

Accommodating Affordability

Delineating One's Right to Adequate Housing



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Erasmus Mundus Master Course in Urban Studies [4CITIES]

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Date of submission: 06 September, 2021

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Acknowledgement

I would like to thank my supervisor, Dr. Rosa Maria de la Fuente Fernández, Professor, Faculty of Political Science and Sociology at the Department of Political History, Theories and Geography, Universidad Complutense de Madrid, for her very valuable insights and for her patient and kind support. I am also grateful to all the teaching staff in the 4 Cities programme for opening up worlds of knowledge that I have come to treasure over these two years. I would like to thank Erasmus Mundus for having given me such an enriching opportunity and for having sponsored my study. I am deeply grateful to the interviewees, who, by sharing their views and observations, helped deepen my understanding of the issues that have been dealt with in this study. My gratitude extends to my beloved late father who will always be my role model and my source of inspiration. I would like to thank my mother for bringing me so much joy through her infinite love and support, she truly lights my life up. I would like to thank my eldest aunt for always, unconditionally, being there for me, she is a beacon of strength and kindness. I would also like to thank all my other wonderful aunts for showering me with constant affection and care, they are very precious gifts. Last, but not in the very least, I would like to thank my fellow 4 Citizens, whose presence made it possible for me to see colourful shades of urban diversity not only through my eyes, but through theirs as well, making this journey all the more extraordinary.

Abstract

Nation states have played a central role in commodifying the housing sector. Systems that provide affordability in housing are being dismantled. Vulnerable low-income groups in the Global North as well as in the Global South have been the targets of state-induced evictions due to speculative goals. While socio-political factors influence exclusionary housing policies, they also influence collective responses and claims to housing rights by those who face evictions. In this regard, the study aimed at exploring how the international human rights system interacted with locally specific cases of state-induced evictions across the diverse socio-political contexts of Denmark and India. The study took the case of Mjølnerparken in Copenhagen, where residents face eviction due to the 'ghetto' label and the case of Dharavi in Mumbai, where slum dwellers face eviction due to a redevelopment proposal to explore the role played by the international human rights system in detecting local policy measures that induce evictions in each case. The influence of international human right ideals on local forms of collective resistance in both cases was also examined. The study relied on a qualitative analysis of policy documents, international human rights monitoring body reports and interviews. Results indicate that the international human rights system does not uniformly address human right violations in the cases explored. The Danish case has interacted much more with the system when compared to the Indian case. Both struggles for citizenship claim for a right to stay, however, the slum dwellers' radical claim through illegal land occupation promises more transformative change than the Danish residents' claims for inclusivity.

Keywords: Human rights, housing, evictions, affordability, collective resistance.

List of Abbreviations

ACFC - Advisory Committee on the Framework Convention for the Protection of National Minorities

APF - Asia Pacific Forum

CERD - Committee on the Elimination of Racial Discrimination

CESCR – Committee on Economic, Social and Cultural Rights

CFR – Charter of Fundamental Rights

CJEU – Court of Justice of the European Union

CoE – Council of Europe

DCR – Development Control Regulations

DISCoRD - Documentary and Advisory Centre on Racial Discrimination

DRP – Dharavi Redevelopment Project

ECHR – European Convention on Human Rights

ECRI - European Commission against Racism and Intolerance

ECSR – European Committee of Social Rights

ECtHR – European Court of Human Rights

ENAR – European Network Against Racism

ENHRI - European National Human Rights Institutions

ESC – European Social Charter

EU – European Union

FRA – Agency for Fundamental Rights

FSI – Floor Space Index

GANHRI - Global Alliance of National Human Rights Institutions

HLRN – Housing and Land Rights Network

HRC – Human Rights Council

HUDCO – Housing and Urban Development Corporation

ICESCR – International Covenant on Economic, Social and Cultural Rights

IMF – International Monetary Fund

LBF - Landsbyggefonden

MASHAL – Maharashtra Social Housing and Action League

MCGM – Municipal Corporation of Greater Mumbai

MHADA - Maharashtra Housing & Area Development Authority

MMRDA - Mumbai Metropolitan Region Development Authority

NGO – Non – Governmental Organisation

NHRI – National Human Rights Institution

NHSS - Nivara Hakk Suraksha Samiti

NSDF – National Slum Dwellers Federation

OHCHR - Office of the High Commissioner for Human Rights

PMAY – Pradhan Mantri Awas Yojana

SPARC - Society for the Preservation of Area Resource Centres

SRA – Slum Rehabilitation Authority

SRD – Slum Redevelopment Scheme

SRS – Slum Rehabilitation Scheme

TDR – Transferable Development Rights

UDHR – Universal Declaration of Human Rights

UN – United Nations

UPR – Universal Periodic Review

VLT – Vacant Land Tenancy

YUVA - Youth for Unity and Voluntary Action

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1.Introduction

According to the UN-Habitat (n.d.), approximately 2 million people face forced evictions every year, apart from the many more who face its threat and around 1.8 billion people do not have access to adequate housing. This warrants an enquiry into the challenges faced in accessing such an essential need. While there are those who are being deprived of a place to live in, housing in urban areas is being used to accumulate wealth across the world in a visibly illustrated pattern of ‘accumulation by dispossession’ (Harvey, 2003a). Although global, the process of commodification of housing is context specific (Fernandez & Aalbers, 2016). Nation states have each made broad structural changes to accommodate neoliberal housing policies and have been increasingly involved in formulating their own market driven redevelopment policies (Rolnik, 2013). While legal remedies might be acquired in the case of evictions by private landlords, state-induced evictions pose a concerning problem. In particular, the dismantling of affordable providers of housing by the state has mainly resulted in vulnerable, low-income groups facing mass forced evictions and while in the Global North, social housing is being instrumentalised by the state for speculative goals, in the Global South, it is the slums that are being earmarked for profit-oriented redevelopment (Rolnik, 2013; Hoover 2015). This points to a deep violation of housing rights by the state.

The United Nations is one of the only human rights institutions where a standalone ‘right to adequate housing’ has been delineated and apart from this, the UN has monitoring mechanisms that oversee the implementation of this right (Terminski, 2011). International human rights institutions, on account of their worldwide recognition are believed by some to be in a unique position to implement human right ideals (Terminski, 2011; Leijten & de Bel, 2020), however, others believe that due to variations in local specificity, this is a challenging task (Vols and Kusumawati, 2020; Terman & Búzás, 2021). The delineation of human rights through growing

global consensus is a constant evolutionary process (Jensen & Burke, 2017) and rights, generally believed to be a social construct, are open to interpretation (Hoover, 2015). When the ways through which rights are claimed are analysed, one begins to understand the ways in which rights are used as instruments of resistance by deciding powers (Hoover, 2015).

Weinstein (2021) posits that while evictions by private landlords elicit individual claims to the right to housing, investigation into state-induced evictions have the advantage of providing insights into forms of collective action and comparative studies across the Global North and South have the potential to further highlight nuances in claims resulting from diversity of context. The present study therefore attempts to contribute to such research by examining the role of international human rights institutions in addressing state-induced evictions and exploring collective forms of resistance to evictions in locally specific cases across the varied contexts of the Global North and the Global South.

Mjølnerparken in Denmark, which exemplifies a case where residents are currently facing evictions caused due to the dismantling of the Danish private non-profit sector, has been selected as one of the cases in this present study. The evictions are being contested by the residents of Mjølnerparken in a highly publicised court case against the Danish state. Residents are also actively involved in protests being held with other residents of the private non-profit sector. The Danish case has been selected because policies around the ‘ghetto’ label in Denmark (which have caused the evictions), have stood out in Europe as one of the most discriminatory forms of exclusion along ethnic lines where ‘non-western immigrants and decedents’ are being socially and politically excluded from their citizenship (Seemann, 2020).

The Danish case is compared to Dharavi, a slum in Mumbai, India which exemplifies a case where slum dwellers are facing evictions due to state driven redevelopment. Mumbai has been selected as it has implemented one of the most experimental forms of market-driven slum redevelopment schemes (Zhang, 2018) that has had concerning effects on one of the highest

slum populations in the world representing around 41% of the urban population of Mumbai (Census, 2011).

The hypothesis is that, through its robust monitoring mechanisms, the international human rights system is capable of detecting policies that enable evictions which include reports submitted by civil society bodies in each case, however, internationally established housing right ideals may not necessarily influence collective action against evictions as the housing right claims made by residents in each case, depends on diverse socio-political factors specific to their local contexts. Overall, it is posited that the international human rights system does not delineate the right to housing to accommodate greater transformative change for urban citizenship, it is usually confined to legal instruments through which member states are obligated to realise this right.

The research questions that drive the present study are listed below.

1.1. Research Questions

- How does the international human rights system interact with locally specific cases of state-induced evictions across the diverse socio-political contexts of Denmark and India? How do the system's instruments for recognising housing rights relate to the claims being made by affected residents?
- Do the human rights monitoring mechanisms detect the specificities of policy measures that are used by the state to enable evictions in Mjølnerparken and Dharavi? Do the mechanisms directly address the cases employed in the present study? If so, to what end?
- What role does the system of international human rights play in shaping collective forms of resistance in both cases? Is the human rights system informed in turn by such struggles for citizenship?

1.2. An outline of the present study

The following section places the study within existing literature, after which, the international human rights system along with its interaction with the Danish state and Indian state is presented. Subsequent sections include a description of the methodology used and an explanation of the context of the cases being explored. Findings and analysis are presented next after which the results are discussed and concluding remarks are made.

2. Literature Review

The literature review is structured into four sub-sections which aim to highlight some of the main arguments that position the present study. The first sub-section introduces the current problematic of a commodified housing sector in broad strokes and includes characteristic traits that have been identified by scholars to illustrate targeted displacement due to redevelopment in the Global North and the Global South. The specific low-income groups vulnerable to such displacement are subject to be discriminated through labels of territorial stigmatisation and the second sub-section, puts forth various authors' interpretations of the labels' representations. By this, the present study seeks to define the overlaps and distinctions between such labels. The third sub-section presents arguments that nuance the debate around housing studies with the introduction of a rights-based approach and in the final sub-section, scholarly observations on the emancipatory and transformative potential of human rights in social movements, their political claim, their varied interpretations and manifestations are discussed.

2.1. The commodification of a basic need

Albers (2013) argues that while claims are being made that neoliberalism as an ideology might have failed, neoliberal practices continue to surface in different ways through national as well as local government policies around the world and such late neoliberal policies have increasingly prioritised the urban absorption of capital through housing. The commodification of the housing sector has in fact been one of the most defining characteristics of financialisation in recent times (Harvey, 2008; Marcuse, 2012a; Fernandez & Aalbers, 2016; Aalbers et al., 2020) and although housing-centred financialisation, as an observable phenomenon is global, the process is highly uneven in nature (Fernandez & Aalbers, 2016; Aalbers et al., 2020). Instead of focusing on the provision of housing as a basic need, nation states, depending on their context, have each made broad structural changes to enable commodification of their

housing sectors (Rolnik, 2009). At the heart of the ongoing urban absorption of capital, through housing, lies Harvey's (2003a) 'accumulation by dispossession'. Social exclusion through such dispossession has taken on markedly specific forms in the Global North and South (Rolnik, 2013; Hoover 2015).

2.1.1. The housing welfare system of the Global North

The dominant neoliberal urban strategy in the Global North has been characterised by the deregulation of financial markets, reduction in welfare provision, the withdrawal of state support from housing investments and the privatisation of social housing stock (Aalbers et al., 2017; Madden & Marcuse, 2016; Rolnik, 2013). The targeted reduction of social housing stock has resulted in an aggregation of low-income groups in the limited social housing estates that remain, and this has further led to the labelling of such estates as 'areas of disadvantage' (van Kempen & Dekker, 2005). The already vulnerable, predominantly non-white, migrant inhabitants of these areas face additional discrimination and stigmatisation (Rolnik, 2009). Madden and Marcuse (2016) argue that public housing programmes in the United States, from their inception, instead of being intended as a considerate provision for the urban poor were always structured to promote the private sector rather than compete with it, and the commodification of this sector was a predictable eventuality. By contrast, in a number of countries in Western Europe, privately regulated housing associations, formed out of grass root initiatives, were originally successful in their goal to provide housing for the masses as a social good, however, due to policy shifts in recent decades, they have increasingly been directed away from this provision by state interventions (van Kempen & Dekker, 2005). Many municipalities have turned to these housing associations as instruments to realize their speculative policy goals (Aalbers et al., 2017; Noring et al., 2020). The present study's Danish

case exemplifies this process of instrumentalisation where the Danish private non-profit housing system is being dismantled through the state's use of the 'ghetto' label.

The introduction of social mix to 'improve' these 'areas of disadvantage' as a popularly used strategy by various states, has been increasingly criticised in academia (Lees, 2008; Lipman, 2008; Bond et al., 2011). Read and Sanderford (2017) categorise problems in mixed-income settlements into five major themes which include the acceleration of state-led gentrification, inappropriate prioritization of public housing goals, insufficient representation of marginalized groups in decision-making, interference in long-range municipal planning and encouraged privatization of urban land. Overall, municipal governments and profit-driven real estate developers have a shared interest in unlocking the value of underutilized urban land which is conveniently combined with goals to 'improve' social inclusion of low-income groups, but such developments instead uproot existing communities and rarely achieve their aim of encouraging informal interaction among members of different socioeconomic groups (Chaskin & Joseph, 2010; Davidson & Lees, 2010).

2.1.2. Illegal settlements of the Global South

In the Global South, neoliberal restructuring programs were actively advocated by Bretton Woods institutions following the debt crisis of the early 1980s (Brenner & Theodore, 2002). The World Bank's (1993), *Housing: Enabling Markets to Work*, specifically highlighted the economic importance of the housing sector and prescribed policy measures that governments could take to enable its commodification. In the ensuing decades, national policies of the Global South promoted a surge in urbanisation and prioritised the global economic integration of their rapidly expanding cities where real estate prices were being driven up (Davis, 2004; Bardhan & Kroll, 2007; Schindler, 2017). In many cases, weak attempts at establishing welfare housing systems were abandoned and the increasing unaffordability of the housing market

coupled with high in-migration levels, contributed to the further proliferation of informal settlements and while informal settlements have always lacked formal recognition and legibility, they have increasingly been the target for projects of urban infrastructure development, projects for sports mega-events and other speculative public-private partnership ventures (Lara, 2013; Comelli et al., 2018; Ren, 2018). The present study's Indian case exemplifies one of the increasingly common urban strategies used by the state where centrally located slums in cities are being redeveloped to monetise on their high real estate values.

The dispossession and peripheral relocation experienced through attempts at the erasure of slum dwellers leads to the retrenchment of urban and housing poverty (Coelho et al., 2012; Doshi, 2013; Comelli et al., 2018). While some studies posit urban slums as pathologised and dystopic settlements (Gilbert, 1994; Davis, 2004), other studies highlight the entrepreneurial and self-organising socio-economic contributions made by slum dwellers who play an important role in establishing subaltern forms of urbanism to resist their oppression (Chatterjee, 2004; Roy, 2011; McFarlane, 2012; Lara 2013; Davy & Pellissery, 2013). Across the North-South divide, studies highlight that apart from perpetuating the reproduction of areas of disadvantage, displacement and relocation to the urban periphery commonly burdens low-income groups with added travel costs and travel time that need to be spent on the commute between home and work (Stead & Marshall, 2001; Day & Cervero, 2010; Hamidi et al., 2016). Although targeted groups are demographically different, it is the economically disadvantaged that commonly face social exclusion through development-induced dispossession which predominantly targets social housing complexes in the Global North and informal settlements in the Global South (Rolnik, 2013).

2.2. A comparative note on the ghetto and slum labels

Since the present study explores the dynamics of exclusionary redevelopment induced through the ghetto and slum labels, a comparative note is made between these labels in this sub-section.

2.2.1. The ghetto label

The ‘ghetto’ has had a long history and is believed to have originated in Renaissance Venice where Venetian Jews were relegated to specific quarters as a means of forced segregation that intentionally ascribed social stigma (Richardson & Donley, 2018). As a label, the ghetto has since been applied to other forms of imposed relegation as that of Jews in Europe under Nazism, the impoverished neighbourhoods of African Americans in the 20th century metropolises of the United States, ethnic outcasts in Africa and East Asia and more recently, to immigrants in Europe where the label has made its way back as a kind of misinformed import from the United States (Wacquant, 2005). This last application of the label in Europe has been criticised by Wacquant (2008; 2016) who posits that the relegation being observed is rather characteristic of what he terms as ‘anti-ghettos’ because such dispersed disposessions, although territorially stigmatised like ghettos, do not exhibit the institutional self-organisation and modes of collective protection for self-preservation against oppression that ghettos have traditionally displayed. The ‘anti-ghetto,’ in that sense, is comparable to the ‘hyperghetto’ of the United States where economic deprivation, institutional disintegration, and the erosion of communal networks (as well as social capital), point to the disrepair of ghettos with undertones of increased criminality (Wacquant, 2008; Wacquant 2016; Povinelli, 2019). The onslaught of neoliberal policies such as the fragmentation in wage labour seem to foster such continued marginality both in Europe as well as the United States (Wacquant, 2007). In general, as seen in the United States (before hyperghettoisation of the 1970s), the case of racially segregated ghettos pointed to systemic entrapment through socio-economic deprivation rather than their

popular portrayal as aggregations of self-imposed, individualistic cases of poverty (Waquant & Wilson, 1989). However, ghettos are not defined by poverty (as evidenced through the affluent Jewish ghettos of Venice), they are rather defined by stigmatisation, imposed spatial confinement and institutional independence for survival (Waquant, 2005; Waquant, 2007).

The act of European policymakers' use of such a label with its intent to induce stigma among targeted groups of ethnic minorities in recent times, has been criticised by Slater (2009). In the Danish political discourse, the ghetto concept has been introduced since the 1990s and as a social diagnosis, criticism has been directed around the fact that the label is being intentionally applied to residential neighbourhoods characterised by high numbers of deprived non-white immigrants in Danish social housing estates (Andersen, 2010; Schultz Larsen, 2011; Bakkaer Simonsen, 2016). Therefore, despite being officially labelled by the government as a 'ghetto', taking into consideration, the criticism, contestation and inherently attached negative connotations, the present study will simply refer to the Danish case by the housing estate's name, Mjølnerparken.

2.2.2. The slum label

The 'slum' as a term, has a relatively recent Victorian origin as it was coined in nineteenth century England undergoing industrialisation. It was introduced in social sciences, as a spatial form and an analytic concept by Friedrich Engels who represented it as a by-product of industrial capitalism. The 'slum' was used to describe squalid living conditions in the Global North that ranged from small urban concentrations of poor, dilapidated settlements to extensive districts of the working class (Harris, 2009). The concept was later transferred to studies conducted in the Global South by the late 1960s when industrial cities of the Global North claimed to have altogether rid themselves of slums. The underlying negative association of the term 'slum' with poverty and exclusion, eventually resulted in the use of more neutral terms

like informal settlement and squatter settlement over the years (Weinstein, 2014). However, while these terms continue to be used interchangeably, it is necessary to understand their overlaps and differences. While ‘informal settlements’ mainly refer to illegal forms of land tenure and construction that violate planning regulations, they also embody self- organisation, complexity as well as a strong sense of community (Lara, 2013) and informality is often implied to as a radical mode of production that could pave the way for incremental transformation (Dovey et al., 2020). On the other hand, the term ‘squatter’ deals with land tenure and exclusively refers to the illegal occupation of land (Willis, 2009). Slums are generally considered to encompass a broad range of meanings which includes the aspects signified by informality as well as squatter settlements (Dovey et al., 2020).

Mainly due to the ‘slum upgrading’ programmes launched by the World Bank in the 1970s, the term ‘slum’ has been consistently used in reports and policies. A few decades later, in the 1990s, even amidst continued criticism of the slum’s implied stigmatising tones of poverty and marginality, the term had returned as an acceptable analytical concept, notably after the *Cities Without Slums* initiative was launched by the UN-Habitat, Cities Alliance and the World Bank in 1999 (Gilbert, 2007). The goals of this initiative were extensively documented in the UN Habitat’s report - *The Challenge of Slums: Global Report on Human Settlements 2003*, which defined the slum as a substandard settlement meeting any one of the listed criteria that included deprivation of basic amenities (such as water supply and sanitation), lack of durable housing structure, overcrowding and lack of secure tenureship (United Nations Human Settlements Programme, 2003). In the ensuing years, this broad definition was also used by radical writers like Verma (2003), Mike Davis (2004; 2006) and Maier (2005), to describe the heterogeneity of such settlements in their seminal works. However, despite its broad definition, Gilbert (2007) points out the need to acknowledge and understand the political aspect as well as the local dynamics that are inherently related to the term. This is evident in the case of India, where

the approach by postcolonial state interventions towards slums has considerably varied over the years from that of initial intolerance (through slum clearance programmes) to that of gradual, partial tolerance through upgradation and rehabilitation (Burra, 2005; Doshi, 2011; Zhang, 2018). In some cases, certain localities actively seek ‘slum’ designation to obtain advantages in terms of basic infrastructure and services (Burra, 2005; Weinstein, 2014). Due to the government’s official designation of Dharavi as a slum, and due to the long history and embeddedness of the term’s use in the Indian context, the term ‘slum’ will be used for the Indian case employed in the present study.

Both the ghetto and the slum need to be understood in relation to the local dynamics and political views that surround them. Lines have been blurred in the use of these terms in the past as both exemplify spaces of urban relegation (Waquant, 2016) and while poverty is not necessarily a characteristic of either, it is often an added layer. Self-organised modes of socio-economic sustenance are also common to both, as seen in the ghetto’s self-reliant institutions and in the vibrant entrepreneurship of slum dwellers. However, while the ‘ghetto’ tends to refer to an imposed urban spatial confinement based on intentional discrimination by the dominant power, the ‘slum’ refers to inserted urban settlements that in the absence of accessible options, are characterised by their illegality of land tenure and physically squalid conditions. The legal and intentionally segregated nature of the ghetto is thus contradictory to the illegal insertion of the slum and while stigma is imposed right from the ghetto’s conception, stigma tends to arise as more of a symptomatic feature in the slum. According to Waquant (2008; 2016), the ghetto is more comparable to institutions of restraint such as refugee camps and prisons rather than slums. The present study thus does not seek to compare the ghetto and slum labels in their capacity as territorial realms of exclusion, rather, it simply seeks to specifically address local dynamics and political motivations of the concerned states which have used these labels to enable market driven redevelopment schemes.

2.3. A human rights approach to the commodification of a social good

As a result of the ongoing commodification of housing, apart from vulnerable groups, other demographic groups of varying socioeconomic profiles also face challenges in accessing the housing sector and in finding a place that ascribes to one's basic needs which include affordability, privacy, adequate facilities, and proximity to not only work but also education opportunities (Leijten & de Bel, 2020). Thus, predominantly due to market forces, a vast majority of people are likely to experience a violation of their right to housing in their lifetime and it remains essential for studies to examine the commodification of the housing sector with a human rights approach in this regard (Pattillo, 2013; Rolnik, 2013; Hoover, 2015; Madden & Marcuse, 2016; Leijten & de Bel, 2020). Human rights are generally believed to be a social construct that is open to interpretation (Dembour, 2010; Hoover, 2015) and therefore rights manifest themselves in a number of different ways which include rights as an ideology, as an elaborated discourse, as a national or international regime, as a mechanism to promote respect for individuals or groups, as a practice or institution and as a collective social movement (Alston, 2013). The relatively recent conceptualisation of an international human rights regime is linked to the establishment of the United Nations and its initiatives to promote human rights internationally (Muñoz, 2017), however, while it may be difficult to deny the existence of politically constructed international human rights regime, the effectiveness of the regime has been questioned due to the fact that international human rights institutions lack the power to enforce the implementation of human rights (Gayim, 2016).

Recent developments by a global consensus on housing rights through institutions such as the United Nations have mainly been catalysed by increasing housing shortages due to rapid urbanisation since the 1970s and it has been argued that the worldwide recognition of institutions like the UN and the Council of Europe, make them unique proponents of the

implementation of housing rights (Terminski, 2011; Leijten & de Bel, 2020). However, other studies point to the fact that international human rights institutions face challenges in realising human right ideals at the local level (Vols and Kusumawati, 2020; Terman & Búzás, 2021) and therefore, to examine the manifestation of human rights in any particular urban context, it is essential to observe existing power hierarchies, political influence and pluralism due to regional, national as well as local differences (Sano, 2014; Hellum, 2017; Jensen & Burke, 2017). The present study seeks to explore the interaction of a globally constructed system of rights with localised manifestations of housing right claims in the selected cases.

