



Rights of Slum Dwellers

**PERMANENT SETTLEMENT
FOR THE URBAN POOR**



Bangladesh Legal Aid and Services Trust [BLAST]

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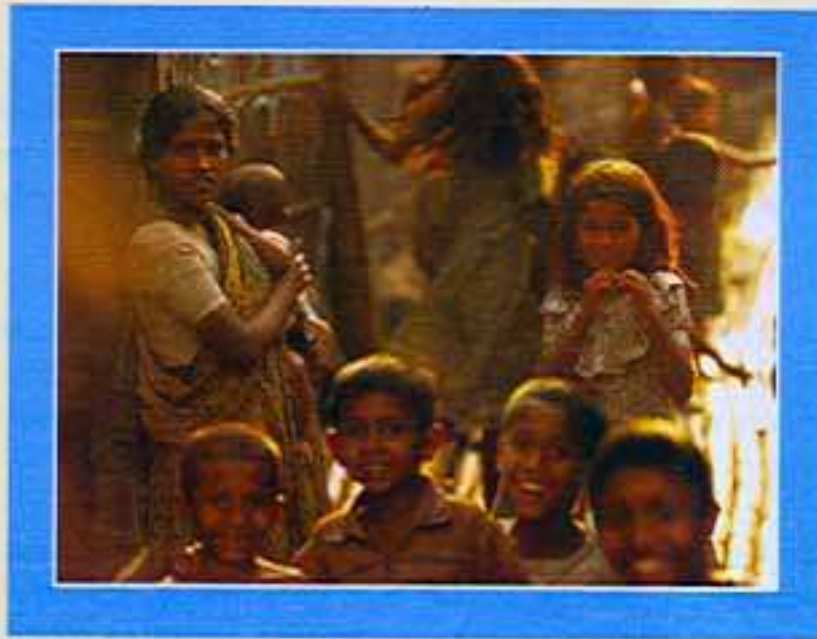
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Roundtable Discussion on
PERMANENT SETTLEMENT FOR THE URBAN POOR:

Rights of Slum Dwellers



Introduction

The slum dwellers are by far the most marginalized segments of the urban society of Bangladesh. It is estimated that there are about 500 slums in 30 cities all over Bangladesh. About 4.2 million people live in the slums of Dhaka alone. The slum dwellers live on the mere fringes of existence and are deprived of basic civic amenities including water, electricity, gas, sewerage etc. Although the contribution of the slum dwellers to city life is significant, there is a tacit reluctance among city dwellers to acknowledge their services let alone enabling them to avail basic rights. Given public sentiment on the cause of slum dwellers is overwhelmingly negative, the Government

also ignores their basic rights to shelter and food.

Bangladesh Legal Aid and Services Trust (BLAST) in collaboration with Ain-O-Salish Kendra (ASK) has successfully challenged the forced eviction of slum dwellers in court and obtained stay orders restraining the concerned government authorities from evicting them without prior notice and making arrangements for alternative housing provisions. Extra legal initiatives such as campaigning and lobbying by human rights activists have prompted the government

discussion

to include alternative housing and rehabilitation provisions for slum dwellers in the National Housing Policy (NHP), 2004. Bangladesh Legal Aid and Services Trust (BLAST) in collaboration with Research Initiatives of Bangladesh (RIB) and Ain-O-Salish-Kendro (ASK) organized a roundtable discussion meeting on November 4, 2004 to elicit civil society responses to the housing challenges of the urban poor.

Legal experts, urban planners, architects, engineers, scholars, media personnel and other civil society representatives attended the roundtable. Dr. Shamsul Bari, Chairman of Research Initiatives of Bangladesh (RIB) moderated the roundtable discussion. Dr. Kamal Hossain, Chairman of Bangladesh Legal Aid and Services Trust (BLAST) delivered a keynote entitled *"Realising Rights: The Rights of Slum Dwellers to Adequate Housing"*. Another paper entitled *"Land Ownership, Land Tenure and Use of Khans Land of Dhaka City and Capture by Vested Interest Groups"* was delivered by Professor Nazrul Islam, Department of Geography and Environmental Science, Dhaka University and Honorary Chairman, Centre for Urban Studies (CUS), Dhaka. Salma A. Shafi, Architect and Managing Director of "Sheltech Consultants (Pvt.) Ltd" presented a paper entitled *"Planning Land and Housing for the Urban Poor"* and discussed how low income housing planning can facilitate settlement and rehabilitation of the urban poor. Md Shafuquul Islam, a resident of Vashantek Basti through a keynote provoked discussion on real world challenges confronted by the slum dwellers. While delivering the welcome address **Dr. Shamsul Bari**, Chairman, RIB opined that there is a striking contrast between the challenges pertaining to expansion of slums and housing challenges of slum dwellers. He opined that according to a report published by the United Nations about one sixth (1/6) of the global population are living in the slums and if this ratio continues then in the next thirty years there looms large the possibility that about half of the

world population will be slum dwellers. He also said that the aim of the roundtable is to elicit multi-disciplinary advocacy responses to the housing challenges of the urban poor

"REALISING RIGHTS: The Rights of Slum Dwellers to Adequate Housing" Dr. Kamal Hossain Senior Advocate, Supreme Court and Chairperson, Bangladesh Legal Aid and Services Trust (BLAST).

"Land Ownership, Land Tenure and Use of Khans Land of Dhaka City and Capture by Vested Interest Groups". Professor Nazrul Islam, University of Dhaka and, Honorary Chairman, Centre for Urban Studies (CUS), Dhaka.

"Planning Land And Housing For The Urban Poor" Salma A. Shafi, Architect Planner.

"We, the Slum Dwellers: Our Tale." (Amra Bosti Bashi: Amader Duti Kotha) On behalf of slum dwellers, Md. Shafuquul Islam, Vashantek basti

Justice Naimuddin Ahmed

Justice Naimuddin Ahmed, Vice-Chairman, BLAST recalled that he was born in the world's second largest slum in Howrah. He also lamented that although India has become an economic giant, there has been no significant improvements in the living conditions of the slum dwellers in Howrah during the last seventy-six years. Given that slum dwellers are denied of their basic rights, they are lured into criminal activities for which the society is responsible, he said. The situation in Bangladesh is also no different from India.

He opined that the actual number of slum dwellers living in Dhaka is much higher than 4.2 million given a significant number of people also reside on the streets, footpaths and railway stations.

The veteran Justice observed that the onus should be on the government to scrutinize the real reasons as to why slums are perceived as the hub of criminal activities. He noted that no government till date has taken any initiative to address the real-world problems of slum dwellers. In this regard, he cited the example of a slum eviction drive in Gulshan that was taking place at the same time when the Bangladeshi Prime-Minister was signing the ICCPR at New York on 5th October 1998. A petition was moved before the Hon'ble High Court to stop the eviction and ultimately it was stayed. The stark reality is that the eviction was carried out at the cost of denying the slum dwellers of their basic human rights for the purpose of beautifying the city.

Advocate Nizamul Huq Nasim

Advocate Nizamul Huq Nasim informed the audience that in recent times, the High Court has been granting good relief in the slum eviction cases and normally the petitioners have been successful in getting a stay order restraining the eviction. In slum eviction cases, the High Court Division of the Supreme Court has in many instances directed the concerned government authorities not to carry out eviction without prior notice and without resettlement or rehabilitation. The courts have opined that the petitioners should not rely only on stay orders and continue with it for good, rather they should submit a rehabilitation plan and guidelines on how to rehabilitate the poor slum dwellers for the purpose of assisting the courts to effectively mitigate the housing problems of slum dwellers.

The High Court Division has through a number of pronouncements enlarged the scope of the fundamental human right of right to life to include right to housing and has maintained that it is the duty of the government to ensure housing rights of the poor. Normally the elite and middle class people are against the slums for they believe slums are safe heaven for hardcore criminals and the slum dwellers should go back to their original places. However,

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Advocate Nasim iterated that it would be worth to explore the root causes as to why more and more people are settling in the slums and moving from their homestead to the cities in search of livelihood.

He further informed the audience that rights activists face many obstacles while pursuing their campaign for ensuring housing rights of slum dwellers given that it works against the interest of the elite and middle class who have an aversion for slums.

Advocate Nasim opined that given 40% of the people of Bangladesh are completely landless, it does not mean that they don't have the right to live in this country. The government has to take innovative measures to rehabilitative them, which could include allocation of Khas lands for the settlement of the urban poor, he said. He concluded that the government, human rights NGOs and the civil society could work in partnership for realizing the housing rights of slum dwellers.

Ms. Shireen Akhter

Shireen Akhter observed that the Constitution has envisaged right to life as a fundamental human right, which also includes the right to food, shelter and clothing. She wondered how the government and political parties tend to ignore the basic needs of slum dwellers despite the fact that they serve as vote banks for the politicians.

