LAW AND SOCIAL POLICY REVIEW

VOLUME 3 AND ISSUE I OF 2025

APIS - 3920-0015 | ISSN - 2583-8180

Published by

Institute of Legal Education

https://iledu.in

URBAN GENTRIFICATION AND CONSTITUTIONAL RIGHTS IN INDIA: A CRITICAL STUDY OF DISPLACEMENT, HOUSING AND EQUALITY

AUTHOR – NIVEDHA DEVI E, LLM SCHOLAR AT DEPARTMENT OF PROPERTY LAW, SCHOOL OF EXCELLENCE IN LAW, THE TAMIL NADU DR. AMBEDKAR LAW UNIVERSITY, MAIL ID: VISHALKN2001@GMAIL.COM.

BEST CITATION – NIVEDHA DEVI E, URBAN GENTRIFICATION AND CONSTITUTIONAL RIGHTS IN INDIA: A CRITICAL STUDY OF DISPLACEMENT, HOUSING AND EQUALITY, *LAW AND SOCIAL POLICY REVIEW,* 3 (1) of 2025, Pg. 41-47, APIS - 3920-0015 | ISSN - 2583-8180

ABSTRACT:

Urban gentrification in India, characterized by rapid redevelopment and transformation of inner-city spaces, has emerged as a key driver of socio-spatial inequality. Fueled by policies such as Smart City missions, infrastructure expansion, and real estate liberalization, gentrification is displacing economically weaker sections from urban cores to city peripheries. This research critically examines the constitutional implications of such transformations, focusing on the erosion of housing rights, disruption of livelihoods, and the weakening of the constitutional guarantee of equality. Gentrification, a process of urban transformation marked by the influx of wealthier residents and also the displacements of lower income communities, who poses significant challenges to social fabric of cities in India. Property law plays a pivotal role in exacerbating or mitigating these impacts. This topic focuses on land ownership, tenure systems, zoning regulations and affordable housing policies influence urban development and contribute to or alleviate displacement. The study also discusses the implications of the right to property under the constitution, tenant protection laws and the land acquisition processes in the context of gentrification. The Indian Constitution guarantees several fundamental rights that are implicated in gentrification processes—most notably, Article 14 (equality before the law), Article 19(1)(e) (freedom to reside and settle), and Article 21 (protection of life and personal liberty, including the right to livelihood and shelter). Through landmark judgments such as Olga Tellis v. Bombay Municipal Corporation and Chameli Singh v. State of U.P., the Indian judiciary has recognized the right to shelter as intrinsic to the right to life under Article 21. However, in practice, these protections are often diluted or circumvented during urban redevelopment, especially when slums and informal settlements are cleared to make way for high-end commercial or residential projects. Furthermore, the study interrogates the role of the state in facilitating gentrification through public-private partnerships and the selective enforcement of urban regulations. It critically evaluates the gap between constitutional ideals and their implementation, questioning whether current legal remedies and policy tools are sufficient to safeguard the rights of marginalized urban populations. Particular attention is paid to the procedural fairness of eviction processes, the role of urban local bodies, and the accessibility of legal recourse for displaced individuals. The social consequences extend to access and participation in community governance. Gentrification significantly affects low-income communities, leading to profound transformations in their social and economic fabric. As neighbourhoods undergo change, increasing property values often displace long-standing residents, altering demographics and reducing community cohesion. Access to services and amenities refers to the availability and quality of essential resources and facilities, such as healthcare, education, transportation, and recreational spaces, within a neighbourhood. Gentrification can significantly affect this access, often leading to both improvements and disparities. In neighbourhoods experiencing gentrification, new infrastructure projects and investments may enhance access to

LAW AND SOCIAL POLICY REVIEW
VOLUME 3 AND ISSUE I OF 2025
APIS - 3920-0015 | ISSN - 2583-8180
Published by
Institute of Legal Education
https://iledu.in

various services and amenities. As urban landscapes evolve through gentrification, existing social safety nets often become strained, leading to heightened vulnerability among low-income populations. These communities, already facing economic challenges, find their support systems undermined by rising costs and reduced access to essential services. Gentrification effects encompass various environmental considerations that can significantly alter urban landscapes. As neighbourhoods undergo gentrification, environmental changes often arise, such as improvements in local infrastructure, green spaces, and public utilities. These enhancements can lead to a cleaner and more appealing environment for higher-income residents. The legal framework surrounding gentrification includes zoning laws and tenant protection laws, which significantly influence urban development and the economic dynamics within neighbourhoods. Zoning laws dictate land use, building heights, and density, directly impacting housing availability and affordability.

