



## Urban Policies and the Right to the City: Focus on the Right to Adequate Housing in India

*This policy brief was written by Chance2Sustain team members working on sub-standard settlements and urban inequality*

*The World Charter for the Right to the City is the product of years of discussions and struggles, by various social movements and organizations, to promote a rights-based approach to the challenges of urbanization. The Charter's idea was conceived in 2001 at the first World Social Forum in Porto Alegre, Brazil; it was then elaborated and promoted at various international forums such as the Social Forum of the Americas (Quito, 2004), the World Urban Forum (Barcelona, 2004) and the 2005 World Social Forum in Porto Alegre. It received the support of several local governments, which took up the task of elaborating city charters, and of international organizations, such as the United Nations Human Settlements Programme (UN-HABITAT) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), which launched a series of actions on the question of urban citizenship and the right to the city (RTTC), including a project entitled "Urban Policies and the Right to the City: Rights, Responsibilities and Citizenship" (Brown and Kristianson, 2009; Zérah, Dupont, Tawa Lama-Rewal, 2011). The 2010 UN-HABITAT report on the state of the world's cities further articulated the importance of taking forward the RTTC as a vehicle for social inclusion (UN-HABITAT, 2010).*

In its original and radical interpretation, the concept of the RTTC is a critique of the capitalist model of accumulation, which calls for a right to change the city through mobilisation "from below" (Lefebvre 1968; Harvey, 2008). In a more reformist interpretation, it is defined as a collection of rights in the city. Thus, the RTTC refers simultaneously to entitlements and claims, to formal and substantive rights, to individual and collective rights, because it can refer to the city-of-today, or to the city-that-should-be (Zérah & al., 2011).

In line with research conducted by the Chance2Sustain team on **sub-standard settlements**, this Policy Brief restricts the discussion on the RTTC to **the right to adequate housing, defined as "the right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity"** (Kothari, 2003: 2), with a focus on the challenge of slums and forced evictions in Indian cities <sup>1</sup>.

### Shortage of adequate housing in Indian cities

Indian cities, especially the largest ones, are faced with an acute shortage in adequate housing which has resulted in the growth of sub-standard and illegal settlements –

<sup>1</sup> This Policy Brief draws from a recent research and policy document promoted by the UNESCO on "Urban Policies and the Right to the City in India: Rights, Responsibilities and Citizenship", and to which one researcher of the Chance2Sustain project has directly contributed (Zérah, Dupont, Tawa Lama-Rewal, 2011; Dupont, 2011).



designated in policy documents as slums or squatter settlements– whose residents accounted for 26% to 55% of the urban population at the beginning of the millennium (depending on the definition of ‘slum’). The development of large-scale infrastructure projects and the restructuring of urban space have entailed many demolitions of these poor settlements, as well as forced evictions.

### **Policy shift: the new strategy for “Slum-Free City Planning”**

Since the late 1980s, urban and housing policies in India, including national programmes such as the Rajiv Awas Yojana (*Slum-Free Cities Planning*) evidence a major shift in the role of the state, from being a provider of housing and amenities to being an enabler, through the promotion of public-private partnerships, the reliance on market mechanisms and the use of land as a resource. Regarding slums, the main ad hoc strategies implemented till date comprised: provision of basic services as part of larger poverty alleviation programmes; resettlement on alternative sites, with housing or merely site-and-service programmes; and in-situ rehabilitation. However these schemes concerned only a section of the slum dwellers, whereas many others were evicted without any compensation; thus they addressed only the symptoms of housing poverty without touching the roots of the problem. The central approach of the new strategy for *Slum-Free City Planning*, initiated in 2010, is to redress the shortage of urban land, amenities and shelter that lead to the creation of slums. Its plan of action comprises two parts: the upgrading or resettlement of existing slums along with property rights; and actions to prevent the emergence of new slums, including reservation of land and housing for the urban poor. This “new deal for the urban poor” (Mathur, 2009) proposes a more comprehensive approach than the previous strategies, and further advocates strong community involvement, but the way in which it would be implemented, beyond its ‘good’ intentions, remains to be followed up. Although rental housing is envisaged, the focus on home ownership and its financial modalities raise concerns: the contribution and regular monthly instalments to pay back housing loans, which are expected from the slum families, put forward the issue of access to credit for the poor and may eventually result in excluding the poorest from the programmes, with a capture of the housing schemes by higher income groups.

There is a consensus to recognize that, till date, the poorest sections of the population gained very few benefits from the urban strategy implemented since the 1990s. There are however diverging views regarding the more appropriate way to overcome the housing shortage and the slum challenge. A key issue is the role conferred to the market, and the pros and cons of slum upgrading.

### **Cumulative impoverishment generated by forced evictions**

Under the Constitution of India, the right to shelter is recognised as a fundamental right, which springs from the right to residence and the right to life; and until the 1990s the courts often passed stay orders that prevented forced evictions of slum dwellers. Reversing a span of progressive judgments, the Supreme Court and High courts have later passed a number of ‘anti-squatters’ sentences. Yet, the effects of forced displacement that accompany slum clearance raise serious concerns and questions that should not be ignored.

