

**ROLE OF PUBLIC INTEREST LITIGATION IN PROMOTION OF RIGHT TO
ADEQUATE HOUSING IN INDIA**

¹J Sabitha , ²Asha Sundaram

¹Student, 2nd year BALLB, Saveetha School Of Law, Saveetha Institute of Medical and Technical Sciences, Saveetha University, Chennai , Tamil nadu , India.

²Saveetha School Of Law, Saveetha Institute of Medical and Technical Sciences, Saveetha University, Chennai, Tamil nadu , India.

[¹jsabitha99@gmail.com](mailto:jsabitha99@gmail.com), [²asha9447400058@gmail.com](mailto:asha9447400058@gmail.com)

ABSTRACT

This paper deals with the housing facilities which is being considered as an right of every individual in the society. The facilities which are given to the rural housing and the urban housing seems to be different in all aspects according to the secondary data used in this paper. For the betterment of the society the government have planned many schemes and projects for the welfare of the society but the main problem is they are inaccessible to many in the society. This paper also deals with the effects and impacts of law and policy, infrastructure facilities the different schemes laid for the improvement of housing etc. where these leads to poverty, poor sanitation facilities, malnutrition, illiteracy etc. Also to solve these issues this paper will deal with some recommendations and the government measures taken already and many other national programmes. Also certain recommendations form a significant basis on which civil society and independent institutions can monitor compliance of the state and carry out advocacy efforts aimed at the realisation of housing and land rights across India these can be laid down by the governmental proceedings these all will be dealt by this paper. The authorities especially violate people's entitlements to security of tenure and freedom from forced evictions access to, and benefit from public goods and services information, capacity and capacity building participation and self-expression rights to resettlement and adequate compensation for violations and losses and physical security and privacy. All are elements of the human right to adequate housing as recognized in international law.

Keywords:- Housing, poverty, malnutrition, rights, rural, inaccessible, policy

INTRODUCTION:-

The United Nations (UN) Human Rights Council, the UN's highest inter-governmental policy making body on human rights, initiated a mechanism to monitor the human rights records of all member states of the UN. This mechanism, called the Universal Periodic Review (UPR), is a peer review process under which India has already undergone two reviews. The most recent of these reviews took place in Geneva in May 2012. As preparation for this review, the Working Group on Human Rights in India and the UN (WGHR), of which Housing and Land Rights Network (HLRN) is a member, published a report that attempts to give a comprehensive overview of the human rights situation in India. This document presents the section contributed by HLRN on the human right to adequate housing and land from the WGHR report as well as questions and recommendations for the Government of India proposed, for the UPR process, by HLRN. It also includes recommendations from the UN Human Rights Council for the Government of India from UPR II, related to poverty, housing, water and sanitation. 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 case study Homelessness and the crisis of inadequate housing are further exacerbated by regular forced evictions and slum demolitions across the country.¹

Most of these are carried out in the name of 'development' such as urban renewal schemes, city 'beautification' projects, real estate development, and sporting events like the 2010 Delhi Commonwealth Games that displaced around 200,000 people, of whom Scheduled Caste persons constituted the majority. These evictions are generally carried out without due process or any rehabilitation. This paper aims To study the impact of housing bill, 2016 on the society and To examine the status of rural people and their housing.

HYPOTHESIS:-

Null hypothesis:-

1. There is no significant impact of public interest litigation on the society.

Alternative hypothesis:-

2. There is significant impact of public interest litigation on the society.

¹ (Sarbani 2012)

MATERIALS/METHODS:-

This paper uses descriptive methodology to describe the adequate housing in Indian society for having an brief idea of the right to adequate housing in India.

This paper uses :- Books, journals, articles, etc.

HUMAN RIGHTS TO ADEQUATE HOUSING:-

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 (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.

URBAN HOUSING AND LIVING CONDITIONS :-

The current paradigm of urbanisation being promoted by the Indian government, including schemes such as the Jawaharlal Nehru National Urban Renewal Mission (JNNURM), contrary to the rhetoric, has extremely limited space and resources for the poor, with a continued focus on large-scale infrastructure development. While urban land is being diverted for profitable real estate and infrastructure projects, legislative tools are commonly used to condemn the urban poor as ‘illegal encroachers’. The housing that has been built under JNNURM for economically weaker sections is generally on the peripheries of urban areas, very far from people’s workplaces, schools and hospitals, and is thus not viable and does not meet the criteria of ‘adequate housing’ either. 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).

RURAL HOUSING AND LIVING CONDITIONS :-

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 GoI 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 instalments 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.

