

# Right to Shelter



4 April, 2012: Eviction drive in Korail Bosti, Mohakhali.

On 17 January 2012, following a news report alleging that about 1.65 acres of land bordering on Gulshan lake had been illegally encroached upon, the High Court issued a *Suo Motu Rule* No.8/2012, directing Bangladesh Telecommunication Ltd. (BTCL) and the Ministry of Public Works to clear illegal structures from and around the lake. On 4 April 2012, BTCL evicted about 2,000 persons from the slum in about 400/500 metres from the lakeside. The eviction order was carried out in violation of the High Court's order.

Many organizations and individuals immediately issued press statements protesting the agency's action. In response to a request by some slum residents for legal assistance, ASK with BLAST filed a writ petition No. 3814/ 2012 in the High Court on 15 April on behalf of eleven petitioners including BRAC, Coalition for the Urban Poor (CUP), Dustha Sashthya Kendra (DSK), Nijera Kori and five residents of Korail bosti. Following the writ petition High Court passed an order in *Suo Motu Rule* No. 8/2012 to demarcate the Gulshan lake area and suspend eviction until further orders.

On 2 May, 2012 the High Court stayed further eviction and directed that only encroached areas besides the lake be cleared. At the second hearing on 14 May, the High Court ordered Bangladesh Telecommunications Company Limited (BTCL)<sup>1</sup> to prepare a map of Gulshan Lake demarcating the encroachments and number of existing households. Thus the slum residents were able to return to their settlements. On 23 July 2012, the High Court ordered a status quo in the slum area for three months in Writ Petition No. 3814/2012.

ASK's interventions to protect slum dwellers began in 1989, when bulldozers started demolishing shanties in the Taltola Sweeper Colony in Gulshan, Dhaka. In the eviction process, a child was killed. Major political parties as well as many other human rights and citizens'

groups protested the eviction. ASK responded by filing a public interest petition to protect the rights of slum dwellers, who had been permitted to stay in the Taltola Sweeper Colony. This resulted in the High Court's stay order on their eviction.

Over the last two decades ASK, in collaboration with several organizations, including BLAST, BRAC, Coalition for the Urban Poor, Nijera Kori amongst others has sought legal directives to establish slum residents' right to shelter. Their petitions to the High Court have been successful to the extent of obtaining temporary stay orders. This has spared many slum dwellers from becoming homeless, losing their belongings and livelihoods and being forced to relocate with their children and families. The High Court has, in subsequent writ petitions, directed that there be no eviction of slum dwellers without proper notice or alternative plans for resettlement or relocation.

Table 3 (pg 17) outlines the directions/orders given by the High Court in response to writ petitions filed against the eviction of different slums in Dhaka. The High Court has given further directions in some cases for resettlement, relocation or rehabilitation. The government agencies have, however, failed to comply with these directions and slum residents continue to face threats. There has been no discussion in Parliament on resettlement plans for slum residents.

1. One of the allottees of public land in Korail.

Table 3: High Court Directions stopping eviction without resettlement, relocation and rehabilitation

Year	Writ petition No.	Respondents	Name of slum	High Court Order	Follow up / Compliance date
1994	54/1994	Ministry of Housing and others	Eviction of Kalyanpur Slum	2000: Seven days prior notice to be served before eviction	Slum residents are living there.
1999	3034/1999	Ministry of Home Affairs and others	Eviction of slums in Dhaka city	1999: No forcible eviction without settlement	Slum residents are living there
2002	4334/2002	Ministry of Housing and others for eviction of 10,000 families	Jhilpar slum Mirpur	2002: Rule upon the Respondents and stay order until disposal of the rule	Residents continue to live there Pending final hearing
2003	4698/2003	Ministry of Health and others for eviction of 50,000 families of the slum	Sattala slum in Mohakhali	2003: Suspension of eviction	Slum residents residing pending final hearing
2004	3535/2004	Dhaka City Corporation and others for eviction of 1000 families	Kalshi slum	2004: Suspension of eviction	Slum residents residing pending final hearing
2007	7585/2003	Ministry of Housing and others	Kollayanpur Pora Basti Mirpur	2003: Suspension of eviction of more than 20,000 occupants until further notice.	Slum residents residing pending final hearing
2012	3814/2012	Ministry of Telecommunications and others for eviction of 120,000 residents	Korail slum Mohakhali	2013: Suspended eviction of Korail slum until the final hearing.	Slum residents residing pending final hearing

