city for more than ten years (See Annexure 3 for a copy of this report). Therefore, homelessness is not a short term phenomenon that people deal with, and in fact, contrary to popular perception, people stay on in the city for long periods even under these precarious conditions. **The ration cards for homeless people should therefore be valid for a period of at least 5 years, like all other ration cards.**

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

issued ration cards. Such orders must be issued across the country and the **benefits of all schemes extended to cover all homeless people.**

It is therefore the strong recommendation of the Commissioners that all state governments in India should ensure that all rural and urban homeless people in the country should be given AAY ration cards within a maximum of 6 months of this order.

4. Community Kitchens

Homeless populations in cities consistently face the anxiety of attempting to access at least one affordable meal every day. Being rendered houseless, also implies that these populations are mostly unable to even cook and organize food for themselves. In our research with homeless populations, we found that most earning homeless populations are forced to spend about 30% of their daily income to purchase two square meals a day (Rs. 30 is the cheapest meal available of about four rotis, 1 vegetable and rice). Most of the cheap food usually available to homeless people is unhygienic and nutritionally inappropriate, which severely endangers their health, giving them frequent bouts of gastroenteritis and food poisoning as also high blood pressure and cholesterol due to the high calorie and fatty contents of the food, apart from low nutritional standards.

The government of Delhi initiated programme 'Aapki Rasoi' serves a nutritious balanced meal for the homeless people at about 13 distribution centres across the city. This is a laudable initiative. However, **this caters to only about 5% of the homeless.** One of the most urgent demands from the homeless is for community kitchens that supply **low-cost nutritious and hygienic hot cooked meals.**

Community kitchens (known as 'soup kitchens' in western countries) constitute an integral part of the urban landscape in many modern cities across the world. There are significant models of such initiatives even within India such as the Hamal Panchayat trade union run Kashtachi Bhakar in Pune, the Annapurna Dal Bhat Yojana (meal for five rupees for the poor) by the Chhattisgarh government and so on. Such a model has the potential to become the most important intervention to raise the nutrition status of urban homeless women, men and children, and would also free a lot of their current daily incomes which they are forced to invest in relatively expensive street food which is typically sadly low on nutrition and hygiene.

Affordable and nutritious food for the earning able bodied homeless population and free food for destitute populations such as the old, infirm and disabled, who are unable to

earn any income should be set up by the government. It is estimated that Delhi would require 500 community kitchens where affordable nutritious food is available and a further 100 kitchens which serve free food to the destitute.

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

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

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

5. Street Children

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

In our 8th Report to the Supreme Court (copy of relevant portions of the report in Annexure 4) we have pointed out that street children form a significant component of homeless people with some reports estimating the figure at 18 million. For street children we have recommended the setting up of residential homes by converging the Sarva Shiksha Abhiyan

with the Women and Child Development Department's night shelter programmes for hostels for street kids. The Delhi Government has already begun implementing as a **pilot project, four residential schools in Delhi** and this project has been successfully implemented for the last 3 years. Many such homes are needed across Delhi to reach out to all the street children in the city. **We estimate that 300 such residential schools would be required in Delhi. We propose that all state governments be directed to open at least one high-quality residential school for homeless street boys and girls, on the lines of Kasturba Gandhi Vidyalayas for every 50,000 of urban population.**

5. Deaths of Homeless People

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

Directions Sought

To ensure state accountability for the food and shelter rights of the homeless people in the state of Delhi and across the country, we recommend that the following orders be issued:

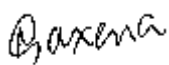
1. Direct all state governments/UTs in India to build shelters for the urban homeless, with appropriate facilities, to enable them to enjoy their fundamental right to life with dignity. The shelters must be adequate in numbers, in the ratio of at least one per lakh of population in every urban centre, by December 31st, 2010. All shelters for homeless people should be functional all through the year, and not as a seasonal facility only during the winters. Many occupants are engaged in work during the nights (e.g. headloaders), and thus seek shelters during the day. Therefore, entry to the shelters should be open to homeless all through the day and night. The shelter should at minimum provide for basic facilities such as beds and bedding, toilets,

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drinking water, lockers, first aid, lockers and recreation facilities. The strength per shelter should be a minimum of 100 occupants.

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

Sincerely,



Dr. N. C. Saxena



Harsh Mander