INTRODUCTION:

Urban gentrification is the reshaping of the landscape of Indian cities at a rapid pace. As government policies, private investment and redevelopment schemes transform all old neighbourhoods. Within 20-25 years, another 300 million people will get added to Indian towns and cities. So, it is clear that urbanization is inevitable and India needs to improve its urban infrastructure and governance in order to increase productivity and create jobs for the poor. In the last fifty years, gentrification has grown from a few cities in the Global North to become a world-wide strategy for capital accumulation. In developed countries, these situations were tackled by demolishing the entire city and complete fresh development as 'Urban Renewal'. Few of these cities in developed countries were affected by wars, natural or man-made calamities. the process often results in the displacement of low-income communities. While gentrification is associated with economic growth, improved infrastructure, and increased property values, it simultaneously deepens social exclusion and violates the constitutional rights of marginalized urban populations. This article examines how gentrification in India affects fundamental rights guaranteed under the Constitution, particularly the right to equality (Article 14), the freedom to reside and settle (Article 19(1)(e)), and the right to life with dignity, which includes housing and livelihood (Article 21).

GENTRIFICATION:

The classical process of gentrification is the transformation of working-class areas of the inner city into middle-class neighbourhoods, which ultimately means the displacement of low-income residents by high-income groups. Gentrification generally involves the invasion of neighbourhoods before workers or apartment buildings in degradation by groups of upper or middle classes and the replacement or relocation of many of the original occupants of these neighbourhoods. This involves the renovation or physical rehabilitation of what was once a dilapidated housing stock and its improvement to suit the needs of the new occupants. During the process, the price of units in the affected areas, rehabilitated or not, increases sharply. Such neighbourhoods transition process typically involves some degree of transformation of tenure, letting the occupying property. in India is typically driven by state-led redevelopment projects such as the Smart Cities Mission, slum clearance initiatives, and transit-oriented development (TOD) models. Unlike organic gentrification seen in the West—where wealthier residents gradually replace working-class populations—Indian gentrification is often abrupt, state-facilitated, and accompanied by forced evictions. Entire neighborhoods, especially slums and informal settlements, are cleared to make way for malls, luxury apartments, highways, or commercial complexes. Residents

LAW AND SOCIAL POLICY REVIEW
VOLUME 3 AND ISSUE I OF 2025
APIS - 3920-0015 | ISSN - 2583-8180
Published by
Institute of Legal Education
https://iledu.in

are frequently relocated to the urban periphery or left without any rehabilitation. This transformation is not just physical; it is deeply political and legal. It challenges the inclusiveness of urban development and questions the role of the state in upholding the constitutional promise of equality and justice.

ORIGIN AND DEVELOPMENT:

British sociologist Ruth Glass was the first who coined the term "gentrification" in 1964 to describe the influx of middle- class people displacing lower-class worker residents in urban neighbourhoods. The Columbia Electronic Encyclopaedia states the root of gentrification from the word 'gentry' taken from the Old French word gentries, means "of gentle birth" and "People of gentle birth". In 1980, David Ley published 'Liberal ideology and the post-industrial city'. He introduced theoretical scheme on the origins and causes of gentrification in it. This group founded an urban reform party which assumed political power in 1972. They agreed on growth of city with a program of apparently humane, socially progressive, and aesthetic urban development. Despite some significant successes, the new ideology was also selective and has generated new problems of social justice, giving rise to a countervailing political movement in the late 1970s.