2.4. Human rights as social movements

Human rights, in their openness to interpretation, could be oppressive or emancipatory depending on the deciding forces that use and formulate them which often implies the need for a constant underlying struggle (Lefebvre, 1968; Harvey, 2003b; Hoover, 2015; Madden & Marcuse, 2016; Leijten & de Bel, 2020). In a broad sense, Lefebvre's *Right to the City* is a political claim which calls to decry social injustice and such a claim is not to be limited within the legislative confines of the state or within the realm of existing definitions of democracy but is to rather be seen as an appeal to the moral values that human rights represent, through which new claims for justice and new democratic systems can be formulated (Marcuse, 2012b; Marcuse; 2014; Purcell 2014). Critical urban theory, in itself, as body of literature rooted in Marxist tradition, seeks to serve such a purpose where its proponents are tasked with investigating the creative and ever-changing forms of current domination while unearthing and politicising emancipatory possibilities (Brenner, 2009; Marcuse, 2009). Apart from the stimulating role it has played in academia, the Right to the City, as a slogan, having inspired a wide range of urban social movements and initiatives, reflects the potential for a reconditioning that can be practically applied to different contexts (Purcell, 2014). While collective acts of

resistance have employed theoretical formulations and established human rights as ideals to achieve, they are also instrumental in attempting to bring novel claims to reality and thus conceptual assertions and social movements are constantly involved in an informative exchange (Pattillo, 2013; Hoover, 2015).

Social injustice due to the commodification of housing has been one of the main instigators of social movements and insurgencies through the years (Mayer, 2012) and some of them have adopted the banner of the Right to the City. In Brazil, in the 1990s, social movements emerged advocating the Right to the City for the urban poor in favelas which contributed to the formulation of federal laws to regulate urban development (Fernandes, 2007; Lara, 2013; Purcell, 2014) while other movements in cities across the globe like Paris, Amsterdam, Istanbul and New York have employed the slogan in their struggles against gentrification and evictions (Mayer, 2012). The Right to the City has also been used as a platform to connect various NGOs and other activist organisations that advocate for tenant rights and has been largely adopted by programmes for city and local government networks like Cities Alliance, Cities for Housing and United Cities and Local Governments. However, scholars note that such platforms often seek remedies within legislative constraints and are thus often very loosely based on the Right to the City's radical political claim (Mayer, 2012; Purcell, 2014).

Davy and Pellissery (2013) posit that informal settlements of the Global South represent 'insurgent citizenship' through their illegal land occupation and thus promise transformative potential in their Right to the City claim. While other movements such as the Western Cape Anti-Eviction Campaign in South Africa, adopt a rights-based discourse for their claims, they also employ insurgent practices when required where slum dwellers actively resist eviction or refuse temporary shelter and instead intentionally squat on pavements when dispossessed and in some cases, even occupy vacant buildings (Miraftab, 2009). The movement's advocates

compare evictions being carried out through current neoliberal policies to those that were enforced during the apartheid era, thereby, stimulating collective memories of historic oppression in order to fight against current forms of oppression (Miraftab, 2009). Apart from collective memory, reactionary stimuli also feed campaigns for radical practices as seen in the case of Plataforma de Afectados por la Hipoteca (PAH), which received support and widespread legitimacy through the Indignados movement in Spain (García-Lamarca, 2017). However, while the PAH and other similar movements like the Chicago Anti-Eviction Campaign (CAEC), represent an articulated struggle, the long-term reach and transformative potential of their guerrilla tactics is unknown (García-Lamarca, 2017). Yet such insurgencies reiterate that rights are what one makes of them and social movements through their radical practices continue to define new claims in their struggle for citizenship (Miraftab, 2009; Hoover, 2015).

The involvement of NGOs and the perception of their contribution towards social movements also varies. Movements by squatters in the Global South such as the grassroots Western Cape Anti-Eviction Campaign¹, that have found NGO involvement to be ineffective (Miraftab, 2009; Mayer, 2012). However, authors argue that such generalisations cannot be made as in some cases, NGOs have been effective in providing legibility for slum dwellers as seen in the 1970s and 1980s in India where NGOs were highly active in demanding formal recognition for squatters (Burra, 2005; Doshi 2011). Other right to housing programmes in the Global North as well as the South, have found NGOs and their transnational organisations as important human rights mediators that play a central role in mobilising affected groups and in advocating legislative change (Mayer, 2012; Purcell, 2014; Sano, 2014).

¹ Members of the Western Cape Anti-Eviction Campaign do not prefer to work with NGOs because according to them, NGOs often control social movements through funds. The assertion of their legitimacy is perceived to eclipse the agency of those who are fighting for their inclusion (Miraftab, 2009).

In general, outcomes of resistance are dependent on the socio-political climate in any given context, as highlighted by Castells (1983), who claims that in cases where the working class has sought the state's patronage in tolerating their illegal forms of tenure, coherent social movements are difficult to mobilise. Instead of articulated revolutionary movements, some residents and activists focus simply on establishing resistance to the threat of displacement in what Hartman (1984) terms "the right to stay put". In his seminal essay under this title, he posits that instead of justifying evictions through the provision of compensations, government policies must prioritise measures that would protect any form of tenure from displacement.

Universality of rights is problematised due to existing pluralities of human rights interpretations (Jensen & Burke, 2017). Varied outcomes of resistance and varied claims to rights reflect a 'right to differ' which then poses a paradox for inclusivity, if all rights are to be universally protected, then, protecting the right to differ inherently nurtures conflict (Hoover, 2015; Bondevik & Bostad, 2017). For instance, the right to homeownership is prioritised over ensuring housing rights for the masses to suit economic goals of the deciding power (Rolnik, 2013). Inclusion is thus always contested as dominant forces find ways through which rights are manipulated to favour their goals which in recent times has increasingly been reflected in populist rhetoric that articulates nativist arguments to justify exclusion (Leijten & de Bel, 2020).

In conclusion, market driven redevelopment schemes, despite being differentiated by their local specificity, are uniform in perpetuating retrenchment of urban poverty and exclusion through displacement. The labels they employ often intentionally undermine the urban citizenship of vulnerable groups and sustain their discrimination. Collective forms of resistance against such oppression employ conceptual assertions of human rights but also delineate new claims through their struggle for citizenship and thus theory and practice constantly inform one another.

3. The International Human Rights System

As discussed in the previous section, rights are constantly defined by socio-political struggle. As the present study compares violation of rights through dispossession and examines collective forms of action resisting it in two vastly different contexts, a commonly acknowledged international system that articulates and establishes standards for rights is employed as an analytical frame of reference. The following section describes the right to housing as it has been delineated through the years by the International Human Rights System.

3.1. The United Nations

After World War II, in 1945, an international consensus to uphold peace, brought forth the establishment of the United Nations (UN), an intergovernmental organisation, and one of its objectives, has been to be involved in the development of human rights instruments and in monitoring their protection globally. The right to adequate housing has been incrementally delineated by the UN which remains one of the few international institutions to formally enshrine this right. The use of internationally recognised human rights norms as principal reference in human rights research has many criticisms. By popularly using the international human rights framework as a starting point, human rights research has been accused of considerably limiting the scope of research as this factors out alternative, bottom up approaches to human rights (Andreassen et al., 2017; Langford, 2017). However, this study aims to include claims of collective resistance instead of solely supporting the international rights system's approach.

The concept of rights is inherently evolutionary (Jensen & Burke, 2017) and although international rights set forth Post-World War II, have had many precedents, such as the Magna Carta, the 1776 American Declaration of Independence and the 1789 French Declaration of the

Rights of Man and Citizen, the precedents predominantly tend to represent a Western-centric approach (Jahren, 2013). Critics argue that the UN's formulation of 'Universal' rights is also inherently Western-centric as it was established by Western powers whose dark colonial past has invited further criticisms of it being hypocritical in its conception (Saghaye-Biria, 2018). But it is noteworthy that after decolonisation, the nations of the Global South have made significant contributions to the international rights framework (Burke, 2010). The present study acknowledges the criticisms mentioned and clarifies that the use of the international rights framework represents a purely methodological choice. It recognises, in the UN, the value of an international human rights movement that has been informed through the experiences of an increasingly global effort, since the latter half of the twentieth century.

3.1.1. The right to adequate housing - a work in progress

This evolutionary process is evident in the UN's right to adequate housing and the roots of this process can be traced back to 1948, when the UN adopted the Universal Declaration of Human Rights (UDHR). Back then, housing was recognised as part of the right to an adequate standard of living, as enshrined, in Article 25 (Universal Declaration of Human Rights, 1948). Almost two decades later, in 1966, under the International Human Rights law and through the treaty called International Covenant on Economic, Social and Cultural Rights (ICESCR), housing remained a part of the right to an adequate standard of living in Article 11 (International Covenant on Economic, Social and Cultural Rights, 1966) which was ratified by both Denmark and India. After being enforced in 1976, a treaty body called the Committee on Economic, Social and Cultural Rights (CESCR) was set up in 1985 to monitor the State parties' obligation to the treaty mainly through cyclically held periodic reviews. In 1991, it was through the CESCR's general comment² No.4, that the right to adequate housing was actually derived from

² General comments are made by UN treaty bodies (such as the CESCR) to further interpret and elaborate upon their respective treaties.

Article 11 of the ICESCR and expanded upon as a right “of central importance” (CESCR, 1991, para. 1). A few years later, a rise in the number of reports on forced evictions in both developing as well as developed countries, resulted in the CESCR’s general comment no. 7, in 1997, which detailed out advocacy measures to protect vulnerable groups from the threat of forced evictions (CESCR, 1997). Apart from the CESCR, the UN-Habitat, established in 1978, also closely follows the development of the right to adequate housing in the interest of its urban settlement programmes.

Overall, although the ICESCR promotes a non-discriminatory, inclusive realisation of human rights without explicitly supporting economic growth, Petel and Putten (2021) criticise the treaty body committee, the CESCR for its implicit view that economic growth is central to the realisation of human rights. Also, Vols and Kusumawati (2020) highlight that although the system advocates against forced evictions, it does not effectively offer legislative instruments to protect against such evictions. The ICESCR allows for justification if appropriate compensations are provided for by the state.

3.1.2. The right to adequate housing - key aspects

The term ‘adequacy’ in the right to adequate housing, denotes that apart from the basic provision of shelter, the right must also ensure supplementary needs which include required infrastructural facilities, security of tenure, and affordability, apart from accounting for cultural preferences as well as locational preferences (OHCHR & UN-Habitat, 2014a). Over the years, some of the main concepts that have been highlighted by the CESCR with regard to the right to adequate housing include protection from evictions, the freedom to choose one’s residence and the right to privacy within one’s home. In light of this research, where forced evictions are being investigated, it is important to note that the UN recognises that “the right to adequate housing cannot be viewed in isolation” (CESCR, 1991, para. 16), as it is inherently connected

to other human rights and an integrated approach is needed to promote the realisation of this right. Overall, according to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the UN-Habitat (2014a), State parties have three basic obligations³ to the right to adequate housing, which include:

- 1) The obligation to respect (States are required to refrain from the direct or indirect interference to the enjoyment of the right),
- 2) The obligation to protect (States are required to prevent third parties from interfering with the right), and
- 3) The obligation to fulfil (States are required to take active measures to realize the right).

3.1.3. UN Mechanisms of Accountability

International Human Rights law is mainly enforced through the UDHR and the UN's international treaties that member States are obligated to respect. The UN monitors the performance of member States and has a broad range of mechanisms to provide accountability in cases of violations of rights. Apart from the treaty body reviews mentioned earlier, member states are required to submit reports to Universal Periodic Review (UPR) examined by the Human Rights Council⁴ (HRC). National Human Rights Institutions⁵ (NHRIs), and civil

³ When States ratify a treaty, they are required to realise the recognised rights. Generally, while some obligations are of immediate effect, other obligations are subject to the progressive realisation of rights. For instance, the right to non-discrimination is an obligation of immediate effect while the right to adequate housing is subject to progressive realisation as the UN acknowledges that States face constraints in realising this right (OHCHR & UN Habitat, 2014a).

⁴ The UN's Human Rights Council (HRC) is responsible for the overseeing of global human rights performance.

⁵ National Human Rights Institutions (NHRIs) are State-mandated independent bodies which advise the State and work with local entities including NGOs to monitor a nation's human rights performance. There is a Global Alliance of National Human Rights Institutions (GANHRI) where both the Danish as well as the Indian NHRI are members. Apart from this, the Danish NHRI is a member in the regional network for Europe called European National Human Rights Institutions (ENHRI) and the Indian NHRI is a member in the Asian counterpart called Asia Pacific Forum (APF). These network organisations assist in providing guidance to NHRIs and in certain cases, support them when they are faced with political pressure from their respective countries (Office of the High Commissioner for Human Rights, n.d.). Apart from this, in the EU framework, on behalf of its member states, the Agency for Fundamental Rights (FRA), performs functions similar to those of NHRIs (Greer et al., 2018).

society organisations also independently report to the UN on their respective nation's performance. Such reports are termed as 'parallel' or 'shadow' reports and serve to present evidence of information that is either alternative or supplementary to official government reports regarding contested domains, thereby, providing a platform for activists to demand accountability (Tregidga, 2017).

Recently, in 2013, an Optional Protocol in the ICESCR was established through which the CESCR can directly receive individual complaints on the violation of their right to adequate housing (OHCHR & UN-Habitat, 2014a) and this is a unique mechanism that is designed to link the international system to the local level. As discussed later in the study, despite repeated requests, neither Denmark nor India has ratified this Optional Protocol (United Nations Human Rights Treaty Bodies, n.d.) which prevents this particular mechanism from its local reach. The Special Rapporteur⁶ on the right to adequate housing has also contributed to establishing links with the local level by regularly reporting on instances where this right is being violated. These experts are also involved in promoting the multi-scalar implementation of the right to adequate housing through initiatives like the Shift, led by Leilani Farha, a former Special Rapporteur who works in this regard, in partnership with United Cities Local Government and the UN's Office of the High Commissioner for Human Rights.

3.2. The European system of Human Rights

Denmark is also obligated to the European Human Rights framework through the Council of Europe⁷ as well as the European Union (EU) and both these entities have been granted observer status⁸ by the UN. The Council of Europe's main human rights instrument is the European

⁶ Special Rapporteur on the right to adequate housing is an independent expert appointed by the UN to report on the realisation of this right. This mechanism has been in place since 2000 (OHCHR & UN Habitat, 2014a).

⁷ The Council of Europe, an international organisation contributing to the development of human rights in Europe, since its founding in 1949, enforces the European Convention on Human Rights (ECHR), which is largely based on the UDHR and came into effect in 1953.

⁸ Observer Status is granted by the UN to international organisations and other entities to enable them to participate in meetings held at the UN. They, however, do not have the right to vote on any issues.

Convention on Human Rights (ECHR), which is interpreted and applied by the European Court of Human Rights (ECtHR), widely acclaimed to be one of the most effective international systems to protect rights (Helfer, 2008). Although the right to housing is not explicitly addressed in the ECHR, it has been elaborated upon in the European Social Charter⁹ (ESC), with additional layers of protection added to this right in the revised version. The EU also addresses human rights through its Charter of Fundamental Rights (CFR), which has become legally binding after the 2009 Treaty of Lisbon. This has significant implications to the EU law, because the Court of Justice of the EU (CJEU), which previously, based its human rights interpretations mainly on the ECHR, has now shifted to use the CFR as its main reference and human rights can be legally binding (Greer et al., 2018). However, the CFR does not delineate a “stand-alone directly enforceable right to housing” (Kenna & Simón-Moreno, 2019, p.613), and further instruments are required to advance this right.

While the Council of Europe, has since its origin, worked towards the realisation of human rights, the EU and its predecessors, primarily worked towards establishing a common market and economic co-operation. The Council of Europe continues to be acknowledged as the standard setter in human rights legislation and although, currently, both the organisations pursue human rights activities through separate institutions each with its own review and accountability mechanisms, agreements have been made to cooperate towards the common goal of realising human rights (Greer et al., 2018). Over the years, however, EU legislation has increasingly offered higher protection to human rights than the Council of Europe, bringing further speculation on how the organisations will interact with one another (De Schutter, 2008). Apart from this, the EU has been given an enhanced observer status with special rights to speak and participate in UN meetings since 2011 and this places it in a unique position of influence

⁹ The European Social Charter (ESC) was drafted by the Council of Europe in 1961 and revised in 1996. It focuses on social rights and in this context, it applies the UDHR in the European framework while also linking the UN treaty system with the EU system. NHRIs work with the European Committee of Social Rights (ECSR) which oversees the implementation of the European Social Charter.

within the international rights system (European Parliament, 2020). In comparison to Europe, a unified and institutionalised system to defend human rights has not been established in Asia and while there are intergovernmental human rights commissions for small groups of Asian countries, India is not a member in any of them. D'Costa (1998) argues that it is challenging to conceive of a unified Asian system for institutionalised human rights due to conflicting ideals and political differences among the diverse Asian countries.

3.3. Domestic Systems of human rights

As members of the international human rights system, Denmark and India are obligated to implement the realisation of human rights that the system has recognised. However, the delineation of rights on the domestic front is inherently linked to the socio-political context and histories of each nation (Jensen & Burke, 2017). The Danish State and the Indian State interaction with the international human rights system's right to housing is discussed in the following subsections.

3.3.1. The Danish System

Over the years, Denmark has had a complex dialogue with internationally evolving moral standards. Contrary to the principle-based Nordic approach to human rights that Denmark has eventually come to be known for, in the early post-war years, while the country was involved in deliberations about human rights standards with the UN as well as with the Council of Europe, there were visible limits to the country's international diplomacy marked by instances such as Denmark's controversial stance on not incorporating the freedom to change one's religion during the formulation of the UDHR (Jensen, 2018). Additionally, although the country was considered to have already had an advanced democratic constitution at the time and was instrumental in drafting the ECHR, it was reluctant to incorporate the newly developing international rights ideals into its own national framework. It was only in 1992 that

the ECHR was incorporated into Danish law despite Denmark having ratified the ECHR as early as 1953. The ECHR remains the only human rights treaty to ever be implemented in the country. Regarding the ESC, Denmark has not yet ratified the revised ESC (1996 version) nor has it allowed for the revised version's collective complaints procedures¹⁰ to be established as monitoring mechanisms. The main body responsible for monitoring the state on human rights issues is the country's NHRI called the Danish Institute for Human Rights. The UN's international treaties such as the ICESCR (which specifically elaborates on the right to adequate housing) although ratified, have not been incorporated into Danish law and the government justifies this decision by maintaining that since ratified treaties of the UN can be invoked to be applied in Danish courts, the treaty rights need not officially be incorporated into national law (The Danish Institute for Human Rights, n.d.). Thus, while the right to own property and the right to privacy in one's place of dwelling, feature in the Danish constitution, the right to housing has not been constitutionalised. In 1953, when the constitution was being revised, the Communist Party had proposed the constitutional inclusion of the right to housing, but the proposal was shot down by the key 'democratic' parties namely the Social Democrats, the Liberal Party, the Conservatives and the Social Liberals, mainly because they viewed the Communist party as a totalitarian outlier, thereby, illustrating a clear Cold War divide in the constitutional debate (Jensen, 2018). In general, domestic political priorities have contributed to an ongoing tension in incorporating international human rights standards into the national framework.

3.3.2. The Indian System

In the Indian context, it is the country's diverse socio-economic and political struggles that have constantly posed challenges in aligning its international and national human rights

¹⁰ Collective complaints procedures enable non-governmental organisations to directly apply to the European Committee of Social Rights for rulings in cases where the European Social Charter is not being implemented. This acts as a monitoring mechanism.

commitments. Initially during its pre-independence phase, and in the immediate years after independence, interactions with the UN were marked by the country's focus on issues of equality and justice for the colonised world (Bhagavan, 2010). This approach was primarily directed by the Indian National Congress, the country's dominant political party which had a long history of demanding political reform under British rule and was well-known for its iconic figureheads like Gandhi and Nehru. In later years, India, among other decolonised nations continued to contribute towards delineating international non-discriminatory rights, although this was more actively done in the 1960s and 70s than in recent years, yet, its current diplomatic approach, is described by scholars to still fundamentally follow principles of Nehruvian internationalism¹¹ (Jordaan, 2015). On the domestic front, India is governed by a complex, multi-tiered system which can broadly be classified into the Central government and State governments. As per the Indian Constitution, while there are legislative functions which are under the domain of the Central government apart from certain functions shared by the Central and State governments, the provision of housing and urban development, among other functions, is solely under the domain of State governments (Burra, 2005).

Thus, regarding the provision of housing, each Indian State is responsible for the formulation of its own laws, policies and programmes (Burra, 2005). Similar to Denmark, the right to adequate housing has not been constitutionalised in India. The ICESCR has been ratified by India, but the treaty has not been directly incorporated into domestic law (Joint Committee on Human Rights, 2004). The national constitution instead indirectly applies economic, social and cultural rights through Directive Principles of State Policy which require State governments to implement the right to adequate livelihood, and this has been invoked by courts to protect the right to housing and prevent forced evictions in certain cases (OHCHR & UN-Habitat, 2014b;

¹¹ Nehruvian internationalism is referred to as an approach that, "emphasizes respect for national sovereignty and regards international rules and institutions as useful for protection from the great powers" (Jordaan, 2015, p.478).

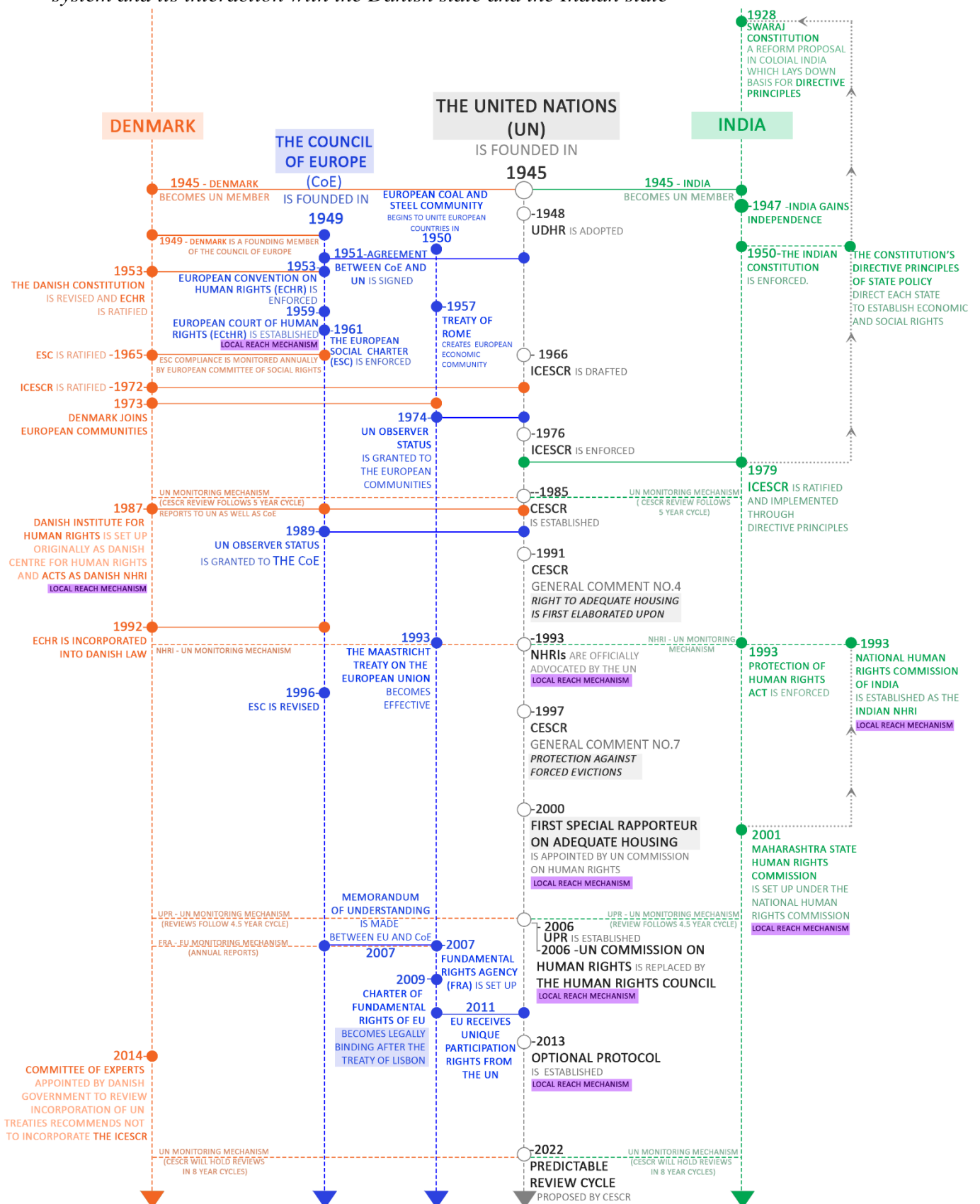
Joint Committee on Human Rights, 2004). These Directive Principles of State Policy were in fact inspired by the Irish Constitution and were originally introduced in India by the Indian National Congress in the form of constitutional reform proposals when the country was facing repressive measures under the British rule (Rothermund, 1962). Apart from this, the Protection of Human Rights Act of 1993 officially provided for the creation of the Indian NHRI which is called the National Human Rights Commission and other State Commissions. These Commissions have the power of civil courts and can directly hear individual complaints on rights violations. Overall, although the country is compliant with evolving rights standards, the national constitution and its system of rights incorporation is still largely based on principles that can be traced back prior to India's independence (Jordaan, 2015).

