

## **Note 2 - Negotiation, claim and contestation between urban poor and the state and the city agencies**

### **Negotiation, Claims and contestation in the city of Bombay**

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One of the major areas of contestation between poor, the state and the city agencies has been land. Rights over land have been denied to poor on a regular basis and so has been denial to access to public services and basic amenities. Denial of rights over land has also resulted in denial of right over the space thus created. Access to rights over land entails them citizenship of the city, protection from evictions, access to amenities and security to and from state oppression. It is very interesting to track the path of how the poor in the city sometimes by means of negotiation, sometimes as a favor to vote banks and sometimes out of genuine concern for the poor in the city have been given rights over habitats and therefore land in the city.

#### **Brief history of slums in Bombay**

In early 19<sup>th</sup> century these rights came from fear of outbreak of plague similar to the one of 1891. After this plague outbreak Bombay City Improvements Trust was created on Dec 9, 1898 through an Act of (British) parliament. Municipal corporation and government handed all vacant lands to this body. CIT took a host of measures to improve settlers' colonies along with creation of infrastructure. Many roads like the Mohammad Ali Road, Princess Street and other roads were constructed to channelize sea breeze in these areas. Time to time sporadic measures was taken to improve the sanitary conditions of the city from the fear of outbreak of another plague. However, industrial revolution saw proliferation of slums worldwide, in Mumbai the cotton boom and constructions of port resulted in migration of a huge labour force that the city was ill equipped to handle. Since then time to time protections and reorganization of slum has been done, in the initial years out of fear of an epidemic and at other times for the need for labour in the city. This note shall explore the year from 1971 when the Slum Improvement and Clearance Board was set up to the current day Slum Rehabilitation Scheme of 1996. But before that what needs to be understood is the kind of negotiations that were seen formally and informally in the city. The first attempts were the formal initiatives and done by governmental agencies not as a demand from people but out of fear and under the pressures of International Funding agencies like the World Bank. Later many informal negotiations were to take place as extensions of cutoff date that is explained later in the paper which were a result of struggles at the local level.

**What is slum authorization?** From the legal perspective slums in Mumbai are of 3 types – protected or authorized, declared / notified also authorized and unauthorized. Certain slums were declared authorized by the Maharashtra Slum Improvement and Clearance and Redevelopment Board instated in 1971 and given protection from evictions along with it was to be provided with basic amenities like potable water connection, electricity and toilets. This was largely done on private land. Another set of notification of slums came from the Municipal corporation and government agencies and these also were protected from the threat of evictions. These were formal way of authorizing or notifying slums thereby making them permanent and legal citizens of the city. However there was another informal process in play i.e., the politics of cutoff date a process closely related to the electoral process in which slum dwellers were appeased in the name of votes. The 3 tier electoral process of Indian democracy gives an opportunity to raise local issues in the municipal and assembly elections. Since slums population form a huge chunk of voters municipal corporation elections and assembly election have scope for the poor to negotiate for land, home, amenities and others. And this is evident in the way actual extension of cutoff and rumors to extend cutoff dates have been used. In simple terms cutoff date is a date fixed by the government protecting their tenements or in case of evictions making them eligible for alternative accommodation thereby making them legal citizens of the city. Cutoff date was first introduced just after the emergency in 1 January 1976. Huge public pressure resulted in the protection and promise of alternative accommodation and a government regulation was published introducing the

date and protecting slum dwellers. And since then extension of cutoff date and protection and provisioning of alternative accommodation has been a politics of vote bank. Every election became rallying point for cutoff date extension but it was officially extended only ones to 1<sup>st</sup> January 1995. And the operational extension came in the form of a scheme- Slum Rehabilitation Scheme. The scheme has in subsequently derailed the entire process of authorization and notification of slums.

**Distortion due to SRA** - Slum Rehabilitation Act was passed by the Government of Maharashtra to protect the rights of slum dwellers and promote development of slum areas. Slum Rehabilitation Scheme under the recommendation of Afzalpurkar committee was aimed to protect the rights of slum dwellers from eviction and provide alternative accommodation *in situ* to residents who could produce documentary status before 1<sup>st</sup> January 1995. It was advocated as pro poor scheme and Afzalpurkar Committee report state **“if inequity has to be removed there have to be unequal laws”**. However SRA was conceived as a policy that adopted market mechanism to achieve slum rehabilitation. Over the years redevelopment of slums was interchangeably used to get rid of slums in the city via a “zero cost humanitarian approach” to slums instead of demolitions and evictions that were practiced earlier. It was also used avoid restrictions on development and generating new spaces to be sold in open market. The scheme completely ignored the fact that slums are dynamic in nature and respond to changing circumstances. Slum housing has grown considerably due to the dearth of availability of low cost housing and, its accommodating nature where the incoming and growing population is been contained by manufacturing newer spaces. SRA has been applauded and well received by financial intuitions for enabling finances for public housing from the market.