While drawing the attention of the audience to the plight of garments workers, she noted that most of them are young girls and women who significantly contribute towards foreign currency earnings in Bangladesh and most of them live in the slums. The government is exploiting them but not willing to let them enjoy their rights, not even their right to shelter, she said. Referring to the reports in the print media, she said it is very sad that the government take recourse to harassing slum dwellers through a range of activities from setting fire to slums and hunting criminals.

discussion

As a result, many young girls had to move from Mirpur to Vashantek on account of being subjected to harassment under different pretexts by government agencies, she pointed out. She urged the government to include low-income housing as well as protecting and upholding the fundamental human rights of the urban poor in its agenda.

Shireen Akhter informed the audience that on account of campaigning and lobbying by rights groups over a period of six years, the government has disbursed a sum of 200 million taka for poor garment workers out of which, 120 million was given to a big NGO, 40 million to the Ministry of Women and Children's Affairs and 30 million to the Ministry of Labour. She criticized the government for its shortsightedness and lack of proper planning in allocating funds for empowerment of the poor and emphasized the need for effective lobbying at the policy level by rights groups and civil society to this end.

She reiterated the need for a well-planned slum dwellers rehabilitation program by the government that should include allocation of



Khas land for the settlement of urban poor.

Mobasshar Hossain

Architect and President of the Institute of Architects.

Mobasshar Hossain observed, "If I have fire in my house, should I put it out first or plan first, how to put it out? Obviously I will put it off first then plan later how to stop further fire." In the same way, Professor Hossain emphasized the need for restraining eviction before planning for rehabilitation of slum dwellers. Citing the example of Singapore, he said relentless efforts should be made to persuade the government to refrain from eviction without making alternative housing provisions. He informed the audience that in 1974, 1975 and 1976 the government of Singapore engaged in building four flats each day for accommodating low-income housing groups. He noted that it is on account of their well-planned priorities of making housing provisions for the slum dwellers that Singapore has today emerged as one of the most developed nations of South East Asia. He also said ensuring housing rights for the urban poor that constitute a significant population of Bangladesh is also a State obligation under the Constitution. However, in stark contrast, since 1971 RAJUK has taken many development projects and plans but none of these are related to the poor. The government must make rules forcing RAJUK and like agencies to make one low-income housing when they make 10 homes for the rich, he said. In the same vein he also appealed to REHAB to devise a policy to make at least one complex a year on non-profit basis for the poor. With a view to ensuring housing for the landless he suggested that price of landed property be significantly raised so that uniform-housing complexes could be established in Bangladesh like China and India.

He also suggested that many agencies in Bangladesh provide loans to the poor for their housing and Grameen Bank is a good example. It has already proved that the poor seldom default in paying up their loans, he observed. He further reiterated the need for developing a public and private partnership to address the housing rights of the poor and low-income groups.

Shah Alamgir

News Editor, Channel I

Shah Alamgir noted the problem is that political parties demonstrate commitment for ensuring housing rights of the poor in their run for elections. However, once elected to power, they tend to forget about the basic rights of the poor and only engage in piecemeal initiatives for mitigating the sufferings of slum dwellers.



Ensuring housing rights for the urban poor that constitute a significant population of Bangladesh is also a State obligation under the Constitution. However, in stark contrast, since 1971 RAJUK has taken many development projects and plans but none of these are related to the poor.

discussion

He further criticized the government for lack of commitment and comprehensive planning for the poor and low-income groups. Referring to the harassment which slum dwellers are faced with in the name of regular eviction, drives conducted by government agencies ostensibly for eliminating criminals, he opined that God fathers of crimes do not live in slums alone by paying up a monthly rent as low as 200-400 taka.

He emphasized that the government has to think innovatively for rehabilitation of slum dwellers and cited the example of the mayor of a Brazilian city 'KUITOBA' who declared that anybody who comes with a basket of trash would receive a basket of vegetables as an incentive for cleaning up the city and succeeded. The combination of good will and opportunity can make rehabilitation happen, he noted.

Open discussion

According to Noor Nahar Begom and Md. Nagor Meah of Vashantek basti, the slum dwellers are living a miserable life and they have no other place to go. Many people including the political leaders come to them and give them false hopes that the slum dwellers will have their permanent homes, they stated. Besides, the police harass them and even children suffer by their acts. They informed the audience that they are willing to move out of Dhaka city if they are provided with permanent homes. They only need a piece of land from the government to take refuge and do not need money from the government to build houses as they will arrange it by themselves. The government has embarked on an expensive scheme for rehabilitating the people of Vasantheek Basti, they opined. For example, in the Vashantek Rehabilitation Project 215 Sq.ft apartment will cost 200000/- taka and monthly repayment will be about 2100/- taka, that is not affordable for the poor slum dwellers.

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They further criticized the government for such an initiative and noted that it has refrained from pro-poor planning. They also held the government responsible for the employment scenario in Bangladesh where more and more jobless are resorting to criminal activities while the government is making false promises towards building a welfare state.

Shah Alam, Director, Rural Development of Bangladesh opined that the international community should come forward to assist the government in rehabilitating the slum dwellers. He noted that donor agencies should intervene in the matter and exert pressure on the government to address the concern of slum dwellers by implementing low-income housing projects for the poor.

AN Mahmood, Director (Admin), BLAST observed that density of population in Dhaka is very high and stressed for exploring reasons as to why rural people are leaving their village homes. He further iterated that one has to seriously rethink whether the housing policy will incorporate provisions for resettlement or improvement and also whether it will support horizontal or vertical expansion. He suggested that the government must take initiatives to move the existing industries from the Tejgaon and Rayerbazar area to outside Dhaka and allocate these places for developing low-income housing projects for the urban poor. With a view to mitigating the housing challenges of the poor he also suggested that the government should make rules prohibiting the owner of a single landed property to refrain from buying another house in Dhaka. He noted that there are huge vacant plots in the Tongi area which could be allotted to the developers for low-income housing arrangements.

Kazi Emadul Haque, Ex- Justice of the Supreme Court of Bangladesh said we have two issues and these are eviction and rehabilitation. The law mandates for the service of at least seven

days notice prior to carrying out any eviction, he said. He also suggested that the law itself needs to be challenged given that any eviction with or without service of notice is contrary to the right to life which is one of the most cherished fundamental right guaranteed under the Constitution. In the same vein, he also maintained that the government should review existing age-old and discriminatory provisions within the land laws. He suggested that land ceiling system be introduced in designated cities in Bangladesh as a dynamic response to the challenges of allocation of urban land.

Outcome of the Roundtable Discussion Meeting Recommendations from the paper presented

1. A recent survey of Tongi and Gazipur Pourashava area shows that there are 113.49 acres of khas land available as low lands in Tongi and 70.61 acres in Gazipur. All these khas lands which are either lying unused or under illegal occupation of vested interest groups could be used for developing housing projects for the low-income group people who are willing to pay for their accommodation. (Dr. Nazrul Islam)
2. Regarding land allocation in RAJUK's development programmes of Uttara Purbachal and Jhilmil, it is observed that the LIG (Low Income Group) will receive a very small share in these projects. (Purbachal -110.46 acres in 4500 acres / Uttara Model Town: 40.51 acres in 536.58 acres/ Jhilmil: 4.55 acres in 381.19 acres for the Low Income Group (LIG) and designated for 4th class employees of the Govt). Ideally each of these proposed housing areas should allow for at least 50 percent of land for the LIG. (Dr. Nazrul Islam). With a view to mitigating the

housing challenges of the urban poor and slum dwellers that are spread throughout the city from Tongi to old Dhaka, there is merit in exploring the following approaches:

On-site Development: Develop existing settlements in their existing location. The land will be purchased directly by the landowner particularly if it is a khas land. (Example of RAJUK owned Land in Tongi)

Land Sharing: It involves working out mutually acceptable arrangements in an area to allow both landowners and occupants to use the land. (Satala Baster in Mohakhali.)

Infill & Upgrading: The Dhaka Urban Infrastructure Improvement Project (DUIIP) provided 3,316 low-income plots of 30 sq meters, 657 MIG plots, 118 industrial and 172 commercial plots in total 520 hectares of land in Mirpur. The resettlement and allotment process was completed by the year 1996. However the LIG areas did not receive any infrastructure or community services and as such these have become very unhealthy and congested slum settlements. So without community organization efforts and coordinated activities of Govt., CBOs and NGOs the process remains incomplete.

Again, in Ershad Nagar, Tongi, as per normal planning provision of 200 households per acre can accommodate a total 22,000 of households. This allows an additional 15,100 households to its present inhabitants. Instead of random eviction in Dhaka and Tongi many poor families could be resettled in the Ershad Nagar area as it has scope to become a well-planned area for the LIG. (Salma A Safi)

3. Focus should be on development of a relocation site as an alternative to eviction. Identification of fresh sites, negotiation with landowners and target groups, purchase of site and site development with provisions for basic facilities are necessary measures that should be adopted. For land that is valuable to the owner, occupants can negotiate for an alternative land to be provided to them. Cost factors would be calculated and borne by the people. In the context of slum settlements in government and semi government land in Bangladesh the existing laws in essence support this type of settlement. (Salma A Safi)

4. Although the Master Plans for small and medium towns and metropolitan cities have land designated

for future residential use, it is rare to find a plan where land has been designated for the LIG. Land use policy and planning procedures for Dhaka City, ADB TA, Khulna Master Plan etc. have provided implementable schemes for LIG housing but in most cases no land has been reserved for the LIG and this is a serious planning deficiency. These plans have to be rectified as soon as possible. (Salma A Safi)

5. The vacant land available in government owned lands by various agencies such as BWDB, Railway, PWD, HSD etc. should be allotted in such a manner for providing housing to LIG and MIG as well as other civic amenities.



