

SLUM IMPROVEMENT THROUGH LEGAL FRAMEWORK IN INDIA

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ABSTRACT

The first and foremost goal United Nation emulates is to eradicate extreme poverty and hunger by 2015. Slum is almost synonymous with urban poverty and hunger. The word 'Slum' was originally used as the 'back slum' meaning the backyard or 'back room' and later 'back alley'. Other terms which many a times used to portray slum include, 'shanty town', 'favela', 'skid row', 'barrio', 'ghetto', and 'The hood'. Although most of these terms have a unique meaning on its own respect, they are conglomerated into defining the slum. This paper concentrate on the facts of slums in Indian context and the legal aspects associated with it and ultimately initiate some thoughts on improving slums in Urban India.

Key words: Breeding ground, Informal economy, Down filter, Slum clearance.

Introduction

Slums are a group of buildings characterized by the deterioration, unhygienic sanitary condition endangering health, safety or morals of its inhabitants [UN, 1952]. A compact area of at least 300 populations or about 60-70 households of poorly built

congested tenements, in an unhygienic environment usually with inadequate infrastructure and lacking in proper sanitary and drinking water facilities. [2001 Census]. Aggregates of houses built on lands not belonging to the house-builders but invaded by them, sometimes in individual household groups, sometimes as a result of organized collective action.

Slums have come to form an integral part of the phenomena of urbanization in the developing third world countries. The world population is increasing thick and fast and so as the level of urbanization. By the year 2030, 61% of the world will become urbanized and most of the urbanization will occur in the developing countries [UNCHS, 2004]. Most of these developing countries have unstable economic and infrastructural facility to combat the rapid pace of urbanization. The most challenging features of rapid urban growth are the economic, environmental and social changes it introduces in the urban environment and urban life.

Slum Characteristics

Slums are the most neglected part of any city system. The characteristics associated with slums differ from place to place. Slums are usually characterized by extreme poverty, unemployment, high density squatter, absence of basic municipal services (water supply, sanitation, solid waste collection, storm water drainage, roads and electric power), minimum social infrastructure (primary school, doctor's clinic, playground). This appalling situation often led the slum dwellers to engage in anti-social activities. More often these slum areas are found to be the 'breeding ground' for social problems such as crime, drug addiction, alcoholism, high rates of mental illness, and suicide. Slum dwellers lacking in technical and scientific knowledge, employ them in the 'informal economy' sector. This can include street vending, daily wage services, and recycle trash of different kinds for a living.

Factors Behind Creation of Slum

The factors that are primarily responsible for slums to emerge and grow are,

- Rapid urbanization.
- Rural-urban migration.
- Natural increase.
- Socio-economic and political instabilities.

Rapid urbanization is often paired decline economic growth and inadequate urban policies, particularly in the developing country like India.

Rural – Urban migration is the moving of people from rural areas into cities. When cities grow rapidly, the movement of people from rural communities into cities is

considered to be the main cause for slum building. This kind of growth is especially commonplace in developing countries. Rural migrants are attracted by the possibilities that cities can offer, but often settle in slums and experience extreme poverty. The formula that work for the migration can be worked out as the following,