In the last 20 years, ever since SRS’s establishment in 1997, its success rate has been less than 13 percent. As many as 1,524 projects were started out of which 1,100 are still being developed and only 197 projects have been completed. A mere 1.53 lakh families have been rehabilitated against the promise of 8 lakh units promised in the first 5 or 6 years.

Our experiences from field shows **that the cutoff date of 1<sup>st</sup> December 1995 excludes as many as 30-40 % of the slum households**. While the scheme also disregards presence of any structure above ground floor, the reality is that most slums have at least Ground plus one (G + 1) structures. There is also a **substantial presence of rental tenements in the slums**.

Empirical work shows that slum settlements are, occupationally, mixed in use. The people engage in occupations from varied sectors, ranging from primary, secondary, service to formal and informal sector. Thus the subsistence economies in which most of the slum dwelling populations operate are destroyed by the above described redevelopment model. Slum rehabilitation in its present form **disregards the presence of mixed uses of tenement both as living and livelihood space**.

Over the years all slum development programs have been phas ed out but for SRA. It has created an environment that prefers SRA over any other slum development or rehabilitation program. It has distorted the housing market altogether and started questioning the informality and demanding it to be replaced by formal ownership housing. Its impact on the larger housing sector has been significant where housing creation and regulation has become market driven and not need based. It has created an atmosphere where the entire city is looking more **inequitable and segregated in rich – low density –low Floor Space Index (FSI) and poor- high density high FSI city**. More importantly, SRA has also opened opportunities for meandering around building codes and norm by paying premiums to planning authorities. Additionally, it has also impacted other redevelopment scheme like the Mumbai Urban Transport Project (MUTP) and Mumbai Urban Infrastructure Project (MUIP) for Mumbai, CESS and dilapidated building redevelopment, MAHDA colony redevelopment in Mumbai and the other national scheme of BUSP. The tools of FSI and Transfer of development rights (TDR) have been introduced to create public housing, and market has now a pivotal role in creating housing stock for the city.

SRA has stalled all the other process of authorization, notification and others and have left no room for negotiation as it can be implemented on any slum or slum like cluster of housing. The definition of slum has changed since the year 2007 as a cluster with a population of 300 with inadequate lighting, non concrete structure with open drains and no or inadequate amenities can be called slums irrespective of any land holding. Drawing from this definition no SRA like development is possible on any land holding. Incentivising redevelopment of slums have made it an lucrative proposition that works in favour of the land holder in case on slums on private land and government in case of state and city government land as the government also get incentives and other paybacks. However a program like this has thrown open a number of questions – how the government through it scheme has legitimized takeover of land under occupation of slum dwellers and monetized it for capital gains. It has also legitimized state sponsored violence as it make in-eligible residents homeless, also has created rifts in families, between siblings over the ownership of tenement, by ignoring that these are also occupational spaces and taking away their opportunity of earn. It has made individual owners of legal tenements at the same time reduced the overall land holding of the poor as the developer takes away a part of the land as sale component for the project. It has also impacted the aspiration of poor in the city who now aspire to have ownership tenements in skyscrapers that are energy consumption intensive and unsustainable.

**To demonstrate newer forms of negotiations I shall give 1 brief case study -**

Through our creatively disruptive engagement of holding on to the land for slum dwellers we (Committee for the Rights to Housing along with another corporate organization) have constructed toilets in the tenements and constructed required infrastructure (sewerage) in the community linking it with the main sewer lines of the city. We have linked this entire project to the Government of India's Swacch Bharat Abhiyaan (a campaign to be undertaken for constructing toilets and make India open defecation free) that gives subsidy for construction of toilets. This is creatively disruptive because we have created the amenity that will give them a little extra power during negotiation. SRA provides for legal tenements that have a self contained toilet facility and that is one incentive for slum dwellers to accept redevelopment.