

Freedom of expression, marginality and the right to livelihood

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The Constitution of India guarantees equality and the right to life and livelihood to all its citizens. But there is a large section of the population whose every day existence itself is illegal. They live on land which is they do not have any legal rights over, even though they may have living on these lands for over two decades if not longer. Their access to the sources of livelihood, the forest, is also illegal and they are regularly threatened or penalized for using the forest. The adivasis and the urban slum dwellers form a large part of this group. The adivasis live and cultivate lands, which have been declared sanctuaries or national parks. For urban slum dwellers shelter is extremely precarious as they live and built houses on government land, which is not legally theirs. Both these large sections of society are extremely vulnerable and insecure on a day-to-day basis -- with the threat of being evicted from their homes at anytime and the only legal protection they have is due process of law. In the eyes of the law and the government their very living is illegal.

One of the few options available to these citizens to protect their rights is to organize themselves and protest against state action, policy and law. The state has used brutal force to disperse these demonstration to ensure that there is no further attempt to raise their voices again. For the last 5-6 years there have been consistently incidents of extra judicial executions of people demanding their right to shelter and livelihood, for e.g. Orissa, Jharkhand, Madhya Pradesh.

By tracking adivasi protest movements on threat of eviction and loss of livelihood, since 2000 and situation of the urban slum dwellers in one city – Delhi and analyzing legislative and judicial responses to the questions of illegality of existence of the poor, this chapter will attempt to address several questions:

How long does this section of population have to live outside the law and are there any other options available to them? What is the scope of law and the efforts made by government to tackle the situation? What has been the response of the courts when issues of right to shelter and livelihood are raised by poor and marginalized people? What has been the response of the administration when people living over the edge of illegality demonstrate for their right to livelihood and shelter? When there are instances of use of force against the demonstrators is any action taken against those who injure or kill demonstrators? What in this context is the judiciary's view of the right to freedom of expression and the right to life?

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