

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

[www.ijlra.com](http://www.ijlra.com)

## **DISCLAIMER**

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

## **EDITORIAL TEAM**

### **EDITORS**



### **Megha Middha**

*Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar*

*Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society*

### **Dr. Samrat Datta**

*Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board*



## **Dr. Namita Jain**



*Head & Associate Professor*

*School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.*

*Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019*

## **Mrs.S.Kalpana**

*Assistant professor of Law*

*Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.*



## **Avinash Kumar**



*Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.*

## **ABOUT US**

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS  
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

# **SETTLEMENT AND PROPERTY RIGHTS:** **LEGAL FRAMEWORKS AND SOCIOECONOMIC** **IN INDIAN CITIES**

AUTHORED BY - KRISHA BATLAWALA

Settlement and property rights in Indian Cities have been a subject of critical importance. The Settlement and property rights play an essential role in governing the ownership and transfer of properties. The rights which are given by the various legislations, including the Transfer of Property Act, 1882, and the various state-specific laws and regulations concerning property Development and ownership. The Transfer of property Act, 1882, is a legislation that regulates the transfer of properties in India. It provides a legal framework for different types of property transactions, including sales, lease, mortgage, and gift. The establishment of rights and liabilities of both the transferor and transferee under this act also lays down the procedures for valid transfer and registration of properties. In Addition, the Indian cities have their own set of laws and regulations which has their own settlement and property rights. These Laws change from State to state and are concerned with urban planning, Land acquisition, development control, and property taxation, amongst others.<sup>1</sup> For Instance, the state of Maharashtra has their own “Maharashtra Ownership Of Flats Act, 1963, which regulates the ownership and transfer of flats in cooperative housing societies.

Further the Settlement and property rights in Indian cities have been subjected to critical importance due to several factors. ***Whether there is conflict in land ownership due to rapid urbanization?*** India has been experiencing substantial urbanization over the past few decades. The migration of people from rural areas to urban cities has been increased massively and demand for housing and basic amenities. This influx has put significant pressure on land resources, resulting in increased competition and conflicts over the land ownership and usage. The second factor: ***Do informal settlements lead to increasing slums?*** Here the growth of informal settlements, commonly referred to as slums or unauthorized colonies, is a significant feature of urban areas in India, These settlements often lack legal recognition and face difficulties in

---

<sup>1</sup> <https://www.99acres.com/articles/settlement-deed.html>

obtaining basic services and infrastructure. Informal settlements raise important questions about land tenure, property rights, and socioeconomic implications of regulations or eviction. The Third Factor: ***Whether the Government is providing compensation for acquiring land?*** Here, Land which is acquired by the government for public purposes, such as infrastructure projects and urban development, has been a contentious issue in India. The Land Acquisition Act, 1894 which was recently replaced by the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013), has been a subject of debate and scrutiny due to concern of inadequate compensation, displacement of communities and deprivation of property rights. and the other factor: ***Whether Gender Disparities Still Affect in Acquiring the property?*** The property rights in India traditionally displayed gender biases, with women facing challenges in asserting rights to land and property. Customary and personal laws often disadvantage women, particularly with regard to inheritance and ownership of ancestral property. Legal reforms have been initiated to address these disparities and promote gender equality in property rights. The other issue which affects the settlement and property rights in Indian Cities is Property Titling and Documentation. ***Does it provide proper documentation and Titling on property?*** In Some Indian Cities, Poor or incomplete titling and documentation are provided which leads to challenges and disputes in asserting property rights. Due to improper documentation it leads to inaccurate records, lack of updated information, and incomplete documentation which result in difficulties in establishing ownership and property transactions. ***Does it provide authorized construction that leads to adequate housing and affordable housing?*** Encroachment on public and private land , as well as unauthorized constructions, are significant issues in many urban areas. These activities can hinder proper urban planning, disrupt land use patterns which lead to unregularized settlements and lack of proper access to affordable housing is a pressing issue in Indian cities. This increasing demand for housing, coupled with limited supply and rising prices, often results in exclusion of the low income group for affordable housing options. THis were some factor which were critically important in settlement and property rights.

Looking at the factors the legal framework<sup>2</sup> regarding settlement and property rights in Indian cities various statutes such as ***Article 246 of constitution of India***, ‘Land’ is a subject matter covered under the state List or List II of the seventh schedule to the constitution of India, which enlisted on which only state can legislate, while ‘transfer of property’ other than “agricultural land” “registration of deeds and documents” “contracts other than for agricultural lands” are