## ASK's Interventions

ASK's advocacy for law and policy reform to protect the right to shelter of slum dwellers began with its fact finding reports and oral testimonies prepared by the Investigation Unit and media reports compiled by the Documentation Unit. Research reports on urban settlements were used for raising public awareness through the media, sensitizing policy makers, circulating appeals and alerts both within the country and to UN bodies. The Publications and Communications Unit circulated reports and write ups through national newspapers, in the Bulletin and in ASK's annual Human Rights Reports. With contribution from these units the Legal Advocacy and Reform Unit (LAPRU) filed writ petitions against forcible evictions. ASK's Media and International Advocacy Unit (MIA) included the issue of shelter in the UPR Report to the UN Human Rights Council in 2009 and 2012. Earlier it had submitted complaints to the UN Special Rapporteur on Right to Housing, with copies to several regional organizations such as the Asian Human Rights Commission, Forum Asia and Asia Pacific Women Law and Development.

## Partners in the Struggle against Slum Eviction

ASK has worked collectively with Bangladesh Legal Aid and Services Trust (BLAST) and Coalition for the Urban Poor (CUP) on the frontlines to protect slum residents from eviction and to campaign for alternative arrangements. BLAST has led the struggle by filing public interest litigations and the Coalition of the Urban Poor (CUP), a coalition of 53 Non Government organizations working in slums, has organised campaigns and taken up advocacy for the implementation of court decisions. The Centre for Urban Studies (CUS) has done very valuable research on slums and has been active in policy forums.

Recently the CUS mobilized slum dwellers to form their own association known as the *Nagar Daridro Baste Bashir Unayan Sangstha (NDBUS)*, which has formed committees in several slums.

## An Overview of Slum Settlements

Rapid urbanization, unplanned usage of land and highly discriminatory allocation of space to Government agencies, parliament members, business houses, bureaucrats, property developers and other influential classes, has squeezed other occupants or claimants. Slums can stretch anywhere from a few thatched tents as in Kalshi Bosti to over 90 acres as in Korail Bosti in Dhaka which houses over 10,000 people. The Parliamentary Standing Committee of the Land Ministry in its report of 9 August 2006 found that influential business persons and local elites with political connections had appropriated 20,000 acres of khas land in Dhaka, Narayangonj and Gazipur districts. According to its report, several housing companies had occupied 7,993 acres of khas land in Dhaka district. The report further alleged that 4,207 and 8,533 acres of land in Narayangonj and Gazipur had been acquired illegally.<sup>2</sup> There has been no public plan for housing industrial workers, self employed entrepreneurs, and others escaping environmental disasters. Increasing the threat to right to shelter, particularly of slum dwellers is the acquisition of land in the name of development. Both government and private lands have been occupied by land developers with a profit motive.

## Impact & Consequences of Slum Eviction

Slum eviction is justified by political leaders on grounds that “slums are dens of crime” and encourage further immigration. Research studies and investigative reports show that slum residents contribute to the national economy as day labour, garment workers, rickshaw/van pullers, bus and truck drivers, city cleaners, and entrepreneurs. Although, they sustain the life styles of the urban middle class, their lives and livelihoods are insecure, they are deprived of development opportunities and remain under threat of forcible evictions without notice<sup>3</sup> or plans for rehabilitation.

Slums are demolished forcibly by Government agencies through violent means, whereas eviction from private land is managed through arson, threat of violence or land grabbing. Entire families are uprooted without providing an alternative safe place, and with no plan for rehabilitation. On 11 January 2008, thirty slum dwellers were injured and left destitute by arson in Nimtoli slum. In another instance, ten heavy bulldozers accompanied by riot police forcibly evicted 2,500 households (20,000 persons) from a slum in Bhashantek, Dhaka in 1997.

Evicted men, women and children sustain severe physical and psychological trauma and financial loss. Most of their belongings are destroyed and the little they can salvage is in danger of being stolen as they relocate to another slum. They also have to bear financial loss since the rent they are offered elsewhere is higher. Many of the dejected evictees are faced with losing a day's earnings or even their jobs since they have to search for new accommodations. Those who made a livelihood by running small businesses in the slums are most affected since they not only lose their household assets but also their only source of income.



“We received an announcement on 3 April 2012 about the eviction and the next morning our water supply was cut off. We had one night to dismantle our homes, gather our belongings and relocate ourselves. But we had nowhere to go” -

Mahmuda, evicted with her husband and two children, from Korail Basti on 4 April, 2012.

