

WHO WILL GIVE THEM THE LAW?

Bijita Adhikary*

INTRODUCTION

While India aims to be the 3rd largest economy in the world¹, one dark truth of the country still remains unbothered — THE SLUMS. Beyond the skyscrapers and the sophisticated life of metropolitan cities, there breathes the life of millions of slum dwellers, who are devoid of not just basic facilities but also their fundamental rights.

A BRIEF DESCRIPTION OF SLUMS

Slums are overcrowded informal settlements, where people of impoverished groups are forced to live without any adequate infrastructure and proper hygiene. People from the rural or underdeveloped areas generally migrate to the cities in search of better facilities, but due to lack of financial stability they are unable to afford spacious buildings and so are forced to stay in congested areas. Hence, with the rapid growth of cities, there has been a rise in the expansion of slums and informal settlements.

According to the 2011 census, the slum population in India is roughly 65 million which is 17% of urban India and 5.4% of the total population of India². As of 2020, 49 percent of the Indian urban population lived in slums³. Based on a report from the Indian real estate industry, slums are becoming the prominent features of various cities across the country. Dharavi⁴ (located in Mumbai, Maharashtra, India) the largest slum in Asia, has an area of over 2.39 square kilometers with a population of about 1,000,000. Slums are considered to be the backbone of the city— working as dhobis or housemaids, providing roadside eatables. Yet, they do not receive any subsidies from the government. Due to a lack of awareness about their rights, they

*BA LLB, FIRST YEAR, ST. XAVIER'S UNIVERSITY, KOLKATA.

¹ https://www.ey.com/en_in/tax/economy-watch/india-towards-becoming-the-third-largest-economy-in-the-world#:~:text=India%20is%20predicted%20to%20become,the%20US%245%20trillion%20benchmark.

² <https://www.google.com/amp/s/indianexpress.com/article/explained/6-5-crore-live-in-india-slums-over-1-crore-each-in-maharashtra-andhra-5577781/lite/>

³ <https://www.statista.com/statistics/1400274/india-slum-population-as-a-share-of-urban-population/#:~:text=As%20of%202020%2C%2049%20percent,more%20of%20the%20basic%20necessities.>

⁴ <https://en.m.wikipedia.org/wiki/Dharavi>

are unable to claim what they deserve. Providing food and shelter to them may give them a better life, but without rights, their voice will remain suppressed within those congested areas.

FEW CASE LAWS ON SLUMS

In the order passed in the case of *MC Mehta v. Union of India*⁵, the Supreme Court had given directions to remove around 48,000 slum dwellers that run along a stretch of 140 kilometers of railway tracks in New Delhi, within three months. The three-judge bench further directed that no court could grant a stay on the removal of the slum dwellers and had issued no guidelines about resettlement and rehabilitation plans to be followed by government authorities.

In *Olga Tellis v. Bombay Municipal Corporation* judgment 1985⁶, it was ruled that eviction of pavement dwellers using unreasonable force, without giving them a chance to explain, is unconstitutional. It is a violation of their right to livelihood.

In the case of *Samarpal v. UOI*⁷, the Delhi High Court interpreted an existing rehabilitation policy in a rights-affirming manner, to hold that residents were eligible for rehabilitation.

Under Section 3 of the Property Rights of slum dwellers act 2012⁸, every slum dweller, who is a permanent resident of the state, shall be entitled to the right over such land in the same measure, if not removed within a period of 20 years of the report from the Authorized Officer. The Court has also stated that slums occupying pavements and other public areas do not fall under “criminal trespassers” under Section 441 of the Indian Penal Code, 1860⁹ because their motive is not to commit an offence or to intimidate, insult, or annoy anyone. Instead, they are forced to do so by unavoidable circumstances, and they are not guided by choice.

⁵ <https://ohrh.law.ox.ac.uk/right-to-housing-and-dignity-denied-indian-supreme-court-orders-eviction-of-slum-dwellers-within-3-months/>

⁶ <https://www.drishtias.com/daily-news-analysis/olga-tellis-case-1985>

⁷ <https://www.legalservicesindia.com/law/article/2638/4/Courts-Should-Be-Sensitive-When-Poor-And-Deprived-Knock-At-Its-Doors-Delhi-HC#:~:text=Samarpal%20vs%20UOI%20Courts%20should,4785%2F2008%20%26%20CM%20APPL.>

⁸ https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://www.indiacode.nic.in/bitstream/123456789/10397/1/property_rights_to_slum_dwellers_act%252C_2012.pdf&ved=2ahUKEwidIMvJh6OBAXViV2wGHQNwAzUQFnoECA0QBg&usq=AOvVaw34mwCvc0HJFHI2Y57k0hLh

⁹ <https://www.legalserviceindia.com/legal/article-8875-criminal-trespass-under-ipc-and-recent-judicial-rulings.html#:~:text=Under%20section%20441%2C%20of%20the,in%20possession%2C%20and%20so%20on.>

INJUSTICE DONE TO THEM

Even after so many case laws and judgements passed for the protection of slum dwellers, govt. across the country, continues to demolish the slums in other areas without prior notice. They are not given alternative housing areas, which is in contravention of the judgment.

