



# The Struggle For Right To Shelter Of Slum Dwellers In India

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Abstract: Food, clothing and shelter (roti, kapda aur makan) are the three most basic needs of every human being that exists and these needs are from time immemorial. Right to shelter is a basic human right that helps houseless citizen gets a secured living structure along with access to basic amenities. Right to shelter does not just means being provided with a structure, it also means the structure is in safe and livable condition where one can have access to basic amenities and grow his life and family; in short, a life with dignity. This shelter issue is not just a debatable topic in India but throughout the globe. Right to shelter is a fundamental right of any human, the most basic need of any man or woman existing. The low wage group or economically weaker section of people dream so too but making it a reality is a struggle for them. Slum dwellers come in this group and they are amongst the most vulnerable members of our society. Recognition of their basic fundamental right relating to shelter and livelihood is done by the judiciary but there always exists some disparity that keeps on violating their rights time and again. Until a strong help from the legislative is not received they will continue struggling for their rights with their hopes intact. This paper deals with the struggles in accessing the basic human rights and the suggestions that can contribute in ways to help the slum dwellers get access to and enjoy this right.

Key words: slum, slum dwellers, right to shelter, slum development

## I. INTRODUCTION

Right to shelter is a basic human right which is available to all individuals irrespective of geographical location. Some unfortunate people are not able to access this right, but that does not mean that the right becomes obsolete. It becomes the duty of the state to fulfill this right of the people so that the basic dignity of a human is maintained irrespective of economical status. Recognizing the right to shelter also means recognizing the rights that come along with it that help in the development of individual, society and state in general.

Guaranteed under the Constitution, right to shelter is a fundamental right in India. Here shelter does not means just building but rather a safe and decent living infrastructure which provides opportunity to develop in terms of life and livelihood and where one can start and raise a family. This comes along with many other rights like right to clean and healthy environment, right to education, right to access healthcare facilities and basic amenities like electricity, safe and drinkable water and access to job opportunities. Failure of this leads to formation of slum and living life on streets like a pavement dweller.

## II. RESEARCH METHODOLOGY

For this study, the doctrinal technique is utilized. This involved conducting an in-depth investigation of both primary and secondary data sources available. In addition to determining the violation of slum dwellers right to shelter, it also provides various ways to ensure the rights are protected instead of being violated. The Article shall also talk about some landmark cases from the Supreme Court and different High Courts regarding right to shelter.

### III. BACKGROUND

Initially a British slang for a place of low reputation in a cheaper and less visited part of the town, slum is now known as an unhygienic and unlivable area where only the poor live. The movies have portrayed a terrible and negative picture of slum in a way that people forget that the daily helps that is their lives come from this smelly corner. Since not everyone is born with the same economical circumstance they make do with whatever is presented to them with a hope for better future. With high prices of decent residential properties, these people often resort to whatever cheap alternative they can get. In urban areas these are heavily populated makeshift settlements of poorly constructed houses. Dharavi a slum in Maharashtra with a population of nearly a million people residing, is one of the biggest slums of India and caters to more than half of the daily unappreciated needs of Mumbai. In rural areas we see multiple makeshift settlements similar to one in the city and also houses made from mud and straws, since they are frequently available in the rural part of less. These slums are formed from cheap and makeshift materials on land that do not belong to them. In some developed countries that USA England they are poorly constructed house stacked like matchstick boxes in cheaper areas of the cities whose most is to generate income.

Slum is a predominantly modern phenomenon emerging from industrial revolution. People started moving places for better job opportunities. The cities have plenty of employment opportunities but lack in providing housing, setting a chain of people to come to urban areas and settling in whatever small rooms they could find. People were displaced for factors like urbanization, wars, disasters which added to the shelter shortage, since mostly the areas of opportunity for better livelihood were the town or industrial zone. The displaced flocked in large numbers competing for houses and settling in whatever they could get their hands on. The serious neglect towards urban planning led to overcrowded alleys and apartments, which made it to become less hygienic and breeding ground for diseases. In India, colonialism and industrialization brought plenty of opportunities. However, the growth in opportunities was strictly limited to cities only. Since there wasn't enough accommodation people started living in makeshift settlements commonly known as "jhopari", a number of jhopris together was called "basti". The partition of 1947 also added to massive population movement who was already deep in need of job and money. This overflow of people was not handled well by the available infrastructure leading to the growth of multiple slums.