Slum residents contribute to the national economy as day labour, garment workers, rickshaw/van pullers, bus and truck drivers, city cleaners, domestic workers and entrepreneurs, sustaining the life styles of the urban middle class.

2. *Sangbad and Inqilab*, 26 June, 2006

3. According to the Government and Local Authority Lands and Buildings (Recovery and Possession) Ordinance 1970 Section-5, a notice has to be served seven days in advance.

Evictions also impede development work, especially health care and education undertaken by many government departments and NGOs to improve the quality of life and opportunities for slum dwellers. When Begunbaria slum was demolished in 2008, children in 900 families were unable to attend school and college exams. Around 400 Bangladeshi sex workers at Tanbazar and Nimtoli were forcibly evicted with their children early morning on 24 July 1999, by about 300 police and officials of the Social Welfare Department. This was part of a 'rehabilitation program.' Many of the sex workers were taken involuntarily to Government shelters or vagrant homes at Kashimpur and Pubail for rehabilitation. Eyewitnesses claimed that at least 400 sex workers were forcibly taken away and 600 fled during the eviction, and became "floating sex workers" and were at risk of physical or sexual violence and STD/AIDS.<sup>4</sup>The sex workers reported that they were ill treated and abused by police and authorities.<sup>5</sup>

On 17 June, 2004, the Dhaka City Corporation suddenly evicted 1,000 inhabitants from Kalshi Bosti in Pallobi area of Dhaka, without providing alternative accommodation. Occupants included garment workers, rickshaw and van pullers, day labour and domestic workers. NGO programs for informal education, primary health care, family planning, sanitation and micro-credit had to be suspended. Slum residents were unprepared for the demolition even though public announcements had been issued.

ASK with five slum dwellers filed a Writ Petition No. 3535/2004 arguing that the action contravened the right to shelter guaranteed under the Constitution. The High Court issued an order staying any eviction until the final disposal of the case. As a result, slum dwellers were able to stay in Kalshi Bosti.

## Mobilization of Slum Residents

Slum residents have tried to organize themselves to resist evictions and to demand their right to shelter. Since 1989 ASK has visited slums and dialogued with the residents about their rights as citizens and informed them about state policies and international commitments to the right to shelter. ASK also held workshops with the residents on other human rights issues. ASK lawyers and educationists work in several slums, the former giving legal advice in ASK's legal clinics and the latter offering flexible learning to working children in ASK's Drop in Centres. This has provided an opportunity to mobilize the slum residents, particularly women, to protect their rights to shelter.

A *Dhaka Mahangori Bastee Shomoshaya Niroshon Committee* (Dhaka Metropolitan Slum Problem Eradication Committee) was formed by the Ministry of Land in 1989 to identify the number of slums in Dhaka city and to plan for their phased rehabilitation. However, no effective programs were undertaken for the implementation of this project. In Dhaka's Lalbagh area a multi-storied building project plan to house the poor in 1989 was abandoned and later employees of the Dhaka City Corporation occupied the buildings without giving a share to the poor.