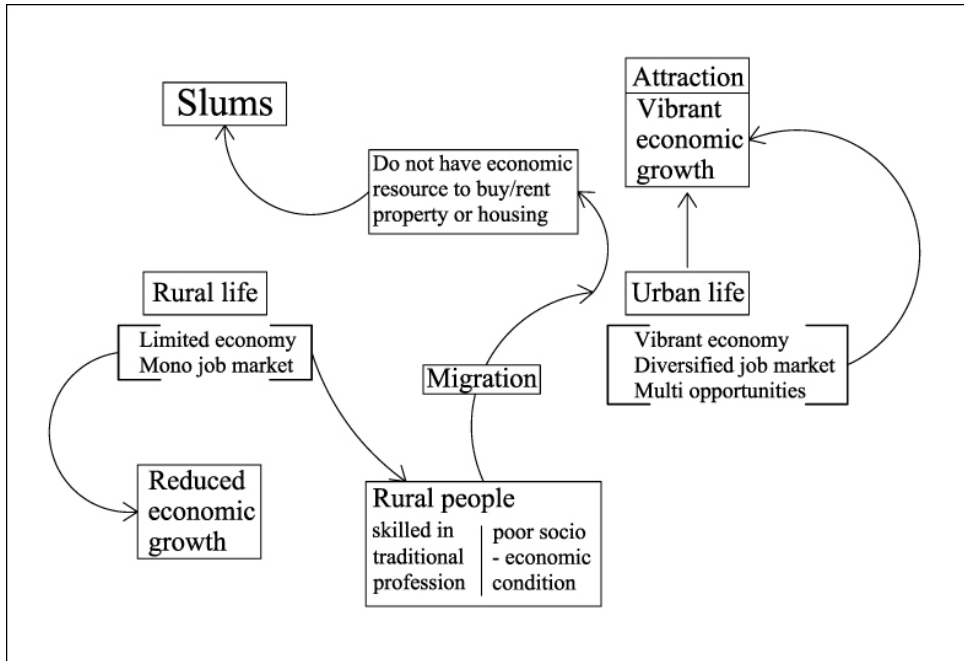


Figure 1 : Rural Urban migration interface

Natural increase is a common phenomenon among the urban slum dwellers. The increment takes place both due to the fresh migration and high degree of birth rate. Apart from a few exceptional scenarios, the slum dwellers stay in the same condition for a considerable long period of time. More than 41 per cent of Kolkata’s slum households have lived in slums for more than 30 years [UN HABITAT, 2003].

Socio-economic and Political Instabilities

Many governments around the world have attempted to solve the problems by political interferences. Either by clearing away old decrepit housing and replacing it with modern housing with much better physical infrastructure. The displacement of slums is aided by the fact that many are squatter settlements whose property rights are not recognized by the state. This process is especially common in the third world. Slum clearance often takes the form of eminent domain and urban renewal projects, and often the former residents are not welcome in the renewed housing. Moreover

new projects are often on the semi-rural peripheries of cities far from opportunities for generating livelihoods as well as schools, clinics. At times this has resulted in large movements of inner city slum dwellers militantly opposing relocation to formal housing on the outskirts of cities.

Place of Occurrence of Slums

In recent years a dramatic growth in the number of slums as urban populations has been observed in the developing third world countries. 327 million people live in slums in Commonwealth countries - almost one in six Commonwealth citizens [UN-HABITAT, 2006]. The propensity of slum development sites is almost identical in nature throughout the world.

- Cheap and available/unoccupied land.
- Along river, road, railway lines.
- Proximity of income source & kinship groups.
- Hill slope.
- Floodplain and swampy areas.
- Peri-urban.