The national constitution is said to be the primary expression of the nation's agreement on human rights (Dembour, 2010). In this light, it is important to note that as neither Denmark nor India have explicitly constitutionalised the right to adequate housing, there are only indirect applications of this right mainly through compliance with international treaties and through delegation of responsibility to lower administrative bodies of government. The establishment of such multiple, overlapping norms related to housing, does not work towards the clear and direct recognition of the right to adequate housing (Leijten & de Bel, 2020). On the international stage, as observed by Merry (2017), diplomatic protocol dictates a semblance of agreement and significant differences among the nations' domestic incorporation of evolving right standards are left unaddressed. However, despite its criticisms, the international human rights system continues to represent one of the most active forms of ongoing construction in human rights through global consensus and in the present study, under international human rights monitoring mechanisms, reports generated by treaty body committees and by civil society organisations have been used to analyse the system's detection of local forms of housing right violations and its interaction with collective forms of resistance.

Figure 1 is a conceptual diagram that represents the trajectory of the UN's right to adequate housing while marking main points at which the Danish state and the Indian state have interacted with this right. As an additional layer, this diagram also indicates key developments within the European system of human rights in this regard. Monitoring mechanisms through treaty body reviews that directly relate to the right to adequate housing have also been marked. Further, the mechanisms designed by the international human rights system to hear individual complaints, are marked on the diagram as 'local reach' initiatives. The study acknowledges that although only the instruments that are the most central to the right to adequate housing have been highlighted in the diagram, there are various other instruments that indirectly contribute to refining this right as human rights are intrinsically linked and cannot be viewed in isolation.

Figure 1

Diagram showing the trajectory of the right to housing in the international human rights system and its interaction with the Danish state and the Indian state



Source: Own elaboration

4. Methodology

A qualitative approach has been adopted by the study to explore the causes of eviction and responses it elicits from affected residents. Qualitative research provides for the inclusion of a variety of data collection as well as analysis methods and is well suited to investigate interdisciplinary issues (Guest et al., 2012). Also, qualitative methods allow for a unique understanding of mechanisms of exclusion as they highlight contributing factors while also directly engaging with lived realities experienced by marginalized groups facing injustice (Caporale, 2019). In this research, two cases, situated in different contexts, have been compared to illustrate the similarities and differences observed in processes of exclusion. While cases are useful as tools that can highlight patterns of discrimination (Petrova, 2017), they have also been acknowledged to contribute valuable insights about the ways through which human right ideals interact with local specificity (Merry, 2017).

4.1 Methods

Documentary research and interviews were the main methods used in the study. Secondary sources and media reports were used to supplement the data gathered and to establish contextual information about the cases. An initial desk research was carried out to identify actors and organisations relevant to the study and to scope for related documents to be analysed. Purposeful sampling is a non-probabilistic, qualitative method of sampling through which one selects a distinct set of sources that provide in depth material, central to the purpose of the study (Patton, 1990). Specifically, the operational construct method has been used as a strategy in purposeful sampling since the strategy requires the use of selection criteria that are representative of the issues being investigated (Patton, 1990). A list of key criteria related to factors influencing access to affordable housing, implementation and claiming of the right to housing, was developed and documents that addressed these criteria were selected for both

cases. Following the purposeful sampling technique, the document selection was further refined based on secondary sources that addressed documents central to the issues being addressed in the research. Although the attempt was made to exhaustively select the most relevant documents, the study acknowledges that due to the vast and interdisciplinary nature of the research, additional documents that could provide further insights may have remained unidentified in this research. For each case, both expert interviews as well as resident interviews were carried out. While experts were also identified based on purposeful sampling, resident interviews were a result of homogenous sampling for each case. Homogenous sampling involves identifying specific subgroups of people with shared experiences in order to obtain insights regarding issues that affect them (Patton, 1990). Documents as well as interviews were qualitatively analysed through thematic analysis. Thematic analysis is said to allow for researchers to capture complicated, real-world relationships (Attride-Stirling, 2001) and hence, this method has been used as this research deals with such relationships at the intersection of rights with the housing sector. As thematic analysis is suited to evaluate a variety of textual data generated by different sources (Guest et al., 2012), it has been used to compare the broad range of topics and perspectives represented in data obtained from documents and interviews for both cases. Also, thematic analysis allows for a comprehensive analysis of textual data rather than focusing on explicit words and therefore, as a method, it offers the possibility of identifying complexities in meaning i.e. implicit as well as explicit ideas within the data (Guest et al., 2012). This is well suited to the present study where pluralities in meaning related to human rights and its effects are explored. While most documents for the Danish and Indian cases were available in English, Danish policy documents¹² had to be translated to English. In such cases, intent-oriented thematic analysis is considered more advantageous over

¹² Danish policy documents (D9, D10, D11, D12 – as listed in *Annex 1*) and Mjølnerparken's development plan (D13) were translated into English using Google translate. The study acknowledges that this basic translation may lead to inaccuracies. However, in an attempt to account for this, relevant secondary sources have been used to supplement the interpretation of these documents.

word-based analysis because inaccuracies in translation may lead to difficulties when dealing with specific words in such translated documents (Guest et al., 2012).

4.2 Documentary research: Official policy documents that directly relate to housing discrimination and planned evictions in favour of profit-driven goals in both cases were identified with the aid of secondary sources which have pointed out to responsible policy instruments. Additionally, reports by International, national and local non-governmental organisations (NGOs) that were submitted to monitoring mechanisms of international human rights systems (the United Nations and the European system of rights) were identified in order to analyse how discriminatory policies were being addressed in human rights systems. Petrova (2017) highlights the importance of analysing such reports because they act as indicators for effective detection of human rights violations and also reveal redressive claims put forth by civil society organisations. Therefore, national reports and stakeholder reports submitted for the United Nation's Universal Periodic Review (UPR)¹³, reports submitted for other related reviews by United Nations and European treaty-bodies¹⁴, shadow reports, advocacy reports and guidelines¹⁵ issued by international organisations such as the World bank were collected. Apart from the analysed human rights reports¹⁶ that have been listed in Table 2 and Table 4, a complete list of UN documents and other national policy documents that have been analysed is presented in *Annex I*. The documents were all thematically analysed. Thematic analysis first

¹³ To recall, Universal Periodic Reviews (UPR) are processes through which human rights records of UN member states are periodically reviewed by the Human Rights Council (United Nations Human Rights Council, n.d.). It takes place in cycles of four-and-half years. Currentish policy documents (D9, D10, D11, D12 – as listed in *Annex I*).

¹⁴ D Treaty-bodies are committees responsible for the monitoring and implementation of core international human rights treaties (United Nations Human Rights Treaty Bodies, n.d.).

¹⁵ International organisations like the World Bank and the Asian Development Bank have been involved in various slum improvement projects in developing countries since the 1970s. Based on their extensive experience, they provide guidelines on realising the right to adequate housing. The UN's comments on forced evictions related to the right to housing are derived from such guidelines.

¹⁶ Reports submitted to international human rights monitoring bodies by Civil society organisations and National Institutes of Human Rights as well as reports by monitoring bodies themselves have been listed in Table 2 and Table 4.

involves a comprehensive reading of the text, after which, pieces of text central to the topic being investigated are summarised and codes are then assigned to capture the essence of the selected text, following which, discernible patterns are categorised into sub-themes and themes (Nowell et al., 2017). Finalised themes are outlined to inform the ways in which they relate to one another, after which findings are developed (Nowell et al., 2017). This process was applied to the study and after initial familiarisation with the nature and content of the selected corpus of documents, suitable textual summaries were extracted. Based on the academic literature that was reviewed for the study, a set of predefined categories that addressed the research questions was used to extract relevant text. Although a deductive approach was adopted, the documents were scanned for categories that may not have been predefined but could prove central to addressing the research questions. Codes were assigned and sub-themes/ themes were developed. The themes were then analysed to determine how they related to one another.

4.3 Interviews: Semi-structured interviews were carried out with government officials, members of NGOs and affected residents for both cases. A list of the anonymised interviewees¹⁷ with basic information about them is presented in *Annex 2*. While the expert interviews¹⁸ were primarily carried out to inform initial findings from the document analysis, resident interviews¹⁹ were carried out to record residents' personal experiences and views on forced evictions. An attempt was made to approximately balance the number of resident

¹⁷ References to anonymised quotes by expert interviewees will be termed as AE1, AE2, etc. for the Danish case and BE1, BE2, etc. for the Indian case. References to anonymised quotes by resident interviewees will be termed as AR1, AR2, etc. for the Danish case and BR1, BR2, etc. for the Indian case.

¹⁸ A number of professionals and employees in relevant governmental and non-governmental organisations were contacted via email for both the Danish as well as the Indian case. Those who responded were interviewed on zoom or via phone call. Most interviews were conducted in English, however, in the Indian case, some interviews were conducted in Hindi and later translated to English. In the Danish case, two experts AE3 and AE4 were interviewed together with a colleague from the 4 cities programme who had related research interests in the field.

¹⁹ Residents facing eviction in Mjølnerparken were interviewed in-person after being personally approached on site. However, due to the pandemic-related travel restrictions in India, the residents in Dharavi were all interviewed in Hindi, via phone calls. Their responses were later translated to English. The initial contact of a resident was provided by an interviewee who works for an NGO, and other residents were then approached with the help of the resident contact.

interviews carried out in Copenhagen where six residents responded and in Mumbai, where five residents responded. Due to the sensitive nature of the issues addressed, only a limited number of interviewees who were approached were willing to respond. In the case of expert interviews, six Danish interviewees and four Indian interviewees responded. To compensate for the absence of a response from the other contacted experts, reports published by the organisations they represented were mainly relied upon for the present study. Thus, under the given circumstances, the study used a relatively small sample of interviewees. Although not representative, the study rests on the premise that small homogenous samples of interviewees can often add value to research as they can be sources of in-depth information (Patton, 1990). The interview transcripts were thematically analysed using similar steps as used for document analysis. However, a more inductive approach was adopted to analyse interviews as such a process facilitated new themes to emerge based on individual experiences. Preliminary categories were initially derived from the research questions as well as from the questionnaires prepared for interviewees, but, as some questions were open-ended and based on residents' perceptions and claims to their rights, new categories came up. Although thematic analysis was separately applied to documents and interviews, the resulting themes from both processes were compared to inform each other and to develop an integrated perspective which has been supported by relevant secondary sources.

5. Contextual positioning of the selected cases

5.1 The Danish case - Background

The city of Copenhagen, the capital of Denmark, has an estimated population of 799,235 inhabitants (Danmarks Statistik, 2021a). Copenhagen is Denmark's financial hub and annually generates around 39.5% of the entire country's GDP (UN-Habitat, 2020), which mainly accounts for a steadily growing demographic, especially since the mid-1990s (Danmarks Statistik, 2021b). Over the recent years, this demographic pressure has resulted in housing supply being unable to keep pace with the rising demand in the city's housing market (Copenhagen Economics, 2018). In general, Denmark's housing sector is expensive, and homeownership is a heavy financial burden especially in the cities of Copenhagen and Aarhus (Noring et.al, 2020). The rental sector is also expensive when compared to other Scandinavian countries, with 21.2% of households in Danish cities typically spending more than 40% of their income²⁰ on rent as opposed to 14.9% in Norway, 10.1% in Sweden and 5.4% in Finland (Tunström et al., 2020). The rental sector, however, is a significant alternative to homeownership in the Danish housing sector (Alves, 2017). Notably, Denmark's *Almene Boliger*, hereby referred to as 'private non-profit' housing as termed by Alves (2017), has become the country's main provider of relatively affordable rental housing over the years.

5.1.1. The private non-profit housing sector

The private non-profit housing associations, characterised by their low entry-level rents and their non-profit nature, cater to a wide range of demographic groups with varying levels of income. In the province of Copenhagen city, the private non-profit housing system accounts

²⁰ In this case, the measure of affordability being referred to is the housing cost burden rate commonly used by Eurostat, in which households that typically spend more than 40% of disposable income on housing are considered to be overburdened by housing costs (Eurostat, 2021). It is important to note that additional cost burdens such as transportation are not considered in this measure.

for around a fifth of the housing stock (Danmarks Statistik, 2021c) and is proportionately inhabited by approximately a fifth of the city's population (Landsbyggefonden, 2020). The private non-profit housing system traces its roots back to mid-19th century, when industrialisation in Copenhagen had resulted in a lack of sufficient housing. In response, independent of the state, housing associations formed by trade unions, reformers and philanthropic societies addressed the urgent need for housing. However, since the late 1930s and in the years following the Second World War at a time of acute housing crisis, the redistributive quality of the private non-profit housing system is said to have played a key political role in the construction of the Scandinavian welfare model's principles and the Danish welfare state (Jørgensen & Aerø, 2008; Larsen & Lund, 2015). The system thus became associated with the social democratic ideology, however it did not translate into an explicit right to housing and remained unconstitutionalsed in Danish law.

The private non-profit sector is a well-structured system which is characterised by two types of companies namely the private non-profit associations which own several housing estates and the private non-profit administration companies which provide maintenance and human resources services to the estates owned by associations. Currently, the construction as well as land costs of the non-profit sector are financed by mortgages, local governments, and tenant deposits (Alves, 2017). Additionally, two organisations that are also independent from the state, namely the Landsbyggefonden (LBF) which translates into English as The National Building Foundation and the Byggeskadebogen (The Danish Building Defects Fund) are involved in sharing risks and rewards across the private non-profit sector. While the LBF provides financial support mainly in renovation projects and in rent regulation, the Danish Building Defects Fund²¹ covers construction damage claims in the sector. Tenants in the private non-profit housing system hold guarantees (much like a private rental agreement) which cannot be

²¹ A mandatory payment of around 1% of all construction costs across this sector mainly finances the Danish Building Defects Fund.

inherited. In the self-organised private non-profit system, tenants (who, as mentioned earlier, are from various economic strata) elect representatives into tenant boards and thus, eventually residents are represented in higher levels of the private non-profit management, making it relatively robust to marginalisation in terms of internal decision making. However, this has been weakened over the course of the past two decades as we shall see in this study where certain tenants are forcibly being evicted by the state based on their ethnicity.

Particularly for low-income groups, in this sector, depending on the age of the building, rents vary from 15% of dwellers' income in buildings built before 1940s to 33% of dwellers' income in buildings built up to 2013 (Turk, 2019). In instances where low-income groups are unable to afford rents, the local authorities have the right to allocate vacant dwelling units to them in private non-profit housing estates while also providing them with housing benefits²². To that effect, 25% of dwellings in private non-profit housing estates are earmarked and prioritised for the state to allocate housing to those in need (this is prioritised over the non-profit system's own waiting lists). In exchange, local authorities are responsible for co-funding of the new private non-profit housing construction projects (Noring et al., 2020). State-owned public housing is rather low. For instance, in the city of Copenhagen, state-owned public housing accounts for only around 2% of the city's housing stock (Danmarks Statistik, 2021c) and hence, the state mainly uses the private non-profit housing system to provide for social housing.

5.1.2. Immigrants, the 'ghetto' label and Mjølnerparken

Currently, 53.9% of Denmark's non-western immigrant population lives in housing owned by the non-profit housing associations and these residents mostly belong to lower-income groups (Landsbyggefonden, 2020). Thus, a large proportion of the demographic that has been allocated social housing are immigrants. They came as guest workers in the 1960s and as low wage

²² Housing benefits are provided by Danish local authorities for those in need and the amount allocated varies depending on the size of dwelling, number of residents and income level.

earners, they were provided access to social housing by the municipalities. Also, although Denmark has, in recent years, notoriously tightened its immigration policies, the country had a very different approach in the post war years when it was one of the first countries to ratify the UN's Refugee Convention and had welcomed refugees throughout the latter half of the 20th century (European Council on Refugees and Exiles, 2021). This resulted in noticeably large immigrant numbers in private non-profit housing estates, however, it was thought to be a temporary situation as guest workers were expected to leave eventually, but, in the following decades as it grew evident that guest workers intended not to leave, the 'ghetto' label began to be officially used in political rhetoric (Seemann, 2020). Since the 2000s, a primarily right-leaning government, through the 'ghetto' label, has enforced stringent laws on non-profit housing estates with high numbers of immigrants while actively enabling the commodification of this sector (Larsen & Lund, 2015), under the banner of social mix, a strategy whose ineffectiveness in other parts of Europe has been indicated through numerous studies (Noring et al., 2020). Annual ghetto lists are issued since 2010, explicitly identifying areas of disadvantage based on ethnic discrimination.

Copenhagen currently has four listed ghettoes with two of them located in the district of Nørrebro (Transportministeriet, 2020). Nørrebro, one of the poorer districts of Copenhagen, has always had a high immigrant population. Located between the gentrified district of Vesterbro and the affluent Frederiksberg, this neighbourhood's vibrant multi-ethnicity has not been appreciated but has instead often garnered negative attention for conflicts with police mainly over politically charged riots and drug peddling. Nørrebro has increasingly been perceived as an 'ethnic enclave' or 'parallel society' (Møller & Larsen, 2015). Of the two ghettos in Nørrebro, Mjølnerparken, the study's main focus, has been classified as a 'hard ghetto' (on account of being consecutively featured on the ghetto list since 2010) and apart from the induced stigma and increased police presence, the residents are faced with evictions

to ‘remedy’ Mjølnerparken’s label. The responsibility to do this lies with Københavns Kommune, Copenhagen’s municipality and the non-profit housing association which owns Mjølnerparken, called Bo-vita (Bo-vita’s administrative services are in turn handled by the non-profit management company Bo-vest). Spread out over around 8 acres, Mjølnerparken was built in 1987 and currently has 1493 inhabitants, 83.2% of whom are of non-western background (Transportministeriet, 2020). Residents live in around 560 dwelling units arranged in four blocks. Blocks 2 and 3 are being sold off and the residents of these blocks are being evicted as part of a profit-driven state intervention requiring non-profit associations to limit their subsidised housing to 40% by 2030 (Regeringen, 2018). With almost half of the estate’s resident population facing evictions, the case has been selected to exemplify the socio-economic exclusion of a vulnerable population as a consequence of the ‘ghetto’ label in Denmark. The evictions in Mjølnerparken have become highly contested and publicised, with residents filing a case against the Danish government in an appeal that evokes their right to housing through the European Convention on Human Rights (which Denmark had ratified as early as 1953).

Figure 2

Map of Copenhagen showing Mjølnerparken's location within the district of Nørrebro



Source: Københavns Kommune (n.d.)

Figure 3

Satellite image of the estate of Mjølnerparken with demarcation of blocks to be sold



Source: Københavns Kommune (n.d.)

Figure 4

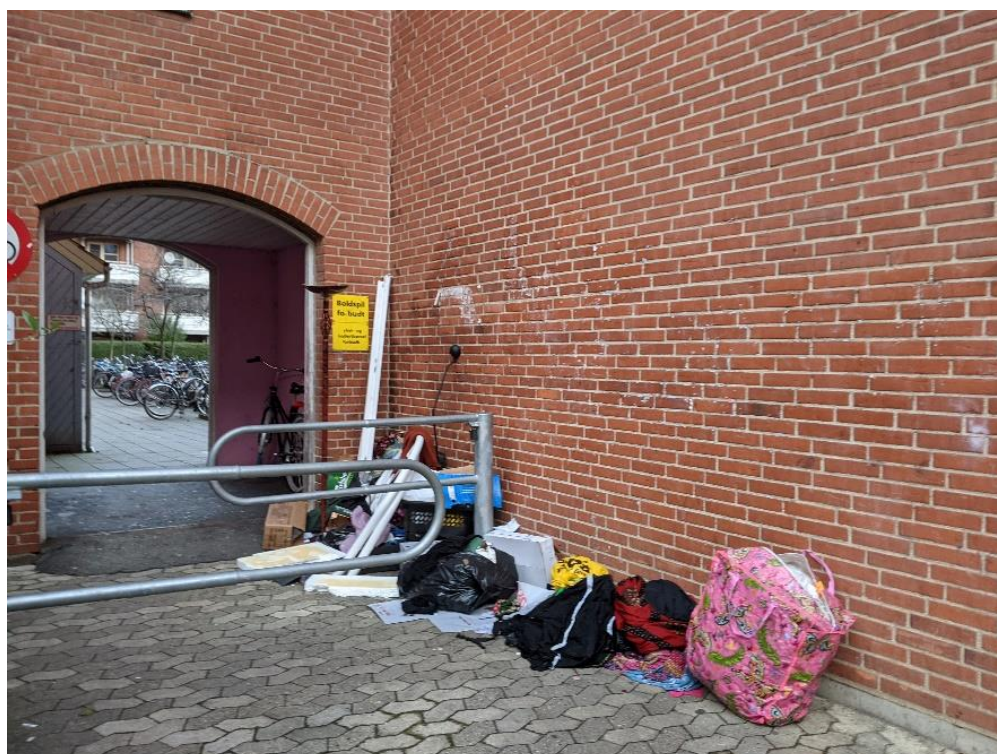
Photograph of one of the courtyards in Mjølnerparken



Source: Author's image

Figure 5

Photograph of one of the entrances to Mjølnerparken



Source: Author's image

5.2 The Indian Case - Background

Mumbai is the capital of the State of Maharashtra and has an estimated population²³ of about 20 million (United Nations, 2018). The city is considered to be the financial hub of the entire country and annually generates around a fifth of Maharashtra's GDP which in turn is the country's richest state annually accounting for around 14% of the Indian GDP (Ministry of Statistics and Programme Implementation, 2021; Tandel et al., 2016). This economic powerhouse has a high growth in population and attracts a large workforce from all across the country, which, as last recorded, amounted to the fact that 43.02 % of the population in Mumbai represented migrants (Census, 2011).

5.2.1. Driving forces behind slums in Mumbai

High levels of in-migration, old restrictive laws as well as market failures in affordable housing provision have led to the proliferation of slums in Mumbai (Gandhi, 2012). According to the Census of 2011, 41.84% of the urban population is living in the city's slums. Studies attribute deficiency in affordable housing provision mainly to the city's rent control and land use policies, which over decades, have dismantled the private rental sector and disincentivised new construction in this sector (Gandhi, 2012; Tandel et al., 2016; Zhang 2018). Mumbai's Rent Control Act, since colonial times²⁴, has enforced fixed rents which only permit yearly increases by a minimal percentage (over time the rents are much lower than market prices) and also placed strong provisions to protect tenants from eviction. Such low rental returns to landlords, resulted in a lack of maintenance of existing buildings while almost no new investment was

²³ The Census of India is conducted once every ten years and the latest population data available for Mumbai is from 2011. Hence, for a more recent snapshot, projected population numbers for Mumbai in 2018, as estimated by the UN's Department of Economic and Social Affairs - Population Division, are presented. The Census of India for 2021 was scheduled to start in April 2021, however, due to the pandemic, it has been postponed.