Dr. Kamal Hossain envisioned a legal environment in which:

- ⊖ Available khas land in urban areas will be allocated for accessible low cost housing schemes for the urban poor;
- ⊖ The housing rights of slum dwellers who have occupied areas of khas lands for a substantial period of time can be protected;
- ⊖ NGOs and government agencies are enabled to work in collaboration to ensure the right to adequate housing for the urban poor;
- ⊖ Slum dwellers are able to participate in decision-making over their own interests and concerns; and

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- ⊖ Multi-disciplinary initiatives to develop and realize plans for adequate housing of slum dwellers in consultation with architects, urban planners, environmentalists, and most importantly, slum dwellers' representatives are encouraged.

6. Other recommendations from Salma A Safi.

- + Land allocation for providing new housing and resettlement of squatters.
- + Provisions for basic amenities and upgrading of existing large squatter settlements.
- + Assistance for shelter improvement.
- + Expand the range of resources available for housing finance.
- + Encourage existing Micro Finance Institutions to finance LIG housing. Collaborate with private sector developers to build low cost housing.
- + Design sustainable housing for groups who have permanent employment i.e. industrial workers, low-income government employees and a range of informal sector employees.
- + Inclusion of low-income housing in all existing projects and program for housing and land development by public and private sector.
- + Re-planning of existing sites and service schemes and housing areas of HSD and city development authorities can free substantial amount of land for LIG housing; and
- + Construction of large-scale low cost real estate projects in multistoried buildings for LIG particularly in Dhaka.

Other Recommendations came out of the discussion:

☛ For the Government:

1. The Government should demonstrate will and commitment to respond to the housing challenges of the poor slum dwellers.
2. The government should have a minimum standard policy for the slum dwellers.
3. It should also endeavor to establish a Ministry for

Poverty Reduction with necessary departments like Department of Slums Development or Poverty Alleviation. In India, Ministries like Poverty Alleviation and Urban Employment or Urban Housing and Public Works are in existence.

4. No eviction should be allowed without alternative settlement. There are many instances all over the world regarding this kind of rehabilitation or re-settlement.
5. The government should explore ways of building multistoried low-income housing complexes for the urban poor.
6. The government should collaborate with the NGOs in finding creative ways of rehabilitating the slum dwellers without affecting their right to right to life and livelihood.
7. The National Housing Authority should be activated without any delay.
8. The government should relocate the industrial areas situated inside Dhaka (Tejgaon industrial area and Rayerbajar tannery) for providing low-income housing accommodation for the urban poor.
9. The government should designate a Parliamentary Standing Committee to address the concerns of slum dwellers.
10. The government should arrange for income-generation schemes for villagers so that they are not lured into moving in Dhaka city in search of livelihood.
11. The government should take necessary steps for addressing the housing challenges of the poor in its poverty reduction strategy paper.

☛ For the Planners and Developers

1. The real-estate business community must come forward for the settlement of the urban poor especially slum dwellers and urban poor.
2. REHAB has many members and if they can make at least one LIG complex a year on a non-profit basis for the poor, it would be very useful.
2. The real-estate business must be committed to construct one housing project for the poor while they make five for the rich. If possible the government can make this system mandatory given this strategy has successfully worked in Indonesia, Malaysia and Singapore.

discussion

For the Civil society and media:

1. The civil society and media should continue to keep up the pressure on the government on the issue of housing rights of the urban poor.
2. Mobilize public opinion that the slum dwellers are not terrorists.
3. Lead a social movement for ensuring housing rights of the urban poor.
4. Continue to write articles in the print media on the contribution of the urban poor towards city life and thereby generating middle class acceptability for the slum dwellers.
5. Continue to pursue the government to form a Parliamentary Committee for this purpose.

For the NGOs:

1. Collaboration between groups representing the interests of the poor and activists is necessary.
2. NGOs should form a pressure group to ensure the rights of the slum dwellers.
3. NGOs should establish a committee to monitor the eviction and give them immediate relief.
4. Maintain a track of the ongoing housing programs.
5. NGOs could assist the government to give photo-identity cards to the original slum dwellers to preclude influx of false claimants in rehabilitation programs.
6. NGOs should explore and find some measurable indicators for minimum progress, so that actual progress can be detected.



REALISING RIGHTS: The Rights of Slum dwellers to Adequate Housing

Dr. Kamal Hossain

Senior Advocate, Supreme Court, Chairperson, Bangladesh Legal Aid and Services Trust



Today is Constitution day, 4 November, the 33rd anniversary of the day we as independent citizens adopted a set of principles by which to guide our relations with each other and with our newly created state.

It is an appropriate moment for us to reflect on the extent to which we were able to incorporate and to realise constitutional guarantees to meet the needs and aspirations of the people to social and economic justice. The key area for our consideration is one of the most basic needs and indeed fundamental human rights — that to shelter and adequate housing.

As we have heard, there is an urban housing crisis, in which about one third of Dhaka's residents now live in shanties and slums. They lack tenurial rights regardless of the length of their occupation. They face overnight homelessness, due to demolitions or arson

attacks.

Despite a situation in which the lives of the urban poor are beset by arbitrary action and uncertainty, it is important to note that significant legal, policy and practical changes have been effected in this area over the past decade. Some of the more positive developments have been achieved through a combination of citizens' action, including cross class and community coalitions, supported by organized non-governmental initiatives and by timely interventions by the judiciary, as the law and constitution were invoked to protect the slum dwellers. Most importantly, these have involved organized and courageous struggle by slum dwellers themselves. I will take the opportunity today to reflect on how we can build on these initiatives to meet the challenges currently facing us for effective realization of the rights to housing of the urban poor.

Constitutional Framework

The Constitution of Bangladesh 1972 clearly recognized the state's responsibility to improve the material and cultural standard of living of the people¹ in order to secure for all citizens 'the provision of the basic necessities of life, including food, clothing, shelter education and medical care.' (Article 15). It also guaranteed fundamental human rights to equality before the law, and equal protection of the law, treatment in accordance with the law and the right to life (Articles 27, 31 and 32 respectively).

While these constitutional provisions do not imply an obligation the state must provide immediate housing to all, they do at least entail a minimum commitment to ensure that citizens are not turned out of the basic shelters they have constructed for themselves, and to avoid jeopardizing their livelihoods through such arbitrary action.

In a number of landmark decisions, the High Court Division of our Supreme Court has now established that slum evictions cannot be carried out without prior written notice as mandatorily required by the law [Section 5, Government Lands and Buildings (Recovery of Possession) Ordinance 1970], and, in a significant development, without making alternative provision for their rehabilitation. [see *Modhumala's Case*, 53 DLR (2001) HCD p 540 and *ASK v Bangladesh*, 19 BLD (1999) HCD p 488]. Our apex court has reportedly recently reaffirmed (as yet unreported. See *Prothom Alo*, 18 August 2004) these principles as relied on by the High Court in the *Tanbazar case* [Bangladesh Society for the Enforcement of Human Rights (BSEHR) v government of Bangladesh and others 53 DLR (2001) HCD p.1] where it was held that the eviction of the sex workers of Tanbazar and Nimtoli was illegal and the profession of sex work is not illegal in relation to the livelihood.

It is important to note that in seeking to realise the right to housing, other rights may be invoked. Thus in many cases slum dwellers who have protested or sought to resist evictions have been subjected to arbitrary arrest or detention and custodial ill-treatment. The threat of their being implicated in further false cases also serves to inhibit many of them from exercising their right to freedom of expression

and association.

International Human Rights Law

The right to housing as a basic right is enshrined in a number of international instruments recognized or ratified by Bangladesh. These include the Universal Declaration on Human Rights (UDHR), which is recognized by all states and has become part of customary international law, and which influenced the content of our own Constitutional provisions.²

Bangladesh's specific obligations under international law to secure the right to housing are most clearly set out in the International Covenant on Economic, Social and Cultural Rights (ICESCR), which in Article



11 re-affirms the right

'of every one to an adequate standard of living for himself and his/her family, including adequate food, clothing and housing and to the continuous improvement of living conditions'.

In addition, Bangladesh also has obligations under other treaties, such as CEDAW and the CRC, to secure the rights of women and children to housing.³ So for example, Article 27 (3) of the CRC provides that state parties in accordance with national conditions and within their means shall take appropriate measures to assist parents and others responsible for the child to implement the right to housing and shall in the case of need provide material assistance and support programs particularly with regard to nutrition, clothing and housing.

