Volume : 2 | Issue : 12 | Dec 2013 • ISSN No 2277 - 8160

Research Paper | Political Science

Inadeqate Housing Facilities – A Voilation of Human Rights

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ABSTRACT

The human right to adequate housing is guaranteed in International law and in the Directive Principles of the Constitution of India. It has also been upheld by the Supreme Court, in various judgements, as an integral part of the right to life. Majority of the Indian population, in urban as well as rural areas, however, lives in extremely inadequate and insecure conditions. In the absence of affordable and low cost housing options, majority of the urban poor (around 60% in Mumbai and 50% in Delhi) are forced to live in overcrowded slums/informal settlements without legal security of tenure and access to basic services, including water and sanitation, and often at great risk to their health. The Supreme Court and the High Court of Delhi have played a very positive role through progressive interim orders protecting the rights of the homeless and calling for state action. While this has resulted in positive responses from a few state governments, the failure to implement these orders is widespread and India's homeless population continues to rise and is excluded from most government schemes.

KEYWORDS : Housing, Inadequate housing, Housing policy, low cost housing

The universal declaration of human rights is the first segment of international Bill of Human Rights. It is followed by the International Covenant on economic, cultural and social rights, international covenants on civil and political rights and optional protocol- all adopted in 1966. Human Rights have been incorporated in many of post war Constitutions of the world today under various names like Fundamental Freedoms and Freedoms and fundamental Rights etc. Indian constitution framers were highly influenced by the noble thoughts of the declaration and hence they adopted the important provisions of the declaration of Human Rights and added Prohibition of discrimination on grounds of caste, religion, sex, birth etc, the right to liberty, freedom of speech and expression, freedom of association, religious freedom, protection against double prosecution and conviction for the same offence, and abolition of untouchability. On account of the peculiar social structure of our nation certain classes of people like oppressed and the depressed classes have been accorded special protection as some of these classes of persons have been denied the enjoyment of some basic human rights in the past.

In fact the universal declaration of human rights is not a legal document. It represents a moral standard which through time has come to be almost a statement of international law. It has however been given effect by two important treaties, the international covenant on economic, social and cultural rights and the international covenant on civil and political rights. They permeate the entire U.N. charter. In the preamble of U.N. charter there is a determination to affirm faith in fundamental human rights, in dignity and worth of human person, in the equal rights of men and women and the nations. The universal Declaration of Human Rights adopted in 1948 explicitly recognizes the link between rights and dignity. The status report on Human rights in India 2012 gives a general overview of the most critical human rights issues in India today. As a matter of fact Food, shelter and clothing are considered as the basic for human living. The states have a responsibility to fulfill these basic needs of the individuals. In this paper an attempt is made to throw some light on the inadequate housing facilities for the general public at large. The human right to adequate housing is guaranteed in International law and in the Directive Principles of the Constitution of India. It has also been upheld by the Supreme Court, in various judgements, as an integral part of the right to life. Majority of the Indian population, in urban as well as rural areas, however, lives in extremely inadequate and insecure conditions. Not taking into account displacement due to armed and ethnic conflict, India is estimated to have the highest number of people displaced annually as a result of ostensible 'development' projects. Independent experts estimate the number of those displaced by such projects since India's independence (1947), at between 60 and 65 million. This amounts to around one million displaced every year since independence. Of these displaced, over 40% are tribals and another 40% consist of Dalits and other rural poor.The vast majority of the displaced have not received adequate resettlement. The National Human Rights Commission's (NHRC) stakeholders' report for India's second Universal Periodic Review (UPR) states that *"NHRC's monitoring finds that usually those displaced are given neither adequate relief nor the means of rehabilitation".* The national urban housing shortage estimated during India's Eleventh Five-Year Plan period (2007 – 2012) is 26.53 million, with around 99% of this pertaining to the economically weaker sections and low income groups. No comprehensive housing scheme, however, exists for the urban poor as yet. The current proposed national scheme of *Rajiv Awas Yojana* aimed at providing legal security of tenure must also address the acute housing shortage and backlog and focus on the provision of adequate low-cost housing.

In the absence of affordable and low cost housing options, majority of the urban poor (around 60% in Mumbai and 50% in Delhi) are forced to live in overcrowded slums/informal settlements without legal security of tenure and access to basic services, including water and sanitation, and often at great risk to their health. By mid-2011, India's urban slum population was estimated at 158.42 million. Those who cannot afford a space in a slum continue to remain homeless, being forced to live on pavements, railway platforms, under flyovers, and in other precarious conditions. The Supreme Court and the High Court of Delhi have played a very positive role through progressive interim orders protecting the rights of the homeless and calling for state action. While this has resulted in positive responses from a few state governments, the failure to implement these orders is widespread and India's homeless population continues to rise and is excluded from most government schemes. Homeless people are routinely criminalised and brutalised by the police, including through targeted acts of violence and the implementation of the *Bombay Prevention of Begging Act, 1959*.India has one of the highest concentrations of street children in the world, with UNICEF estimating their number to be as high as 11 million. However, this figure considered to be a conservative enumeration. They live in grossly inadequate conditions and remain uncounted and largely outside the purview of the *Right to Education Act* and other schemes such as the *Integrated Child Development Services* (ICDS). The recent announcement of the President of India to introduce a *National Programme for the Urban Homeless* is positive but it remains to be seen how this will be implemented in order to protect the rights of the country's growing homeless population. Unchecked real estate speculation contributes to escalating prices, which makes housing and property more and more unaffordable for the majority, resulting in people being forced to live in inadequate conditions and without security of tenure. The total national rural housing shortage for the Eleventh Five-Year Plan period (2007-2012) was estimated at 47.43 million, of which 90% was for 'below poverty line' households. The lack of adequate investment in rural housing, livelihoods and development, along with large-scale displacement, a severe agrarian crisis, and growing landlessness and homelessness, contribute to the majority of the rural poor living in grossly inadequate conditions.

Indira Awas Yojana, a rural housing scheme for 'below poverty line' families, especially of Scheduled Castes and Scheduled Tribes, has failed to reach the poorest of the poor, including the landless. The Government of India national report for UPR II provides that *"since inception, 27.3 million houses have been constructed at an expenditure of INR 795 billion (USD 14.8 billion) (until January 2012)"*. It also claims that *"there is high degree of satisfaction with this scheme since beneficiaries participate in the construction of their own houses"*.

However, while the scheme contains certain progressive elements such as mandating release of funds in installments and registration of houses in the names of women, it needs to be implemented better while ensuring that the process of beneficiary selection is accurate and that the neediest, including the landless, are able to benefit. An evaluation done for the Planning Commission has found lack of quality control under the scheme, even in seismic zones. The safety of residents and lack of sanitation remain serious concerns under the scheme. As is amply evident from the report, much remains to be done to improve the human rights situation in India. Today the land values have gone up and real estate business has grown in manifolds owning a house has become dream to common and middle class people in India. There are no voices raised to tackle this evil. No political party or the policy makers have attended to this acute situation. The low cost housing schemes for the below poverty line are to strengthened. Announcement of populist policies on housing must be checked. Today even when some of the states have executed the housing colonies they lack minimum facilities if this is so then who must bell the cat? People, the pressure groups and the political parties altogether must address this issue on priority. This nation has witnessed a large number of protests in the recent times but no such protests are being organized to check the price hike in land value. Today decent housing has become the privilege of land owners and rich class people. Once again the grip of capitalists are growing and this may further lead to class struggle. As is amply evident from the report, much remains to be done to improve the human rights situation in India. A radical change in national and regional actions by governments at all levels is necessary.

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