CAUSES FOR GENTRIFICATION:

There are two main theories of which explains the causes of gentrification which are production side theory and consumption side theory. There are contrasting views for both the theories within scholars. Some of them partially accepted that both theories together provide adequate explanation about the form and processes of gentrification. Rent gap is key factor for gentrification which means the disparity between the potential ground rent and actual ground rent capitalized under the present land use. Post industrialization changes the occupational structure in capital cities from manufacturing to service industry. This led to expansion of the middle-class professionals or 'cultural new class' who preferred to live in the city than suburbs. Gentrification occurs when the gap is wide enough that developers can purchase the land cheaply; can pay for construction, rehabilitation, can pay interest or mortgage and construction loans and then sell the end product for a sale price that leaves satisfactory return to developers Gentrification is the product of demand for locations in city centres and for public and cultural facilities that will be offered to gentrifiers. It depends upon consumption power of new middle class to remove other users from the urban areas.

IMPACTS OF GENTRIFICATION:

PHYSICAL IMPACT: Displacement is one of the most studied negative aspects of gentrification. Displacement in the context of gentrification is defined in the gentrification reader as "forced disenfranchisement (alienation) of poor and working-class people from the spaces and places in which they have legitimate social and historical claims. In the positive way, it stabilizes further deterioration of the area by encouraging further development of local infrastructure and services.Gentrification represents the possibility of achieving upward mobility without having to escape to the suburbs or predominantly white neighbourhoods.

SOCIO-CULTURAL IMPACT: Gentrification changes sociocultural status of an individual's neighbourhood which shapes one's behaviour and future. The process results into formation of gated communities in and around the neighbourhood and enhanced the confrontation of self-versus the others. This becomes the reason for bitterness and conflict within community. The social diversity is lost in the neighbourhood with displacement of lower income working class. The positive socio-cultural impacts of gentrification include the reduction in crime as deteriorated and blighted areas are often associated with criminal activities.

ECONOMIC IMPACT: Improvement of housing conditions in the process of gentrification decentralize the poverty from the declining

LAW AND SOCIAL POLICY REVIEW
VOLUME 3 AND ISSUE I OF 2025
APIS - 3920-0015 | ISSN - 2583-8180
Published by
Institute of Legal Education
https://iledu.in

areas. It increases property value and local revenues. Higher incentives are provided to the property owners from the capable gentrifiers. It not only reduced strain on local infrastructure and services but also rehabilitates property by both with and without sponsorship. However, the negative impacts include loss of affordable housing in the gentrified neighbourhood. The property prices and land value increases by leaps and bounds making them unsustainable Developed infrastructure and services demand more cost and charges implies on the local residents. The economic gap between the lower income working class and the white-collar elite class becomes wider and wider and ultimately displacing the lower income group permanently from their native area.

POLITICAL IMPACT: The role of the state is important for understanding the process of gentrification is some neighbourhoods. Almost all the states have accepted the 'gentrification' as urban renewal policies. Government policies played fundamental role in gentrification. Gentrification and its impact assessment helps to further guide the political views and regulating bodies in order to form and modify rules and regulations for the improvement of the declining urban neighbourhood. The 'emerging' elite class in the gentrified neighbourhood plays a key role in politics and culture. This class actively participates at the local political level for the further development of the area.

POSITIVE AND NEGATIVE IMPACTS:

POSITIVE IMPACT:

1. Higher incentive for property owners to increase / improve housing.
2. Reduction in Crime.
3. Stabilization of declining areas.
4. Increased property values.
5. Increased consumer purchasing power at local business.
6. Reduced vacancy rates.
7. Increases local fiscal revenues.
8. Encouragement and increased viability of further development.
9. Reduced strains on local infrastructure and services.
10. Increased social mix
11. Rehabilitation of property both with and without state sponsorship.

NEGATIVE IMPACT:

1. Displacement through increased rent / price of land or housing.
2. Loss of affordable housing.
3. Commercial / industrial displacement.
4. Unsustainable property prices.
5. Displacement and housing demand pressures on surrounding poor areas.
6. Community bitterness and conflict.
7. Homelessness increases.
8. Secondary psychological costs of displacement.
9. Increased cost and charges to local services.
10. Loss of social diversity (from socially disparate to rich class)
11. Under occupancy and population loss to gentrified areas.