Housing in urban is often poorly constructed small rooms or houses tagged or bunched together or informal makeshift settlements made from tents, cardboards or plastic sheets. In rural areas the similar construction of housing can be seen alongside mud houses or straw houses.

There is limited space in housing but higher number of people to reside making it uncomfortable living condition. Overcrowding leads to unsanitary conditions. Lack of basic services is not just limited to access to clean water, electricity and sanitation. There also exists poor infrastructure, inadequate drainage system and no waste management system. There are either no roads or poorly paved roads.

In urban areas poverty can be seen in the slums but they also have some sort of job to keep up with the life. In rural area however there is higher association of poverty sometimes leaving them to beg for food.

Political Outline:

The emergence of slum is because of multiple reasons, some of which are poor urban planning, inadequate housing availability, corruption, weakness in implementation of laws, schemes made for the vulnerable ones by the governance body and poor funding. Politicians use slum dwellers to their advantage since they form a good chunk of the vote bank. Wars or political instability also leads to the uprising of slum.

Social Layout:

There is lack of facilities namely healthcare, sanitation, education and some other basic necessity is like drinkable water and electricity that poses challenge. Women and girls are more prone to harassment and violent, children are more prone to malnourishment and elders are more prone to neglect and abuse. There exist discrimination in the name of religion and language that largely creates exclusion among slum dwellers. These are the reasons of multiple makeshift settlements. However there still exist desire for housing that fosters community feeling and compassion for each other's struggle for a better life.

Economic structure:

The residents of slum have a low paying job often informal in nature with no job security. With high property or land prices, a house of one's own is a distant dream. The priority of basic immediate needs leaves little to know money for saving or investing in house. Since there is limited access to formal jobs and no job security there exist economic vulnerability among the inhabitants of slum. Affordable housing scheme development programmes and financial assistance programs help with the economic security of slum inhabitant to a certain degree.

### Cultural scenario:

The cultural landscape of slum is rich and divers. People have moved from regions far and have settled in slum, bringing along their traditions and practices. There exist people of various ethnicities, religions and background, here culture becomes a binding factor for all and also provides them with belongingness and solace during bitter days. Recognizing and respecting cultural diversity becomes extremely important in such places. Some culturally practiced gender roles might create limitation. Sometimes cultural differences also might lead to fights within the slum.

### Demography of the slum:

Youth make the majority of population of the slum as they come to city for better opportunity. Children and elderly are quiet the neglected ones. Woman and girls remain the most vulnerable one in the slum with inadequate sanitation, less opportunities and confined to small and crammed home where they are often subjected to violence. The transgender persons residing here in slum have no better fate and are socially excluded. There exist multi generation of families packed in small room. These alleys houses people who work as domestic workers, street vendors, transport workers, construction laborers, waste pickers, mechanic, and casual laborer. Some also work as owners of small businesses like foods, beauty parlor, mobile phone repair shop, small garage anything that caters to community need.

### Present Situation

The shelters in slum provides little to no protection and are friends with diseases. Limited access to education and jobs often create economic distress which often leads to depression. Since some people live on the lands of others, the fear of eviction is quite frequent as it threatens people stability. Women and girls face additional inconvenience due to lack of privacy sanitation and opportunity.

People from slums are the main source of cheap labor benefiting the informal economy by their goods and services. Slums provide cheap housing options that help the low income families or individuals to hide their head.

Diversity in slum, help foster community supported networks, giving out a sense of belongingness and remarkable adaptability in finding solutions to the daily challenges they face. They are close to the urban areas which help them in accessing health care, transportation, education and other essential services.