1. Article 25(1) of the UDHR provides that every one has a right to a standard of living adequate for the health and well-being of himself and his/her family, including food, clothing, housing and medical care and necessary social services, and right to security in the event of employment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

The State's obligations under international law thus include taking 'appropriate steps to ensure the realization of this right' (Article 11 (1) of CESCR). They also include an immediate obligation not to discriminate between women and men in the realization of this right (Article 2, CEDAW, Article 2(3) and 26 ICESCR). According to the UN Committee on Economic, Social and Cultural Rights the Government's responsibility in halting forced evictions, and ensuring housing rights of its citizens includes legal security of tenure, availability of services, materials, facilities and infrastructure, location, habitability, affordability, accessibility and cultural adequacy.

At a bare minimum the obligation includes an expectation of governmental concern regarding citizens' shelter needs, and to improve and protect houses rather than damaging and destroying them (the General Assembly Resolution 43/181 of 20 December 1988 on "Global Strategy for Shelter to the Year 2000). In addition it includes an obligation to support the informal sector through shelter and services, especially for the underprivileged (The UN Conference on Human Settlement in 1976, at which Bangladesh participated. The UN Istanbul Declaration on Human Settlement 1996 endorsed the universal goals of ensuring adequate shelter for all and making human settlement safe, healthier, more livable, equitable, sustainable and more productive. It also endorsed as a major theme of the conference, adequate shelter for all. It also considered, with a sense of urgency, the continuing deterioration of conditions of shelter and human settlements, and took upon itself the task to expand the supply of affordable housing by enabling markets to perform efficiently. The minimum obligations of Governments towards slum dwellers also includes a right to compensation for persons evicted, which should include land and access to common property resources and should not be restricted to cash payments. (UN Comprehensive Human Rights Guidelines on Development-based Displacement (1997)

The National Housing Policy

This has been recently revised (in 2004). An earlier version of the policy, which then received Cabinet approval, recognised 5 that insitu slum development should be carried out, housing facilities extended,

tenurial rights recognised, and that land with material infrastructure should be made available. It also highlighted the importance of people's participation in maintaining the facilities in slums. (para 5)

Resisting Slum Evictions in the Courts

Human rights organisations and NGOs working with the urban poor have agitated their rights to housing before our Supreme Court on a number of occasions. These started in 1989/1990, when the evictions planned for Taltola Basti and Agargaon Basti were stopped by stay orders issued by the High Court, following overnight writ petitions drafted on an emergency basis. As in the past, slum dwellers, usually with the assistance of non-government organizations and like-minded lawyers, have continued to challenge the legality of their evictions. The Court has become a real bulwark against arbitrary and forced eviction. In 2003 alone, several writs [W P No. 3326/2003 (New Shahid lane bosti, Pahartali, Ctg.), W P No. 567/2003 (Vashantek Bosti), W. P. No. 4698/2003 (Mohakhali Bosti) W. P. No. 7585/2003 (Kalyanpur Pora Bosti), W P No. 4253/2003 (Sattala Bosti, Mohakhali)] were filed challenging forced evictions of slum dwellers.

In recent years, the Courts have recognised that the minimum legal requirements for any eviction are to provide prior written notice, and also to provide for alternative rehabilitation. The High Court has recognised the unique contribution made by the urban poor to urban life, and has elaborated guidelines regarding any forced evictions that may be carried out.

Currently there are a number of such cases pending in relation to slums in Dhaka and other cities. (eg Mahakhali Shat-tola Basti; Kallyanpur Pora Basti; Bhashantek Basti). In several of these the Courts have considered the fact that there are pending rehabilitation schemes in place and have called for information on these prior to permitting a slum eviction to be carried out.

However, in others, the slums have been demolished (Pallabi Section 10, Fulbaria Railway Colony Slum; Karwan Bazar Slum). In yet other cases, overnight demolition or arson attacks have precluded any possibility of seeking legal intervention and thousands have been rendered homeless with no relief or redress.



Current Challenges

There are a number of areas on which further activism – both in the legal and policy area – is urgently needed:

- ⊖ Recognizing that state's obligation includes not interfering with or disrupting citizen's own efforts to secure their livelihoods and shelter, by avoiding forcible eviction of slums
- ⊖ Clarifying nature and content of minimum obligations re slum dwellers – nature of rehabilitation, what models are available, what kind of legal framework can facilitate this
- ⊖ While legal advocacy has helped to frame issues regarding recognition of the right to housing, it has been less effective in throwing light on the brutality of the process accompanying and following evictions. In many cases, legal challenges have been met with a seeming backlash, and the resort to brute force. Arson attacks have abounded – leading in some cases to deaths – and yet there is no accountability attempted by state agencies in such cases. This is an area on
- ⊖ At the same time, slum evictions involve major disruptions in the informal economy, with livelihoods threatened and jeopardized, and the provision of basic services cut off. Thus, many NGO run development programs in slums,

approved by the NGO Affairs Bureau and funded by foreign donations from bilateral and multilateral donors are totally disrupted; health, sanitation employment and education facilities and opportunities, including for women and children, are jeopardized or cut off.

Recommendations:

We need a legal environment in which:

- ⊖ available khas land in urban areas will be made available for accessible low cost housing schemes for the urban poor
- ⊖ The housing rights of slum dwellers who have occupied areas of khas lands for a substantial period of time can be protected
- ⊖ NGOs and government agencies are enabled to work in collaboration to ensure the right to adequate housing for the urban poor
- ⊖ multi-disciplinary initiatives to develop and realise plans for adequate housing of slum dwellers (including architects, urban planners, environmentalists, and most importantly, slum dwellers' representatives) are encouraged
- ⊖ slum dwellers are able to participate in decision-making over their own interests and concerns

References:

- Human Rights in Bangladesh 2001, ASK, Dhaka, 2002, p. 206.
 Human Rights and Eviction in Bangladesh 2003, ASK, mimeo.
 Slum Eviction in Dhaka 1995-2000, ASK, mimeo.

Land Ownership, Land Tenure and Use of Khas Land of Dhaka City and Capture by Vested Interest Groups

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Introduction:

Dhaka suffers from acute shortage of supply of land for housing enhancing the price of land with time. The situation accentuates with rising degree of inequality. The poor who constitute nearly 40 percent of the city's population are the worst victims of inequality. They also suffer due to the absence of a pro-poor urban policy. The lower-middle income, who comprise yet another large proportion of the city's population also are not in any enviable situation. Let us however, focus today on the Poor's status in terms of land and housing. We will limit our discussion first to a brief introduction to the pattern of ownership of land in Dhaka, followed by the land tenure system and a discussion of the khas land and its use or misuse. The potential scope of the poor access to such land is probed in conclusion.

Land ownership pattern

The only comprehensive recent survey of land

ownership in Dhaka city was undertaken in 1981 by the Ministry of Land (MOL, 1981). It was conducted on owner households, but other studies (and estimates) indicated that more than 70 percent of the people of Dhaka do not own any land in the city. These non-owning people would include 97 percent of the urban poor, and majority of lower-middle and middle class people and even many of the upper middle class. In our own study for the Government of Bangladesh and JADB in 1995 we have found that only 3.2 percent of the urban poor in Dhaka owned the plot of land on which their dwelling unit was located (Table-1) (this proportion would be much lower today).

Of the 30 percent households in the city who owned land (in 1981) most owned only small lots, 60 percent in fact owning lots smaller than 5 katha (720x5 sq. ft.). Only 8.69 percent of the holdings were of more than 1 bigha (1/3rd acre) size but cumulatively these occupied 22.67 percent of the total land area (Table-2).

Table 1 : Ownership of Dwelling Plot by Urban Poor, 1995

Source: Islam, et al, 1997

| Ownership Category | Dhaka | | | All urban | | |
|--------------------|-------------------|---------------------|--------------|-------------------|---------------------|--------------|
| | Hardcore poor (%) | Moderately Poor (%) | All Poor (%) | Hardcore poor (%) | Moderately Poor (%) | All Poor (%) |
| Owner | 2.9 | 3.7 | 3.2 | 18.6 | 17.3 | 18.1 |
| Non-owner | 97.1 | 96.3 | 96.8 | 81.4 | 82.7 | 81.9 |
| Total | 100 | 100 | 100 | 100 | 100 | 100 |

Table -2 Size Distribution of Holdings of Dhaka City, 1981

| Size of holding (in acre) | No. of Holdings | Percentage | Cumulative percentage | acre | Average Holding percentage | Area under the holding size | Cumulative (sq. ft) |
|---------------------------|-----------------|------------|-----------------------|---------|----------------------------|-----------------------------|---------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Below 0.0330 | 26725 | 26.72 | 26.72 | 722.02 | 5.45 | 5.45 | 0.0270 |
| 0.0330-0.0494 | 15380 | 15.38 | 42.10 | 638.50 | 4.87 | 10.27 | 0.0415 |
| 0.0494-0.0824 | 17078 | 17.08 | 59.95 | 1234.22 | 6.32 | 19.59 | 0.0690 |
| 0.0824-0.1649 | 16817 | 16.82 | 76.80 | 2231.47 | 16.5 | 36.44 | 0.1327 |
| 0.1649-0.2424 | 7851 | 7.85 | 84.65 | 1638.04 | 12.37 | 48.18 | 0.2086 |
| 0.2424-0.3299 | 6661 | 6.66 | 91.31 | 1840.21 | 13.90 | 62.71 | 0.2763 |
| 0.3299-0.4949 | 4660 | 4.66 | 95.97 | 1935.58 | 14.63 | 77.33 | 0.4154 |
| 0.4949-0.6599 | 2494 | 2.49 | 98.46 | 1408.22 | 10.62 | 87.97 | 0.5646 |
| 0.6599-0.9999 | 1282 | 1.28 | 99.76 | 1032.71 | 7.80 | 95.77 | 0.8055 |
| 1.000 and above | 255 | 0.26 | 100 | 559.87 | 4.23 | 100 | 20.956 |
| All Sizes | 100003 | 100.00 | - | 1324.84 | 100.00 | - | 0.3324 |