---

<sup>2</sup> <https://iclg.com/practice-areas/real-estate-laws-and-regulations/india>

enlisted under the Concurrent List or List III of the seventh Schedule to the Constitution of India, which are subjects on which both the Parliament ( Central and State Legislature). Here, are some legal framework and regulation related to settlement and property rights in Indian Cities are **Article 300A of the Indian Constitution** which Recognizes the right to property as a constitutional right. It states that no person shall be deprived of their property except by authority of law. While in **Transfer of Property Act, 1882** Government has made certain Governing rule which Governs the transfer, ownership, and registration of immovable property in India. Defines various modes of property transfer such as sale, lease, mortgage, gift, and exchange. Provides guidelines for the rights and liabilities of parties involved in property transactions. After the Transfer of Property Act, **Indian Easements Act, 1882** came which Pertains to the rights and liabilities associated with easements, such as rights of way, common passages, and usage of shared facilities. After that **Land Acquisition Act, 1894 (replaced by Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation, and Resettlement Act, 2013)** which Regulates the acquisition of land by the government for public purposes. Specifies the procedure for compensation, rehabilitation, and resettlement of affected individuals or communities. Aims to strike a balance between the needs of development and the protection of the rights and interests of landowners and affected parties. **Further the Real Estate (Regulation and Development) Act, 2016 (RERA)** came which Provides regulations and promotes transparency and accountability in the real estate sector. Establishes state-level Real Estate Regulatory Authorities (RERAs) to oversee and regulate real estate projects, developers, and real estate agents. Mandates compulsory registration of real estate projects, disclosure of project details, and timely delivery of properties.<sup>3</sup> Thus after above legislation the Various state governments in India have enacted their own laws, regulations, and policies pertaining to settlement and property rights, which may include land ownership, land use, urban planning, and development. Examples include the Maharashtra Ownership of Flats Act, 1963, and the Delhi Development Authority Act, 1957.

## Socioeconomic Implications

The impact of settlement patterns on socioeconomic development and property rights is significant. The way settlements are planned, developed, and managed can have far-reaching implications for the overall well-being of communities and individuals. Here are some key points highlighting the impact of settlement patterns on socioeconomic development and property rights: **Accessibility to Basic Services**, In Settlement patterns determine the accessibility of

---

<sup>3</sup> <https://iclg.com/practice-areas/real-estate-laws-and-regulations/india>

individuals and communities to basic services such as water, sanitation, healthcare, education, and transportation. Well-planned settlements with proper infrastructure and amenities can lead to improved access to these services, thereby enhancing the socioeconomic development of the residents. On the other hand, poorly planned settlements or informal settlements may lack basic services, which can hinder development and impact property rights. While the Second Socio Economic implication is, **Livelihood Opportunities**. Here, Settlement patterns also influence the availability of livelihood opportunities. Well-planned settlements often provide proper zoning and infrastructure for commercial and industrial activities, creating job opportunities and economic growth. The availability of livelihood options contributes to socioeconomic development, as it enhances income levels, reduces poverty, and improves overall quality of life. In contrast, settlements with limited economic opportunities can lead to economic disparities and hinder socioeconomic progress. The third one is, **Infrastructure Development**, The development of infrastructure, including roads, electricity, and other utilities, is crucial for socioeconomic development. Proper settlement patterns enable efficient infrastructure planning and implementation, leading to improved connectivity, ease of mobility, and access to amenities. Inadequate infrastructure in settlements can limit economic growth, impede property rights, and hinder overall development. The Fourth socio economic implication is **Property Values and Investment**, Here, the Settlement patterns also influence property values and investment prospects. Well-planned settlements, with proper land use regulations and infrastructure, tend to have higher property values and attract more investment. This translates into increased economic activity and development opportunities. Conversely, settlements with irregular or unauthorized development may face challenges in property rights, decreased property values, and limited investment potential. The Fifth implication is **Social Integration and Inclusion**, where Settlement patterns can impact social integration and inclusion. Well-planned settlements promote social cohesion and inclusivity by facilitating mixed-income communities, providing affordable housing options, and ensuring access to social amenities for all residents. On the other hand, poorly planned settlements or slums can perpetuate exclusion, marginalization, and limited access to basic services, affecting the overall socioeconomic development of those living there. The next implication is **Environmental Sustainability**, In which, Settlement patterns have implications for environmental sustainability. Well-planned settlements incorporate green spaces, proper waste management systems, and sustainable practices, which contribute to environmental protection and a better quality of life.<sup>f4</sup> Conversely, haphazard or unplanned

---

<sup>4</sup> [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2289149](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2289149)

settlements can lead to environmental degradation, affecting property rights and overall socioeconomic development.