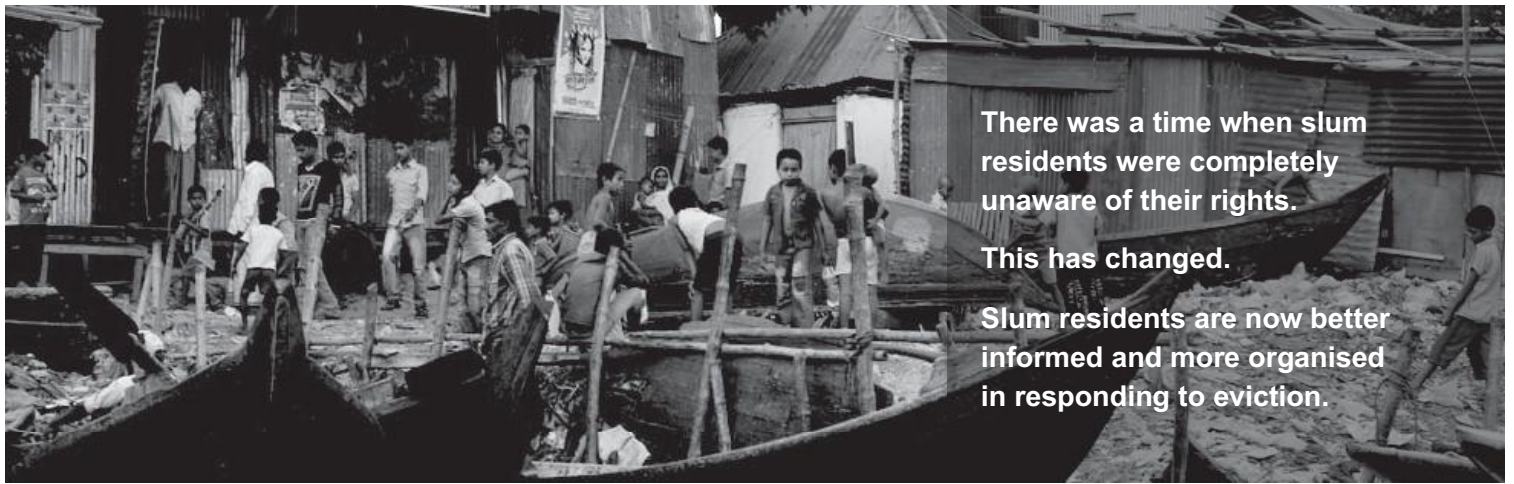


Slums are evicted forcibly by Government agencies often by bulldozing and arson

In 2007, the Ministry of Housing and Public Works reportedly allotted five acres of land in Dhaka to resettle families that had been evicted from slums in February and March 2007. A rehabilitation plan was prepared by urban planners with CUP authorized to take over possession of the land and organize resettlement. However, due to reservations by ministry officials, this scheme did not become operational and with the change of government, the proposal lapsed.

4. SHAKTI project, CARE Bangladesh

5. READ, <http://www.readbd.org/gender.html>



There was a time when slum residents were completely unaware of their rights.

This has changed.

Slum residents are now better informed and more organised in responding to eviction.

## Constitutional and International Guarantees

Article 15 (a) of the Constitution states: “It shall be the fundamental responsibility of the state”... to provide “basic necessities of life including food, clothing, shelter education and medical care.”

Article 32 : “No person shall be deprived of life or personal liberty...”emphasizes protection of the right to life and personal liberty.

Bangladesh has ratified international treaties and declarations including the General Assembly Resolution 43/181 of 20 December 1988 on Global Strategy for Shelter to the Year 2000 and Istanbul Declaration on Human Settlements (1996).

## The National Housing Policies

The state has adopted two National Housing Policies. A third policy has been drafted but is yet to be approved. In accordance with the Government and Local Authority Lands and Buildings (Recovery and Possession Ordinance 1970 Section-5), a prior notice has to be served seven days before eviction.

The 1993 Policy stated: “The Government would take steps to avoid forcible relocations or displacement of slum dwellers as far as possible....encourage in situ upgrading, slum renovation and progressive housing developments with conferment of occupancy rights, wherever possible and to undertake relocation with community involvement for clearance of priority sites in public interest.” – Para 5.7.1

The 1999 Policy recommended: Increasing the access of the poor to housing through availability of basic infrastructure for different income levels; facilitating purchase of land by the poor in locations closer to their place of work and where communication is easy and inexpensive; setting up a system of easy loans through family or community savings and removing barriers for housing, mainly for the poor.

The 2008 Policy draft, which is yet to be adopted, recommended that housing for the urban working poor be located near the workplace and include transportation plan. It also incorporated initiatives to

encourage private housing and cooperative societies by providing housing loans, ownership, home based employment, mother and child care facilities for women in difficult circumstances. Housing for the old and differently abled was also emphasized.

## Challenges

- Non-compliance by the executive with High Court orders resettlement of slum residents.
- Continued eviction in spite of policies for resettlement.
- Discriminatory allocation of plots to MPs, business groups, property developers, government employees, journalists, etc. and expansion of commercial allotments in housing zones.
- Land acquisition in the name of development.

## The Way Forward

Our continued efforts have yielded some changes in the lives of the slum residents. Slum residents are now better informed about their rights and more organised in responding to eviction. They have resisted forcible evictions and taken legal steps for their protection. They have taken advantage of schemes offered by different NGOs to access opportunities for development and to seek justice from the Courts.

Schemes for urban land use need to be developed in such a way that all construction authorized on public land allow for settlement of slum residents, and that housing schemes be developed for industrial workers near their place of work. The Slum Rehabilitation Project, initiated in 2008 by the Ministry of Housing, had proposed to build low cost housing for the resettlement of the slum residents on 3.22 acres of land in Bhashantek Mirpur area and 3.47 acres in Korail slum area (adjacent to Mohakhali). We need to strengthen our advocacy with the Government and the parliamentary committees to meet Bangladesh’s constitutional commitments.