.0163 acres = 1 katha, .033 acres = 2 katha, .0495 acres = 3 katha, .0825 acres = 5 katha, .1650 acres = 10 katha, .2475 acres = 15 katha, .3300 acres = 1 bigha, .4950 acres = 1.5 bigha and .6600 acres = 2 bigha

Land Tenure System

The land tenure system in Bangladesh has evolved over a long historical time and stands now in a complex status. Urban land at present is characterized by a variety of tenure types, identified as non-formal, de facto tenure; private freehold; government or khas land; public leasehold; private leasehold; apartment tenure; community ownership; cooperative ownership; wakf (Charitable/religious land); and Abandoned property and non-resident vested property.

Non-formal, de facto tenure:

Land occupied and used without permission from its owner is a form of tenure known as 'Squatting'. This is quite common in Dhaka especially on government property. The government in 1975, while cleaning slums of Dhaka city under the emergency Rule, forced nearly 200000 squatter dwellers to settle in government allotted plots outside Dhaka city. As regards the tenure of such land, the government is yet indecisive. Another massive eviction of 40000 squatters took place in 2002 at Agargaon in the City but without any resettlement provision. There have been innumerable evictions between 1975 and 2004.

Private Freehold

This is the most familiar form of tenure through which a private individual or a group of individuals can own land outright. The law gives the owner the right to use or dispose of land in any way he/she likes as long as he/she does not impair the law of land or planning regulations. (The poor at present probably has ownership access to less than 1 percent of this land)

Government land or Khas land

Land under government ownership is called khas lands. The main sources of khas lands are as follows.

- ⊖ Land vesting in the government by virtue of holdings exceeding the land ownership ceiling (100 bighas or 13.4 ha);
- ⊖ Accretion of land from the sea or rivers; Acquisition of land in cases of default in payment of land development tax;
- ⊖ Common-use land (roads, rivers, pastures, etc.) and special use land (forest, fisheries, shrimp land, hats, bazaars, etc.) and unusable land (hill, marshes etc.);
- ⊖ Land acquired by compulsory acquisition or purchase.

Acquisition and Requisition of Immovable Property Ordinance 1982 prohibits the use of acquired land for purposes other than that for which it was acquired. Dhaka city has an unknown quantity of khas land, but it is quite substantial, more than 1000 acres of which still remain vacant. An ADB study conducted in 1993 had found about 1272 acres of Khas land within DCC area alone of this 476 acres were vacant or under illegal use.

Public Freehold

Government or semi-government agencies are the full owners of land. In urban areas, it generally applies to land directly used by the public such as parks, roadways and sites for public buildings, this is also known as 'khas land'. Government has the occupancy right to forests, mineral resources and water areas (rivers and public watersheds, etc.) the

government has the right for different uses of such land and can also sell it.

Public Lease hold

Some government agencies have directly leased out land to private individuals or firms for a specified period of time. These are known as public leases. The time period may vary between few months to 99 years. For example, RAJUK, has developed some residential areas and leased them to private individuals for 99 years.

The lease-holders enjoy all the privileges of a private freehold except the fact that any transfer or sales have to be approved by the authorities concerned. Some of the leases may be for a temporary period and may be treated as on rent and mostly used for commercial purposes. Government has resettled some of the landless in government (khas) land on long term lease.

Private Leasehold:

It applies to rental market of all categories of property; residential, commercial and industrial. In it a private owner gives his property on lease to an individual or to a group of individuals for a certain period with certain restrictions and for specific uses or activities.

Apartment Tenure

Apartment construction is a comparatively recent phenomenon; the law relating to ownership rights in apartments is not well-developed. Apartments are sold under a variety of legal arrangements. The lack of standard system handicaps the developer, the purchaser, and the tax collector. This system does not concern the poor of Dhaka. It is mainly limited to upper and middle income groups.

Community Ownership:

This is a recent phenomenon and mostly occurs in urban, semi-urban and urban-fringe areas. The property is primarily used for the development of residential purpose. There are laws to regulate such holdings. In most cases the ownership is individual but with certain restrictions on transfer, sale and use. There are examples of this type in tenure at various locations, but mostly in the fringe areas. There is potential for use of this system for the poor, but only if organized by responsible NGOs.

Wakf

It means charitable and religious land. When a property is given for charitable and religious uses through legal methods it becomes a wakf property. government appoints a person to look after such property. Most of the public mosques belong to this category. In case of mosques, private trusts or government trusts, government appointed agencies look after the properties. A recent newspaper report reveals that one thirds of the 643,140 acres of vested property in the country has been gobbled by land grabbers in the last three decades (the Daily Star, 15 October 2004).

AVAILABLE INFORMATION ON KHAS AND VACANT LAND IN DHAKA CITY

Source of information:

The information of this paper is taken from final report volume-II of formulation of Land Development Controls and procedures for Dhaka city (ADB TA 1609-BAN) prepared by Culpin Planning Ltd. in association with International Management Consultants Ltd, Bangladesh, Consultants Ltd. and Sheltech Consultants (Pvt.) Ltd. on August 1993. ADB provided Technical Assistance for the study and Rajdhani Unnayan Kartipokkha (RAJUK) was the executing Agency. The data on govt. land is prepared on the basis of secondary information from different



Table 3 : Khas Land within DCC Area. govt. agencies collected during the study.

| Plot size (acres) | Total | | Govt./Public use | | Vacant/ Illegal use | |
|-------------------|-------|------|------------------|------|---------------------|------|
| | Plots | Area | Plots | Area | Plots | Area |
| 0 - ¼ | 1009 | 110 | 415 | 51 | 594 | 58 |
| ¼ - ½ | 408 | 146 | 192 | 70 | 216 | 77 |
| ½ - 1 | 322 | 222 | 175 | 124 | 146 | 98 |
| 1- 2 | 171 | 231 | 93 | 129 | 78 | 102 |
| 2-3 | 94 | 287 | 65 | 198 | 30 | 83 |
| 5+ above | 36 | 282 | 27 | 224 | 9 | 58 |
| Total | 2040 | 1272 | 967 | 796 | 1073 | 476 |

Source: Tabal Officers, 1992

Khas land:

The total area of khas land in Dhaka city is 1272 acres. of this 476 acres (37%) has been under illegal or vacant use for ten years or more. in addition, there is also likely to be further land which has been in illegal or vacant use for under 10 years. half the area of the sites are under 1 acre.

During the study of Formulation of Land Development Controls and Procedures for Dhaka City, forty-four sites were surveyed, all over 1 acre (a total of 226 acres). those under 1 acre were not surveyed and according to the report only 41% of the khas land considered vacant was actually vacant, while a further 18% was still in agriculture use. 50% of the undeveloped sites needed filling before development. Of the developed area (34%) over half was developed by pucca structure, the amount of illegal development, determined by the site survey was reported to be limited. an interesting feature of the survey finding is that the stadium and the Islamic foundation are officially recorded as vacant land.

Dhaka City Corporation Land:

DCC records show them as owners of 647 acres of land of which 409 acres is developed and 94.33 acres is vacant or illegally occupied. There is no data as to the length of time for which these plots have been vacant. This total includes 50.83 acres currently used as municipal garbage dump. This land will be filled up and become available for development very soon. Table-2 shows 45% of the sites to be below, $\frac{1}{4}$ of one acre.

Table 4: BCC Recorded Vacant Land

| Size (Acres) | No. of Sites | Area (acres) |
|-------------------------------|--------------|--------------|
| 0 - $\frac{1}{4}$ | 45 | 2.8 |
| $\frac{1}{4}$ - $\frac{1}{2}$ | 12 | 4.1 |
| $\frac{1}{2}$ - 1 | 4 | 2.9 |
| 1 - 2 | 9 | 11.2 |
| 2 - 3 | 4 | 9.4 |
| 5+ above | 3 | 63.93 |
| Total | 77 | 94.33 |

Source DCC 1992

The DCC record of 1992 was assessed in the field and 28 sites were surveyed. However the survey is distorted by the 50.83 acres municipal dumping site at Matuail as it contains 44% of all land. Most of the remaining sites are either small road side dumping depots (which cannot really be regarded as vacant as alternative sites would be needed if these sites were developed). The survey shows that 77% of DCC land is undeveloped (inclusive of the dumping site and agricultural land), 23 % is developed, half for commercial use, 57% of the development was *Kutcha*. While the large municipal dumping site needs fill for development, most of the smaller sites can be developed with no fill or shallow fill. Only 1% was illegally occupied at the time of survey.