²⁴ Rent controls were being applied across Western Europe and North America during the World Wars to protect tenants from evictions and predicted price inflation after each war (Tandel et al., 2016)

made in the construction of private rental housing (Tandel et al., 2016). Additionally, post-colonial restrictive land use policies such as the Urban Land Ceiling and Regulation Act²⁵ have placed large tracts of land under litigation blocking them from being available for affordable housing construction (Siddiqi, 2013; Zhang, 2018). Public sector companies such as the Housing and Urban Development Corporation (HUDCO) are mandated to loan funds to low-income groups but slum dwellers cannot access such housing finance as they cannot provide property as security because they have no legal tenure of the land occupied (Burra, 2005). Further, public housing accounts for only around 7% of the entire housing stock (Annez et al., 2010). Slums have become the primary vehicle to house not only low-income groups but also middle-income groups and young educated professionals who have been denied options on the formal housing market (Burra, 2005). Housing insecurity, mainly due to the lack of legal tenure, is thus a major social problem in the city.

In Mumbai, slums are typically dealt with by three main civic bodies namely the Municipal Corporation of Greater Mumbai (MCGM) which is responsible for general civic infrastructure and administration in Mumbai, the Maharashtra Housing & Area Development Authority (MHADA) and the Slum Rehabilitation Authority (SRA). It is mainly through the SRA that the current entrepreneurial slum redevelopment schemes are being implemented, where over the past two decades, slum clearance coupled with insufficient successful rehabilitation rates have displaced a number of slum dwellers (Burra, 2005). Although the State Government is responsible for slum-related projects within its jurisdiction, Central Government housing schemes are also employed in rehabilitation proposals. However, complications in intergovernmental coordination often arise due to bureaucracy, legalities and land ownership

²⁵ The Urban Land Ceiling and Regulation Act of 1976 intended to prevent concentration of urban land among private owners and limit speculation in urban land prices, while ensuring supply of land for housing for the poor. However, the objectives were not achieved mainly due to lengthy procedures, inefficient bureaucracy and a number of land ownership cases which went into litigation. Although this act has been repealed, it has significantly affected the market (Siddiqi, 2013).

issues (the Central Government retains ownership²⁶ of large tracts of land in each State, thereby making development on such land difficult due to conflicting interests between governments), which result in project delays and changing plans, thereby contributing to the uncertainty and precariousness in lives of slum dwellers. In general, slums are places of uncertainty on many levels, and slum dwellers have to constantly negotiate their presence with politicians based on the considerable vote bank that the slum population represents (Zhang, 2018).

5.2.2. Redevelopment in Dharavi

Apart from being the main provider of affordable housing in the city, although rarely ever formally recognized, slums are also major contributors to the city's economy (Zhang, 2018). This is illustrated in Dharavi which is the present study's selected Indian case. Dharavi, one of the largest slums in the world, founded in the late 19th century, during British rule, currently hosts a diverse set of economic activities that include small scale industries for mainly textile, leather work, pottery and plastic recycling, which generates an estimated annual turnover of more than INR 7500 crore which amounts to over 850 million EUR (Kaushal & Mahajan, 2021). It has even become a venue for slum tourism, having garnered global attention over the years, for its social and economic resilience. More recently, however, it has received attention due to the controversial Dharavi Redevelopment Project (DRP) which aims at redeveloping the slum in a public private partnership scheme. The initial proposal approved in 2004, has gone through many changes (the current plan splits Dharavi into 5 sectors for redevelopment – see figure 7). The bidding processes (there have been two until now) point to a preference for foreign investors (Weinstein, 2014) with Dubai-based firm, Seclink Technology Corporation, emerging as the winner in the most recent bid. However, sixteen years after its conception, the proposal has not yet materialised due to a number of social, economic and political factors.

²⁶ The Central Government is probably the largest single urban landowner in India, mainly due to colonial rule when the then government agencies such as port trusts and railways had acquired huge tracts of land for development (Burra, 2005). This pattern of landholding has remained even after Independence.

The most recent obstacle was in 2019, when the Maharashtra Government decided to call for a rebid after it had additionally bought adjacent land from the Railway ministry of the Central Government to house future, temporary transit camps²⁷. Seclink Technology Corporation has now taken the Maharashtra Government to the International court of arbitration in Geneva over this issue (Damle & Joseph, 2020). Spread out over 520 acres of land, Dharavi is considered prime real estate for three main reasons. Firstly, it is located in South Mumbai, which has some of the most expensive neighbourhoods in the city, secondly, it is well-connected as it is wedged in between two main suburban railway lines (the Western and Central lines), while also being close to the airport and thirdly, as the land mostly belongs to the MCMG, the government stands to receive returns on minimal investment. David Harvey (2008) specifically pointed out to Dharavi as a case of virtual ‘land grab’ where:

Financial powers backed by the state push for forcible slum clearance, in some cases violently taking possession of a terrain occupied for a whole generation by the slum dwellers. Capital accumulation on the land through real estate activity booms as land is acquired at almost no cost. (p.35)

According to the DRP, slum dwellers will be compensated with in situ resettlement, however, only ground floor hutments, residing prior to the cut-off date of 2000, are eligible for the compensation leaving the others to face eviction with options for subsidised housing elsewhere in the city (Urban Development Department, 2012). While all of Dharavi’s estimated one million residents stand to be affected by the redevelopment, for practical purposes, this study uses empirical evidence collected from a community of potters (Kumbhars), to exemplify the challenges faced by slum dwellers. One of the poorest and oldest communities in Dharavi, the Kumbhars originally came from the state of Gujarat and settled in Dharavi in the early 20th century. They occupy a 12.5 acre settlement called Kumbharwada, located on the Southern

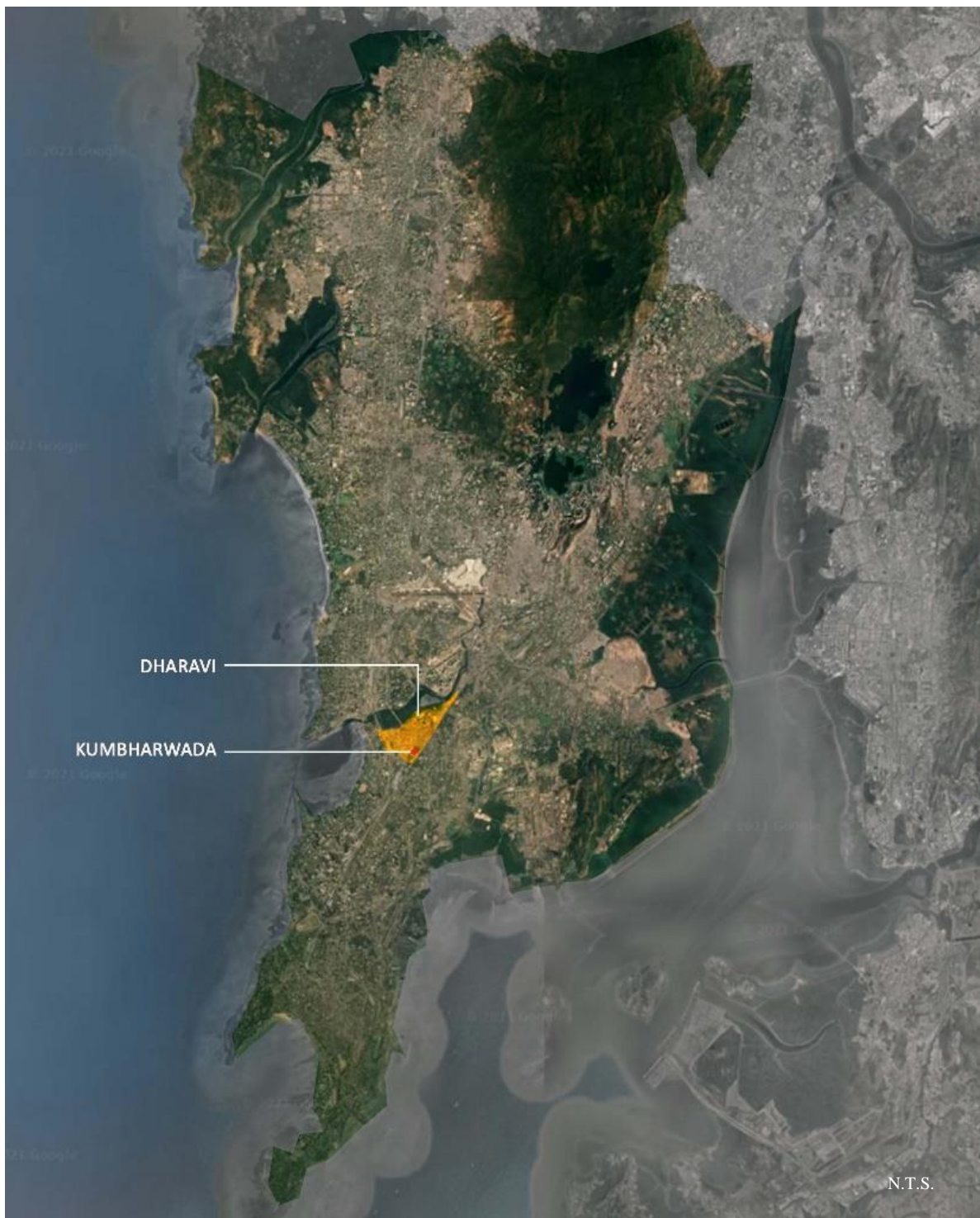
²⁷ Transit Camps are temporary dwellings offered by MHADA either when an area is being redeveloped or in cases where buildings have collapsed.

fringe of Dharavi (shown in Figures 6 & 7). Based on claims of having been granted long-leases during British rule, the Kumbhars' appeal to the authorities to exclude their settlement from the DRP has been refuted on grounds that the leases formulated under colonial law are invalid (Weinstein, 2012). The settlement, with roughly 2000 families, is a place where people both live and work, which is a common feature in Dharavi. However, even for those who are eligible for compensation, the DRP's scheme does not entirely include or spatially account for their work needs, and hence, their livelihood is threatened. Although demands for more space in the DRP are continually made by Kumbhars and other communities, their inclusion in the DRP remains uncertain.

The two cases selected, Mjølnerparken and Dharavi, have vastly different contexts as described above, however, in both cases the main systems that house low-income groups are under attack by profit-driven interests of the state. While in the Danish context, the private-non-profit housing sector provides the main form of affordable housing, in the Indian context, it is the slum settlements that informally provide this function. The State has intervened in both these systems to systematically construct a mechanism of exclusion that violates the right to housing of targeted groups while justifying their eviction. The study examines the ways in which affected residents respond to such outcomes while also examining the ways in which established human rights systems address these developments.

Figure 6

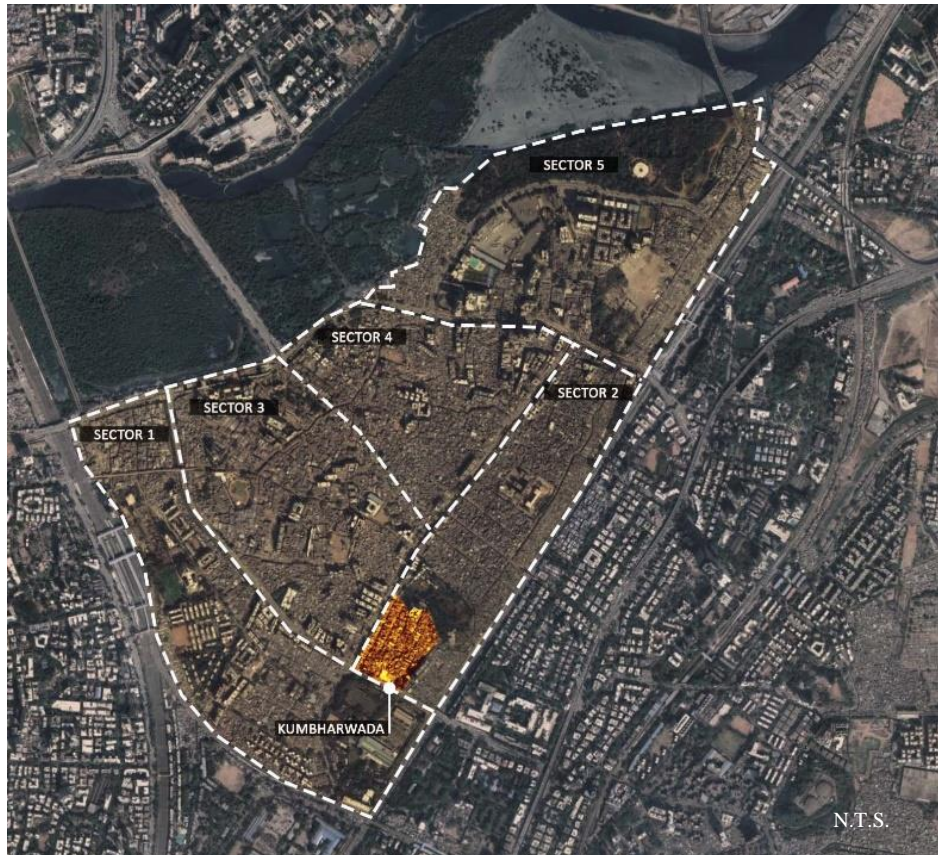
Map of Mumbai showing Kumbharwada's location in Dharavi



Source: Google (n.d.)

Figure 7

Map of Dharavi showing Kumbharwada's location in the proposed five sectors for redevelopment

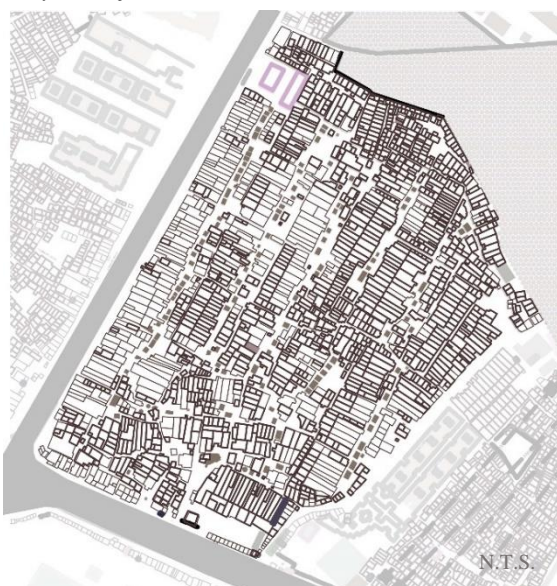


Note. The DRP splits the slum into sectors to make it commercially viable and accessible. The sectors are to be separately developed and will each have their own amenities apart from residential and commercial units (Urban Development Department, 2012).

Source: Google (n.d.)

Figure 8

Layout of the Kumbharwada settlement



Source: SRA (n.d.)

Figure 9

Photograph of typical dwellings in Dharavi



Source: Odareeva (2019a)

Figure 10

Photograph of a pottery yard in Kumbharwada



Source: Thurtell (2016a)

6. Findings and Analysis

In the following sections, results from the analysis of policy documents, human rights reports and interviews that were conducted are presented along with supplements from relevant secondary sources. In each case, first the locally specific instruments used to enable privatised redevelopment in residential areas of disadvantage along with its consequences are examined. After this, the extent to which these localised instruments and their consequences have been both detected and addressed by international right to housing related monitoring bodies is examined. Finally, residents' attempts to resist displacement and claim their right to housing are explored along with the human rights system's interaction in this regard.

6.1 The Danish case

6.1.1 The construction of an exclusionary mechanism.

The construction of the Danish 'ghetto' label by the state has had subtle origins. The economic problems and rising unemployment levels that resulted from Copenhagen's de-industrialisation in the late 1980s, pressured the state into decreases in its distribution of welfare benefits and the overall introduction of conditionalities to access its welfare provision (Seemann, 2020). Through an increase in infrastructure development and investment in housing, the city took desperate measures to attract businesses and enrich the city's tax base in the 1990s (Bruns-Berentelg et al., 2020). At the same time, at the national level, the role of individuals in terms of their active contribution towards the welfare state became the focus of political discourse with an inordinate scrutiny over 'limited' contributions by immigrants of 'non- Western' origin. Higher demands were made of immigrants to 'culturally integrate' into Danish culture and immigrant recipients of welfare benefits were increasingly monitored, thereby systematically weakening their social and political rights. Murmurs of the 'ghettoisation' of impoverished, multi-ethnic districts like Nørrebro could be traced all the way back to the 1960s and 70s in media reports and parliamentary debates (von Freiesleben, 2016). However, it was in the 1990s that the term 'ghetto' began to be used officially, in political discourse in reference

to communities of immigrant background (predominantly Muslim) who were seen to be associated with the country's economic and social problems (Bakkaer Simonsen, 2016). This was seen to be largely promoted by parties on the right end of the political spectrum, where nativist and populist notions were the source of a discourse on nationalist othering (perceived as deviant from the national norms). In 2001, when a right-leaning coalition government came to power, it dismantled the Ministry of Housing and Urban Affairs which had been central in evolving the welfare-based housing model²⁸ ever since post-war years. In the following two decades, the 'ghetto' discourse was eventually inseparably linked to the private non-profit housing system by the right wing which was also mainly responsible for opening up the welfare-based housing sector to commodification (Larsen & Lund, 2015). The policies that contributed to the formulation of the current ghetto-plan have been analysed and presented in the following section.

6.1.1.a. The ghetto label's incrementally formulated instruments.

As shown in Table 1, the earliest report that addressed 'ghettos', was released in 1994, where the concentration of socio-economically disadvantaged groups in non-profit housing estates was observed as a potential problem of 'ghettoisation' (Indenrigsministeriet, 1994). From 1994 until 2002, although policy initiatives repeatedly mention a perceived risk of ghettoization with suggested remedies to combat the threat (mainly through social mix), it is from 2004 onwards that the 'ghetto' label begins to be explicitly defined with measurable and concrete properties that could be applied through political action to specifically targeted areas (Oliveira e Costa & Tunström, 2020).

²⁸ A brief overview of the private non-profit housing sector's state interventions till the 1990s: The sector as an affordable housing provider, was central to the formulation of the Danish welfare state and received considerable state support through subsidies as early as 1933. In the post-War years, by the 1950s, its traditional system of receiving state guarantees for loans and tax exemptions in return for social housing allocation rights to the municipality was already established (Kristensen, 2002). Encouraged by the Social Democrats, the 1960s and 1970s witnessed a high growth of new construction in the sector but by the 1980s, new construction was intentionally stalled by a right-leaning government which predicted that due to a population decrease in the decades to come, the housing stock available would be sufficient to meet demands, however, this was not the case as birth rates rose and numbers of immigrants and refugees continued to increase thereby creating a shortage in the housing stock which continued into the 1990s (Kristensen, 2002). Low-wage ethnic minority numbers grew in non-profit housing estates as this was the only affordable option. It was around this time that the state began to perceive such estates as areas prone to the risk of 'ghettoization'.

Table 1

List of 'ghetto' related policy initiatives proposed and implemented by respective ruling parties

S.No	Year	Key policies and strategic initiatives by the government around the 'ghetto' label	Ruling Parties ^a		Main Policy objectives (relevant to Housing segregation)
			National Government coalition	Mayor of Copenhagen's Party affiliation	
1	1994	Rapport fra Byudvalget (Report from the Urban Committee)	Social Democrats - Danish Social Liberal Party - Centre Democrats coalition (Left leaning)	Social Democrats (centre-left)	<ul style="list-style-type: none"> The concentration of low-income groups of immigrant background in non-profit housing estates primarily in Copenhagen is mentioned as a problem of ghettoisation requiring attention.
2	2000	Velfungerende boligområder. Nye boligsociale værktøjer (Report on well-functioning housing areas – new social tools)	Social Democrats - Danish Social Liberal Party coalition (Left leaning)	Social Democrats (centre-left)	<ul style="list-style-type: none"> Tools are proposed to attract more resourceful citizens to socio-economically disadvantaged non-profit housing estates. Flexible renting for non-profit housing are proposed (90% of the sector's housing stock can be selectively rented out and companies can define their own tenancy criteria).
3	2002	Flere boliger: Vækst og fornyelse på boligmarkedet (More housing: growth and innovation in the housing market)	Venstre - Conservative People's Party coalition (Right leaning)	Social Democrats (centre-left)	<ul style="list-style-type: none"> Proposed social mix through the introduction of owner occupied dwellings in the private non-profit sector.
4	2004	Regeringens strategi mod ghettoisering (The Government's Strategy against Ghettoization)	Venstre - Conservative People's Party coalition (Right leaning)	Social Democrats (centre-left)	<ul style="list-style-type: none"> Private non-profit estates are identified as ghettos based on high numbers of welfare recipients and low education levels. Issue to be addressed through social mix. Private non-profit system encouraged to admit more resourceful citizens through combined letting.
5	2010	Ghettoen tilbage til samfundet: Et opgør med parallelsamfund i Danmark (Returning the Ghetto to Society – A Reckoning with Parallel Societies in Denmark)	Venstre - Conservative People's Party coalition (Right leaning)	Social Democrats (centre-left)	<ul style="list-style-type: none"> Ghetto begins to be defined along Ethnic lines An annual Ghetto list is introduced. Refugees and individuals from non-EEA countries are not to be allocated by municipalities to areas defined as a ghetto.
6	2013	Udsatte Boligområder - De Næste skridt - Regeringens udspil til en styrket indsats (Vulnerable Housing Areas - The Next Steps – The Government's Strategy for a Strengthened Initiative)	Social Democrats - Danish Social Liberal Party - Socialist People's Party coalition (Left leaning)	Social Democrats (centre-left)	<ul style="list-style-type: none"> The term Ghetto is replaced by vulnerable housing. Two additional criteria are added.
7	2018	Ét Danmark uden parallelsamfund - Ingen ghettoer i 2030 (A Denmark without Parallel Societies – No Ghettos by 2030)	Venstre - Liberal Alliance - Conservative People's Party coalition (Right leaning)	Social Democrats (centre-left)	<ul style="list-style-type: none"> Three categories are formulated - vulnerable housing, 'ghetto' and 'hard ghetto' 'Hard ghettos' to come up with a development plan where subsidised housing is reduced to 40%
8	2018	Initiativer på boligområdet, der modvirker parallelsamfund (Action plan on housing initiatives to counteract parallel societies)	Venstre - Liberal Alliance - Conservative People's Party coalition (Right leaning)	Social Democrats (centre-left)	<ul style="list-style-type: none"> Private non-profit associations to work with municipalities and execute approved development plans by 2030.

Note. As specific instruments to commodify the non-profit sector have been introduced mainly since 2004 (Seemann et al., 2020), the policies formulated thereafter have been highlighted in yellow. Prior to this, the strategies listed, generally addressed the need for (socio-economic) improvement of the non-profit sector. The ruling parties responsible for the listed initiatives are mentioned to illustrate the involvement of both wings of government in the construction of the ghetto problem.

^a In Danish politics, there are 11 political parties with representation in the Parliament. The four oldest parties are Venstre (centre-right), Conservative People's Party (centre-right), the Social Democrats (centre-left) and the Danish Social Liberal Party (centre-left) while the others include the Socialist People's Party (left-wing), the Red-Green Alliance (left-wing), the Alternative (left-wing), the Independent Party (centre-right), the Danish People's Party (right-wing), the Liberal Alliance (right-wing) and the New Right (far-right). The Centre Democrats, dissolved in 2008, were a party that participated in both left as well as right leaning governments. Copenhagen's Mayor has traditionally always been from the Social Democrats party.

In 2004, a right-leaning government began to identify ‘ghettos’ in Denmark based on unemployment and low education levels, attributing both features largely to immigrants while recommending non-profit associations to use flexible renting policies previously suggested in 2000 to refuse disadvantaged applicants who the municipalities in turn needed to ‘spread out’ more uniformly in the districts (Regeringen, 2004). In the 2010 strategy, more criteria were added to define the ‘ghetto’ label along ethnic lines using the term ‘non-western immigrants and decedents’²⁹ (Regeringen, 2010), a fact which was unprecedented in contemporary Europe (Seemann, 2020). Also, official ‘Ghetto Lists’ (ghettolisten), enlisting identified ‘ghettos’ began to be annually released since 2010. In 2013, the left-leaning coalition government replaced the term ‘ghetto’ with ‘vulnerable housing’ (the left has repeated this renaming in 2019) in an effort to distance themselves from the discriminatory regulation, however, they also introduced two additional defining criteria in the strategy plan (Regeringen, 2013), implying that they did in fact not differ much from the previous government’s objectives (Seemann, 2020). Well-known for their social reform and public housing goals since the late 1800s, the Social Democrats (one of the oldest left-leaning parties) have had a noticeable shift in attitude in recent times as observed by a resident interviewee (AR2) who remarked, “*Social Democrats are now just like Venstre...*” (one of the oldest right-leaning parties), “*...they are doing the same things to us.*”

With a right-leaning coalition back in power, three categories were introduced in 2018 which through a refined set of criteria further categorised identified non-profit housing estates into ‘vulnerable areas’, ‘ghettos’ or ‘hard ghettos’, the last term being applied to estates that had featured on ghetto lists for more than four years (Regeringen, 2018). Further, ‘hard ghettos’ were required to *reduce their subsidised housing units to 40% by 2030* (Regeringen, 2018) thereby directly altering the tenure forms of Danish non-profit housing system.