The lack of tenure security in most slums<sup>2</sup> entails a risk of eviction leading to inadequate resettlement or homelessness and further impoverishment, along with chain deprivations and losses of rights, particularly for those who are excluded from

2 Although this issue is addressed under the Rajiv Awas Yojana programme, the implementation of the programme is too recent to allow an impact assessment.

rehabilitation and resettlement (R&R) programmes. Although policies may mention inclusiveness in their objectives, they generate new forms of exclusion, especially through eligibility criteria including cut-off dates of arrival in the settlement. In addition, the “Slum-free city” slogan has potential perverse effects, notably the stigmatisation of slum dwellers, as illustrated by abusive practices in relation to slum eviction, such as repeated demolitions without any alternative option provided, without prior notification, and with the use of violence.

R&R programmes may strengthen the right to a secure place to live, but they tend to erode the rights to economic and socio-cultural opportunities. This ensues from a restricted approach that treats housing in isolation, whereas there is a need to integrate it with socio-economic and livelihood issues. Thus, the destruction of squatter settlements without adequate rehabilitation leads to fresh illegal occupation of land, or to the expansion or densification of existing slums.

Unless a truly inclusive and integrated approach is implemented, slum clearance policies will remain limited to being policies for the eradication of the symptoms of housing poverty in the most visible urban spaces, without reducing urban poverty.

### **Initiatives aiming at a better inclusion of slum dwellers in the city**

Civil society organizations (CSOs), including human rights and housing rights movements, NGOs and community-based organisations, have been active to defend the rights of slum dwellers and the houseless in India, to make their voice heard, help them improve their living conditions and access R&R programmes, with however mitigated results regarding forced evictions. Some experiences of resettlement, especially in Mumbai, underline the realignment of roles between state agencies and CSOs with a critical engagement of the latter in partnerships where the role of the state is that of a “facilitator”. But NGOs may lack the necessary strengths and skills to endorse the increased responsibilities transferred to them. The challenge is to scale up some of the good experiences at a level where it can influence policies and thus have a larger impact, while recognising at the same time that a single model and uniform packages are not likely to work.

In the sector of “social enterprises”, some initiatives aim at providing a variety of affordable housing options. Yet, while considering the poor as a market, they involve loan instruments and thus create dependency on financial institutions. International funding agencies sometimes provide safeguard mechanisms in monitoring the implementation of R&R of project affected people, such as the World Bank inspection panel. Among interesting government initiatives, the use of the Internet for promoting better access to information, better transparency, and knowledge sharing deserves mention.

### **Barriers towards an inclusive city and policy recommendations**

Different types of barriers to a better inclusion of slum and pavement dwellers in the city can be identified in the Indian context, some being institutional, and other social and cultural. Other limits comprise: lack of accurate and updated knowledge; conflicting interests and uses of space in the planning of the city between all stakeholders, including divergent interests among the large and heterogeneous populations of slum and pavement dwellers; lack of empowerment and mobilisation of the latter to push their cause; and various deficiencies in the implementation of previous urban poverty alleviation programmes, which on the other hand calls for strong political will.

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**Chance2Sustain** examines how governments and citizens in cities with differing patterns of economic growth and socio-spatial inequality make use of participatory (or integrated) spatial knowledge management to direct urban governance towards more sustainable development.

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Several policy recommendations ensue:

- i. housing and slum policies need to be based on a proper understanding of the processes of urbanization and migration towards the cities with livelihood issues at its core; thus the habitation of the urban poor should be well connected with affordable and efficient public transport systems, which would require an effective coordination of the various public institutions working in the same city;
- ii. priority should be given to increasing land and housing supply for the urban poor, including public housing schemes;
- iii. housing policies need to encompass a range of options including innovative low cost technology options, encourage investment in rental housing through financial incentives, and should not focus mainly on access to home ownership;
- iv. although the diversity of needs has to be recognised, slum and housing policies should be based on the notion of universal entitlement and citizenship;
- v. specification of a cut-off date of arrival in the settlement as an eligibility criterion for R&R programmes should be eliminated;
- vi. more transparency and accountability, and a true participatory process at every step with various stakeholders, need to be embedded in urban policies and the implementation of urban projects;
- vii. when displacement is unavoidable, prior eviction impact assessment is indispensable, and the government must establish appropriate procedural safeguards in accordance with international law and international human rights standards;
- viii. human rights education and vocational training is essential at all levels; and anti-beggary and anti-vagrancy laws that criminalize the homeless should be abolished.

Finally, ensuring the right to adequate housing is not only a matter of public policies, but a shared responsibility of the state and the civil society.

Although this Policy Brief focuses on the case of India, some lessons can be drawn in the field of policies to address sub-standard settlements and from the experiences of mobilisation by the CSOs, which could also be relevant for cities of other countries such as Brazil, Peru and South Africa.

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