DCC recently has undertaken steps to acquire a total of about 50.09 acres of land as an extension to the existing dumping site at Matuail. Process of acquisition of 53.04 acres of land at Amin Bazar near Savar has been also taken for a new garbage dumping

site.

Acquired Land within DCC Area

A record of the acquired land within DCC area is shown in the

| Plot Size (acres) | No. of Plots | Area (acres) | Unused 10 Years + |
|-------------------------------|--------------|---------------|-------------------|
| 0 - $\frac{1}{4}$ | 9701 | 919 | NA |
| $\frac{1}{4}$ - $\frac{1}{2}$ | 3226 | 1172 | |
| $\frac{1}{2}$ - 1 | 3055 | 2105 | NA |
| 1 - 2 | 1985 | 2740 | |
| 2 - 3 | 877 | 2514 | |
| 5+ above | 253 | 3406 | |
| Total | 19097 | 12856 | 1256 acres. |

following Table;

Source: Tahsil Offices, 1992

RAJUK Land:

According to the study RAJUK has acquired 4613 acres in 69 land acquisition cases in the period 1956-57 to 1989-90. Of this total, RAJUK has itself developed or leased to others to develop 3406 acres. Of the remainder, most has been derequisitioned (1137 acres). This is a consequence of RAJUK requisitioning (but not acquiring) land and following a court cases have to leave the land with the original owners. The rest is in dispute.

RAJUK claims it has no acquired land which has remained undeveloped for more than ten years. But there is a lot of undeveloped land on RAJUK estates where the land has been leased and the purchasers have not developed. A lot of such lands are located in Tongi Industrial Area.

RAJUK is currently undertaking land development programmes mainly for large scale residential areas. the town ship development of Uttara purbachal and jilmil are some of it's ongoing works and these are Master plan proposition. however as per the planning of land allocation it is observed the poor receive a very small share i.e. 4.34% in Purbachal new township, 7.55% for Uttara model town and 1.2% in Jhilmil residential area under Rajuk is reserved for low income group.

While all these lands will be developed and distributed among the high income group the small percentage of land reserved for LIG will be used for rehabilitation of those from whom the land has been acquired. While planning and development of these areas progress RAJUK and other Authorities continue to evict the poor squatting on their lands and are allowing further densification of informal settlement or private slums.

Ownership of Vacant Land:

The housing and settlement directorate is by far the biggest owner of vacant land a lot of which is occupied illegally. Almost all of these khas and government acquired land recorded as vacant was checked during the study. But during the past 12 years much of this land may have been used up or sold out by the agencies. Ownerships of Vacant plots by various government agencies is shown in the following Table:

Table 5: Ownership of vacant land.

| Sl | Name of the government agencies | Area in Acre | % of Total |
|-------|------------------------------------|--------------|------------|
| 1 | Bangladesh Railways | 145 | 11.46 |
| 2 | Housing and Settlement Directorate | 826 | 65.29 |
| 3 | Public Works Department | 33 | 2.60 |
| 4 | Roads and Highways Department | 66 | 5.21 |
| 5 | Telegraph and Telecom Department | 92 | 7.27 |
| 6 | DW/ ASA | 20 | 1.58 |
| 7 | Water Development Board | 83 | 6.56 |
| Total | | 1265 | 100 |

24 firms Grab 561 Acres of Public Land

A total of 24 real estate companies have illegally occupied over 561.18 acres of public land in Dhaka and its suburbs, the Parliamentary Standing Committee of the Ministry of Land was told yesterday.

A meeting of the JS Body held yesterday with its chairman Advocate Mahmudur Rahman in the chair also informed that of those companies eight have applied for granting lease of the occupied land in Dhaka and Gazipur district.

The amount of illegally occupied land would be much higher the committee chairman told reports after the meeting. He said criminal cases would be filed against the land grabbers' soon. He said the standing committee has recommended to the government that it take immediate measures to restore government control over the occupied lands. The Independent 10 June 2004

Existing land use of vacant land owned by different agencies

The land in Dhaka city are getting scarce due to poor record keeping and high level of corruption. The quantum of khas land is getting smaller every day as the powerful groups are grabbing khas lands by various unscrupulous means. A news statement below shows the following: An update of the condition of the government holding of five areas from the final report volume-II of Formulation Of Land Development Controls and Procedures for Dhaka city (ADB TA -1609-BAN) gives the following information (Table 6 : Existing Condition Of Government Holdings).

Table 6 Existing Condition of Govt. Holdings

| Ref no.* | Govt. Holdings | Existing Physical Condition |
|----------|--|--|
| 2 | Agency: RHD Location: Gabtoli Area: 61.77 acres | ⊖ Gabtoli Centra Bus Terminal. It's adjacent area is low lying where local people do fishing claiming this land as their own. ⊖ Lands are allocated to CNG Fuel stations on lease. Such lease of lands has been given to at least six CNG fueling stations at Gabtoli following CNG fuel crisis after introducing CNG run three wheelers imposing ban og two stroke auto rickshaws. |
| 161 | Agency: DCC Location: Gabtoli Area: 2.25 acres | ⊖ Gabtoli Cattle Market occupies this area with adjacent low-lying riverbeds ⊖ Brick, Sand, Cement traders etc. occupy some of the lands. |
| 11 | Agency: Bangladesh Railway Location: Boro Moghbazar Area: 4.46 acres | ⊖ Illegal Squatter settlement ⊖ Lands are allocated to CNG fuel stations on lease. Lease of land has been given to at least three CNG fueling station at Boro Mogh Bazar. |
| 139 | Agency: DCC Location: Sayedabad Area: 9.00 acres | ⊖ DCC staffs have constructed finished dwelling places all in a row with permission of the DCC authority ⊖ Some vacant lands have been occupied due to extension of Sayedabad Bus Terminal which was kept vacant for park |
| 18 | Agency: T&T Location: Kakrai/Mahakhali Area: 92.38 acres | ⊖ The largest housing area of low income group in the city exists in the land owned by T&T (population census 80000) |

Note: Sites have been selected from the final report (volume II) of Formulation of Land Development Controls and Procedure for Dhaka city. An ADB TA project conducted in 1991.

Table 8: RAJUK Land Occupied by Squatters in Tongi Area.

| Sl no. | Name of Squatter Occupied Area | Total Land in Acre |
|--------|--------------------------------|--------------------|
| 1 | Churi factory | 1.25 |
| 2 | Jinnat textile | 3.00 |
| 3 | Tetul tala | 15.00 |
| 4 | Kala bagan | 1.00 |
| 5 | Nishat jute mills | 2.5 |
| 6 | Cooperative bank math | 1.85 |
| 7 | Harir mazar | 2.75 |
| 8 | Mudata pukur pir | 3.00 |
| 9 | Danail battola | 1.00 |
| Total | | 31.35 |

Source: SCPL Field Survey, June 2002.

Conclusion:

A vast majority of the population of Dhaka do not own any land in the city. Their share is continuously increasing. Almost none among the lowest 40 percentage of the population (who may be identified as income poor) own land in Dhaka. The poor therefore have found shelter in rental slums or squatted on government land facing regular eviction threats. It is indeed a very difficult task of providing access to land for housing the urban poor, but as examples in our neighboring countries and elsewhere show that it is not an impossible task. A pro-poor policy and a commitment to implement such a policy can solve much of the problem. Access to khas land for the poor is one such possible solution.

References:

- Urbanization, Urban Planning and Development and Urban Governance Edited by Nazmul Islam CUS, 2002.
- Study on Financing of Urban Low Income Housing, Final Report, May 1999.
- Formulation of Land Development Controls and Procedures For Dhaka City (ADB TA 1609-BAN) Final Report, Volume-II August 1993.
- Strategic Transport Plan for Dhaka.

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PLANNING LAND AND HOUSING FOR THE URBAN POOR

Salma A. Shafi

Architect Planner



BACKGROUND

Contribution of the urban informal sector, run mostly by the urban poor, to the national economy is known to all yet provision of shelter for Low Income Group (LIG) in the urban areas has not been addressed. This is a mistake on the part of the Govt. as temporary shelters are becoming the mainstay of the cities. The Govt. is also unable to tap savings of a high percentage of the urban population which finds its way in less productive areas. Housing for the urban poor continues to remain as a grey area where government policy or initiatives have not been taken to address the issue. Planning for providing shelter to the poor has been successfully achieved in many Asian countries with similar socio-economic conditions to Bangladesh where community initiatives and participation has been matched by Govt. support. Some of these projects are;

- 1 Facilitate Low cost Housing in Urban and Rural

Areas – Govt. Policy (The Million Housing Programme, Sri Lanka)

- 2 Upgrading low income/informal settlements. (Kampung Improvement, Indonesia)
- 3 Community participation and community financed upgrading – (Orangi Pilot Project, Pakistan) Technical assistance and social guidance to 90,000 households.
- 4 Guidance to communities to improve their economic, social and physical conditions. (UCDO, Thailand, SPARC in Bombay – India)
- 5 SPARC mobilizes women's savings groups to access the formal sector for land and housing.