²⁹ The controversial term ‘Non-Western immigrants and decedents’ was borrowed from Statistics Denmark which is a governmental organisation responsible for the country’s statistical data. It defines Non-Western countries as all countries except the EU countries, Iceland, Norway, Andorra, Liechtenstein, Monaco, San Marino, Switzerland, the Vatican State, Canada, USA, Australia, and New Zealand.

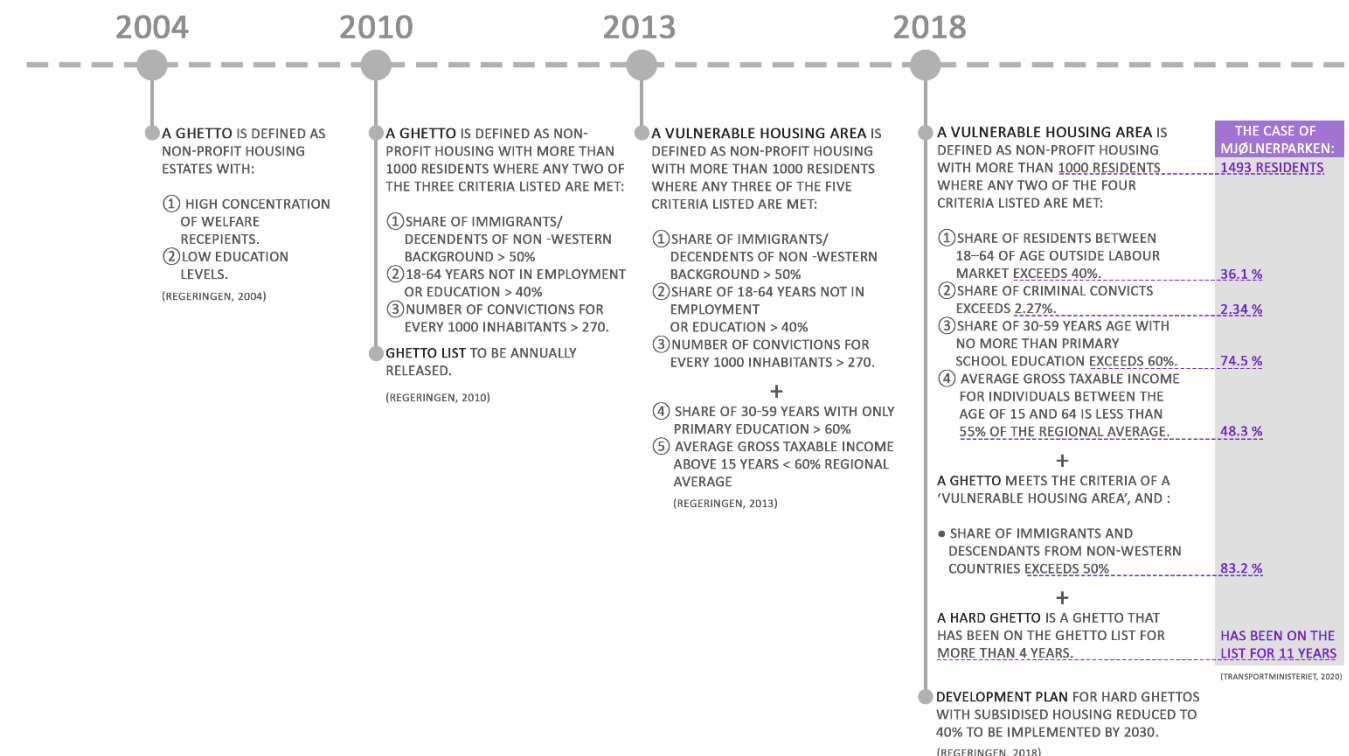
The strategies outlined in 2018 were adopted by law making it mandatory for non-profit associations and local governments to comply with the new stipulations. The imposing of a seemingly arbitrary 40 % limit on subsidised housing numbers has been met with concern by affected residents and housing associations. An elderly gentleman (AR3) from Mjølnerparken, facing eviction, said, *“I don’t understand them, the government... what is this 40%? We want to be left in peace. People do not want to move, they like to live here...”* This was similarly felt on the non-profit association side, where an employee (AE3), remarked, *“But ...the ways in which they made the regulation, like one size fits all... I don't know how they came up with the 40 % limit... it should be more flexible depending on the area...”*. The regulation has affected the two ‘hard ghettos’ of Copenhagen in very different ways. Tingbjerg’s development plan involves the addition of more housing stock to reduce the share of subsidised housing and has large green spaces that can afford this densification. However, in Mjølnerparken, there is no extra space and therefore, to reduce the share of subsidised housing, dwelling units need to be sold and their residents forcefully evicted. Thus, the 40% rule has had vastly different consequences in each case.

In general, studies have questioned the Danish state’s diagnosis of disadvantaged areas using the ‘ghetto’ construct (Andersen, 2010; Oliveira e Costa & Tunström, 2020). While the earliest report in 1994 was more of a documentation of socio-economic problems observed in the non-profit sector (Indenrigsministeriet, 1994), the perceived ghettoization being reported back then was an indication of affordability problems in the housing market rather than a problem specifically characteristic of the non-profit sector (Schultz Larsen, 2011). Based on Wacquant’s characterisation of ghettos, studies have argued that there are no ‘ghettos’ as such in Denmark and while there may be areas with a concentrated population of ethnic minorities, these are not socio-economically, self-reliant institutions that collectively protect themselves against the oppressing state (Schultz Larsen, 2011; Wacquant 2016). There was a lack of affordable

housing supply and Denmark's non-profit housing system simply provided an affordable option for low-income groups. However, the stigma that such a labelling imposes among the disadvantaged, runs the risk of creating a self-fulfilling prophecy (Omar, 2013). Instead, the country's problems related to employment, housing and discriminatory tendencies need to be addressed in a much broader context (Schultz Larsen, 2011). The Danish 'ghetto' construct has in fact become systematically more punitive in laying blame for such problems on a so-called unintegrated 'parallel society' composed of a targeted vulnerable demographic who continue to be discriminated based on where they live (Figure 11 shows the incremental progression of the 'ghetto' identification criteria over the years).

Figure 11

Incremental progression of the 'ghetto' criteria



Source: Own elaboration

6.1.1.b Dismantling of the private non-profit housing sector.

In accordance with the 2018 ghetto-plan, private non-profit housing associations whose estates have been labelled as ‘hard ghettos’ are required to present local government approved development plans to limit their subsidised housing levels by 2030. In what could be termed as a symbolic and an almost confrontational gesture, the then Prime Minister along with seven other ministers went to Mjølnerparken to announce the 2018 ghetto-plan amidst a crowd that was rife with protest (The Local, 2018). Mjølnerparken has been on the ghetto list ever since the list’s inception in 2010 and was hence labelled a ‘hard ghetto’ in 2018. With little choice left on the matter, Bo-vita had to come up with a comprehensive development plan³⁰ for Mjølnerparken which has been approved by the municipality and which currently includes the demolition and reconstruction of a fifth of all units, overall renovation and sale of more than half of all units (Norconsult KHS Arkitekter, 2021). Residents facing eviction as a result, have been offered a few options for relocation to other Bo-vita owned estates, however, if they fail to take the offer, they will eventually be allocated a place with limited say in the matter. A resident (AR4) stated, *“There isn’t much choice... The places are far away... expensive... some took the offer, they are not happy... they want to come back”*. The non-profit association’s stance is that under the limited time available, they are doing their best to help residents while complying with the imposed regulation. The challenges of a rushed redevelopment to remedy structural problems were highlighted by an expert interviewee (AE4), who said:

“The ghetto law kind of ... implements a very centralistic and also a market-driven development approach that everyone needs to align to. The parliament has defined the ideal ... mix, the ideal share of different tenure forms, a maximum of 40% social housing, etc. And also the time span... So these redevelopments have to kind of be done by 2030. To me, that’s an extremely short span in terms of making sustainable urban redevelopment. And also, of course, the investors need to focus on attracting high-income resident groups. And that kind of forces the whole redevelopment in ways that are not ... that make it difficult to

³⁰ Bo-vita hired a private design team for the development plan (D13), which includes Norconsult KHS Arkitekter, MOE (an engineering team) and Bogl for landscape design. The development plan is to be executed by 2024.

engage the residents that are already living there. There is simply not enough time to kind of let redevelopment grow from the bottom up. [...] Plus, we can't for instance, overnight change people's education level. [...] Also, it is really strange that politicians would kind of, first of all, enforce this redevelopment with focus on social mix, and then at the same time, kind of stigmatise the areas as to make them less attractive for newcomers..."

Also, it is important to note here, that the concentration of immigrants in the non-profit housing system is the State's own doing in the first place because local governments used their 25% allocation rights to assign immigrants to non-profit housing estates where rents were cheaper thereby minimising the government's cost burden of providing housing benefits (Noring et al., 2020). The people who were being concentrated in the estates had no affordable options on the market which indicates structural problems that need to be addressed rather than focusing on issues surrounding immigrant integration.

Apart from forcibly drawing the private non-profit housing system into the political debate regarding immigrants and limiting subsidised housing stock, two main instruments have been employed to weaken the system and open this sector to commodification. Firstly, 'combined rental letting' rules have been established since 2005 to encourage admission of more resourceful citizens into non-profit housing estates in disadvantaged areas through which these estates have the option of refusing welfare recipients on their waiting lists who will instead be allocated housing by the municipality (Seemann et al., 2020). Secondly, state support for the sector's new construction has been largely retracted (Noring et al., 2020). When the Landsbyggefonden (LBF) was established as an independent institution of the private non-profit sector in 1967, by an act of Parliament and it was intended to self-finance the sector's construction projects through a tenant savings scheme. However, over the years, the institution mainly paid for renovation and repair in existing dwellings while regulating rental prices in the sector (Noring et al., 2020). The LBF's areas of investment are reviewed by the Parliament every four years and thus even though the institution is funded by tenants, the investments are

regulated by Danish law (Landsbyffefonden, n.d.). Traditionally, new construction was supported by the State and local governments but since the 1990s, the government has gradually retracted support and mandated the LBF to activate its self-financing for new construction in the sector (Larsen & Lund, 2015). In a further move that considerably weakens the tenant's savings, the State has also begun to direct the flow of LBF's funds by mandating the institution to fund construction for youth and old age homes which was previously not the institution's responsibility (Noring et al., 2020). As pointed out by an elected resident tenant board member (AR1) in Mjølnerparken, *"The municipality (Københavns Kommune) is being empowered to alter the demographic, but they are also literally making the (non-profit) association pay for all the conversion and upgrading work here"*. The implementation of instruments, highlighted above, together with a lack of an explicitly constitutionalised right to housing that could protect tenants from discrimination, has led to the dismantling of the private non-profit housing system thereby exacerbating socio-economic polarisation.

6.1.2 Detecting the construction of the 'ghetto' label in Denmark.

The international human rights system has various monitoring mechanisms that observe the member states' obligation to realise human rights while providing accountability in case of violations of rights. To analyse the effectiveness of these mechanisms in detecting the unfolding of the Danish ghetto discourse through the years, reports generated by periodic reviews held by these monitoring bodies were examined. Denmark is mainly answerable to the United Nations, the Council of Europe (CoE) as well as to the EU in this regard and Figure 1 (see p.28) maps out the monitoring mechanisms in each of these systems that are related directly to the realisation of the right to housing. Table 2 shows a chronologically ordered list of reports by monitoring bodies that have raised concern about the ghetto discourse in Denmark over the years. While the government policies' threat to the right to adequate housing was highlighted by the UN's Universal Periodic review (UPR), the UN's Committee on Economic, Social and Cultural Rights (CESCR) reviews, the issue was not particularly addressed by the

CoE's European Committee of Social Rights (ECSR) nor the EU's Agency for Fundamental Rights (FRA) which raised general concern over restrictive immigration policies and discrimination. Instead, ghetto-related policies have been criticised by other review bodies which monitor discrimination such as the UN's Committee on the Elimination of Racial Discrimination (CERD), the Council of Europe's European Commission against Racism and Intolerance (ECRI) and the Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC). The right to housing thus, cannot be viewed in isolation and its violation usually infringes upon a host of other rights such as the right to non-discrimination, the right to choose where to live, etc.

Table 2

Chronologically ordered list of reports by international monitoring bodies that detected issues related to the Danish 'ghetto label'

S.No	Year	International Human Rights Organisation	Monitoring mechanism	Document type	Issues addressed (related to discrimination in access to the right to housing in Denmark)
1	1996	UN	CERD Review	Concluding observations by the CERD (Consolidation of Tenth to Twelfth Periodic Reviews)	Concern is expressed over ethnic minorities' and immigrants' access to housing
2	1997	UN	CERD Review	Concluding observations by the CERD (Thirteenth Periodic Review)	Concern is expressed over ethnic minorities' and immigrants' access to housing
3	1999	UN	CESCR review	Concluding observations by the CESCR (Third periodic cycle)	Concern is expressed over an emerging trend towards intolerance and violence against members of minority groups and foreigners in Denmark
4		CoE	ECRI review	First report on Denmark by the ECRI (First review cycle)	Attention is drawn to discriminatory rules against disadvantaged people in the housing market.
5	2000	CoE	ECRI review	Second report on Denmark by the ECRI (Second review cycle)	Attention is drawn to discriminatory rules against disadvantaged people in the housing market.
6		UN	CERD Review	Concluding observations by the CERD (Fourteenth Periodic Review)	Concern is expressed over ethnic minorities' and immigrants' access to housing
7	2004	UN	CESCR review	Concluding observations by the CESCR (Fourth periodic cycle)	Concern is expressed at the lack of constitutional or other legislative provisions to realise the right to housing. Concern is also expressed over the discrimination faced by disadvantaged and marginalized groups (immigrants), in renting or obtaining public housing.
8	2005	CoE	ECRI review	Third report on Denmark by the ECRI (Third review cycle)	Concern is expressed over the 'ghetto' label
9		CoE	ACFC review	Second Opinion on Denmark by the ACFC (Second review cycle)	Concern is expressed over discrimination of ethnic minorities and immigrants
10		UN	CERD Review (Civil society submission)	Supplementary report submitted to the CERD by DACoRD (Consolidation of Sixteenth and Seventeenth Periodic Reviews)	Concern is expressed over discrimination regarding ethnic minorities' and immigrants' access to housing
11	2010	UN	CERD Review	Concluding observations (Consolidation of Sixteenth and Seventeenth Periodic Reviews)	Concern is expressed over lack of impact assessment of 'Anti-Ghettoisation' law on ethnic minorities
12	2011	UN	UPR	Stakeholders' Report (First periodic cycle)	Concern is expressed over discrimination of ethnic minorities and immigrants
13		UN	UPR	Outcome of Review (First periodic cycle)	Concern is expressed over discrimination of ethnic minorities and immigrants
14		CoE	ACFC review	Third Opinion on Denmark by the ACFC (Third review cycle)	Concern is expressed over discrimination of ethnic minorities and immigrants
15	2012	CoE	ECRI review	Fourth report on Denmark by the ECRI (Fourth review cycle)	Concern is expressed over increased regulations formulated around the 'ghetto' label
16	2013	UN	CESCR review	Concluding observations by the CESCR (Fifth periodic cycle)	Concern is expressed at the lack of constitutional or other legislative provisions to realise the right to adequate housing. Concern is also expressed over the shortage of social housing and the discrimination faced by disadvantaged and marginalized groups (immigrants), in renting or obtaining public housing.

Table 2 Continued

S.No	Year	International Human Rights Organisation	Monitoring mechanism	Document type	Issues addressed (related to discrimination in access to the right to housing in Denmark)
17	2015	CoE	ACFC review	Fourth Opinion on Denmark by the ACFC (Fourth review cycle)	Concern is expressed over discrimination of ethnic minorities and immigrants
18		UN	CERD Review (NHRI submission)	Supplementary report submitted to the CERD by DIHR (Consolidation of Twentieth and Twenty first Periodic Reviews)	Concern is expressed over ethnic minorities' and immigrants' access to housing and 'combined letting' rules are criticised.
19		UN	CERD Review	Concluding observations (Consolidation of Twentieth and Twenty first Periodic Reviews)	Concern is expressed over ethnic minorities' and immigrants' access to housing and 'combined letting' rules are criticised.
20	2016	UN	UPR	Stakeholders' Report ^a (Second periodic cycle)	Discriminatory rules against disadvantaged people in certain marginalised housing areas labelled 'ghettos' are highlighted and repealing negatively discriminatory housing legislation is recommended.
21		UN	UPR	Outcome of Review (First periodic cycle)	Concern is expressed over discrimination in ethnic minorities' and immigrants' access to housing.
22	2017	CoE	ECRI review	Fifth report on Denmark by the ECRI (Fifth review cycle)	Attention is drawn to discriminatory rules against disadvantaged people in the housing market.
23	2018	UN	CESCR review (NHRI submission)	Supplementary information to the CESCR by the DHRI (Sixth periodic cycle)	The Ghetto-plan of 2018 and its effects are directly addressed.
24	2019	UN	CESCR review (NHRI submission)	Parallel report to the CESCR by the DHRI (Sixth periodic cycle)	Concern is expressed over the several initiatives, covering various political and legislative areas introduced by the state to restrict housing access to ethnic minorities
25		UN	CESCR review (Civil Society submission)	Submission to the CESCR by Amnesty International (Sixth periodic cycle)	Concern is expressed over stigmatization of ethnic minorities due to the Ghetto-plan of 2018
26		UN	CESCR review (Civil Society submission)	Coalition shadow report to the CESCR by SOS Racisme Danmark et al. ^b	Denmark's marginalised groups feel under attack by a growing number of laws over the years, including the Ghetto Package . Mass evictions in Mjølnerparken are highlighted.
27		UN	CESCR review	Concluding observations by the CESCR (Sixth periodic cycle)	Concern is expressed that the Ghetto package is discriminatory and measures to redress the negative impacts are recommended
28	2020	CoE	ACFC review	Fifth Opinion on Denmark by the ACFC (Fifth review cycle)	Concern over the discriminatory effects on access to housing due to the Ghetto package are explicitly addressed
29		UN	CERD Review	Selected list of themes submitted to the CERD by the DIHR (Consolidation of Twenty second, Twenty third and Twenty fourth Periodic Reviews)	The Ghetto-plan of 2018 and its adverse effects are directly addressed.
30	2021	UN	UPR	Stakeholders' Report ^c (Second periodic cycle)	Concern is expressed that the term ' ghetto ' for neighbourhoods further stigmatizes those already living at the margins of Danish society. The Ghetto-plan of 2018 and its adverse effects are directly addressed.

Note. ^a Sections of the Stakeholders' report that dealt with the implementation of the right to adequate housing were formulated by: Amnesty International, DIHR, SOS mod Racisme Denmark, Copenhagen (Denmark), Documentation and Advisory Centre on Racial Discrimination (DACHORD), Copenhagen (Denmark), and European Network Against Racism–Denmark (ENAR), Frederiksberg (Copenhagen), DIGNITY - Danish Institute Against Torture, Copenhagen (Denmark), Danish Association of Legal Affairs, Danish Helsinki Committee for Human Rights, Danish Red Cross, Danish Refugee Council, Danish-Russian Association, DIGNITY – Danish Institute Against Torture, Disabled Peoples Organization Denmark, European Anti-Poverty Network (EAPN), European Network Against Racism, Joint Council for Child Issues, LGBT Denmark; Oasis, Refugees Welcome, Save the Children Denmark, United Nations Association Denmark, Women's Council in Denmark, and Youth for Human Rights.

^b The shadow report submission for the CESCR's 6th periodic review cycle was prepared by the following NGOs: SOS mod Racisme Denmark, Center for Danish-Muslim Relations, Women in Dialogue, ENAR Denmark, Refugees Welcome, Almen Modstand and DEMOS.

^c Sections of the Stakeholders' report that dealt with the implementation of the right to adequate housing were formulated by: Amnesty International, Geneva International Centre for Justice (GICJ), DIHR, Joint Submission group 3 comprising Action Aid Denmark, Amnesty International Denmark; Association of Immigration Lawyers; Better Psychiatry; Danish Association of Legal Affairs; Danish Helsinki Committee for Human Rights; Danish Refugee Council; Danish United Nations Association; DIGNITY–Danish Institute Against Torture; Disabled People's Organizations Denmark; EuroMed Rights; EAPN; ENAR; Global Focus; IRCT -International Rehabilitation Council for Torture Victims; Intersex Denmark; Joint Council for Child Issues; LGBT+ Denmark; LGBT Asylum; National Council for Children; OASIS – Treatment and Counselling of Refugees; Refugees Welcome; Save the Children Denmark; Save the Children Youth; and Women's Council and Youth for Human Rights. Joint Submission group 4 comprised SOS Racisme Denmark; Center for Danish-Muslim Relations Almen Modstand (Common Resistance against the "Ghetto Package"); Demos , Women in Dialogue, Muslim Youth in Denmark, The Legal Affairs Association, Global Action, ENAR Denmark. CoE's - ACFC also provided inputs.

When compared to Table 1, Table 2 indicates that related concerns were first raised as early as 1996 by the CERD, just two years after the 1994 report on disadvantaged areas was released in Denmark. This indicates that the international system has been effective in timely detection of unfolding discrimination in the Danish case. Subsequently, as seen in Table 2, both the UN and the CoE have consistently tracked the developments of the government's policy effects on vulnerable groups' access to housing. The 'ghetto label' and its effects are explicitly addressed on a yearly basis from 2015 onwards accompanied by an increasing number of parallel/shadow reports being submitted to the monitoring bodies by the country's official NHRI, as well as by several other civil society bodies such as Amnesty International (a complete list of NGOs who have submitted shadow reports is presented in the notes under Table 2). One of the shadow reports submitted to the CESCR in 2019 directly addressed mass evictions in Mjølnerparken as a violation of human rights (SOS Racisme Danmark et al., 2019) and while the CESCR condemned such evictions, it requested the state to ensure all evictions and rehousing was carried out according to prescribed standards in case the evictions were inevitable (CESCR, 2019). Overall, however, the standard procedures in case of unavoidable evictions set forth by the CESCR along the lines of non-discrimination, ensuring proximity of relocation areas, provision of legal remedies to those seeking it and inclusion of affected parties through consultation and participation (CESCR, 1997), have not been complied with in the case of Mjølnerparken.

The state's strategy of justifying its policy decisions can be observed in its exchanges with international reviewing bodies over periodic review cycles where comments repeatedly run back and forth on certain highlighted themes. For instance, since the third cycle in 1999, in every review, the CESCR has been expressing regret over the ICESCR not being incorporated into Danish domestic law (CESCR 1999; 2004; 2013; 2019) with the Danish reports countering this by claiming that since the ICESCR has been ratified by the state, the treaty's rights can be

indirectly invoked by Danish courts (Government of Denmark, 2003; 2011; 2018). This stance has not changed for the past two decades. On a similar note, although attention has been drawn to the ‘ghetto’ label and its discriminatory effects on the right to housing multiple times, the state continues to evade accountability with no clear commitments on initiating efforts to redress the underscored policies. This is evidenced in the state’s most recent response to the UPR’s concern raised about the ghetto-plan of 2018, where the state wrote:

The overall objective of the action plan is to create open, non-isolated residential areas with mixed income housing that reflects the surrounding community and offer better environment for a positive social development. In line with the action plan, a number of initiatives have been initiated to develop these areas, including improving the physical environment and reducing the proportion of social family dwellings to 40 per cent of the area. All residents affected by demolition or sale are being rehoused. The action plan only affects 2 per cent of the social housing stock. Individuals rejected from tenancies based on the criteria can apply to social housing outside the areas subject to measures of differentiation in allocation. The action plan has been criticized for discriminating based on ethnicity. The intention of the plan is to ensure that all persons in Denmark, regardless of background and birthplace, will grow up with the same opportunities in life. (Working Group on the Universal Periodic Review, 2021, p.14)

In the above statement, the plan’s ghetto criteria contributing to the criticism of discrimination is not directly addressed and the problem of an ongoing reduction of existing affordable housing stock in the face of an overall lack in the nation’s current affordable housing options, has been justified through the indication that only 2% of the social housing stock has been affected. Following this, a general commitment to ensuring universal access to opportunities has been included (Working Group on the Universal Periodic Review, 2021). Thus, although the international human rights system is capable of early detection of violations of rights,

official exchanges on highlighted issues have been characterised by diplomatic protocol and a semblance of agreement that contributes to a repeated papering over of significant differences in opinion regarding the subject under discussion (Merry, 2017).