DISPLACEMENT DUE TO INFRASTRUCTURE AND OTHER PROJECTS:-

Large infrastructure projects, including dams, ports and mining, environmental conservation projects, and designation of large areas as tax-free Special Economic Zones (SEZs), have been responsible for the displacement of millions of rural families, most of whom have not received rehabilitation. A total of 582 SEZs have been formally approved under the SEZ Act, 2005 across India. The majority of natural resource rich areas in India are occupied by indigenous peoples (tribals/ adivasis) who face the worst onslaught of large dams, mining, and other natural resource extraction projects. Most of the displaced in India constitute the rural poor, marginal farmers, fisher folk and tribals/ adivasis, who continue to face severe displacement threats. The Eleventh Five-Year Plan clearly identified that, "Major alienation of tribal land in the scheduled areas has taken place through the means of compulsory acquisition using the government process of land acquisition. The present arrangements of resettlement and rehabilitation are detrimental and prejudicial to the interests of the tribals. The process of erosion of corpus of tribal land continues at an accelerated pace under the new economic dispensation while the policy options are being debated". The forced acquisition of agricultural farmland is further exacerbating landlessness, the country's agrarian crisis and threatening food security. Despite the existence of the National Rural Employment Guarantee Act, 2005, the loss of homes, habitat and lands is forcing thousands of families across rural India to move to urban areas in search of survival options². 'Distress migration' is one of the most striking findings of India's 2011 census, reflected in the increase of urban population, which is higher than the rural one. Natural disasters like the 2004 Indian Ocean tsunami, earthquakes, and annual floods have also been responsible for displacing large sections of the population. Across rural and urban areas, women, children and minorities, especially Scheduled Castes and Scheduled Tribes, suffer disproportionately from the adverse impacts of evictions, homelessness, landlessness, and inadequate housing and living conditions.

² (Amrita rao 2011)

LAW AND POLICY:-

Despite the dismal status of housing and land rights in the country, there is no comprehensive human rights-based national housing law or policy. The National Housing and Habitat Policy, 2007 while stating ‘shelter for all’ as a goal does not consider housing to be a human right but focuses more on a market approach to housing. The proposed national urban scheme Rajiv Awas Yojana that aims to provide security of tenure for residents of slums/informal settlements also needs to focus on incorporating a strong ‘human right to adequate housing’ approach in order to be successful. Several bills, which relate to housing and land, are currently in the process of being finalised in India. These include: the Real Estate (Regulation and Development) Bill, 2011 the Land Acquisition and Rehabilitation and Resettlement Bill, 2011 the Land Titling Bill, 2011 and the Mines and Minerals (Development and Regulation) Bill, 2011. All these draft bills need to undergo review and extensive consultation while incorporating a human rights approach. The draft Land Acquisition and Rehabilitation and Resettlement Bill, 2011 is at the centre of a debate, as it is premised on the contentious colonial principle of ‘eminent domain’, under which the state can acquire private property for public use, following the payment of compensation to the owner. The Bill does not aim at minimising evictions does not have a rights-based definition of ‘public purpose’ and does not include adequate human rights safeguards for rehabilitation. It is also extremely weak with regard to urban eviction and displacement issues and thus needs to be considerably revised and expanded.³

RECOMMENDATIONS:-

1. Draft a comprehensive human rights-based housing law for both urban and rural areas, which includes measures to check real estate speculation, provide low cost housing and prevent forced evictions. Adopt concrete time-bound indicators to evaluate the state’s efforts towards addressing the urban and rural housing shortage.

2. Adopt a concrete and time-bound plan of action under the national housing scheme –Rajiv Awas Yojana – in order to ensure low cost housing for economically weaker sections, including the homeless, national minorities, Scheduled Castes and Scheduled Tribes, landless, internally displaced and migrant populations.

3. Develop a concrete plan of action to implement the National Programme for the Urban Homeless and ensure that adequate budgetary allocations are made to protect the rights of India’s growing homeless population.

³ (Jayna kothari 2001)

4. Implement orders of the Supreme Court on the issue of homelessness.
5. Implement the UN Guiding Principles on Internal Displacement and the UN Basic Principles and Guidelines on Development-based Evictions and Displacement, and adopt them in national and state laws and policies.
6. Adopt a policy on land and agrarian reform, including for redistribution of land to the landless, and include a strategy to carry out land reforms in the Twelfth Five-Year Plan (2012-2017), which is compliant with international human rights standards.
7. Revise the draft Land Acquisition and Rehabilitation and Resettlement Bill, 2011 to: ensure that evictions/relocation take place only in 'exceptional circumstances' and in accordance with international human rights standards; redefine 'public interest' using the human rights approach; include urban evictions and displacement issues; ensure adequate compensation and rehabilitation for all displaced people; and protect the human rights to adequate housing, land, work/livelihood, health, food, water, security as well as the rights to resettlement and return.
8. Ensure implementation of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, especially in terms of recognition of collective claims/rights. Also, compile and publicise data on forest dwellers who have been given legal rights under the Act.
9. Take steps to ensure that women are able to claim their rights to inheritance under the Hindu Succession (Amendment) Act 2005, and document cases where the Act is being used to the advantage of women.