The success of all these programmes have the following reasons;

- ⊖ The objective was to reach a large number of households and to make resources available to them instead of providing a few with high standard solutions.
- ⊖ To place people at the center of the planning process. House ownership and self-help were the approaches.
- ⊖ The projects were targeted towards long-term socio-economic sustainability and this includes as a beginning the acceptance of slums and squatters as a legitimate form of urban housing which should be improved rather than destroyed.
- ⊖ Identification of potential source of funds both domestic and external to channelise into LIG housing.
- ⊖ Forming an organization responsible for shelter especially for LIG.
- ⊖ Involvement of NGOs, CBOs for organizing urban poor groups for shelter purpose.
- ⊖ Develop linkages among NGOs involved in micro credit delivery with banks that provide housing finance.

Today the urban areas of Bangladesh particularly Dhaka is facing severe crisis in terms of housing, health, sanitation and services for majority of the population. The National Urban Environment for Housing Policy and Production has the following deficiencies;

- ⊖ Gross shortage of housing in terms of need.
- ⊖ 40 percent people live in slums & squatter settlements.
- ⊖ Public formal housing supply is less than one percent
- ⊖ Housing policy exists only in theory no practical measures have been worked out for implementation.
- ⊖ There is no organization responsible for providing shelter to LIG. For example in India they have a ministry for urban affairs and poverty alleviation and also Housing and Urban Development Corporation (HUDCO)

The above statements reveal inadequacy of the present system in providing shelter or facilitating the informal sector to improve and accelerate shelter delivery. Areas which need intervention and access are;

- ⊖ Govt. policy to aide urban housing provision for the LIG.
- ⊖ Banking systems to facilitate prospective low income housing and land delivery institutions in any form.

CHALLENGE OF SHELTER DELIVERY IN URBAN AREAS

Bangladesh has achieved some success in providing land and housing in rural areas for the LIG through various Govt. programmes and NGOs like Grameen Bank. Such experience is not possible to replicate in the urban areas particularly in large cities due to limited supply and high cost of urban land. Also the use of traditional method and materials is not cost effective because of their temporary nature. In this very complex situation there is no single solution to the problem of shelter for the urban poor. Rather a series of measures have to be simultaneously addressed if the government is willing to implement a national policy. Appropriate institutional measures have been recommended in the housing policy document as well as studies on housing finance and delivery. The challenge in terms of physical works that have to be faced are;

- i Land allocation for providing new housing and resettlement of squatters.
- ii Basic services provision and upgrading of existing large squatter settlements.
- iii Assistance for shelter improvement.

Housing Delivery and finance have to be facilitated to match and meet requirements for low income shelter needs. Some of the steps that may be taken are,

- ⊖ Expand the range of resources available for housing finance.
- ⊖ Encourage existing Micro Finance Institutions to finance LIG housing. Collaboration with private sector developers to build low cost housing.

- ⊖ Design sustainable housing targeted to groups who have permanent nature of jobs i.e. industrial workers, govt, low income employees and a range of informal sector employees.
- ⊖ Inclusion of low income housing in all existing projects and programmes for housing and land development by public and private sector.
- ⊖ Re-planning of existing sites and services schemes and housing areas of HSD and City development authorities can free substantial amount of land for LIG housing.
- ⊖ Construction of large scale low cost real estate projects in multistoried buildings for LIG particularly in Dhaka.

(LIG) and designated for 4th class employees of the Govt.

- ⊖ Uttara Model Town in its 3rd phase of development has reserved 7.55% (40.51 acres) for LIG. Total area of land is 536.58 acres but details of allotment of these plots is not known.
- ⊖ Jhilmil residential area proposed at Keraniganj South of DCC has reserved 1.2% (4.55 acres) of land for LIG. The area of land of the project is 381.19 acres.

While all these lands will be developed and distributed among the High Income Group (HIG) the small percentage of land reserved for LIG will be used for rehabilitation of those from whom the land has been acquired and a small number of fourth class Government employees.

Ideally each of these proposed housing areas should allow for at least 50 percent of land for the LIG. The MIG & HIG housing are quite saturated and a high percentage of plots remain undeveloped in existing housing areas for a long period of time. To put an end to this skewed distribution plots allotted should be in proportion to the existing urban population by income groups and plot sizes should be related to income and affordability.

B. Re-planning of Existing Settlements

There are three types of LIG settlements existing in Dhaka City area and following are methods proposed to address the land for housing issue:

i. As Infill and Upgrading in Existing Settlements

Throughout the city from Tongi to old Dhaka slum and squatter settlements exist on Govt. and private lands. Studies have shown that the poor always pay for their accommodation and services to somebody and have a long record of living on these sites. Instead of evicting them from these lands the following approaches should be tried:

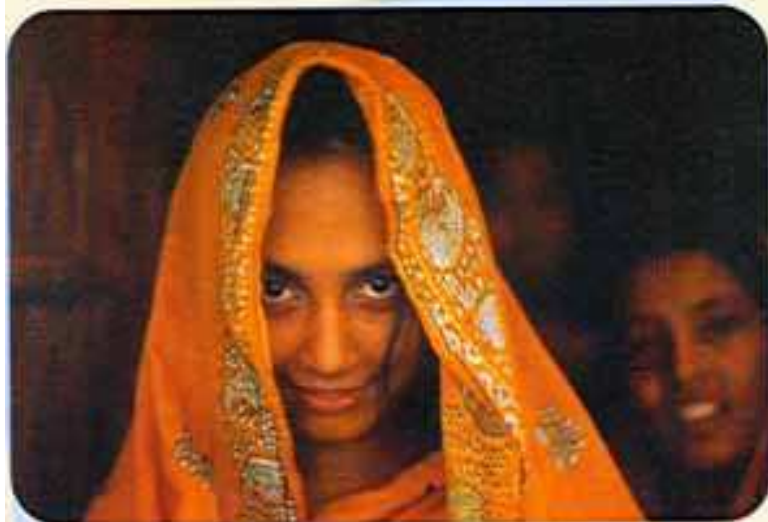
- a. **On-site Development** : Develop existing settlements in their existing location. The land will be purchased directly to the land owner particularly if it is khas land. (Example of RAJUK owned Land in Tongi.)
- b. **Land Sharing** : Involves working out mutually acceptable arrangements in an area to allow both landowning agency and occupants to use the land. (Sattala Bastee in Mohakhali.)

POSSIBLE SOLUTIONS

A. Provide LIG Plots in Govt. Developed Housing Areas

RAJUK is currently undertaking land development programmes mainly for large scale residential areas. The township development of Uttara Purbachal and Jhilmil are some of its ongoing works and these are Master Plan propositions. However as per planning of land allocation it is observed that the LIG will receive a very small share in these projects.

- ⊖ Purbachal a new township to the north east of DCC planned on 2545.91 acres (4500 acres) of residential areas has reserved only 4.34% (110.46 acres) land for the Low Income Group



c. Infill & Upgrading : The Dhaka Urban Infrastructure Improvement Project (DUIMP) in 1989 provided infrastructure upgrading in Mirpur in an area of 520 hectares. The project also provided 3,316 low income plots of 30 sq meters 657 MIG plots 118 industrial and 172 commercial plots. The resettlement and allotment process was completed by the year 1998. However the LIG areas did not receive any infrastructure or community services and as such these have become very unhealthy and congested slum settlements. So without community organization efforts and coordinated activities of Govt., CBOs and NGOs the process remains incomplete.

In Ershad Nagar, Tongi where squatter resettlement was done following an eviction drive in Dhaka City in the seventies has the following features;

- Total area: 110 acres
- Total Households : 6900
- HSD constructed semi pucca housing : 1000 nos.

As per normal planning provision of 200 households per acre Ershad Nagar can accommodate a total 22,000 of households. This allows an additional 15,100 households to its present inhabitants. Instead of random eviction in Dhaka and Tongi many poor families could be resettled in the Ershad Nagar area as it has scope to become a well planned area for the LIG.

i. New Site Development

This focuses on development of relocation site as an alternative to eviction. Identification of fresh sites, negotiation with land owners and target group, purchase of site and site development with provision of basic facilities are necessary measures. For land that is valuable to the owner occupants can negotiate for an alternative land to be provided to them. Cost factors would be calculated and borne by the people. In the context of slum settlements on Government and Semi Government Land in Bangladesh the existing laws in essence support this type of settlement.

The Baunia Bandh Project in Section -12, Mirpur executed with ADB support, the UNCDF squatter resettlement programme in Section 11, Mirpur and the presently proposed Bhasantek resettlement site in Mirpur are examples of this type of development. The Bhasantek multistorey project in Mirpur Section for the LIG was initiated in 1998 on 47.9 acres of land. Fifteen thousand flats of which 9000 were

designed for the LIG of 200 sq ft and 6000 for Govt. 3rd and 4th class employees of 300 sq.ft. The project remained unimplemented till a recent Govt circular which states that the flats will be constructed at a cost of Tk. 400 crores and handed over in a year. We hope that the Govt will keep its word and execute this project.