However cheap the house is, it is still inadequate to live in which lacks basic services like clean water, sanitation and school of diseases.

There is discrimination due to a person being from slums that forms exclusion from the other part of this society. Slums also lack formal job opportunities.

Slums have high violence and crime rate with generous use of drugs and narcotic substances by the peoples. Gang activities are predominantly found there due to inadequate implementation of law in the alleys. Slums contribute to the deterioration of environment with high amount of pollution and health related problems.

At present homelessness has become the major reason for the massive increase in slum formation as slums settlements do not require much legal formalities or any documentation. Following are some reasons that create a situation of homelessness and assist in formation of slums.

- There are not many affordable housing options available. In addition to that the house must be in a livable condition which is often bargained in terms of lower income. Moving from rural to urban areas where housing prices are sky rocketing day by day leaves them unable to afford living houses and forces them towards slum establishments or forces them to live and sleep in public places which is vulnerable to begin with.
- Job losses or pay cut make maintaining house difficult as it is not just about rent but also gas, electricity, water that is needed for a decent life. Eviction or foreclosure property also leaves people homeless.
- People often leave their houses to move away due to domestic violence, civil war, unlivable habitat or being in the midst of a natural calamity which makes them homeless.
- Individual sometimes can face discrimination in terms of race, religion, gender, sexual identity or any other social stigma where they are not let to hold houses.
- Large scale displacement due to developmental projects without proper rehabilitation and resettlement leaves people without any shelter. There is also disaster induced displacement which is inevitable.
- People grow old from orphanages or foster homes which results in them having to move out of that place. If they are not financially capable to survive they stay homeless and live either in the slums or in the pavement.



- During Covid-19 Pandemic, the homeless were the most vulnerable once who experienced it the worst with the lack of adequate health care facilities coupled with the loss of livelihood, it hit even harder. In India the lockdown resulted in loss of livelihood for the poor and homeless which forced them to move to other areas particularly to rural regions. Since there was a risk of catching the virus through mingling this movement from place to place added risk to plenty and had to face severe health related issues at temporary shelters like schools which was set up to facilitate them. The job industries saw a large number of layoffs cutting their source of income which helped pay rent.

#### IV. JUDICIAL INTERPRETATIONS

- *Olga Tellis v. Bombay Municipal Corporation* 1985<sup>1</sup>: The eviction of slum dwellers without due notice and adequate rehabilitation violates person's fundamental right. Eviction would not just deprive them of shelter but also of livelihood which harms their survival brutally. The Supreme Court held that there was a violation of fundamental rights by not providing alternative accommodation before eviction. Art. 21 of the constitution which states that no person will be deprived of his life or personal liberty which includes right to livelihood and adequate housing, eviction without alternative accommodation is a violation of it. The court further ordered that due consideration be made for resettlement and rehabilitation before any eviction is made. This landmark case ensured that human dignity and fundamental rights are always protected.
- *Shantistar Builders vs Narayan Khimalal Totame And Others* 1990<sup>2</sup>: The Shantistar Builders were under fire as the land that was allotted to them for the development of housing for the poor and weaker section of the society has not been utilized so. The Supreme Court in this case highlighted the importance of providing home to the poor homeless, the weaker section as it is the basic need of life. The court ordered the builder to hold on the allotment process of the housing and not just allot any one claiming poor. They also suggested certain guidelines to follow during such allocation of housing and also ordered its monitoring process to ensure the weaker sections are the ones getting the benefit of it.
- *Chameli Singh v. State of UP* 1996<sup>3</sup>: Homeless people used to reside in the land with their makeshift dwellings which was eventually acquired to make houses for the Dalits. The homeless who had made their shelter in that piece of land were evicted forcibly by the police of Uttar Pradesh. A forced eviction violates the fundamental right of a person, accurately the right to live with dignity when an alternative arrangement of shelter is not made. The court held that the homeless who have constituted the dwellings on the land cannot be evicted randomly without following of due process and without being provided with an alternative arrangement of shelter to respect and uphold the dignity of those residents.
- *Ahmedabad Municipal Corporation v. Nawab Khan Gulab Khan and Others* 1997<sup>4</sup>: In the case of these pavement dwellers, they have built their dwellings on the Ahmedabad main road footpath. The footpath not just served as a settlement to them but also a means to earn livelihood. The Court said that the dwellers should be heard and the principal of natural justice should be adhered before removing them. The high court ordered the municipal corporation of Ahmedabad to not remove the constructed dwellings without providing suitable accommodation. The Court then ordered to provide alternative accommodation to the dwellers which was given by the corporation but was turned down since it was very far away from their area of livelihood which was the pavement. The court also stated that it is the duty of the state to construct and provide affordable housing to the poor and economically weaker section of our society.
- *Almitra H. Patel v. Union of India and Others* 2000<sup>5</sup>: Right to life also involves right to have a clean and healthy environment. The inadequate infrastructure in slums does not have waste management system which impacted the environment of the area negatively since drainage is an important aspect of removal of waste that generates as it can lead to diseases and serious health issues; this violates the right to clean and healthy environment. The Supreme Court directed municipalities to improve waste management of the slum areas and encourage in community participation and awareness regarding it. It also appointed bodies to monitor its implementation.
- *Sudama Singh v. Government of Delhi and another* 2010<sup>6</sup>: For the past 40 years in New Delhi, lived the Gadia Lohar tribal community who had moved from Rajasthan lived in a slum. The Delhi Municipal Corporation demolished their dwellings by citing them as encroachers on the public land. They were neither given time to move nor alternative accommodation. The Delhi HC stated that rehabilitation and resettlement