CONTITUTIONAL PROVISIONS AND JUDICIAL INTERPRETATION:

Article 21: Right to Life and Shelter

Article 21 of the Indian Constitution states: "No person shall be deprived of his life or personal liberty except according to procedure established by law." Over time, the judiciary has expanded the interpretation of this provision to encompass a wide range of rights essential to a dignified life, including the right to livelihood, housing, health, and education. the Supreme Court recognized that the right to livelihood is an integral facet of the right to life. It ruled that pavement dwellers cannot be evicted without providing alternate arrangements, as their eviction without rehabilitation would violate Article 21. [29] the Court emphasized that the right to shelter is a basic human right, essential for enjoying a life of dignity. [30] The judgment held that adequate housing includes not just physical space but access to basic

[29] In Olga Tellis v. Bombay Municipal Corporation (1985)
[30] In Chameli Singh v. State of U.P. (1996)

LAW AND SOCIAL POLICY REVIEW
VOLUME 3 AND ISSUE I OF 2025
APIS - 3920-0015 | ISSN - 2583-8180
Published by
Institute of Legal Education
https://iledu.in

infrastructure such as electricity, sanitation, and education. Despite these progressive judgments, enforcement remains inconsistent. The state often uses exceptions like "public purpose" or "urgency" to bypass these protections during evictions.

Article 14: Equality Before Law

Article 14 provides that: "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." This article guarantees that all individuals, irrespective of their socio-economic status, are entitled to equal treatment by the law. In the context of gentrification, the principle of equality is frequently violated when marginalized groups are selectively targeted for eviction while wealthier and politically connected communities are spared. The lack of uniform application of housing laws and redevelopment norms reveals systemic discrimination. The judiciary, while acknowledging inequality in some instances, has increasingly adopted a stance that Favors infrastructure development and urban beautification, often overlooking the disparate impact on vulnerable populations.

Article 19(1)(e): Freedom to Reside and Settle

Article 19(1)(e) guarantees all citizens the right "to reside and settle in any part of the territory of India." This provision underlines the freedom of movement and choice of residence as fundamental components of a democratic society. Forced evictions and the relocation of urban poor to city peripheries restrict their ability to reside in economically viable locations. These actions not only disrupt their access to employment, education, and healthcare but also undermine their right to settle freely within urban areas. By relegating them to isolated zones with minimal services, the state indirectly violates Article 19(1)(e).

Directive Principles of State Policy

Though not enforceable by courts, the Directive Principles under Part IV of the Constitution provide valuable guidance for interpreting fundamental rights. Article 38 directs the state to "strive to promote the welfare of the people by securing a social order in which justice—social, economic and political—shall inform all institutions of national life." Article 39(e) and (f) emphasize that the state should ensure citizens are not forced by economic necessity to work under inhumane conditions and that children are given opportunities to grow in a healthy environment. Article 41 calls for the state to provide public assistance in cases of unemployment and old age. These principles support a rights-based approach to urban development, emphasizing that economic reforms must not compromise social justice.

Role of the State and Urban Policy

Urban policy in India is increasingly aligned with neoliberal principles that prioritize economic growth over social equity. Programs such as the Smart Cities Mission and AMRUT often focus on aesthetics and infrastructure, sidelining the needs of the urban poor. Public-private partnerships (PPPs) exacerbate this trend by reducing accountability and transparency. The absence of comprehensive rehabilitation policies, lack of participatory planning, and weak enforcement of court orders contribute to systemic exclusion. Municipal corporations and development authorities frequently use outdated laws to justify evictions, ignoring more progressive legal interpretations.

Legal Remedies and Challenges

Though the Indian legal system provides avenues such as writ petitions and PILs, these are often inaccessible to vulnerable communities. Legal aid is scarce, and the judicial process is slow and expensive. Moreover, the increasing judicial deference to executive decisions on urban development reflects a shrinking space for rights-based litigation. Even when courts rule in favor of displaced individuals, implementation remains inconsistent. For instance, the Sudama Singh v. Government of NCT of Delhi (2010) ruling emphasized the need for proper rehabilitation

LAW AND SOCIAL POLICY REVIEW
VOLUME 3 AND ISSUE I OF 2025
APIS - 3920-0015 | ISSN - 2583-8180
Published by
Institute of Legal Education
https://iledu.in

before eviction, yet multiple subsequent evictions have ignored this precedent.