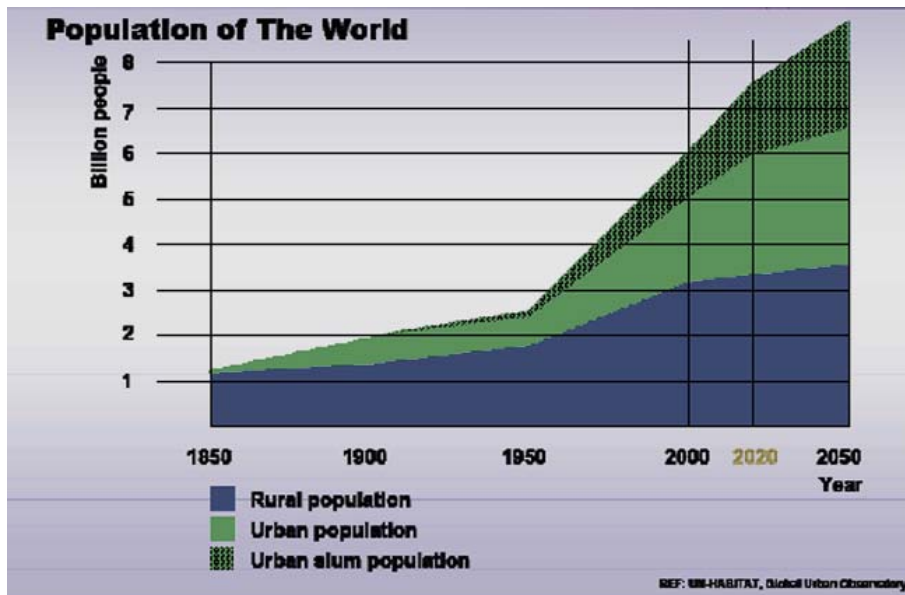


Figure 2: Comparative analysis rural, urban and slum population worldwide

Slums in Indian cities - Historical context

Slums are not a recent phenomenon in Indian context, mostly for the primate cities like Mumbai, Ahmedabad, Kolkata and Delhi. Here slums and informal settlements can be registered throughout the history. It is largely due to the favorable economic scenarios in these cities compare to the abutting settlements of its respective region. Mumbai initially was a fishing village until the 16th century, was ceded by the Moguls to the Portuguese in 1630s. Later the King of England leased it to the East India Company. It gradually developed as an important port town in the west coast of India. But the city really flourished when the cotton growing hinterlands were connected by railways with Mumbai. All the processing activities shift here due to the close proximity to the port and so as the economic base- gradually shifts towards Mumbai. As the city becomes more industrialized, it attracts more and more laborers, both in the form of skilled and unskilled. The city continued to expand and so as the slums.

The scenario for Kolkata was different but not abruptly. It is a part of the Gangetic river basin and agriculture used to be the main way of life. Until of course, Job Charnock discovered the hidden potential of the Kolkata and its regional set up along with river Hoogly. The port was a major initiation in development of Kolkata from mere three villages to the “city of palaces”. The mercantile adventure and exploration of Kolkata port by the British’s lead to the conglomeration of British’s as well as the native people in and around the port area. The communication was not suitable for daily commuting so the people started to stay with in the proximity to their workplace resulted in informal settlements and ultimately slums. The unique features were the white and black town, which was to segregate the British with the native Indian and formation of the ‘Babu’ culture among the Indians. These ‘Babu’ class generally are well offs among the Indians. They were educated, wealthy, worked and followed the British regimes.

On the other hand Ahmedabad has been a wealthy city through out the history. It grew as a major trading centre in gold, silk and cotton to become the “Manchester of India”. The growth reached to its peak in the mid twentieth century. During this period and after the independence the city prospered at an unprecedented rate. The vibrant economy attracted the regional people to conglomerate in and around Ahmedabad. After a long run in the helm of the attraction, the city began to loose its charisma in the mid seventies. Closing down of the significant number of textile mills, political crisis contributed to the down filtering of the existing situation both in the economic and social life. The city seems to regain the some of its lost magnetism in the nineties due to the economic reform and information technology. The economic reforms provide hope for already degrading city life and create ideal scenario for further in migration. These situations continued for the last two decades and are in the peak as Ahmedabad’s economy.

Slums in Indian Cities

22% of Indian urban population lives in slums as against 32% for the whole world population (NIUA). Most of these people earn under the urban poverty line. Kolkata (89% below the poverty line), Bangalore (73%) and Indore (68%) are among poorest cities in India. If we consider a specific case of the gleaming metropolis of Mumbai, it appears that 55% of the total population is slum dwellers and occupying about 12.85% of the city's total land area. After the thorough understanding and study of slums in India, I have concluded that the slums in India primarily of two types; Formal and informal. The example of formal slums can be 'Chawls' of Mumbai and Ahmedabad or 'thika tenant slum', udbastu colony of Kolkata. The informal slums can be 'Zopadpattis', pavement dwellers of Mumbai or 'jhupri' of Kolkata.

The Mumbai slum can be categorized in three segments. These are '*Chawls*', '*Patra chawls*' (consisting mainly of semi-permanent structures, which can be both authorized and unauthorized), '*Zopadpattis*' (squatter housing); and pavement dwellers. 'Chawls' mostly built during the cotton industry era by the factory owner and other investor for the low income category of people. After the enforcement of rent control act, the business became less profitable. The low profit also signifies low investment and repair works on the 'Chawls'. Soon the physical conditions of these Chawls become paranoid. The unavailability of further 'Chawls' leads to significant densification of the existing 'Chawls'. The social and economic life of these 'Chawls' were of very poor quality, added the additional pressure, it reduced further.