<sup>1</sup> 1985 SCC (3) 545

<sup>2</sup> AIR1990 SC630

<sup>3</sup> (1996) 2 SCC 549

<sup>4</sup> (1997) 11 SCC 121

<sup>5</sup> [(2000) 2 SCC 679]

<sup>6</sup> (2010) 168 DLT 218

should be done to reduce homelessness instead of adding to the existing situation. The court also stated that the demolition of their dwellings are a violation of their right to shelter, even if they were encroachers this right does not go away as they have lived on that land for long. The court also took notice of the fact that due process was not followed during the demolition of the dwellings and established to follow procedures before and after demolition.

➤ *Ajay Maken v. Union of India 2015*<sup>7</sup>: As many as 5000 slum dwellers were evicted in winter from the railway lands where they had setup their houses without any notice or time to move which lead to the tragic death of a 6 month old. They were neither provided any remuneration nor adequate alternative accommodation leaving them completely stranded and at the mercy of nature. The Railway wished to expand and since the dwellings were on their land they were demolished without any rehabilitation to be seen. The Delhi High Court held that such inhumane way of eviction raised a serious violation of not just fundamental rights but human rights as well. Every human deserves a right to life with dignity and so do these slum dwellers. The slum dwellers are not to be treated as secondary citizens. The demolition of houses cannot be done without due process and without providing adequate rehabilitation.

➤ *Rajesh Yadav v. State of UP 2018*<sup>8</sup>: SC observed that freedom of residence includes right to shelter as it is a fundamental right. It is the duty of the state to ensure sufficient action has been taken to grant the homeless housing. Right to shelter does not mean just possessing structure of brick and cement but includes a safe and adequate structure in livable condition where one can live and develop his life and future along with having access to basic and amenities like medical care, sanitation, job opportunities, and access to education, safe water and electricity. Art. 38 of the Constitution ensured that state for the welfare of the people take action to minimize inequality.

## V. DISCUSSION

Despite there being legislative and judicial pronouncements slum dwellers still face challenges.

People move for better life and job opportunities but are met with harsh housing situations which forces them to compromise with whatever they can afford and whatever is available. The development in rural areas sees no progress and the government even is not paying much attention to it. This forces the population to march towards cities which is already over flowing with crowd.