6.1.2.a The effectiveness of local reach through monitoring mechanisms.

While international review bodies discussed above are devised to detect general trends that infringe upon human rights in countries, certain monitoring mechanisms have been designed to detect locally specific ways in which rights are violated (local reach mechanisms have been marked with a purple label in Figure 1). As previously mentioned, the Danish NHRI, which is one such mechanism, has been actively involved in reporting case-specific instances where policies have directly violated rights and recent shadow reports by various NGOs have also served this purpose. In this context, both the CoE and the UN have been made aware of the case of Mjølnerparken. The UN's Special Rapporteur on the right to adequate housing apart from the other Special Rapporteurs on racial discrimination and minority issues as well as the CoE's European Commission against Racism and Intolerance have all raised concern about the case (OHCHR, 2020; ECRI, 2021). However, although the above-mentioned mechanisms have been effective in bringing Mjølnerparken's evictions to the international human rights system's notice, it has not stimulated state action towards redressive measures in this regard.

Most of the remaining local reach mechanisms, on the other hand, provide the function of enabling individual appeal and have either remained unused or have actively been blocked by the state. For instance, the ICESCR's Optional Protocol, which hears direct appeals by affected individuals/groups has not been ratified by Denmark despite numerous recommendations by the CESCR to do so (CESCR, 2013; 2019). The UN's Human Rights Council also has a complaint procedure for individuals, however, cases are examined in closed meetings and remain confidential with only the author of the complaint and the concerned state being made

aware of the proceedings (HRC, 2007). While the UN's appeal mechanisms mainly serve to provide accountability and recommendations, the CoE's European Court of Human rights³¹ (ECtHR) can provide rulings in individual complaints against member states. However, over the years, individual access to the court has become highly filtered and verdicts on the few cases being heard are increasingly being ignored by member states (Greer, 2018). The affected residents of Mjølnerparken thus have limited access to mechanisms enabling individual appeals at the supranational level.

6.1.3 Resisting eviction and claiming one's right to housing in Mjølnerparken.

When Mjølnerparken's residents were interviewed about the impending evictions, higher rents, greater distances requiring more travel time and added transport costs (as most units being offered by Bo-vita are on the outskirts of the city), were the most commonly listed concerns apart from the commonly felt sense of being uprooted from the community they identified with. For others, the prospect of eviction was painful due to its underlying tones of racial and religious discrimination as expressed by a resident (AR2) who said:

"I think the government selling this place... they don't think when they are at the top... don't think about feelings... for them it is just like money, money... You come to Denmark, you do everything... you study, get a job, work... it is not enough. You are always wrong even if you feel like this is your country ... It's very difficult to be from another country, I came as a refugee... But we have a right to stay here. Yes, we do. And they don't understand that these people they have rights. They have rights to be where they feel that they belong. And nobody should take this power. You see my balcony?" (points to one of the balconies shown in Figure 12) "...The banner hanging there, it says stop ethnic cleansing. I was clean one time, so, I think they don't have to clean us one more time ... I'm really clean. I have the wrong religion here."

³¹ The European Convention on Human Rights (ECHR) is enforced by the ECtHR and since Denmark is legally bound to the ECHR, it falls under the jurisdiction of the ECtHR. The ECtHR usually hears appeals in instances where domestic remedies have been exhausted.

Figure 12

Photograph of one of the blocks to be sold in Mjølnerparken with banners of protest hung over the balconies



Source: Author's image

Despite the limited avenues through which accountability can be demanded for right to housing transgressions, in 2020, a group of residents of Mjølnerparken have contested the evictions in a lawsuit against the Danish Ministry of Transport and Housing (as of January 2021, the ministry of housing portfolio has been combined under a new ministry called the Ministry of Interior and Housing). Although the resident tenant board of the estate supports the case, not all have agreed to fight the evictions and the residents are now split into two camps with little to no interaction inbetween. The highly publicised case, currently under litigation, in the Østre Landsret (High Court of Eastern Denmark), invokes the right to respect private and family life in the ECHR and the Race equality directive in EU law in its claim mainly due to the lack of a constitutionalised right to housing (Open Society Justice Initiative, n.d.). The resident

plaintiffs' attorney is legally supported by the Open Society Justice Initiative, an international operation which provides advocacy and expert legal assistance in defending human rights, as well as by Almen Modstand, an NGO formed by residents of different non-profit housing estates. Both these organisations have also been involved in highlighting the 'ghetto' issue through report submissions to the previously discussed international monitoring bodies (Open Society Justice Initiative, n.d.). Recently, the Danish Institute of Human Rights (the Danish NHRI) has also intervened as a third party in order to weigh into case proceedings and advocate against the Ministry of Interior and Housing's claim for the case's dismissal. Thus, in the Danish case, the NHRI and NGOs have acted as important mediators between the international human rights system and its local enactment in Mjølnerparken.

Resistance to the residents' claims has been strong. During the course of the case proceedings over the past year, the non-profit housing sector, the municipality and the state have all justified their role in the decision to sell housing units in Mjølnerparken. The non-profit housing association (AE2) has stated, *"The government rules are being followed...there is no other way"* while an official at the Municipality of Copenhagen (AE1) has stated,

"When it comes to the development plan, it is the housing association that owns lands,... they are kind of the project owners...they decide and we see that it lives up to planning legislations but I mean, it's not the city of Copenhagen's kind of developments projects...it's private."

The state, in turn, has maintained that the ghetto-plan of 2018 does not stipulate measures through which the 40% limit to subsidised housing can be achieved, and therefore, "...the decision to sell has not been made by the Ministry of Transport and Housing, but by Bo-Vita and the Municipality of Copenhagen..." (The Danish Ministry of Transport and Housing, 2020, p.14).

The fate of the case remains to be determined and it may be required to take the appeal to the Supreme court or eventually to the ECtHR. However, regardless of the outcome, this case is perceived as a symbolic act of defiance by the residents, one of whom (AR5) said, “*We just want to say we are here in this society and we cannot be treated this way.*”

Almen Modstand, is the main NGO which regularly interacts and holds meetings with the residents of Mjølnerparken. AR2 said: “*Almen Modstand, they come and talk to us, we meet here in the common area... they really help in making noise...maybe much won't change but at least we are trying.*” Almen Modstand stages regular protests and has been central in mobilising affected residents in non-profit housing estates across the country. Apart from restricting the residents' housing options, the ghetto policies enact other discriminatory measures such as prolonged daycare for immigrant children and harsher punishments for crime in the area, all of which are being protested by Almen Modstand. Based on the commonality of themes addressed, Almen Modstand networks with other NGOs in Denmark that are fighting racial and religious discrimination of immigrants due to a number of other policies such as the burqa ban, reduced social benefits, criminalisation of homelessness, etc. The Center for Danish-Muslim Relations, SOS Racisme, ENAR Denmark, Mellemløst Samvirkehave – Action Aid, Refugees Welcome and DEMOS have played an important role in raising awareness on human rights transgressions in Denmark through social media and published reports while activating affected individuals for political action. Apart from Danish NGOs, international organisations such as Amnesty International, SETA and Open Society Justice Initiative have extended their support and provided specialised legal expertise and proposed advocacy measures while also raising awareness about rights transgressions in Denmark along with other international organisations like the Human Rights Watch and the Geneva International Centre for Justice. Their collective action is evident in the coalitions that have been formed during report submissions to international monitoring bodies.

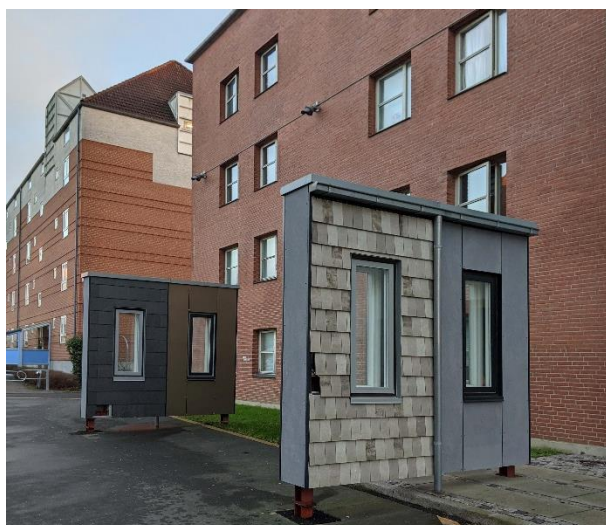
About their work with other organisations, a member of one of the Danish NGOs involved (AE5) said:

“We collaborate a lot... like on campaigns and policy level...because, yeah, we mobilize for the same issues. We share knowledge, but also we have very different roles...we collaborate whenever it makes sense. SETA and Amnesty International have really helped us...Also, the (Danish) Institute for Human Rights, but they have a very different role, like they know about laws and so on... they cannot say the same things as we can though.”

The right to housing is inherently linked to several other fundamental rights and cannot be viewed in isolation, and at the intersection of several forms of right violations, a network of protesting organisations has grown not only across Denmark but has extended beyond its borders as well. The interests of these organisations remain sharply divided from those of the state and local authorities. Other forms of collaborations like local authority networks have the potential to raise concern in this regard, and although Copenhagen is a part of some of these networks such as Eurocities and Cities for Housing, apart from sharing general best practices on affordable housing models, measures to redress the discriminatory effects of the Danish ghetto-package have not been addressed on these platforms (Barnett et al., 2020).

Figure 13

Mock-ups of materials to be used on the renovated facades of the blocks to be sold in Mjølnerparken



Source: Author's image

Figure 14

Protest poster put up in Mjølnerparken



Source: Author's image

6.1.4 The way forward for the Danish social movement.

Overall, in the Danish case, the state has utilised the ‘ghetto label’ in its policies to systematically dismantle the non-profit housing sector’s provision of affordable housing (Seemann et al., 2020). Blame for socio-economically disadvantaged areas has been unfairly laid on immigrant ethnic minorities who are perceived as a burden on the welfare model. The lack of the successful integration of ‘parallel societies’ into ‘Danish culture’ and the labour market is seen as their fault and not as a symptom of structural inequalities in the system which promotes their exclusion (Larsen & Lund, 2015). Findings suggest that these alarming developments have effectively been detected and repeatedly been addressed by the international human rights monitoring bodies, however, the state has continued to diplomatically evade measures to redress its policies. Other mechanisms that enable supranational appeals for individual/localised cases of right violations have either become difficult to access due to increasingly restrictive filtering processes or have been actively blocked by the state. It is the NHRI and the NGOs that have taken up the role of human rights mediators in their support for tenant mobilized housing activists whose social and political rights have incrementally been weakened by the state. Mjølnerparken has played a central role in the protest against the ‘ghetto’ label and has been an active site for political confrontation. The residents of the estate have contested their evictions in a lawsuit filed against the state and have invoked the ECHR in the absence of constitutional provisions to protect their housing needs, thus, indicating the important role that the international human rights system plays in legislation. The ECHR, however, unlike the ICESCR, does not address the right to housing as a standalone right and therefore may only provide protection in certain cases of eviction instead of ensuring the wholistic realisation of a discernible right to housing (Kenna & Simón-Moreno, 2019).

The lack of legal measures that realise the right to housing represents a gap in domestic law that has long been left unaddressed ever since the early 1950s when the Danish constitution was being revised (Jensen, 2018). This has worked to the advantage of shifting political priorities that have supported the commodification of the housing stock since the 1990s in lieu of ensuring equitable access to the sector and the private non-profit sector which has historically provided affordable housing is being dismantled (Larsen & Lund, 2015). Tenants' savings in the Landsbyggefonden have been activated to fund new projects that previously received state support (Noring et al., 2020). Arbitrary limits such as the 40% cap on subsidised housing in 'hard ghettos' by 2030 have resulted in different but equally harmful redevelopment strategies hastily put together by private non-profit associations in an effort to rid themselves of the label. Instead of addressing larger socio-economic structural problems that have led to a lack of affordable housing in the city, the private non-profit sector, the last bastion of Danish affordable housing, is being attacked under the banner of social-mix (Larsen & Lund, 2015). Using social-mix to 'solve' a state-induced stigmatisation, while limiting housing affordability, among other discriminatory measures such as reduced social benefits, does not seek to redress inequality, it merely serves to exacerbate it.

Urban uprisings that seek to address inequalities have at times gathered great momentum and swept to political power as seen in instances such as the Occupy movement (Bassett, 2014). However, it is important to note that Denmark has historically been one of the most politically stable countries in Europe (Svendsen et al., 2012), and has come to represent an idealised Scandinavian model of democracy based on socialism. As is characteristic of Scandinavian countries, Denmark has always had high levels of social trust³² (Andersen & Dinesen, 2017) as well as political trust³³ (Nielsen & Lindvall, 2021). In such a climate, the alienation and

³² Social trust is generally agreed to comprise principles of social interaction which mainly include reciprocity, solidarity and fraternity (Svendsen et al., 2012).

³³ Political trust is generally conceptualised as "public support for - and confidence in - core political institutions such as the government and the legislature" (Nielsen & Lindvall, 2021, p.1182).

stigmatisation of ethnic minorities runs the risk of confining their current reactionary human rights movement to an uprising that solely seeks to redress their suffering instead of acknowledging the need for a broader political momentum that seeks to challenge a noticeable shift in political priorities of parties on both sides of the spectrum as they actively continue to enable neoliberalism through their regressive policies. Disadvantaged ethnic minorities have been first in the line of fire in Denmark but when underlying structural problems will begin to affect others, it remains to be seen if such uprisings will have the political potential to unite and grow across socio-economic, religious and racial divides in an effort to address the right to the city's greater emancipatory and transformative dialogue. Looking forward, there may be aspiration for greater political action, but for now, it can be said that the urban uprising in Denmark by disadvantaged groups represents a social movement that attempts to bring abstract human right proclamations to reality with NGOs and the NHRI as mediators and seems to echo Hartman³⁴ (1984) in a fight for the right to stay and be treated on egalitarian terms as expressed by one of Mjølnerparken's residents (AR2), who said:

"We just want to stay where we are...we don't know what will happen with our protests... In my twenty years here, no one made noise, we all kept quiet...now for the first time we are saying something... we are saying we want to stay."

³⁴ Hartman (1984), in his essay 'The Right to Stay Put' argues that government policies should avoid displacement by prioritising residents' needs instead of compensating them with relocation strategies (also mentioned in section 2.4).

6.2 The Indian case

6.2.1 *The persistence of an exclusionary mechanism.*

Slums in India have been a symptom of chronic exclusion for far longer than the areas of disadvantage being labelled by the ‘ghetto’ construct in Denmark. Mumbai has had a high migrant influx from within the state as well as from all across the country since its industrialisation in the 19th century and the city’s housing demands have consistently outmatched supply resulting in a steady proliferation of slums in the city (Weinstein, 2014). The state’s attitude towards slums in Mumbai has undergone several shifts over the decades and studies have broadly classified institutional interventions into three main categories (Doshi, 2011; Zhang, 2018). The earliest of these interventions were characterised by a lack of tolerance towards such settlements and slum clearance programmes were the norm ever since British rule up until the post-colonial 1970s. In the next two decades, although there were always instances all along where slum settlements were being razed to the ground, the attitude was markedly more tolerant as international organisations like the World Bank³⁵ began to fund initiatives such as the Bombay Urban Development Programme where slum improvement and upgradation schemes gained precedence over slum clearance, however, these programmes could not deal with the magnitude of slum settlements that required aid (Doshi, 2011). Since the 1990s, the attitude towards slums has shifted yet again to include market-driven slum rehabilitation schemes which promote slum redevelopment and resettlement initiatives by the private sector (Zhang, 2018). On a national scale, in the Indian political economy, studies point out that the economic policy shifts in the early 1990s by the ruling Indian National Congress, when the country was facing a debt crisis, marked the country’s distinct transformation towards economic liberalisation (Kohli, 2006).

³⁵ The World Bank promoted slum improvement programmes over slum clearance as it was cheaper to do so. However, it must be noted that the World Bank has been criticised for promoting the state to enable more liberal policies to tackle overall housing shortages (Doshi, 2011).

The International Monetary Fund³⁶ (IMF) had initially been approached for a loan at the time and the organisation's prescriptions to cut budget deficits had been employed at the expense of social spending and public investment (Kohli, 2006). The agricultural sector suffered setbacks along with the rural poor but cities like Mumbai became centres for wealth accumulation and global economic integration (Doshi, 2011). Real estate prices were on the rise in Mumbai and the World Bank as well as the Asian Development Bank were significantly involved in funding the city's infrastructural development. It is important to note that these international financial institutions have been closely linked to the country's liberalisation and have been criticised for imposing neoclassical policy shifts in developing countries (Dash, 1999; Doshi, 2011). In comparison, Denmark's gradual but consistent liberalisation since the 1980s was also influenced by such dominant international institutions that promoted the macroeconomic establishment of the neoclassical paradigm (Stahl, 2021). In the Indian case, the opening of the market to global forces was met with protest from nationalist business houses that feared rapid liberalisation would destroy indigenous industry (Kohli, 2006) and this nationalistic surge resonated with the *swadeshi*³⁷ ideology of India's main opposition party back then which was the right-leaning, Bharatiya Janata Party (BJP). In Maharashtra, the right-leaning regionalist Shiv Sena party echoed the BJP's nationalism with *Hindutva*³⁸ undertones and established a strategic alliance³⁹ with the BJP, but the Shiv Sena's mobilisation of the masses was mainly based on classist and religious connotations (Doshi, 2011).

³⁶ The Indian Government chose not to borrow any further from the International Monetary Fund in 1994 as concern had grown around the effects of cutting further budget deficits (Kohli, 2006).

³⁷ The *swadeshi* (means 'of one's own country') movement can be traced back to the freedom struggle during colonial times when foreign goods were boycotted in favour of domestic production. Post-Independent India largely followed this ideology in its economic policy (Bate, 2012).

³⁸ *Hindutva* or Hindu Nationalism is a movement which promotes the hegemony of the Hindu religion and its way of life.

³⁹ The BJP and the Shiv Sena draw from the ideologies of the Rashtriya Swayamsevak Sangh (RSS) which defines itself as a cultural organisation that has advocated Hindu nationalism ever since colonial rule (Basu, 2020). The Indian National Congress has condemned the organisation on several accounts for its role in inciting communal violence.

The party's rhetoric, under their slogans of 'Mumbai for *Marathi Manos*' (Marathi-born people) and 'sons of the soil' pointed to the city's migrant worker influx from other states as an unfair burden, emphasising that the economic wealth generated by resources in Maharashtra and its capital Mumbai, was being exploited by 'outsiders' and although the party initially criticised slums as strongholds of such migrant labour, their populist ideology, ironically found favour with slum dwellers who became the party's main vote bank (Weinstein, 2014). The Shiv Sena welcomed the support but continued its anti-migrant and anti-Muslim discourse thereby promoting religious and ethnic divides in slum politics evidenced in the violent communal clashes in Dharavi during the 1992-93 Bombay Riots⁴⁰ (Chatterji & Mehta, 2007). Slum dwellers who had persistently been collectively excluded from formal recognition in the city, were now facing discrimination in their midst⁴¹. Thus, similar to the Danish case, nativist and populist discourses by right-leaning parties have led to the 'othering' of minority groups in Mumbai's slums since the 1990s. In 1995, the Shiv Sena and BJP won the State of Maharashtra government elections (previously always won by the Indian National Congress) and launched on a series of high-end real estate and redevelopment projects pointing to an unexpected elite bias (Doshi, 2011). A new era of market-driven slum clearance and redevelopment programmes was initiated through which Shiv Sena reverted to its anti-slum discourse but appeased its slum voters with promises of 'free' rehousing (Burra, 2005). Key policy initiatives that have addressed slum redevelopment since 1995 (as listed in Table 3) and their influence on Dharavi (Figure 15 tracks the course of the Dharavi Redevelopment Project since its conception) are discussed in the following section.

⁴⁰ The Bombay riots broke out due to an increase in hostilities between Hindus and Muslims. The Bombay High Court commissioned an investigation in the aftermath which revealed the involvement of the Shiv Sena in the orchestration of these riots (Chatterji & Mehta, 2007).

⁴¹ Although the Shiv Sena is known for its uneven stance on slums, it has consistently favoured Hindus. The opposition which is mainly Congress-led, in turn, sides with the Muslim vote bank. Religious divides have thus been entrenched within the slum populace in Dharavi.

6.2.1.a. The instruments of slum redevelopment – provisions for inclusion through free resettlement.

The Dharavi Redevelopment Project (DRP) is mainly based on the Slum Rehabilitation Scheme (SRS) which was introduced in 1995 (see Table 3). A local authority called the Slum Rehabilitation Authority (SRA) was set up to exclusively monitor the implementation of these schemes in Mumbai. To fund redevelopment at such a scale, the Government of Maharashtra invited private developers, NGOs, housing co-operatives and local planning authorities to initiate slum redevelopment projects (Chatterji, 2005). The developers needed to provide free houses to resettle eligible slum dwellers in situ on the chosen land as far as possible, and the remaining units built could be sold (no profit caps) in the open market for private ownership. To cover costs for providing free houses, developers were further incentivised by being given additional Floor Space Index (FSI) which they could transfer to other sites being developed by them or they could also sell it in the open market with no profit cap (through Transferable Development Rights). Even before the SRS, there was a Slum Redevelopment Scheme (SRD) in 1991 which had similar incentives, but there was a 25% profit cap on selling built units and there was no mandate to providing free in situ rehousing for the slum dwellers who were instead relocated in subsidised housing. Through the SRS, the Shiv Sena – BJP government added the free in situ rehousing component in order to deliver on their campaign promise while removing the 25% profit cap on sale which was left open to market fluctuation (Burra, 2005). This is the blueprint for the DRP and has been the blueprint for other SRS projects in Mumbai for the past twenty-five years. While on the one hand, there are clear advantages to in situ rehousing of slum dwellers as they are protected from eviction/relocation and their right to housing is formally recognised through legal tenure, on the other hand, the ‘free’ component of rehousing is populist, and it offsets a number of problems as discussed below.

Firstly, only ‘eligible’ slum dwellers (i.e., those who have settled in the slum prior to the stipulated cut-off date) who have a *photo-pass*⁴² to prove stipulated duration of stay get in situ rehousing. This means that those who are not eligible will be evicted. Non-eligible slum dwellers are sometimes entitled to relocation in subsidised housing (through PMAY funded units as prescribed for the DRP – see Table 3) but it is not ensured (Weinstein, 2014). Secondly, if all eligible slum dwellers cannot be rehoused on site (due to FSI restriction), they will get free rehousing on another site and hence will face relocation. Around half of the SRS tenements built for slum dwellers since 1995, have been built as off-site resettlements by private developers trying to capitalize on the available real estate and slum dwellers of these projects have had to relocate (Doshi, 2019). Thirdly, free housing threatens to weaken the economic participation of low-income groups in the market (Mukhija, 2003), as also pointed out by an expert (BE2), who said:

Free housing programmes affect the entire market. We apply neoliberal policies to the housing sector, it is counterproductive... Poor people are becoming a liability in the market. Rather than helping them in being an asset, they are... a liability in the housing programme... willingness to pay is important and in my experience, people need to become strong stakeholders in the entire process...I am talking about affordable paying... it is not at commercial price, but they should be able to contribute... when we talk about free housing, we are promoting a culture which is becoming counter-productive.

Fourthly, the saleable components under the SRS tend to have high prices as they seem to be structured for high property values (that enable covering of free housing costs), and additional unforeseen expenses like extortion by corrupt public officials and mafia during construction also drive prices up (Mukhija, 2003). Finally, as pointed out by D’Souza (2019), providing free houses to slum dwellers does not necessarily cater to the needs of seasonal low-wage migrant workers who need affordable, temporary rental units instead of free permanent dwellings (owners of free resettlement units are barred from selling/renting within first ten years of occupation). The DRP stands to be affected by all of the above listed issues.