The Urbanization and housing<sup>5</sup> Challenges in Indian cities have significant implications for settlement and property rights and can have socioeconomic consequences. Here are some key points highlighting these implications, ***Increasing Demand for Housing***, Due to Rapid urbanization has led to a significant increase in the demand for housing in Indian cities. The population influx from rural areas and urban migration creates pressure on existing housing stock. This high demand increases property prices, making housing less affordable for lower-income groups. It also leads to overcrowding and informal settlements, impacting property rights and creating challenges for urban planning and development. The second challenge is ***Informal Settlements and Slums***. The growth of informal settlements, commonly referred to as slums, is a prominent feature of Indian cities. These settlements often lack legal recognition and face challenges in accessing basic services, infrastructure, and property rights. The presence of informal settlements raises questions regarding land tenure, property rights, and socioeconomic implications, as residents may live in insecure and substandard conditions. The third challenge which is faced by cities is ***Displacement and Rehabilitation***, Here the Urbanization and development projects often lead to displacement of communities and individuals to make way for infrastructure development, urban renewal, or land acquisition for public purposes. Displacement can have adverse socioeconomic effects on affected populations, as they may lose their homes, livelihoods, and access to basic services. Adequate rehabilitation and compensation measures are important to mitigate the negative impacts on property rights and socioeconomic well-being. The next implication is ***Affordability and Access to Housing*** here, The increasing demand for housing, limited supply, and rising property prices pose challenges to affordability and access to housing, especially for lower-income groups. The lack of affordable housing options leads to exclusion and inequality, impacting socioeconomic development. Addressing housing affordability issues requires interventions such as promoting affordable housing schemes, implementing inclusionary housing policies, and providing subsidies or incentives for low-income housing. One of the challenges is ***Ownership title***, here the Proper property titling and documentation are crucial for establishing ownership rights and preventing property disputes. However, in many Indian cities, poor or incomplete titling and documentation practices lead to challenges and disputes in asserting property rights. Inaccurate records, lack of updated

---

<sup>5</sup> <https://www.niti.gov.in/sites/default/files/2021-09/UrbanPlanningCapacity-in-India-16092021.pdf>

information, and incomplete documentation result in difficulties in establishing ownership and conducting property transactions, impacting socioeconomic development and investment in the real estate sector. The other factor which might challenge is *Disparities between Gender*, Property rights in India traditionally displayed gender biases, with women facing challenges in asserting rights to land and property. Customary and personal laws often disadvantage women, particularly in matters of inheritance and ownership of ancestral property. This gender disparity has socioeconomic implications, as it restricts women's access to property, economic empowerment, and social mobility. Legal reforms have been initiated to address these disparities and promote gender equality in property rights. Case from Indian cities that highlight various aspects of settlement and property rights are *Dharavi, Mumbai's case* <sup>6</sup>*Dharavi* is one of the largest informal settlements in Mumbai, Maharashtra. It has faced numerous challenges related to property rights and development. The lack of formal land tenure and property documentation has led to uncertainty and vulnerability for residents. Efforts are being made to implement slum redevelopment projects to provide secure housing and property rights to the residents while improving living conditions. While in *Bhangar, West Bengal's case*,<sup>7</sup> Bhangar, a rural area near Kolkata, witnessed a significant conflict over land acquisition for a power grid project. The dispute arose due to concerns of inadequate compensation and violation of property rights. The conflict highlighted the importance of transparent and fair land acquisition processes, as well as the need for rehabilitation and resettlement measures to address the socioeconomic impacts of displacement. While in Delhi which has a large number of unauthorized colonies where residents face challenges in acquiring legal property rights. These colonies often lack basic infrastructure and services. The Delhi government initiated the regularization process to provide property ownership rights, proper documentation, and improved infrastructure to residents. This step aims to address the socioeconomic implications of informal settlements and ensure property rights and inclusion. While in *Adarsh Housing Society Scam's case*,<sup>8</sup> The Adarsh Housing Society scam exposed corruption and irregularities in property transactions and development in Mumbai. The case involved the allotment of flats in a prime location to individuals who did not meet the eligibility criteria. The scam highlighted issues of transparency, accountability, and the need for effective regulation in property development to safeguard property rights and prevent illegal practices.

---

<sup>6</sup> <https://www.downtoearth.org.in/coverage/dharavis-real-estate-threat-6911>

<sup>7</sup> <https://sarthac.gov.in/view-case-file?id=12138&year=2023>

<sup>8</sup> <https://www.thehindu.com/news/national/adarsh-scam-backgrounder/article14264528.ece>

## Conclusion

Property rights in Indian metropolises are crucial due to factors such as rapid urbanization, informal agreements, land accession issues, gender differences, property naming challenges, and the need for affordable housing. These factors affect access to services, livelihood opportunities, structure development, property values, social integration, and environmental sustainability. To address these challenges, several legal fabrics and regulations have been established, such as the Transfer of Property Act, Indian Easements Act, Land Acquisition Act (replaced by the Right to Fair Compensation and Translucency Act), and the Real Estate (Regulation and Development) Act. State-specific laws like the Maharashtra Power of Flats Act also play a pivotal role in governing property rights. Policy recommendations to enhance agreement and property rights in Indian metropolises include enhanced urban planning, transparent land acquisition, property titling and attestation, gender equality, affordable casing, regularization of informal settlements, and translucency and responsibility. A multifaceted approach combining legal reforms, civic planning, and programs is needed to enhance socio-economic development, inclusivity, and property security for all residents.