CONCLUSION :-

The above recommendations are part of a list of 167 recommendations proposed to the Government of India. They are currently being reviewed by the government to determine their acceptability. If India accepts these recommendations, the final session of India's UPR (in September 2012) will lead to another document from the UN Human Rights Council. This document is expected to give a strong policy direction to the Indian government. The level of implementation of these recommendations will be reviewed by the Human Rights Council at India's third UPR in 2016.

These recommendations form a significant basis on which civil society and independent institutions can monitor compliance of the state and carry out advocacy efforts aimed at the realisation of housing and land rights across India. Disparities in arable proprietorship, across the board commonness of landlessness and vagrancy, and the deficient and critical lodging

and living states of the larger part of India's populace, call for much to be done in the field of lodging and land rights.⁴ Procedures should be produced and actualized so as to first address the auxiliary reasons for both vagrancy and landlessness, for example, joblessness, constrained removals and uprooting, automatic urban relocation and aggressive behavior at home, and second, to address and resolve the current emergencies that vagrancy and landlessness make. Every human right and basic opportunities are resolute and reliant equivalent consideration and pressing thought ought to be given to the execution, advancement and assurance of both common and political, and monetary, social and social rights.

The full acknowledgment of common and political rights without the pleasure in monetary, social and social rights is inconceivable the accomplishment of enduring advancement in the usage of human rights is needy upon sound and successful national and worldwide arrangements of financial and social improvement.

REFERENCES:-

1. National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21:India, A/HRC/WG.6/13/IND/1, UN General Assembly, 8 March 2012, para 57.
2. The Invisible Ones: Sexual Minorities,' Indian Journal of Medical Research, 137, January 2013.
3. According to a fact-finding mission conducted by Housing and Land Rights Network, Delhi. The report titled, Planned Dispossession: Forced Evictions and the 2010 Commonwealth Games, is available at: www.hic-sarp.org.
4. Land Rights to Dalits, National Campaign on Dalit Human Rights (NCDHR), November 2005.
5. Human Rights in India: An Overview, Joint Stakeholders' Report, submitted by the Working Group on Human Rights in India and the UN, December 2011.
6. International Human Rights Standards on Post-disaster Resettlement and Rehabilitation, Housing and Land Rights Network and PDHRE – People's Movement for Human Rights Learning, Bangalore, 2006.
7. Post-tsunami Relief and Rehabilitation: A Violation of Human Rights, Housing and Land Rights Network, New Delhi, August 2005

⁴ (Chettri 2017)

8. Planning Commission, Government of India, The Draft Approach Paper for the Twelfth Five-Year Plan [states this number to be 60 million], August 2011.
9. Information from 'Eviction Impact Assessment' surveys conducted by the Delhi Housing Rights Task Force in July 2016
10. Human Rights in India: Status Update 2012, published by Working Group on Human Rights in India and the UN. This report was submitted to the United Nations Human Rights Council for India's second Universal Periodic Review in May 2012.
11. From Deprivation to Destitution: The Impact of Forced Eviction in Topsoia. Apne Aap Women Worldwide, and Housing and Land Rights Network, New Delhi, 2015.
12. Planning Commission of India, Government of India, Eleventh Five-Year Plan (2007-2012I, 2007).
13. Sasan Ultra Mega Power Project, Singrauli, Madhya Pradesh - A Brief Report, Bank Information Center Trust in association with Srijan Lokhit Samiti, 2013.
14. Report of the Standing Committee on Rural Development (2011–2012), Ministry of Rural Development (Department of Land Resources), Government of India.
15. The Hindu, Census findings point to decade of rural distress, September 25, 2011,
16. India's coal mining ambition hurts indigenous groups, says Amnesty,' Thomson Reuters Foundation, 13 July 2016.
17. When Land Is Lost, Do We Eat Coal?: Coal Mining and Violations of Adivasi Rights in India. Amnesty International India, Bangalore, 2016.
18. The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (LARR) Act 2013.
19. Disasters of 'Resettlement' in India, Housing and Land Rights Network, New Delhi, 2014.
20. Strategies Towards Combating Dalit Marginalisation, Proceedings of a National Symposium, 11–12 July, 2014, Centre for Agrarian Studies and Disaster Mitigation, National Institute of Rural Development and Panchayati Raj.
21. Dr.Lakshmi T and Rajeshkumar S , "In Vitro Evaluation of Anticariogenic Activity of Acacia Catechu against Selected Microbes", International Research Journal of Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 3, P.No 20-25, March 2018.

22. Trishala A , Lakshmi T and Rajeshkumar S,“ Physicochemical profile of Acacia catechu bark extract –An In vitro study”, International Research Journal of Multidisciplinary Science & Technology, Volume No. 3 , Issue No. 4, P.No 26-30, April 2018.