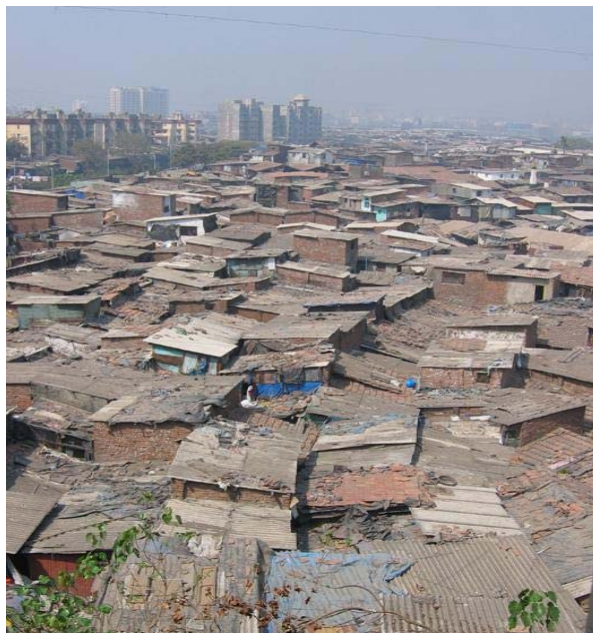


Figure 3 : Dharavi in Mumbai, Second largest slum in Asia

Pavement dwellers are households, dominated by single male migrants living in hutments built on the footpaths of Mumbai's roads close to places of employment. The people living here are mostly daily wage earner, living in pathetic condition beyond description. They even pay rent to the local strong man (who fully control the footpath of that particular region) to sleep on the footpath. They are seldom harassed by police, who look to evacuate the footpaths from any kind of encroachment. The rehabilitation programs of footpath dwellers often fails due to economic dislocation of the dwellers.

'Zopadpattis' are the most predominant low-income informal settlements falling under the category of slum. These 'Zopadpattis' often built on the sites typically considered for slum development - Riverbank or bank of canals, along the railway lines and roads, vacant or public lands. Density of slums in Mumbai are generally in the range of 750 huts/ha to 200 huts/ha. Dharavi which occupied about 175 hectares of land have a population of 0.35 million.

Slums in Kolkata are of two types; formal and informal. The formal slums are of four types. 'thika tenant slum', 'udbastu colony' are among them. 'udbastu colony' are the refugee colony has been leased out for 99 years to the refugees from present days of Bangladesh. Unauthorized slums included the 'jhupri'. As in other parts of the world the slum development sites for informal slums are quite similar. The significant difference though is the construction material. Notable percentage of 'jhupri's are semi-pucca (permanent wall and semi-permanent roof) or even pucca (permanent wall and roof) structures. In KMA area itself about About 1.7 million people out of the total of 3.3 million. The average area per slum dwellers is about 35 sq.-ft.

In Ahmedabad also the slums are often found in the 'Chawls'. It is close to the Mumbai 'Chawls'. The other informal slums are found on the riverside, along the railway truck, roads.

Solutions in the Past

In India the effort to solve problem of slum in urban area initiated in the seventies. In seventies the slums were treated as illegal squatters and mass scale eradication was executed. The solution did not serve the purpose as the slums reappeared in the same area or find their way out in another place. More over the demolition termed inhuman by citizenry. In eighties the perspective in solving the problem changes from total obliteration to slum improvement works. Census of slums was carried out in 1976 and identity cards were issued. In the nineties Government became more concerned and caring towards slum dwellers. Land occupied by slums was given on lease to the slum dwellers. Soft loans were extended to slum dwellers to take up slum up-gradation works. The scheme could be implemented only on non-reserved Government lands. In the nineties a new concept was evolved. The underlying land of the slums was treated as a resource. Incentive FSI for constructing tenements for sale

in open market was allowed. The profit generated from the sale of these tenements was to be used for cross-subsidizing the free houses to the slum dwellers. Special autonomous authority and Slum Rehabilitation Authority (SRA) were established.