⁴² Photo-passes are issued since 1976 and act as official certification of a slum dweller’s eligibility to be resettled if the land on which their hut is situated is needed by the government for a public purpose (Burra, 2005).

Table 3

List of key slum redevelopment policy instruments that are related to the Dharavi Redevelopment Plan (DRP)

S.No	Year	Key policies initiatives and schemes by government	Ruling Parties		Main Policy objectives
			Government of Maharashtra	Central Government	
1	1995	Slum Rehabilitation Scheme (SRS) - [Inserted under section 3B of the Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act, 1971 (Maharashtra Act No. XXVIII Of 1971)]	Shiv Sena - BJP (Right-leaning coalition)	Indian National Congress (Left-leaning)	<ul style="list-style-type: none"> Private entities can submit proposals for redevelopment of a slum area. All slum dwellers settled before 1995 in the slum will be rehabilitated in the redevelopment. 70% or more of eligible slum dwellers must agree to the redevelopment. Apart from providing slum resettlement units, private developers can sell the rest of built area in the open market. The Slum Rehabilitation Authority (SRA) is set up to oversee the scheme's implementation. The SRA, MHADA and MMRDA can also take up projects.
2	1997	Modification to Development Control Regulation (DCR) 1991 - [Regulation No. 33 (10)]	Shiv Sena - BJP (Right-leaning coalition)	United Front (Left-leaning)	<ul style="list-style-type: none"> Residential units of carpet area 225 sq.ft. will be provided as compensation to eligible slum dwellers. No restrictions on profit and no limit on built up area (as this depends on number of slum dwellers to be rehoused). In situ limit is F.S.I. of 2.5. Remaining built up area can be transferred to another site using Transferable Development Rights (TDR)^a Also, additional FSI is given to developers as incentive. When the redevelopment begins Vacant Land Tenancy^b leases by MCGM will be terminated and arrears will not be collected.
3	2005	The Jawaharlal Nehru National Urban Renewal Mission - Basic Services for the Urban Poor (Officially ended in 2012 but extended till 2015 for unfinished projects)	Indian National Congress - Nationalist Congress Party (Left-leaning coalition)	United Progressive Alliance (Left-leaning coalition)	<ul style="list-style-type: none"> Central Government to contribute 50% of project cost in cities with population more than 1million (as per Census 2001) & State Government to fund 30% MHADA was assigned as the implementing Authority in Maharashtra
4	2008	Department of Housing - Government Resolution No. Zo. Pu. Yo. 2008/ Pra. Kra. 207/ Zo. Pu.Su.1	Indian National Congress - Nationalist Congress Party (Left-leaning coalition)	United Progressive Alliance (Left-leaning coalition)	<ul style="list-style-type: none"> Compensatory residential unit carpet area increased to 269 sq.ft. for eligible slum dwellers.
5	2009	Cluster Redevelopment added under Development Control Regulation 1991 - [Regulation No. 33 (9)]	Indian National Congress - Nationalist Congress Party (Left-leaning coalition)	United Progressive Alliance (Left-leaning coalition)	<ul style="list-style-type: none"> A cluster of dilapidated buildings or slums can be clubbed in a cluster for redevelopment, defined as 'Urban Renewal Cluster' - minimum size of 43000 sq.ft to 10,7500 Sq.ft. Redevelopment can be done by MHADA, MCGM or Developers.

Note. While some policy initiatives and schemes are put forth by the Government of Maharashtra, other schemes are outlined by the Central Government. In the above table, the government responsible for each initiative is highlighted in yellow.

^a When the FSI entitled to a developer is not entirely used in the existing plot (due to FSI limit on the site), remaining FSI is given through Transferable Development Right (TDR). TDR is a certificate provided by the municipal corporation. The owner can use it for construction, or they can sell it on the open market.

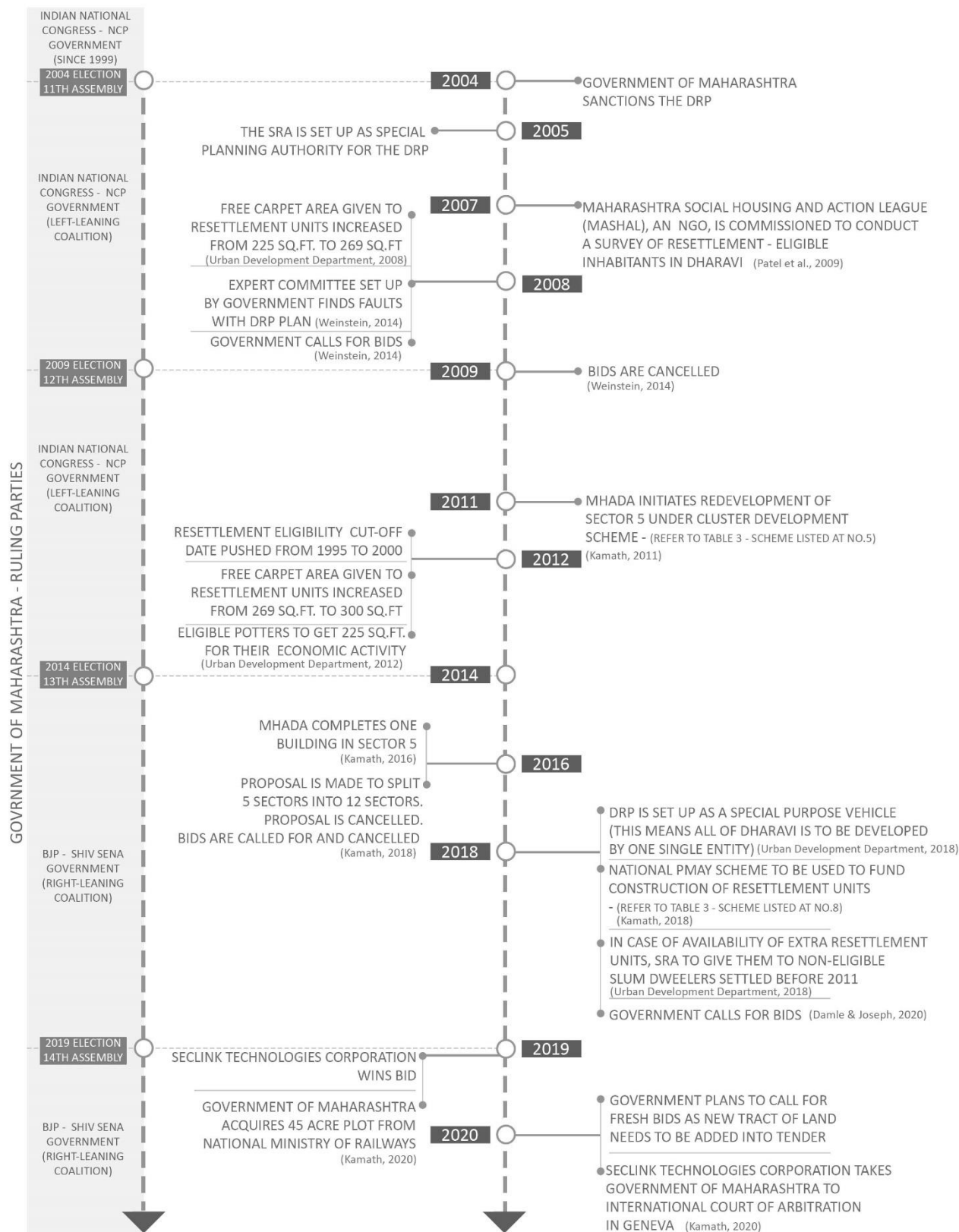
^b Vacant Land Tenancy serves the primary objective of putting municipal land to use. VLT facilitates the MCGM to take back possession of such land in the future and to develop it implementing municipal schemes as and when required (Brihanmumbai Mahanagarपालिका, 2011). VLT leases were given to slum dwellers. Slum dwellers are required to pay municipal taxes, however, their tenure rights remain insecure.

Table 3 Continued

S.No	Year	Key policies initiatives and schemes by government	Ruling Parties		Main Policy objectives
			Government of Maharashtra	Central Government	
6	2011	Rajiv Awas Yojana	Indian National Congress - Nationalist Congress Party (Left-leaning coalition)	United Progressive Alliance (Left-leaning coalition)	<ul style="list-style-type: none"> • Central Government to contribute 50% of project cost in cities with population more than 1 million (as per Census 2001) & State Government to fund 25% • MHADA was assigned as the implementing Authority in Maharashtra
7	2012	Modification to Development Control Regulation 1991 - [Regulation No. 33 (10)]	Indian National Congress - Nationalist Congress Party (Left-leaning coalition)	United Progressive Alliance (Left-leaning coalition)	<ul style="list-style-type: none"> • Cut-off date of slum dwellers eligible for DRP rehabilitation extended from 1995 to 2000. • Increased FSI for Dharavi Notified Area's in situ redevelopment - from 2.5 raised to 4 apart from extra FSI incentive. • DRP - Compensatory residential unit carpet area increased to 300 sq.ft. for eligible slum dwellers. • DRP - For eligible potters' economic activity (settled before 2000), 225 sq.ft. will be provided free of cost as compensation.
8	2015	Pradhan Mantri Awas Yojana (PMAY) - In situ slum redevelopment	BJP - Shiv Sena (Right-leaning coalition)	National Democratic Alliance (Right-leaning coalition)	<ul style="list-style-type: none"> • The Centre supports slum redevelopment and rehabilitation by issuing for eligible slum dwellers a grant of INR 100,000 per house (on average).
9	2018	Modification to Development Control & Promotion Regulations for Greater Mumbai, 2034 [Regulation No. 33 (10) - Subregulation - No. 3.12 (C)]	BJP - Shiv Sena (Right-leaning coalition)	National Democratic Alliance (Right-leaning coalition)	<ul style="list-style-type: none"> • If eligible slum occupants are less in number than available rehab tenements, non-protected slum occupants from before 1st January 2011 are to be rehabilitated in remaining tenements by the SRA.

Figure 15

Timeline of the DRP since its conception



Source: Own elaboration

6.2.1.b. Establishing the DRP – a large scale, evasive redevelopment scheme.

State interventions in Dharavi, even before the DRP have been a constant source of socio-political contention and previous schemes such as the Prime Minister's Grant Project in the 1980s, did not prove successful due to a mix of factors including the scale of the project, lack of funds and political rivalry (Mukhija, 2003). However, much like the Danish case, Indian political parties along both sides of the spectrum in the last two decades, have consistently promoted market-driven redevelopment in the DRP. In 2004, a draft proposal for the DRP⁴³ which applied Shiv Sena's SRS model to the project, was sanctioned by a left-leaning government expecting to monetize on Dharavi's prime real estate potential (Weinstein, 2014). With a weak municipal revenue base, the prospect of attracting high revenue groups through slum redevelopment was enticing (Ren, 2018). One of the government officials (BE1) who collects taxes⁴⁴ in Dharavi, when asked about the DRP, said:

It's cheap and beneficial for the government to develop this area... Also, people are not paying taxes...see here in Kumbharwada...there is an outstanding amount of INR 60 crore (around 7 million EUR) ...There is an also an added penalty... which has gone above the principal amount... People haven't paid since I think the 1960s... we overlook it, we have overlooked it for decades. But this has been a big loss to the government. These dues will be forgiven with the DRP... so the slum dwellers also benefit... plus they get a free house.

⁴³ The plan to apply the SRS to the DRP (SRS was being applied to small plots of land occupied by slum dwellers) was originally envisioned by an architect and real estate developer called Mukesh Mehta in 1995. It took him almost a decade to receive official sanction from the government in 2004. By then, new markets emerging for land and property development had garnered political interest and based on recommendations in a report called McKinsey Report commissioned by a policy organisation named Bombay First (which prescribed large scale redevelopments to make Mumbai a 'world class city') the DRP proposal was finally met with government approval (Weinstein, 2014).

⁴⁴ Although the slum dwellers do not have tenure rights, those who were given VLT leases (see notes under Table 3) and photo-pass holders are required to pay municipal taxes for water supply and electricity. Only ground floor units are officially registered in both cases and therefore upper floors are not charged (as explained by BE1). Note: Not all photo-pass holders have VLT leases (which were given since British rule) as photo-passes were given only in 1976 to all slum dwellers (VLT lease holders and non-VLT lease holders) occupying ground floor hutments– for a detailed description of the legal and social complexities this has entailed, see YUVA (1999). For our study, it is sufficient to note that slum dwellers with photo-pass issued before stipulated cut-off date (which is year 2000 at present) are eligible for resettlement in the DRP.

Other projects being implemented through the SRS schemes since 1995, being have been notorious for imposing the eligibility cut-off date to evict non-eligible slum dwellers while those who qualify have faced extensive project delays with some slum dwellers being placed in temporary transit camps for years while awaiting the completion of their project (Anand & Rademacher, 2011; Ren, 2018; Doshi, 2019). When compared to the Danish case where policy instruments have systematically become incrementally punitive around the ‘ghetto’ label, in the Indian case, the policy instruments have been used as a means of political negotiation with the considerable slum dweller voting population as seen in the extension of cut-off dates for eligibility and the repeated increases in size of resettlement units. Discussion around the DRP has become a central determinant during elections (Kolokotroni, 2015). In the sixteen years since the DRP’s conception, there has been one extension of the cut-off date for resettlement eligibility and three increments in the size of resettlement units. These reconciliatory efforts have been met with criticism because of the arbitrary nature of stipulated limits. An NGO worker (BE4) said, *“Who knows how they decide cut-off year is going to be 2000. Based on what? This is vote bank politics, nothing else...trying to pacify the masses”* while a slum dweller (BR1) said:

It’s wrong...it’s wrong because where will people go? They extended the date till 2000...I got my place in 1995 but what about those who came in 2005? What about people living on the upper floors? (only ground floor units are registered, upper floor dwellers are not eligible for resettlement under the DRP) ... If they give a place, give a place to everyone... People are trying to forge their documents...change it to an older date...they are afraid. If they can’t give us all a place, then don’t force us out...let us be, we have enough problems.

In another resident’s opinion (BR3), *“We have some demands, we want to be given more square footage... they have to understand...different people have different demands...225sq.ft. is not enough for pottery work in Kumbharwada, more space is needed.”* It is important to note that

the DRP's resettlement of the slum dwellers, needs to account for the fact that in Dharavi, livelihood is closely connected with residence, most small-scale industries are in the backyard of the hutments. The scale of the DRP fails to address the heterogeneity of the slum dweller communities and their activities. The SRA maintains that the DRP in its scale was approved because, previously, in Dharavi, major SRS projects by developers were only being proposed in scattered places along main roads (for better accessibility) and interior parts of Dharavi remained unaddressed – the DRP would enable a more wholistic and accessible redevelopment in Dharavi (SRA, n.d.). Since 2018, the DRP has become a Special Purpose Vehicle which enables it to be developed as a single entity in a public-private partnership where government will hold 20% of the financial share and the rest will be held by the selected private developer (Urban Development Department, 2018). In the meantime, the Government of Maharashtra acquired land from the Central Government's Ministry of Railways to build temporary accommodation where the slum dwellers will be housed during redevelopment and as this was not included in the tenders floated, the Government of Maharashtra decided to call for new bids prompting Seclink Technologies Corporation to take the Government of Maharashtra to court (Kamath, 2020).

Issues arising out of legal formalities around state-owned and Central Government-owned land, are not the only roadblock, the DRP is dealing with conflicts on several other fronts. The SRA (set up by Shiv Sena -BJP government) and MHADA (set up by the Indian National Congress) are frequently at odds with each other (Mukhija, 2003). In the DRP, MHADA's involvement in Sector 5 redevelopment has been stalled by the SRA (see Figure 15). Mumbai's multiple planning authorities like the MADHA, SRA, MMRDA, with overlapping jurisdiction tend to make affordable housing provision inefficient (Gandhi, 2012). Conflicts between rival National parties has also affected the DRP. National grants to build resettlement units under the Rajiv Awas Yojana scheme (initiated by a left-wing coalition) in 2015 were suppressed by the

Pradhan Mantri Awas Yojana (PMAY) scheme (initiated by a right-wing coalition) in 2015. Additionally, the State Government and Central Government have different definitions of low-income groups and economically weaker sections, with State Governments traditionally defining higher thresholds than the Central Government, and thereby, these national grants like PMAY and housing finance provisions like HUDCO are difficult to access (PRAJA, 2014). The residents are meanwhile largely left out of the narrative until elections approach, as expressed by slum dweller (BR2) who said:

There is no use making demands. Nobody says no directly, but at the end of the day, you see no result... Even during elections, when politicians come to make promises, and to meet our demands, we know it doesn't mean anything. The Prime minister said by 2022 all will have houses (refers to the objective of National PMAY scheme of 2015) ...look at us now.

Figure 16

Photograph of a shared backyard in Dharavi



Source: Odareeva (2019b)

Figure 17

Photograph of a woman carrying clay pots on her head in a narrow street in Kumbharwada



Source: Odareeva (2019c)

Figure 18

Photograph of a typical street Dharavi



Source: Thurtell (2016b)

6.2.2 The detection of the effects of market-driven slum rehabilitation schemes.

While the Danish state is obligated to three international human rights systems, including the UN, the CoE and the EU, the Indian state is obligated to the UN system alone. Reports submitted during relevant UN human rights monitoring body reviews were scanned to evaluate their effectiveness in the detection and addressing of the above highlighted issues that have been offset by policies endorsing market driven slum redevelopment since 1995 (Table 4 shows list of relevant concerns raised by review bodies). Local reach mechanisms (as identified in Figure 1) were also looked at to see if problems specific to the DRP had been addressed since its proposal in 2004.

Table 4

Detection of issues related to Indian slum rehabilitation in reports by the monitoring mechanisms of the international human rights system

S.No	Year	International Human Rights Organisation	Monitoring mechanism	Document type	Issues addressed (related to discrimination in access to the right to housing in Denmark)
1	2008	UN	CESCR review	Concluding observations by the CESCR (Consolidation of Second, Third, Fourth and Fifth Periodic cycle)	<ul style="list-style-type: none"> • Attention is drawn to the lack of a national housing policy which particularly addresses the needs of the disadvantaged and marginalized individuals and groups. • Concern is raised over slum proliferation and forced evictions at the national scale • Concern is expressed over the National Human Rights Commission and the State Human Rights Commissions not being supported by adequate financial and other resources • Concern is expressed over ineffective coordination between Central and State Governments • The involvement of NGOs and Civil societies in discussions at national level is encouraged • The incorporation of ICESCR into domestic law and ratification of Optional protocol is recommended
2	2008	UN	UPR	Stakeholders' Report (First periodic cycle)	<ul style="list-style-type: none"> • General need to prevent discrimination of religious minorities in housing provision is highlighted
3	2008	UN	UPR	Outcome of Review (First periodic cycle)	<ul style="list-style-type: none"> • General need to provide for housing is highlighted
4	2012	UN	UPR	Stakeholders' Report (Second periodic cycle)	<ul style="list-style-type: none"> • Acute housing shortage is highlighted • The need to develop a rights-based national housing policy or law with a focus on social housing is highlighted
5	2012	UN	UPR	Outcome of Review (Second periodic cycle)	<ul style="list-style-type: none"> • Recommendation to continue the Rajiv Awas Yojana Scheme is made
6	2017	UN	UPR	Stakeholders' Report (Third periodic cycle)	<ul style="list-style-type: none"> • Concern raised over violations of housing and land rights, homelessness, forced evictions, land grabbing/alienation and displacement. Highlighted the need to implement a national right to housing law, which commits to ending homelessness, evictions and segregation. • Highlighted the need to establish a national mechanism for implementation of UPR where government and civil society, the NHRI and relevant stakeholders are regularly consulted
7	2017	UN	UPR	Outcome of Review (Third periodic cycle)	<ul style="list-style-type: none"> • Recommendation to implement a human rights-based, holistic approach to ensure access to adequate housing is made • Recommendation to ratify the Optional Protocol to the ICESCR is made
8	2019	UN	CCPR Review	Submission of information by the Housing and Land Rights Network on List of Issues Prior to Reporting (Thirteenth Periodic Review)	<ul style="list-style-type: none"> • Concern is expressed over forced evictions and the threat to life that such evictions entail

As seen in Table 4, slum rehabilitation schemes enacted in Maharashtra have not been addressed in UN monitoring reviews. Since the scheme's introduction, the earliest CESCR review report (which directly reviews implementation of the right to adequate housing) was in 2008. This is largely because there was a 15-year delay in the Indian state's submission for review (no justification for this delay has been provided in the state's submission report). For more than twenty years, there was no CESCR monitoring of the housing condition in India (the previous Indian state submission was in 1984). Even in 2008, more than a decade after slum rehabilitation schemes were being enacted, the CESCR's concerns over slum proliferation and forced evictions were generally raised at the national scale (CESCR, 2008). Such broad concerns about the need to address housing provision continued to be raised in the other UPR reports. It wasn't until 2017 onwards, that more emphasis was laid on violation of housing and land rights by NGOs and the UPR. NGOs in their parallel reports have begun to draw attention to the need for abolishing eligibility cut-off dates in in-situ slum rehabilitation schemes (HLRN, 2016) and have begun to report on such issues to other monitoring bodies such as the Committee reviewing Civil and Political Rights. However, issues specific to cities or projects within them are not reported and broad concerns are glossed over in short diplomatic reports instead of establishing a much more in-depth dialogue. In contrast, in the Danish case, policy shift detection was swift and the specific case of Mjølnerparken was also addressed by the International human rights monitoring mechanisms. This points to a problem of scale in representation of people's rights. Monitoring mechanisms hold nations accountable, which, while being juridically justified, does not account for the variation in number of people whose rights are being represented and reviewed across nations. India with a population of over a billion people (United Nations, 2019) is reviewed through the same mechanisms as Denmark with a population of around 5 million (Danmark Statistik, 2021d). The population of Mumbai alone would account for around four times that of Denmark. This study only puts this forth as

a rough, rather simplistic comparison and it fully acknowledges that there are deeper historical and socio-political factors that have influenced the establishment of such nation-based monitoring mechanisms in the international human rights system. It is simply posited here that urban schemes like the SRS with provisions for free in situ rehabilitation for slum dwellers, look like benevolent policies on the surface. A certain intensity of focus is required to detect and unmask the adverse effects such schemes can offset while also recognising intergovernmental issues and larger structural problems that delay housing provision for urban slum dwellers. This discerning gaze required to unmask potential harm in such policies is yet to be provided in the human rights system at the international level through monitoring mechanisms. Even though the NHRI system is designed to address India's scale, the National Human Rights Commission (the NHRI for India) and its deployed State Human Rights Commissions are not able to effectively co-ordinate the detection and reporting of specific human rights issues within the nation. The National Human Rights Commission has repeatedly been reported to be underfunded and not involved in Central or State Government discussions on issues related to human rights with NGOs also being significantly left out in the latter case (UPR, 2017). As mentioned in the present study's section 3.3.2., State Commissions are vested with the powers of a civil court to hear individual complaints, however, the Maharashtra State Human Rights Commission has almost no staff and unheard cases have been piling up (Naik, 2021). In contrast, the NHRI and NGOs play an active role as mediators of human rights in Denmark.

As far as other local reach mechanisms are concerned, the Optional Protocol to the ICESCR has not yet been ratified by India, despite being asked to do so on several accounts (CESCR, 2008; UPR, 2017), but, even if it were, the sheer magnitude of individual complaints that could come forth from a country with over a billion people must be seriously considered. Over the year, Special Rapporteurs to the right to adequate housing have pointed out the need to

constitutionalise the right to housing to address the lack of legal remedies in cases of forced eviction (OHCHR, 2006; HRC, 2017), however, in 2016, despite having visited the SRA in Mumbai and having discussed the DRP, the then Special Rapporteur, did not raise concerns over the project (OHCHR, 2016). The DRP, the threat of displacement faced by non-eligible slum dwellers apart from the variety of challenges faced by its heterogeneous population, Kumbhars included, have thus remained largely unaddressed by the human rights system.