Rental prices are sky-rocketing day by day. The rent in Noida, Pune, Kolkata is 25,000 INR whereas in Bangalore, Mumbai, Delhi it is 30,000 INR. These numbers are someone's salary of a month or months combined.

There is a focus on providing more number of houses which completely neglects the quality of house. This results in people having to live in poorly constructed houses with minimum facilities. Also the monitoring of implementation of the housing policies and financial assistance schemes that aid in construction of the houses and not monitored properly.

There is also issue of land acquisition and land title that is taken or rather chosen for construction home for the slum dwellers. Apart from that, despite an eligibility criteria existing to avail the schemes people are still discriminated on various reasons.

Another issue is, despite the laws and policies many people do not know how to access it due to lack of awareness of not just the housing schemes but also regarding the financial assistance schemes. On top of it there is the tedious bureaucratic hassle that adds to the existing issues of the homeless people.

Despite having laws, policies and various schemes, slum dwellers plight does not seems to ease. Good plans for the benefit of the slum dwellers get delayed due to government disputes. The Slum Rehabilitation Authority Maharashtra has started redevelopment plans in the slums of Dharavi since 2012 which till date remains unfinished. In situ projects and construction of new homes takes long time because of land dispute issues, paperwork marathon, and construction delays.

Slum dwellers often are not involved in any decisions regarding the projects, so sometimes the final result doesn't solves their problem. In a 2019 report by Amnesty International there were instances where single women and female-headed households were denied access to housing benefits under the Pradhan Mantri Awas Yojana due to discriminatory practices by local authorities. Some people, who are in dire need of help, completely miss out on schemes and benefits made for them because of the fact that they don't meet specific rules or requirements.

<sup>7</sup> [(2015) 7 SCC 1]

<sup>8</sup> Public Interest Litigation (PIL) No. 775 of 2019

Sometimes newly constructed homes don't have running water, toilets, electricity, or even roads. Just building homes doesn't solve everything. Slums in Delhi lack basic facilities despite repetitive promises. There is also necessity of jobs, education, and healthcare which makes life better and helps escape poverty. Even though there are schemes to construct homes, there is a serious lack of funds. In 2018 the Comptroller and Auditor General of India gave a report on wide spread embezzlement from the funds meant for slum upgradation.

In times of disasters, slums are the most vulnerable and most affected area. Sometimes newly constructed homes aren't able to withstand them resulting in double problem on top of the disaster.

In some areas laws, policies or schemes have helped provide decent shelter, basic facilities and overall better living conditions. Education opportunities and economic empowerment amongst children and women also gained momentum. Women and girls live a life of security and dignity.

There was an increased sense of security and dignity regarding ownership stability leaving no room for doubt of random evictions. Improvement in waste management and preparedness for green spaces, disasters management and evacuation routes during dire situations also gave them an equal living footing as others comparison to the second class citizen treatment.

There are overall improvement in community and a positive change in the lives of the residents. People saw reduced crime rates and less violence alongside improvement in mental health that helped foster sense of belongingness.

Some areas however got the shorter end of the stick due to various reasons resulting in organized protests and legal proceedings which are frequent against inadequate housing solution. Residents demand fair and effective policies that would actually yield a better result than failing them again and again.

Due to execution difficulty, there is corruption and indifferent resource allocation, despite the presence of laws, policies, schemes and missions; people fail to take advantage of it. Due to failure in shelter allotment those people have no option but to continue to live in the slums neglecting environmental and security considerations which results in having problems in future.

Lack in community participated decisions and indifferent mentality due to eligibility criteria set often leads to exploitation among vulnerable people who will do anything for a secured shelter. Since there is weak monitoring regarding allotments they often get away with it and plenty duty bound citizens suffer.

Since main focus is on shelter, there is often neglect on the parts of basic amenities such as water, electricity, education, healthcare making their life not much better than their previous settlement.

NGOs and Civil Societies help people as much as they can by providing legal aids, organizing awareness campaigns, educating people of their existing rights and how to take benefit of programmes, schemes made for them, training peoples to participate in decision making process and planning and implementation of shelter projects.