One such prominent example is the Demolition of Delhi's Shakur Basti¹⁰. It was when 70 to 80 homes were removed by the Indian Railways for the clearance of land, in view of their then-upcoming projects. These individuals lived there for over 15 years and had all the necessary identification certificates with them. Before their demolition, they were not informed beforehand. Also, they were not provided with lands after demolition as Union Minister of Railways, Suresh Prabhu claimed that the railways lacked lands to rehabilitate these slums. The Court upheld the act as "inhuman" as the demolition took place during winter and survival became pathetic for them.

Another prominent incident of removal of slums was during the construction of the Narmada Dam and Sardar Sarovar Dam¹¹. These projects displaced the communities from their place and reduced access to food sources and other resources. Even this year, as the G20 summit is nearing, which will take place in New Delhi, the government is making efforts to displace the slums from the city¹². But, with this, what are we trying to hide? The reason behind India's per capita income being so low even after India thrives to come in the top three, in terms of economy.

EFFORTS TAKEN FOR THE WELFARE OF SLUMS

There have been many NGOs that are working for them. Many government schemes have been set up for providing them with houses and aiming to provide them with washrooms and clean water, but there have been little or no efforts made to aware them of the rights they deserve from the country.

They need rights, not schemes.

¹⁰ <https://www.indiatoday.in/india/story/shakur-basti-demolition-court-slams-railways-for-inhuman-demolition-drive-277199-2015-12-14>

¹¹ https://www.google.com/amp/s/www.hindustantimes.com/india-news/mission-eviction-on-war-footing-along-narmada-river/story-LwhPeXokeGSj3ZD4bYrzaK_amp.html

¹² <https://www.google.com/amp/s/amp.cnn.com/cnn/2023/09/04/india/g20-summit-india-slum-home-demolitions-intl-hnk-dst/index.html>

Medha Patkar¹³ is a social activist and politician who works on certain political and social issues raised by tribals, Dalits, farmers, laborers and women facing injustice in India. She voices for the rights of the slums and speaks against the injustices done to them. She spoke against Ambujwadi Demolition¹⁴, the demolition of the slums of Golibar¹⁵ and various other inhumane eviction processes. She speaks for them to have proper implementation of rights and demands for special packages for slums.

FEW BASIC PROBLEMS IN SLUMS

Mostly no basic facilities, like schooling and hospitals, are present near the slums, neglecting both education and health. Also, they lack electricity services. Open defecation is common in slums due to the lack of toilets and hence become an unhygienic place for survival. Also, due to congested areas, diseases spread faster and due to poor-quality houses, they are prone to get affected by earthquakes and other natural disasters. People have no job and life security due to which they easily get involved in child labor or sometimes become the victim of child trafficking, exploitation, or sexual abuse. Since they lack education facilities (which is their basic right) and face financial problems from their early childhood, getting into small tea stalls or hotels becomes the only solution to their problem. Therefore it's rather easy to say no to child labor, but when we say it, we need to ensure that we can provide them with some other alternatives to sustain their lifestyle. Also, women often get into prostitution or are forced to do beggary. Irrespective of gender, each one in the slums is affected by social evils.

FAILURE TO FULFILL FEW SCHEMES

Pradhan Mantri Awaas Yojana-Urban was aimed at constructing 11.2 million homes in urban areas by 2022, but the scheme was extended till December 2024¹⁶. The shortage of skilled workers in the country posed a threat to the scheme. Mostly Slum Rehabilitation Schemes fail to succeed as these schemes are only bothered about rehabilitating them but do not keep a check on the necessary facilities they require. The houses lack ventilators and daylight don't enter the rooms, with no facilities like electricity or sanitation.

¹³ https://en.m.wikipedia.org/wiki/Medha_Patkar

¹⁴ <https://www.google.com/amp/s/www.hindustantimes.com/cities/mumbai-news/inhuman-demolition-of-unauthorised-huts-leaves-200-families-homeless-in-mumbai-amidst-torrential-rain-101689880894961-amp.html>

¹⁵ <https://www.google.com/amp/s/www.ndtv.com/india-news/medha-patkar-ends-fast-over-demolition-of-slums-at-golibar-457012/amp/1>

¹⁶ <https://indianexpress.com/article/india/extend-pmay-u-to-cover-all-deserving-assess-needy-afresh-house-panel-report-8508923/lite/>

SCHEMES FOR THEM

National Slum Development Programme (NSDP), 1996 - Aimed to provide subsidies for slum rehabilitation.

Slum Areas (Improvement and Clearance) Act, in the year 1956 - Aimed at mechanical improvement or total eradication of slums.

Interest Subsidy Scheme for Housing the Urban Poor (ISHUP), 2008 - Aimed at providing subsidies to economically weak and low-income sections for buying or constructing their houses.