6.2.3. Resisting eviction and claiming one's right to housing in the DRP

The first decade, since the DRP's conception, saw peaceful protests by slum dwellers in Dharavi and 'Black Flags' were hoisted every year or so throughout the slum to oppose the redevelopment (Patel & Arputham, 2008). Although, such efforts have watered-down in recent years, the DRP's threat to secure housing, livelihood, the sense of community and identity continues to be commonly felt by the Kumbhars among other slum dwellers in Dharavi. Initially, the Kumbhars, backed by the Shiv Sena, repeatedly appealed to the then Congress-led government to exclude them from the DRP and to allow them to self-develop their settlement on grounds of having been given long leases during British rule, however, such requests were denied as colonial leases have been rendered invalid. Apart from the claim for self-development, the Kumbhars have continued to make demands for more space in the DRP compensation and remain one of the most outspoken communities resisting and negotiating change. Over the years, even in the small interventions that have been made (such as the cluster development undertaken by MHADA in sector 5), the government has avoided interfering with sector 2 as this is where the Kumbhars are located (Kolokotroni, 2015).

While the Danish case is a concerted effort that employs the international human rights system in their claim to the right to housing, in the Indian case, negotiation with the state is the way in which slum dwellers have used their considerable vote bank to resist redevelopment.

Negotiation on slum dwellers' terms is nuanced to represent people's interests and is split along various factions within the slum. For those who do not qualify for resettlement, the DRP poses the grave threat of displacement, while, for those who do qualify, the opportunity to get a free house is not to be taken lightly thereby, bringing their need to resist the DRP into question. Religion and ethnicity have also played an important role. While the Kumbhars are accorded the privilege of negotiation on account of being one of the oldest *Hindu* communities in the slum, many Muslim communities and other non-Maharashtrian communities, through the years, have not usually found favour with Shiv Sena's uneven stance over the slum (Doshi, 2019). Different local leaders strategically ally with sympathetic political parties to negotiate their terms for redevelopment.

However, more inclusive local groups such as *Dharavi Bachao Samiti* (Save Dharavi Movement) continue to make frequent collective demands to ensure the DRP is carried out in favour of all of Dharavi's residents with their most recent demand being the removal of the cut-off date criterion (Ganapatye, 2019). Members of the *Dharavi Bachao Samiti* regularly interact with different communities. The Kumbhars for instance often invite members to take part in the community's discussions about the DRP. In general, such local groups feel that the government should take a holistic approach in meeting the heterogenous needs of the slum, as pointed out by BR4, who said:

People... in various communities... have so many different needs, the government should make a survey. First, they should have asked us if we wanted the DRP, and if we did want it, why we would want it. Or if we didn't want it, why we wouldn't want it. They should just ask us what we need and then, on that basis, definitive decisions can be taken and executed to make improvements.

In 2007, a group of activists called Concerned Citizens for Dharavi comprising of retired civil servants, academics and members of NGOs like Society for the Promotion of Area Resource Centers (SPARC), petitioned the government to conduct a survey on residents eligible for

rehabilitation on grounds that existing surveys were inaccurate (Patel et al., 2009) and not in accordance with human rights eviction guidelines which require the identification of all people facing eviction for their effective resettlement (CESCR, 1997). An NGO called MASHAL was commissioned but could not provide an accurate survey as slum dwellers were unwilling to divulge eligibility information and would not provide access to non-eligible dwellers on upper floors (Saglio-Yatzimirsky, 2013). Due to the eligibility criterion, other guidelines on evictions which include consultation with affected people, provision of legal aid and remedies face similar challenges. The UN's international guidelines in cases of unavoidable evictions need to be sensitive to the inhibitions that local policies induce. Even though these guidelines are based on the World Bank and the Asian Development Bank's extensive experience in slum upgradation programmes in developing countries since the 1970s, they do not effectively address displacement issues faced by slum dwellers. In recent years, the World Bank, the UN-Habitat (through its Sustainable Development Goal related programmes) and global partnership initiatives like Cities Alliance and Slum Dwellers International have also been criticised for encouraging local authorities to promote large scale slum redevelopment (Doshi, 2019).

NGOs such as SPARC, Youth for Unity and Voluntary Action (YUVA) and Nivara Hakk Suraksha Samiti (NHSS), were actively involved in World Bank funded projects in the 1980s and were responsible for increasing slum dwellers' legibility by for instance, ensuring provision of voter ids and photo-passes, however, the activism has relatively died down and the roles of such institutions have undergone significant changes primarily due to the involvement of private stakeholders in redevelopment schemes (Doshi, 2011). These organisations increasingly try to negotiate slum dweller resettlement with politicians and private developers, who, manipulate projects for financial gains (Doshi, 2019). For instance, SPARC has been a consultant to the SRA and has along with its community based social

movements including the National Slum Dwellers Federation (NSDF) and Mahila Milan, tried to develop resettlement projects with private developers and the state, but, in many cases, it has not been able to mediate effective resettlements (Mukhija, 2003; Burra; 2005; Doshi 2011; Doshi 2019).

Other local NGOs help in mobilising slum dwellers facing evictions, but the interventions are sporadic, and efforts are focused on addressing immediate problems (Weinstein, 2014). There are also NGOs like the Housing and Land Rights Network that actively interact with the international human rights system. They advocate legislative remedies for forced evictions while reporting housing and land right violations and have also formed coalitions with international organisations like Amnesty International and Human Rights Watch to send parallel reports to the UN monitoring bodies. The Housing and Land Rights Network has also established a National Eviction and Displacement Observatory (Chaudhry et al., 2020), however, its work addresses the national scale and attention to local specificities remains a challenge. In general, NGOs are differentiated in their roles as mediators of housing rights for slum dwellers (Ramanathan, 2005; Ramanathan, 2016). Efforts by most NGOs and slum dwellers are predominantly aimed at negotiating through current issues, which diverts them from focusing on more concerted efforts at defining long-term goals to address adverse living conditions and lack of facilities.

6.2.4. Negotiating the way forward in slum redevelopment.

India's economic liberalisation at the turn of the century resulted in cities like Mumbai becoming centres of wealth accumulation (Doshi, 2011). Slum interventions in Mumbai, with neoliberal underpinnings in the form of SRS schemes began to be implemented since the mid-1990s. Apart from not addressing housing insecurity in relatively new slums, these schemes have offset a number of issues due to their free in situ resettlement component. Slum

dwellers continue to be displaced even when eligible for in situ resettlement while those who do not qualify have faced forced evictions without compensation (Doshi, 2019). Free rehousing weakens economic participation of the disadvantaged, escalates price hikes of saleable components in the scheme and induces social mix while not addressing housing needs of significant constituents of the slum demographic such as those of seasonal migrant workers. The DRP will face similar challenges when implemented. The DRP also suffers from additional issues including intergovernmental conflict, inefficient bureaucracy and political rivalry with the slum dwellers being largely excluded from the planning process.

Issues specific to SRS related schemes and their implications for the DRP have not been effectively detected by the UN monitoring mechanisms pointing to problems of representation and scale. Although the National and its deployed State Human Rights Commissions are specifically designed to address the country's scale, the institutions remain underfunded and understaffed as seen in the case of Maharashtra while other local reach mechanisms like the Optional Protocol are actively blocked. Potentially beneficial solutions by the Indian state to formally recognise slum dwellers' housing rights exist. There is a Draft National Slum Policy formulated by the Central Government which is designed to ensure land tenure rights whenever feasible, but this has not yet been approved by ministries which are unwilling to give up large tracts of land belonging to them (Burra, 2005). The National constitution devolves the realisation of the right to adequate livelihood (and thereby the right to adequate housing), to the State government through its Directive Principles of State Policy. But at the State level, when, legislated instruments of exclusion like the arbitrarily stipulated cut-off dates for resettlement eligibility continue to instil fear of eviction among non-eligible slum dwellers, there are no National or State measures for legal remedy.

NGOs are one of the key entities who offer to translate international human rights in localised contexts. However, catering to the needs of a large urban slum base is challenging, and NGOs differ in the forms of support they are able to provide to slum dwellers (Ramanathan, 2005;

Ramanathan 2016). Further, efforts to contest slum redevelopments such as the DRP, are often fractured along political, religious, ethnic and classist divides, as observed by a social worker (BR3) who said, “*Residents are self-organised... they interact responsibly when assistance is offered...but, when it comes to this DRP, they are very fragmented... split due to varied interests... It becomes difficult to address all their concerns*”. Further, aspirations to formal recognition through owning a house, point to the presence of neoliberal ideologies even among slum dwellers (Anand & Rademacher, 2011; Doshi, 2012). The Kumbhars are but one voice among the many asking for their needs to be met and such nuanced efforts to resist redevelopment in Dharavi seem to reflect Castells’ (1983) argument that squatters’ dependence on the state’s patronage results in a lack of coherence in their social movements. However, when one shifts the lens away from squatters, on a national scale, coherent social movements have been possible indeed in a country marked by its centuries-long history in freedom struggle. India is not unfamiliar to politicised uprisings. While decrease in national levels of social trust (Sinha & Gupta, 2014) and political trust (Kumar et al., 2021), continue to be recorded, large scale uprisings although mobilised, have rarely enforced considerable change in recent times. For instance, the India Against Corruption Movement between 2010-12, which mobilised public opinion against corruption on an unprecedented scale, was a short-lived outburst which was ultimately instrumentalised to enable a resurgence of *Hindu* Nationalism (Chowdhury, 2019).

The case of resistance to the DRP, is one of constant negotiation and although split and not coherent as a social movement, the large vote bank, the slum represents as a whole, is a force to reckon with. Although the DRP’s neoliberal underpinnings, reflect global trends, the project has not yet resulted in dispossession. In its local climate, part of the stasis in the DRP is attributed to bureaucratic problems, but in large measure, the state is kept at bay because it must contend with the potential effects that redevelopment of a mega slum can have on its considerable slum populace (Weinstein, 2014). The international human rights legislative instruments have not been directly employed by slum dwellers and NGOs as human rights

mediators provide differentiated forms of support (Ramanathan, 2016). For now, mainly through vote bank politics, slum dwellers continue to negotiate their resilience in Dharavi, their claim is also a claim for the right to stay. Their presence, however, is precarious, as expressed by one of the residents (BR5), who said:

If we have a chance to talk to someone...we need to be careful. Sometimes, officials can threaten us, they say, 'If you talk to us this way, we will make things difficult for you.' Then you have to give them money, go meet them again and again, beg and plead... We are left in the dark, but we do what we can...we cannot all raise our voices because we are afraid... if we say something, if we are too loud... we won't be able to keep our place.

Figure 19

Photograph of slum shacks - Dharavi



Source: Odareeva (2019d)

7. Discussion

Instead of being viewed as a right, housing is increasingly treated as a commodity across the world, yet oppressive forms of profit-oriented housing policies and the claims to housing rights they elicit, are inherently localised due to socio-political factors. This entails a review of the performance of globally constructed human right systems in addressing case-specific housing right violations embedded in various contexts. The present study aimed to investigate the interaction of the international human rights system with localised cases of state-induced evictions taking place in varied contexts of the Global North and the Global South. It sought to examine the role played by the system in detecting context-specific policies that enable evictions while also exploring its influence on collective action against these evictions. Findings suggest that while the international human rights system has interacted extensively with the Danish case, it's interaction with the Indian case has comparatively been minimal.

This differs from the hypothesis which posited that the international human rights system is capable of detecting policies that enable evictions in both cases, however, this was true only for the Danish case. Also, the hypothesis that internationally established housing right ideals may not necessarily influence collective action against evictions as the housing right claims made by residents in each case, depends on diverse socio-political factors specific to their local contexts, holds partially true, but as seen in the Danish case, international human right ideals have played an important role in their local claims for housing. Overall, it was posited that the international human rights system does not delineate the right to housing to accommodate greater transformative change for urban citizenship, it is usually confined to legal instruments through which member states are obligated to realise this right, which holds true. In the Danish case, although the UN's monitoring bodies detected and provided accountability for housing right violations, no effort was made by the Danish state to address the recommendations proposed by the monitoring bodies and in India as mentioned, there were shortcomings in the detection itself.. Local initiatives by UN and its related organisations like the Shift attempt change from the bottom-up, but such initiatives have not interacted with the cases employed in

this study and lack the intensity that is required to effect considerable change in the arena of housing.

Detection of discriminatory policies incrementally constructed around the Danish 'ghetto' label since the 1990s was swift and consistent by the UN as well as the COE. The impending evictions in Mjølnerparken that have been catalysed by the ghetto-plan, have also been directly addressed and condemned by both institutions. In this regard, the Danish NHRI and NGOs have played an active role as mediators of international housing rights. They have sent parallel reports to monitoring mechanisms, while also providing legal support to residents of Mjølnerparken in their court case against the Danish government, where in the absence of a constitutionalised right to housing, indirect provisions that recognise housing rights in the ECHR and EU law have been invoked. Apart from this, residents of Mjølnerparken along with other residents of private non-profit housing estates, local as well as transnational NGOs actively represent a coherent social movement which has been influenced by international housing right ideals.

In India, by contrast, neither have Maharashtra's policies related to the introduction of the SRS since the 1990s been directly addressed by the UN, nor have the impending evictions in Dharavi been condemned. Housing right violations due to slum redevelopment have been criticised at the national scale though. The challenge of scale and representation for a country the size of India has not been effectively dealt with by the Indian NHRI and its State Commissions which are underfunded and understaffed. NGOs are also differentiated in the support they provide to slum dwellers. The slum dwellers of Dharavi themselves are split along religious and classist divides. The international human rights system and its housing right ideals have not played a major role. Negotiation with the state based on vote bank politics is the slum dwellers' response. The lack of coherence as a social movement reflects Castells' (1983) argument that due to patronage by the state, slum dwellers are not mobilised into collective social movements.

As mentioned, international human right ideals have played an active role in detecting oppressive policy formulations in Denmark while this has not been the case in India, but to what end? What does this imply? Monitoring bodies of international human right institutions and their legislative instruments such as the ICESCR and the ECSR serve primarily to provide accountability. However, once accountability is provided, they have no means of enforcing redressive measures, as member states are only accountable by obligation. Both the Danish state and the Indian state have countered with diplomatic responses to the issues addressed in monitoring reviews. Both nations' continued avoidance on incorporating the ICESCR into domestic law, the lack of a constitutionalised right to housing and the reluctance to ratify the Optional Protocol to the ICESCR, actively prevent the realisation of this right. This reluctance by the state along with broad structural changes to accommodate neoliberal policies has actively enabled the commodification of housing and is a reflection of the unrelenting prioritisation of economic growth-oriented goals. As pointed out by Petel and Putten (2021), the UN's ICESCR has the same underpinnings, where the CESC views economic growth as a necessity for the implementation of economic, social and cultural rights (in which housing rights are included). The close ties that the UN shares with the Bretton Woods system which was responsible for having promoted the adoption of neoliberal policies in developing countries (as seen in the case of India), the active role played by one of its institutions, namely, the World Bank in slum interventions in developing countries while prescribing governments to develop market-driven housing policies, the EU's economic drive, all point to a troubling lack of understanding of the social perspective in the international human rights system in spite of its moral ideals.

This thirst for economic growth even in political discourse is implied to not be meant for all, it is to be acquired at the expense of the exclusion of 'others', which has been a widely used populist rhetoric promoted by right wing parties at around the same time both in Denmark and

in India, through which the alienation of vulnerable groups has been effectively articulated. Policy formulations in both cases have targeted alienated groups. The social and political rights of ‘non-western’ immigrants have been weakened by the Danish ‘ghetto’ label, while the slum dweller was never accorded such rights to begin with. In the Indian case, migrant slum dwellers and Muslim slum dwellers living in Dharavi have further been alienated by such nativist rhetoric, adding yet another layer to their exclusion.

Exclusion of the alienated has subsequently been implemented in the ‘ghetto’ related policies and the SRS policies to enable monetary gain. The ghetto-plan with its 40% subsidised dwelling limit by 2030 for ‘hard ghettos’ and the DRP’s cut-off year at 2000, are ‘one size fits all’ stipulations that run the risk of affecting the vulnerable populace in vastly different ways⁴⁵.

The arbitrary formulation of such stipulations needs to be questioned. Overall, in Denmark and in India, such policies have dismantled existing providers of affordable housing. In both contexts, the promotion of free trade, global economic integration, reduced public spending and ‘urban entrepreneurial’ leanings have contributed to housing problems for the poor. Instead of addressing the lack of affordable housing options, state support has been withdrawn in the Danish case, where the private non-profit housing system’s tenant savings from the Landsbyggefonden, are being used to fund new construction and private developers are being incentivised to redevelop slums in the Indian case. Housing provision is thus inherently manipulated by the state and its problems lie embedded in the broader context of the nation’s political economy (Madden & Marcuse, 2016).

⁴⁵ To recall, in the Danish case, the 40% limit on subsidized dwellings in ‘hard ghettos’ has had different effects on Tingbjerg and Mjølnerparken. While the former has ample space to add new construction, the latter has had to sell units due to lack of space, thereby, resulting in forced evictions. Accountability is also not provided in such cases. The government claims that it did not mandate evictions, it only stipulated a 40% limit while Bo-Vita claims that they had no choice but to sell units to meet the stipulation. Further, adding a time limit does not allow for sustained development. In the Indian case, limiting the cut-off year at 2000 not only excludes slum dwellers from rehabilitation but also divides the slum populace.

In both cases, those who face the threat of eviction seem to claim for their right to stay which reflects Hartman's (1984) implication that government policies should avoid evictions instead of providing compensation as justification. This is an important aspect which remains to be addressed by the UN. As pointed out by Vols and Kusumawati (2020), although the UN delineates a clear standalone right to adequate housing, it does not outline effective protective measures against evictions to recognise 'a right to stay'. In general, the delineation of the right to housing, in the international human rights system, is not noticeably influenced or altered by the Danish social movement or the Indian case (mainly because the Indian issue has been left unaddressed). While the struggle in both cases is intrinsically political, the residents of Mjølnerparken and Dharavi have different ways of claiming their 'right to stay'. The residents of Mjølnerparken have used human rights ideals in their claim while the residents of Dharavi have not. The residents of Mjølnerparken have invoked the ECHR and the EU law⁴⁶ in their court case against the Danish government and they are actively involved in a social movement that uses human right ideals in their housing claims. However, the study argues that the Danish claim is limited within the legislative confines of international human right standards. While the movement seeks inclusion and protests discrimination, it does not call for greater transformative change. The residents of Dharavi, by contrast, inherently represent an insurgent claim to housing through their act of squatting reminiscent of Davy & Pellissery's (2013) argument that illegal occupation of land is a radical claim to the Right to the City. Their negotiation with the state could thus be represented as the next step in transformative change. The study does not venture to say that this is an ideal next step. The state could allow self-development and provide legal tenure, however, one must acknowledge that such provisions could be a challenge to implement. Also, the free housing component of the DRP weakens their

⁴⁶ As mentioned earlier, even though the residents of Mjølnerparken have invoked the right to respect private and family life in the ECHR and the Race equality directive in EU law, these do not ensure a concrete realisation to the right to housing. Neither the Council of Europe nor the EU delineate a standalone right to housing.

transformative potential as it tempts slum dwellers to ascribe to neoliberal ideals of homeownership.

Dependent on their contexts, the outcomes of resistance are yet to be seen. In the Danish case, parties along both sides of the political spectrum seem to endorse the state in implementing the ghetto-plan with systematic efficiency. The DRP, by contrast is in a state of suspension which can partly be attributed to the vote bank politics of the large slum populace, but the delay is also due to problems in the system which include intergovernmental conflict, political rivalry, colonial land holding patterns and inefficient bureaucracy.

The study acknowledges that the examination of two specific cases is not representative of the claims of all those facing state-induced evictions. Even in Dharavi, the research has been limited to the views of the Kumbhars who are only one among the many communities that form Dharavi's heterogeneous demographic. The effects of the pandemic on evictions would be a relevant topic to have addressed, however, according to observations, in the case of Mjølnerparken and Dharavi there were no significant developments specifically related to the pandemic. While the Danish case stands out, it is not representative of the Global North's interaction with human right system and the same is true of the Indian case which cannot represent the varied contexts within the country let alone the Global South. Further detailed research into the experience of other contexts could add to the debate. Also, further research on NHRIs and NGOs involved in resisting evictions in various contexts, could provide more insights into collective claims that are formulated for housing rights.

8. Conclusion

Housing is under the constant threat of commodification and vulnerable groups are being evicted by the state in favour of economic gain. As elaborated in the previous chapter, the international human rights system is unable to uniformly address housing right violations. While it has interacted extensively in the Danish case, it has not done so with the Indian case. In both contexts, residents, in their struggle for citizenship, seem to claim for their simple right to stay where they are, yet there are no provisions to safeguard this right either on the domestic front or in the international system. Broader structural problems belie the problems faced in affordable housing provision. Despite being a complex endeavour, some important changes need to be made in its perception as a right. Housing provision must be prioritised over homeownership and the right to housing needs to be constitutionalised nationally. The perception that economic growth is central to the realisation of this right must be shifted even at the UN level. The dismantling of existing providers of affordable housing must be stopped. As seen in the case of India, insurgent claims to citizenship by slum dwellers point to potential for transformative change and the right to self- development must be accorded to those who claim it. The human right ideals of international human right institutions proclaim universality, however, they are open to interpretation and local manifestation of these rights is moulded by numerous socio-political factors and grappling with such contradictions poses a challenge. Access to housing remains limited by affordability and new forms of oppression will keep arising. The delineation of the right to housing must constantly evolve to respond to this threat.

9. References

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10. Annexes

10.1. Annex 1

List of documents that have contributed to the study.

D1 – Universal Declaration of Human Rights

D2 – International Covenant on Economic, Social and Cultural Rights

D3 – CESCR - General comment No. 4: The right to adequate housing (art. 11 (1) of the Covenant)

D4 – CESCR - General Comment no.7: The right to adequate housing (art. 11 (1) of the Covenant: Forced evictions)

D5 – The Right to Adequate Housing [Fact sheet no.21/ Rev.1]. United Nations.

D6 – Forced evictions [Fact sheet no.25/ Rev.1]. United Nations.

D7 - The Constitutional Act of Denmark of June 5, 1953.

D8 – The Constitution of India (As on 9th November, 2015).

D9 - Regeringens strategi mod ghettoisering (The Government's Strategy against Ghettoization) - Regeringen, 2004

D10 - Ghettoen tilbage til samfundet: Et opgør med parallelsamfund i Danmark (Returning the Ghetto to Society – A Reckoning with Parallel Societies in Denmark) – Regeringen, 2010

D11 – Udsatte Boligområder - De Næste skridt - Regeringens udspil til en styrket indsats (Vulnerable Housing Areas - The Next Steps – The Government's Strategy for a Strengthened Initiative) - Regeringen, 2013.

D12 – Ét Danmark uden parallelsamfund - Ingen ghettoer i 2030 (A Denmark without Parallel Societies – No Ghettos by 2030) – Regeringen, 2018.

D13 - Helhedsplan - Mjølnerparken & Hothers Plads.

D14 - Maharashtra Slum Areas (Improvement, Clearance And Redevelopment) Act, 1971 (Maharashtra Act No. XXVIII Of 1971). Government of Maharashtra.

D15 – Development Control Regulations for Greater Mumbai, 1991 [As modified upto the 21st June, 2014]. Government of Maharashtra.

D16 – Development Control & Promotion Regulations for Greater Mumbai, 2034 (2018). Government of Maharashtra.

10.2. Annex 2

Anonymised list of Interviewees

The Danish case

Expert Interviewees:

- 1) AE1 – Project manager at Københavns Kommune.
- 2) AE2 - Works for Bo-vita (non-profit housing association) – Involved in the implementation of Mjølnerparken’s development plan.
- 3) AE3 – Works for (unnamed) non-profit housing association – Provides ‘ghetto’ status updates to Københavns Kommune.
- 4) AE4 – Researcher – Worked on social housing employment initiatives and safety walks in vulnerable housing areas.
- 5) AE5 – NGO worker who organises protests and focuses on residents’ political empowerment.
- 6) AE6 – NGO worker involved in youth guidance initiatives.

Resident Interviewees: AR1, AR2, AR3, AR4, AR5 & AR6 – Residents of Mjølnerparken in Copenhagen.

The Indian case

Expert Interviewees:

- 1) BE1 – Works at MCGM - Assessment Department – In charge of tax assessment in Kumbharwada, Dharavi.
- 2) BE2 – Retired MCGM Officer– Dealt with projects related to infrastructure provision in Dharavi.
- 3) BE3 – Social worker who has been involved in slum upgradation projects.
- 4) BE4 – NGO member – Worked with Dharavi residents on community development projects.

Resident Interviewees: BR1, BR2, BR3, BR4 & BR5 – Residents of Kumbharwada in Dharavi, Mumbai.