Dharavi Development Project - the World's Largest Slum Rehab Program

More than 55% of Mumbai's population lives in slums. The Government of Maharashtra appointed a committee to improve the problems of slum dwellers in 1995 to devise a scheme of Rs. 5600 crore to rehabilitate slum dwellers in slums existent as of 01/01/1995. The committee was chaired by then chief secretary of Maharashtra Mr Dinesh Afzulpurkar. The basics and eligibility criteria of the scheme are:

All slum structure existing as on January 1, 1995, or before.

- 70 % of the eligible slum dwellers to form a society.
- Rehab tenements cannot be sold in the first 10 years, but transferable to legal heir.
- Developer pays Rs 20,000 / tenement, for subsidizing the monthly maintenance.
- FSI permissible for a scheme depends upon the number of slum dwellers to be rehabilitated in it. It can even exceed 2.5.
- Plots where slum rehabilitation schemes can be taken up include plots that are notified and categorized as slum.
- If reserved for non-buildable reservation, the plot area should be more than 500 sqm and minimum ground coverage of 25 per cent with the slum.

Slum Networking

Slum networking is a method for integrated up gradation of the entire city using the slums as an urban net and not as isolated islands. Slum networking is a community-based sanitation and environmental improvement program first instigated by Mr. Himanshu Parikh, a Cambridge-educated civil engineer, for the textile manufacturing and industrial engineering centre of Indore.

Slum Network project in Bhopal

The slum network project in Bhopal included collaboration between the Government of Madhya Pradesh and the Municipal Corporation of Bhopal, physical networking for water supply, drainage and sewer lines using gravity flow, an integrated approach to influence the entire slum matrix of the city not as isolated pockets but an urban net, slum dwellers are identified as key partners for implementing of the project. The slums identified for the project were: Rahul Nagar (Pampapur), Satnami Basti, Chhatisgarh Basti, Jai Bhim Jai Durga Nagar, Indira Nagar, Jatkhari.

The Scope of the Project was to improve the quality of life of population residing in Bhopal in line with MATURE objectives, conduct surveys towards achieving the goal of upgrading physical infrastructure with emphasis on technological solutions and community participation and evolve & demonstrate a suitable implementation package based on the results of the survey with specific reference to the Slum Networking policy. The objectives of the project were to identify and work on indicators of Urban Renewal, develop a Vision Document for the Urban Renewal Plan of Bhopal through slum networking, identify, converge financial resources through a combination of community financing, convergence of existing resources and corporate/state financing and use of traditional and economic strengths specific to the settlement and identify demonstration/pilot projects with specific area of intervention

VAMBAY (Valmiki Ambedkar Malina Basti Awas Yozana)

VAMBAY is a national level housing scheme of the Ministry of Urban Employment & Poverty Alleviation, Government of India for the benefit of the slum dwellers. Initiated in 2001-02, VAMBAY is a centrally sponsored scheme shared on a 50:50 basis, which foresees an annual subsidy of Rs. 1000 crores from Ministry of Urban Employment & Poverty Alleviation, Government of India, to be matched by an equal amount of long term loan from HUDCO availed against guarantee from state Government. The objectives for the project are to provide shelter or upgrade the existing shelter for people living below poverty line in urban slums, achieve the goal towards 'Slum less Cities' visualized by UNCHS and provide enabling healthy urban environment.

National Slum Policies

The Governing principles of the National slum policies are,

1. Endorse an upgrading and improvement approach in all slums.
2. To ensure access to basic minimum services to these settlements.
3. "Slum-less cities", the goal of all urban planning for social and economic development.
4. Emphasis on equity and distributive justice.
5. Ensure continuous supply/recycling of serviced and semi-serviced land suitable for high density occupation by lower income groups.
6. To empower poor by capacity building to improve their own living conditions.
7. To ensure access to affordable land, house sites and services.
8. To encourage community participation in capacity building.

Essential strategic interventions including comprehensive listing of slums / informal settlements, resettlement and rehabilitation, environmental improvement, economic

empowerment and financing sustainable slum improvement and services were among the notable National slum policies framework. The other major step forward in strategic interventions including “Inclusive” approach to definition of slum / informal settlements, classification of land status / tenability, granting of tenure, improving access to social services and municipal services to be brought under consumer protection act.