Integrated Housing & Slum Development Programme (IHSDP), 2005- Aimed to provide adequate Shelter and basic infrastructure facilities to the slum dwellers in urban areas.

Basic Services to the Urban Poor (BSUP)- Aimed to provide basic services to the urban poor in 63 of the largest cities in India by population.

Valmiki Ambedkar Malina Basti Awas Yojana (VAMBAY), 2001- Focused on the shelter for urban poor along with providing sanitation.

Yet, after so many schemes were initiated, slums continue to grow at a rapid rate. This hints that there are some basic problems that are lying to these issues. Providing schemes and resettlement initiatives cannot simply help to improve the slums. This can help a few families but will not stop the proliferation of slum areas. In order to stop the formation of slums, the basic facilities, i.e., healthcare facilities and education, need to be provided to them and must have proper regulations of these schemes. But, before all these, every person becoming cognizant of their rights should be the main motto of the country so that they can claim what they deserve, if not given to them.

BASIC RIGHTS THEY ARE DEVOID OF

Fundamental rights like the right to education or the right to a clean environment and proper sanitary facilities that fall under Article 21(Right to Life) are very basic rights they are devoid of, from their very childhood. Also, it is the government's duty to improve their lifestyle and improve the conditions of the poor, aiming to eradicate poverty from society. Unable to know

their rights, mostly they do not claim incentives from the government and also don't complain when injustice is done to them.

Movies like *Jai Bhim* give an absolute picture, of how ignorant the police are, towards these underprivileged sectors and take advantage of their inaccessibility to the law.

Almost no middlemen or so-called "elites" of the country ever raised a single voice when a slum dweller dies in custody. Very recently in 2022, Vignesh¹⁷, a 25-year-old slum dweller's death in custody proves the fact.

Unwarranted Arrest and Unlawful Imprisonment of less-informed groups of the society is not a rare view.

Slums are easily targeted places for sexual abuse, trafficking, drug abuse, and several other crimes in society. As most of the cases go unreported, they become the easy targets of the criminals.

SLUMS CAN BECOME A HUB OF HUMAN RESOURCE

Slums of India continue to grow because of the governments denying them facilities to uplift them from their present conditions.

Slum children encounter a myriad of challenges that hinder their access to education. Poverty, overcrowded living conditions, lack of proper sanitation and healthcare, and limited access to safe learning spaces are among the main obstacles. Additionally, the need to contribute to household income often forces children into child labor, depriving them of valuable learning opportunities. This forbids them from becoming a human resource of the country and often deviates them into bribery and other illegal practices.

But, if guided with little care, slums can easily be transformed into a hub of knowledge and skill. One such example is the Dharavi Redevelopment Project in Mumbai, considered to be one of the largest slum redevelopment projects in Asia. The project aimed at transforming Dharavi slum into a sustainable community by providing affordable housing, basic services, and improved infrastructure. This project points towards the importance of community

¹⁷ <https://www.newslick.in/DMK-Silent-Custodial-Death-25-year-old-man-Family-Alleges-Torture?amp>

participation, social integration, and livelihood opportunities for slum dwellers in the redevelopment process. This showcases that slums can be transformed into valuable talents.

Experts have acknowledged the vital role played by people residing in slums in keeping the economy of the cities robust by rendering important services. So they need to be protected at any cost.

Providing education just through academics may not be an effective solution to them. Instead, a well-rounded education, that goes beyond academics involving life skills training, vocational courses, and extracurricular activities that nurture the physical, emotional, and social development of slum children can help in various aspects of life, enhancing their chances of success.

Ignoring Slum children can be a waste of resources for the society. Training these students with proper skills can uncover a lot of fresh brains who can later become the gem of the country. So, we are missing out on talents!

SOLUTIONS TO IT

According to a working paper released by the United Nations Conference on Housing and Sustainable Urban Development, the government and urban planning agencies must consult with them to ensure that urban development measures do not adversely affect them.

But, it's not just the duty of the government, as well-informed citizens of the country, it's our responsibility too, to be aware of their rights. People can help their maids who come to their homes, drivers who run their cars, or dhobis who clean their clothes, to teach them their rights or help them direct a legal path if any injustice is done to them.

NGOs, along with providing health care and education, can also conduct a few sessions for them to let them know the law. Advocates and law students can assist in this process.

Similar community policing initiatives like 'Prayaas', conducted by South Goa Police, can help them to know their rights. It will help to keep youths away from criminal activities and curb the exploitation of women and children.

Pro bono services by advocates can be a major help to provide these underprivileged groups with legal aid, without charges.

CONCLUSION

Every time we think of a street child, a pair of dull eyes come to our mind. But they are not born with a bleak future. Children of slums too dream of large houses, under which they live, they too dream of large cars, to which they knock to beg for a penny, but their dreams get blurry when they understand reality is too harsh to them. To save their dreams, together, the whole country must come forward to not just provide them with shelter and security but also to give them basic rights and a voice for their opinions to be heard.

LET'S SAVE THEIR DYING CHILDHOODS!