Chator - Noyapara Resettlement area near ATI Complex in Gazipur Pourashava is another example where in 1997, 175 evicted households were allotted 0.05 acres of land each with limited rights at the adjacent vacant lands. The decision of allotting a total of 8.67 acres land by the Pourashava Chairman to the evicted accommodated nearly 750 persons. The area has scope for further development and there are similar communities in Gazipur. However the land titles of these dwellers are not clear and as such the sustainability of these communities remain uncertain.

iii. Master Plan Provision of Land for All Income Groups

Master Plans for small and medium towns and metropolitan cities have land designated for future residential use. It is rare to find a plan where land has been designated for the LIG. Land use policy and planning procedures for Dhaka City, ADB TA, Khulna Master Plan etc. have provided implementable schemes for LIG housing. But in most cases no land has been reserved for the LIG and this is a serious planning deficiency. It somehow points out that a major percentage of city dwellers are not legitimately allowed to stay or provided space in any land use planning. These plans have to be rectified as soon as possible and some suggestions are;

Detail Area Plan by RAJUK : RAJUK is conducting detail planning work for their master plan area which is divided into five sub areas. Detail survey of these areas will be done during the planning process and it is the right time to address land and housing provision for LIG in all areas of the city and design implementable projects. For all the major cities this programme should be taken up. For secondary cities and small towns updating of landuse maps and providing LIG housing in existing Govt. land can be done. In most pourashavas large scale vacant land is available in Govt. owned lands by various agencies such as BWDB, Railway, PWD, HSD etc. These have to be replanned and reallocated for providing housing to LIG and MIG as well as other civic amenities.

Solutions suggested are not only for making housing provisions for all income groups but also to stop unplanned growth of our urban areas.

We, the Slum Dwellers: Our Tale...

On behalf of slum dwellers, Md. Shafaqul Islam, Vashantek basti.



We are the general people of Bangladesh who live hand to mouth. Due to our fate we are now slum dwellers. After loosing everything in the natural disasters like river erosion, flood and cyclone, we came to the city to live. Not only the natural disasters, we are also the victim of illegal and improper practice of 'Mahajans' (the person who lend money for high interest). We lost our living including land, house, cattle etc. trying to pay the interests of the Mahajans. Some lost their everything in the hand of touts. Despite of everything we have the dream to live with our Mother, Father, Brothers, Sisters, Husband, Wife and children and that's why we have come to the city. We made our tents or shades in government and private open places, fields in different corners of the city to take minimum shelter. Those who could not build shades are living in he rented tents under illegal possessors. These illegal possessors are the influential person of the slum area or locality who within a short time became owner of these rental house with the help of local administration. This way we are living in different slums all over Dhaka for 20,30,35 years and even prior to independence. Still undone people are coming to the cities in search of their livelihood and new bastis are growing these people are continuously doing hardship in search of their life, we are not dependant on anybody's sympathy we are still alive on our blood we are also devoting our labour in the development sectors of the city.

The name, fame, beauty, brightness of the city is the result of slum dwellers labour. They are the main workforce of the production sector of the city and main community for the income of the country became construction workers, garments workers, transport workers, day labourer low income government/non-government employee, hawkers, sweepers, maid servants, small business men community live in the slums. They are contributing in the construction of high-rise buildings, roads and earning lots of foreign currencies. They are keeping the city clean. They are marinating the household works of the rich and medium earning people, but the bare fact is that the basic rights of housing of the slum dwellers who are the main workforce for the development are being violated everyday.

There are some people in the society who believe/think slums are the main source of crime and terrorism. We will say they are blind because of their own interest. They want to hide the real picture of the society. They don't acknowledge our role in the development of the city but impose their failure on us.



The fundamental and constitutional rights are violated by evicting slums at a regular basis. We are being evicted without giving prior notice or notice for one day for the purpose of constructing government office, housing or different other projects. The process of evicting slums is very heart-rending that defy the brutality of enemy during the war of independence. Although we are citizen of an independent country but our constitutional rights are being violated in a brutal and inhuman way. We are being let to a dark future. We had a big contribution in the war of independence and now we got independence. But our bad luck is that we are still dependant regarding our fundamental and constitutional right. We are made dependant in various processes.

Today I want to show you some examples how brutal the slum eviction is. Our tents are being destroyed by bulldozer without prior notices or notice for one day. The process of eviction is carried out at a time when most of the slum dwellers remain out of their home to find their living but their old parents and little children stay at the slum. The demolition work is carried out by bulldozer with some violent young men with red band fastened in their head. They are being supported by the police. violent young men behave very inhuman like beasts. The old father mother and children run for their life and for a safe shelter. At that time the terrorists loot every thing and flame the houses of the slums to destroy the last habitat of the dwellers. Some times they employ touts and terrorists to assault and rape the young girls of the slums so that the parents and relatives go away. There is no other way that is so brutal to make the people destroyed and destitute. Not only that, sometimes they allege the slum

dwellers of different anti-social activities such as terrorism, drug dealing, possessing illegal arms etc. to evict them from that place. There are some people in the society who believe/think slums are the main source of crime and terrorism. We will say they are blind because of their own interest. They want to hide the real picture of the society. They don't acknowledge our role in the development of the city but impose their failure on us. "Who are the biggest criminals/terrorists of the society?" this is our question. Why doesn't the government evict the places like Gulshan, Baridhara, Uttara or Banani, where the criminals live? Why the persons who create and shelter the terrorists remain outside the law? No body thinks of evicting or destroying them because they are very influential. The slums are evicted in the name of drug dealing but our question is how it comes to the slum by passing the border and the administration? Who are leaving illegal arms in the slums? In fact it has been tried repeatedly to save the real criminals by alleging the poor people. Today we want to say, no terrorists live in the slums. Only people from different profession live here whose labour build the city. Our request to the law enforcing agencies is that please show us, who are the criminals in the slums we will hand her/over to you. But for god's sake please don't blame us; don't evict our slums alleging this. Don't the people who evict slums ever think where shall we go what will eat, what shall we do, how will we live it our families. After eviction we had to live with our families under open sky irrespecting hard rain and sever cold. We loose our everything even the education facilities for our children with the help of NCOs become unavailable and we loose our work.

discussion

Right to shelter is a fundamental right and guaranteed by our constitution. The political parties become active during election taking this issue. They give us hope in their election manifesto. At the beginning of the election the candidates run to us in search of vote and give us commitments about our permanent settlement. But after taking power they forget everything. At that moment they want to grab the land of the poor rather than helping them. Their heart never shakes due to our eager yearning or for their failure to comply with own commitments. Even the former Prime Minister's promise of no eviction without re-settlement was not kept by the minister of home affairs on the allegation of terrorism. The process of slums eviction is still continuing in the name of terrorism. Turning over a Prime Minister's commitment shows we are the subject of negligence in an independent country and devoid of fundamental rights.

Where shall we live! How will we survive! Our question to the persons who are busy with the planning the city, if we contribute a great deal in the city life then why don't you take us in consideration / why don't you make plan for our permanent settlement. We are living in a environment where no civil facilities are available including water supply, sewerage, drainage, electricity supply etc. we all are leading an inhuman life in a piece of land, that is a major constraint of healthy living. We are made shelter less in the name of housing for upper and medium income people. As result new slums are created. Sometimes it is seen in the news paper that government is

taking projects for the rehabilitation of the urban poor. But lots question remains how far these are true or related to the poor. We want to say please take housing plan for us , please allocate land for us and we will build our house with our own initiatives and money. Today we had journalists with us. We request them to publish the real scenario of our society to their respective news. The slum dwellers will feel honored if you publish the role of slums dwellers in the financial development of the county. Then it will be easy for us to enjoy the civil rights. We often see in the news that some quantities of "fencible" or arms have been recovered from so and so bastis but we never see the name of the people who left these in the slums or from where these came here. If proper investigation could be made then the real scenario would come in from of us and the real perpetrators could be identified. Dear journalists you bring the dark side of the slums in the news not the brighter side. Please write how the poor people are contributing their labour for financial development of the country and keeping the city alive but in reply they are not getting their proper portion and also devoid of their civil rights. Please write how we are made undone by inhuman eviction. We are the citizen of this country but cannot enjoy a single right.

There are many NGOs working in the city but accepting one or two, most of them are working in the micro credit sector. They give loan and collect with interest at the end of the month and that is all they do. they don't even think about the fundamental , civil right of the slum dwellers they don't understand the fact that without

proper housing settlement the condition of the slum dwellers will never change and there will be no development. Our request to all to ensure our right of shelter. Previously and at present many hearted people of the society came forward for the establishment of our fundamental rights, especially some renowned lawyers, development workers, social workers, journalists and researchers. We got their hearted support in the way of establishing poor people's human rights. Our request to the government , opposition parties and citizens of all level to go beyond the personal and party interest to ensure our constitutional right for the true development of the country.



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