Government initiatives should be closely analyzed to find out its effectiveness, areas where they lack and what other things can be added to better tackle the potential problems.

Some basic rights that the slum dwellers should enjoy includes right to life which includes right to shelter and livelihood, right to have access of basic amenities. These rights are the same ones that any ordinary citizens enjoy and slum dwellers are no different. There are plenty of NGOs and Civil Societies that help the slum dwellers access rights provided as many of them are still unaware of it. They not just promote awareness regarding the rights of this vulnerable population but also defend it. Advocating for policy changes and changing the perception of the society regarding the stigma attached to the word slum is some of the works of these organizations. There are helps from various parts of the society regarding the upliftment of slums but still they are evicted every now and then by the court in the name of urban development. Ever year millions are being evicted without proper resettlement or rehabilitation provided to court. Courts should consider the consequences of these displacements as it not just affects the slum dwellers but to all the services that are depended on them which will in turn affect the other part of society as well.

## VI. SUGGESTIONS

It is state's duty to provide for shelter and clean environment for living, since these are the bare minimum necessities for a person's survival. State also holds the duty to provide basic necessities like clear drinking water, electricity, sewage, healthcare and sanitation.

Government and charitable trusts should ensure that adequate number of housing is available to the people. Government should ensure that the basic human rights such as shelter is upheld as it also comes with the number other right like right to education, clean environment, access to basic amenities like electricity,



water, and freedom of movement. Government should ensure that slum dwellers have access to affordable and quality education, healthcare, and employment opportunities.

Strict rent control laws should be implemented to avoid paying obnoxious amount of rent. It should be considerate with asylum seekers and immigrant intake as they compete with the present housing situations since shelter is as much a right of theirs as that of a citizen. This can be achieved through the implementation of policies that promote social and economic inclusion developed to assist people with housing issues and not to exploit them.

It is the state's responsibility to provide shelter, which is a person's human right. Eviction without prior notice and without following due process violates the said right, so does not providing alternative arrangement for shelter. Government should ensure that slum dwellers are not evicted from their homes without proper compensation and relocation. Eviction should be a last resort, and only after all other alternatives have been exhausted. The government should also provide slum dwellers with access to legal assistance to help them defend their rights and challenge unlawful evictions.

Community participation should be made mandatory for every slum development programs. The slum dwellers should be involved with every step of development project as they know their needs the best. Government should involve slum dwellers in the planning and decision-making processes related to their housing and urban development. This can be achieved through the establishment of participatory planning mechanisms; their recommendations should be taken into account.

Temporary accommodation during in-situ development programmes should be made effectively keeping every slum dweller in mind and way before the actual eviction process starts. The temporary accommodation site should not be any way inferior to their present slum location. The temporary accommodation should also take note to all the slum dwellers that are present in area and not just the registered ones. The people excluded should also be considered for temporary accommodation as they too are going to lose their homes to the slum redevelopment program.

Slum dwellers, who are predominantly low-income earners, are often subjected to social and economic exclusion, making it challenging for them to access their basic rights and improve their living conditions. This is where advocacy and awareness come in. Advocacy can be carried out by various stakeholders, including slum dwellers themselves, NGOs, government agencies, and international organizations.

## VII. CONCLUSION

In conclusion, the problem of slum dwellers' right to shelter is a critical human rights issue that requires urgent attention. Governments and policymakers must recognize and address this issue through improvement in laws, policies and awareness programmes; ensuring that all individuals have access to adequate shelter and the basic fundamental rights that they deserve. Sometimes there is genuine unavailability of shelter and sometimes property owners let the greed get into their head and increase the rental property prices. This becomes a problem for low income generating people and families forcing them to be homeless or become slum or pavement dwellers. Situation and circumstances both can be checked if appropriate action is taken by the government to ensure that right to shelter is upheld, as it is the basic dignity of any human. Judiciary and policy makers should not just accept and recognize this right but also ensure that it is enforced on every individual of the society.

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