Towards a Rights-Based Urban Future

To counter the adverse effects of gentrification, India must adopt a rights-based approach to urban planning. Key recommendations include: Codification of the right to housing as a justiciable right. Mandatory social impact assessments for all redevelopment projects. Community participation in urban planning and decision-making. Strengthening legal aid and simplifying access to justice. Strict enforcement of rehabilitation and resettlement policies. Judicial accountability in upholding constitutional protections.

CASE STUDIES:

1. **Kathputli Colony, Delhi**
Kathputli Colony, a historic slum in Delhi, was demolished under a redevelopment scheme in collaboration with a private developer. While the project promised in-situ rehabilitation, thousands were forcibly evicted and shifted to transit camps with poor living conditions. The case highlights the gap between policy intent and ground-level execution.

2. **Dharavi Redevelopment Project, Mumbai**
Dharavi, one of Asia's largest informal settlements, has been the subject of multiple redevelopment attempts. The latest project, spearheaded by a UAE-based company, raises concerns about large-scale displacement. Despite being economically vibrant and socially cohesive, Dharavi's residents face uncertain futures due to opaque planning and insufficient community consultation.

3. **Ejipura, Bengaluru**
In Ejipura, slum dwellers were evicted to build a public-private housing project. Promised housing has been delayed for years, and many families remain in temporary accommodations. Legal battles continue, reflecting the limits of legal recourse for displaced populations.

4. **Role of the State and Urban Policy**
Urban policy in India is increasingly aligned with neoliberal principles that prioritize economic growth over social equity. Programs such as the Smart Cities Mission and AMRUT often focus on aesthetics and infrastructure, sidelining the needs of the urban poor. Public-private partnerships (PPPs) exacerbate this trend by reducing accountability and transparency.

CONCLUSION:

Urban gentrification in India stands at the confluence of economic development and social displacement. While cities are being reimagined through modernization and investment-driven agendas, the voices and rights of those most vulnerable—informal settlers, slum dwellers, street vendors—are being increasingly silenced. The constitutional framework, rich in its protection of fundamental rights and directive principles, offers a moral and legal compass that should guide the process of urban transformation. The Indian Constitution enshrines the right to life and dignity (Article 21), equality before law (Article 14), and the freedom to reside and settle (Article 19(1)(e)). When redevelopment and gentrification efforts violate these guarantees by forcibly displacing the poor without due process, adequate compensation, or proper rehabilitation, they not only constitute legal infractions but also profound ethical failures. Despite landmark rulings like Olga Tellis, Chameli Singh, and Sudama Singh, enforcement of constitutional rights remains inconsistent and often subordinate to economic imperatives. This pattern points to a growing disconnect between the constitutional vision of inclusive justice and the reality of exclusionary urban planning. Courts, while instrumental in some victories for the urban poor, have increasingly adopted a developmentalist approach that prioritizes infrastructure over individual rights. Executive bodies, driven by

privatization and beautification, often bypass participatory planning mechanisms and social impact assessments, thereby violating both the letter and the spirit of the Constitution. o bridge this gap, a transformative approach to urban governance is essential—one that centers on people, rights, and equity. This requires both structural reforms and a shift in institutional culture. Legal reforms should codify housing as a fundamental right and strengthen procedural protections against arbitrary eviction. Policy frameworks must mandate participatory decision-making and integrate human rights impact assessments into all stages of urban planning. Judicial interpretations should reaffirm the primacy of constitutional values over technocratic rationales. Furthermore, civil society, academia, and the media must play a critical role in documenting displacement, amplifying marginalized voices, and holding institutions accountable. A rights-based urban future is not merely a legal aspiration; it is a democratic imperative. It demands a renewed commitment to the constitutional promise that all citizens—irrespective of class, caste, or residence—deserve equal dignity, protection, and opportunity. As Indian cities evolve, they must do so in a manner that upholds this promise. Only then can urban development become truly inclusive, sustainable, and just.

REFERENCE:

1. Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors., AIR 1986 SC 180

2. Chameli Singh v. State of Uttar Pradesh, (1996) 2 SCC 549

3. Sudama Singh v. Government of NCT of Delhi, W.P. (C) 8904/2009

4. Shanti star Builders v. Narayan Khima Lal Totame, AIR 1990 SC 630

5. Gentrification and its impact on urbanisation in India by Anupama Sharma

6. The Constitution of India, 1950