The objectives behind creation of the National slum policies are to create awareness among Public and Government about the process of slum development and improvement, integration of slums into the urban area as a whole, Strengthen the legal and policy framework to facilitate the process of slum development and improvement on a sustainable basis and establish a framework for involving all stakeholders for the efficient and smooth implementation of policy objectives.

Indian Legislation and Slums

The first exclusive slum legislation initiated with the Slum areas (Improvement and Clearance) Act, in the year 1956. The basic idea behind the initiation was either clear the slum areas or to improve the physical condition of the slum. The idea was a mechanical improvement or complete eradication, with no half measures. The central Act of 1956 associated with the state Act relating to the act is the present legislative scenario in India. The state Act is largely a follow up of the Slum clearance and Improvement Act 1956.

The central Act consists of the following;

1. Definition of slums,
2. Provision for improvement,
3. Provision for clearance and redevelopment.
4. Eviction
5. Restoration and return the premises after improvement to the owner with recovery of the cost of development.
6. Compensation in the consequence of eviction.
7. Acquisition of land.

The central act empowers the competent authority formed by the act to declare any slum area in accordance with the definition, eradication of the slum areas. The act also empowers the committee to oversee any possibilities of improvement in the slum area by the owner with a reasonable expense. In all circumstances the user is responsible for the up gradation of the slum dwelling into a habitable room. The authority will only oversee the feasibility of the up gradation in monetary terms, if the authority engages itself in the up gradation process; it would subsequently recover the cost of up-gradation. In case of slum clearance and improvement, the land in most cases cleared for the public interests. The owner is supposed to develop the land as per the

sanctioned scheme, if the owner is unable to do that, the authority develop the area and recover the cost with interest from the owner.

Some Thoughts over Legislation

The underneath truth of slum clearance and improvement is to pressurize the owner to develop the land. At the same time the tenants are also forced out of the premises. After the development a revised rent is adopted by the owner to either recover the development cost. The old tenants are mostly unable to occupy the developed units due to the high rent and move away in another squatter settlement. The eviction program under the Act faced some legal issues in terms of the conflict in decision making. The guidelines to decide among the different approaches (eviction or clearance and improvement) were obscure and unable guide in proper direction towards any development. The Supreme Court also able to find out some loop holes in the Act and quickly responded with amendments S.19 and S.19 (4). In due course of time the 'slum clearance' program was abandoned. A number of causes were responsible for withdrawing the 'slum clearance' program. The primal factor was economic- the program was so expensive that, the Government was unable to allot any funding for the program. Moreover the conflict over slums on public land and private land was also creating problems for the decision makers. Soon Government adopted a number of reforms and brings about a changed approach to look into the slum up gradation program. The change in approach mostly, was withdrawal of active support over slum in private land. The revised approach was more towards facilitating slum improvement on public land. Although the economic factor is a major hindrance for a project of this scale and intensity, but withdrawing minimal support to the slum on private land will not reduce the predicament. A better approach could have been, reduction of cost of improvement or phasing of improvement, adopt flexible building laws in the slum areas.

As promulgated earlier the slum act seems to deal with the whole problem in a mechanical way, without considering the social and economic factor, the proximity of livelihood and source of income. Though there are some bits and pieces attempted in some of the state Acts but as a whole the system never was close to achieve the holistic approach.

Conclusion

A proper gradation process is needed to emulate rather than limiting the scope of Act only defining slum. The gradation process would ensure the economic requirement for improvement of the slum. Although the central Act is associated with state Acts but these Acts are a follow up of the central Act rather than supplement the deficiency of

the central Act. Slum in each area are unique and different in character. The central Act should provide a guideline under which the State Act works to its full potential.

Slum in both in public and private should be incorporated rather than a radical approach towards it. By a revised approach this would clear up the situation.

A softer building regulation (of course without compromising the minimal safety and security) is needed to adopt to reduce the cost of construction and other improvements.

The slum is a byproduct of the scope of livelihood and residential space scarcity (spatial or economic). So the Act need to the improvement in conjecture to the scope of livelihood. The Act should make scope for livelihood and healthy life rather than economic support.

The Act should create scenario for implementing innovative schemes and proposals.

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